

BOARD OF SUPERVISORS  
COUNTY OF YORK  
YORKTOWN, VIRGINIA

**Agenda**

Regular Meeting  
July 20, 2010

Board Room  
York Hall  
6:00 p.m.

**Call to Order.**

**Invocation.**

Dr. Dennis Hollandsworth, Seaford Baptist Church

**Pledge of Allegiance to the Flag of the United States of America.**

**Roll Call.**

**PRESENTATIONS.**

- A Williamsburg Land Conservancy. Presentation of award from Mr. Bill Williams, Chairman of the Williamsburg Land Conservancy, regarding the Curtis Farm property.
- B National Association of Counties (NACo). Presentation of 2010 NACo Awards to the following York County recipients:
- Community Services
    - ▶ Bats, Balls, and a BMP: An Intergovernmental Project Produces Regional Benefits—Anne Smith and Brian Fuller
    - ▶ Wetlands Interpretive Sanctuary for Education (WISE)—Anne Smith, Ken Drees, Rick Smethurst, and Anna Drake (EDS)
  - Fire and Life Safety—Stephen P. Kopczynski
    - ▶ Safe Work Area Ambulance Design
    - ▶ EMS Mobile Training Trailers
    - ▶ Mass Casualty/Evacuation Transport Unit
  - Extension—Jody Tanner, Barb Dunbar, and Teresa Bennett
    - ▶ Science Field Trip Productions
  - Financial and Management Services—Marycarol White
    - ▶ AED Locator

\*CAPITAL LETTERS INDICATE NO WRITTEN MATERIAL.

General Services—Robert Peters

- ▶ Birds, Bees, and Building Sustainability

- C Safety Town. Presentation of the 2010 Regional EMS Award for Outstanding Contribution to EMS for Children by Anne Smith, Director of Community Services, to Wanda Moore, Gianna Pack, Lori Lasley, Lisa Hanks, Lori Evans, and Annetta Norwood (FLS).

**CITIZENS' COMMENT PERIOD.**

**COUNTY ATTORNEY REPORTS AND REQUESTS.**

**COUNTY ADMINISTRATOR REPORTS AND REQUESTS.**

**MATTERS PRESENTED BY THE BOARD.**

6:55 p.m. **RECESS**

7:00 p.m. **PUBLIC HEARINGS.**

- 1 Parking Restrictions on the Streets of Yorktown. Consider adoption of proposed Ordinance No. 10-15 to amend Section 15-48, Parking Prohibited or Restricted in specific places, and Section 15-43, uncontested payment of parking citations, of the York County Code, to add certain streets in Yorktown to the list of areas where parking is prohibited or restricted and to establish a residents-only parking permit system applicable to certain other streets in Yorktown.
  - a. Memorandum from County Administrator.
  - b. Map depicting adopted restrictions.
  - c. Proposed Ordinance No. 10-15.
- 2 Repeal of York County Firearms Ordinance. Consider adoption of proposed Ordinance No. 10-13 to repeal Section 16-7, Discharging Firearms within Certain Areas Prohibited, and Section 16-37, Discharge of High Powered Rifles Prohibited, of the York County Code.
  - a. Memorandum from County Administrator.
  - b. Section 16-7, Discharging firearms within certain areas prohibited.
  - c. Section 16-37, Discharge of high-powered rifles prohibited.
  - d. Proposed Ordinance No. 10-13.
- 3 Commercial Parking Prohibition—Phoenix Circle. Consider adoption of proposed Ordinance No. 10-14 to amend Section 15-48, Parking Prohibited or Restricted in Specific Places, of the York County Code to amend Subsection (c)(3) to add Phoenix Circle (Route 1615) to

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the list of specific areas where parking of certain classifications of commercial, recreational and passenger carrying vehicles on public streets is prohibited.

- a. Memorandum from County Administrator.
- b. Correspondence from residents.
- c. Vicinity map.
- d. Photos of parked commercial vehicle.
- e. Proposed Ordinance No. 10-14.

- 4 Chisman Creek – No Wake Zone. Consider adoption of proposed Resolution R10-104 to be considered in accordance with Section 16-42, "No Wake" Regulatory Markers on Waterways, York County Code, to request the Virginia Department of Game and Inland Fisheries to extend the no wake zone in Chisman Creek approximately 350 yards east (downstream) of its current boundary.

- a. Memorandum from County Administrator.
- b. Correspondence requesting a No Wake Zone.
- c. Aerial photo of Chisman Creek area.
- d. Correspondence from VMRC dated 6/16/10.
- e. Section 16-42, York County Code.
- f. Proposed Resolution R10-104.

**UNFINISHED BUSINESS**. None.

**CONSENT CALENDAR**.

- 5 Approval of Minutes. Consider approval of the minutes of the following meetings of the York County Board of Supervisors:

- a. Unapproved minutes of the June 1, 2010, Regular Meeting.
- b. Unapproved minutes of the June 15, 2010, Regular Meeting.

- 6 Purchase Authorization. Consider adoption of proposed Resolution R10-105 to authorize procurement arrangements to construct bay additions at Fire Stations 4, 5, and 6.

- a. Memorandum from County Administrator.
- b. Proposed Resolution R10-105.

- 7 Conveyance of Property. Consider adoption of proposed Resolution R10-101 to authorize the County Administrator to execute a subdivision plat and a deed creating and conveying to the Economic Development Authority of York County approximately eight (8) acres of land to be subdivided from property owned by the County and located at 145 Goodwin Neck Road.

- a. Memorandum from County Administrator.
- b. Subdivision plat.

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- c. Excerpt showing the subject property.
  - d. Proposed Resolution R10-101(R).
- 8 Grounds Maintenance Agreement: York County School Division. Consider adoption of proposed Resolution R10-107 to authorize the County Administrator to execute a modified grounds maintenance agreement between the County and the York County School Division.
- a. Memorandum from County Administrator.
  - b. Proposed Grounds Maintenance Agreement.
  - c. Proposed Resolution R10-107.
- 9 Naval Weapons Stations. Consider adoption of proposed Resolution R10-108 to concur with the proposed change in jurisdiction over a portion of housing located at the Yorktown Naval Weapons Station from exclusive to concurrent jurisdiction.
- a. Memorandum from County Administrator.
  - b. GIS map showing subject area.
  - c. Correspondence from Commanding Officer, Naval Weapons Station.
  - d. Proposed Resolution R10-108.
- 10 Amended and Restated Agreement: York Public Utilities Corporation. Consider adoption of proposed Resolution R10-109 to ratify and authorize the execution of an amended and restated of agreement for the sale and resale of water in Carver Gardens between the County of York, Virginia, and York Public Utilities Corporation.
- a. Memorandum from County Attorney.
  - b. Amended and restated agreement.
  - c. Proposed Resolution R10-109.
- 11 Commendation Resolutions. Consider adoption of proposed Resolutions R10-102 and R10-103 to commend Nicholas F. Barba and Alfred E. Ptasznik, Jr., for their service on the York County Planning Commission.
- a. Memorandum from County Administrator.
  - b. Proposed Resolution R10-102.
  - c. Proposed Resolution R10-103.

**NEW BUSINESS.**

**CLOSED MEETING.**

**FUTURE BUSINESS.**

Adjournment.

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Regular Meetings and Work Sessions of the Board of Supervisors air live on Cable Channel WYCG-TV.

The next Regular Meeting of the York County Board of Supervisors will be held at 6:00 p.m., Tuesday, August 3, 2010, in the East Room, York Hall.

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# COUNTY OF YORK

## MEMORANDUM

**DATE:** July 9, 2010 (BOS Mtg. 7/20/10)

**TO:** York County Board of Supervisors

**FROM:** James O. McReynolds, County Administrator 

**SUBJECT:** Parking Restrictions on the Streets of Yorktown

At its meeting on June 15, 2010 the Board adopted a series of amendments to Chapter 15 of the County Code to establish a resident parking permit system on certain streets in Yorktown, to establish a 2-hour limit on others, and to expand the no-parking restrictions to certain other streets. The provisions were adopted as an "emergency ordinance" so that they could be in effect during the majority of the peak summer beach and activity season. As a result of the "emergency" status, the amendments must be reconsidered within 60 days at a duly advertised public hearing and re-adopted in the same or an amended form. If that does not occur, the provisions will automatically expire. Since the 60-day period would expire before the second Board meeting in August, this matter has been scheduled for public hearing and reconsideration at the July 20<sup>th</sup> meeting.

Section 46.2-1230 of the Code of Virginia establishes authority for a county to "provide for the issuance of permits for motor vehicle parking on public streets, to set the rates for the permits, and to set the term of validity of the permits." This section has been used by a number of Virginia localities to establish a "residents-only" parking restriction on such streets as the locality determines appropriate and its application in Yorktown is intended to prevent the parking congestion that sometimes occurs and which can severely restrict circulation and emergency access as well as being detrimental to the character of the residential areas.

Proposed Ordinance No. 10-15 is attached for the Board's consideration. The Ordinance contains the same provisions adopted by the Board on July 15<sup>th</sup>, which can be summarized as follows:

### Resident-Only Permit Streets

- Bacon Street
- Smith Street
- Nelson Street
- Church Street (two segments)
- Ambler Street
- Pulaski Street

### Resident Decals

- One (1) decal for each motor vehicle registered to or leased by resident or property owner and kept regularly at that address
- Vehicle taxes and fees must be current in order to receive decal

- No charge for initial issuance of resident decals / no charge for re-issue for new vehicle
- \$10 fee for re-issue of replacement for decals lost or destroyed
- Display on lower left corner of rear window (motorcycles – display adjacent to inspection sticker or on windscreen)

#### Guest / Visitor Permits

- Three (3) mirror-hanger visitor permits per residence
- Residents may borrow visitor permits from neighbors on the same street segment
- Residents may request suspension of parking restrictions for “special events” (large social functions, etc.) by contacting the County Administrator’s office

#### Exemptions

- Service or delivery vehicles
- Emergency and public use vehicles

#### Penalty for Violation

- Uncontested payment of parking citation: \$50
- Contested: Fine of not more than \$200

#### Additional Restrictions

- Extended the 1-hour limit on segments of Main Street to 2-hours, added an exception for business owners/operators/employees, and extended the 2-hour system to an additional segment of Main Street (across from the Nelson House) and to opposite segments of Church Street (between Main and the York Hall and NPS parking lots, respectively) and Alexander Hamilton Blvd, but only on one side.
- Extended the No Parking restriction to cover the opposite sides of Church and Alexander Hamilton noted above and to Zweybrucken, Read (between Main and Ballard), Main (between Read and Zweybrucken and between Main and Martiau) and Martiau.

Resident decals and visitor permits have been distributed throughout Yorktown and the regulatory signs have been installed. Pursuant to the provisions adopted by the Board, no fee has been charged for the permits. The system has been in place and enforceable for less than two (2) weeks so there is limited operational experience on which to base evaluations. However, to the best of staff’s knowledge, the provisions have been well-received by the residents of Yorktown. The system will be fully tested as to its effectiveness when the Friday-evening waterfront concert series resumes on July 16<sup>th</sup> as it is those events, as well as the occasional “perfect beach day”, that have caused the parking congestion in the village.

Several comments concerning the parking restrictions have been received and could be addressed by making relatively minor amendments before re-adoption. These include:

- *The suggestion that the residents/visitors permit system be in force only during the period from Memorial Day to Labor Day;* This comment was offered prior to the

June 15<sup>th</sup> adoption and staff suggested that the Board defer its decision until there could be some operational experience on which to base an evaluation. If the Board wishes to make the resident/visitors permit system seasonal, then staff recommends that it cover the period from May through October to ensure that it is in effect from the beginning of the peak beach use through the entire waterfront concerts series. However, given that residents have both a permanent decal and a generous supply of visitor permits, and that many residents use their driveways (where permits are not required) rather than the street shoulder for their parking needs, staff is of the opinion that the system could be effective year-round without adverse effects (and without the need to cover or remove the regulatory signs in the “off” season).

- *An objection to the provision indicating that there will be a \$10 fee for replacement of a lost or destroyed decal;* One resident commented that the parking issues in Yorktown are not caused by the residents and, therefore, they shouldn't have to pay for the solution in the form of a \$10 fee for re-issue of a lost or damaged decal. This fee – in effect a penalty – was a concept borrowed from one of the parking permit ordinance examples from other jurisdictions that staff reviewed when drafting the Yorktown provisions. In the context used in other jurisdictions, it appeared that its intent was to discourage improper “lending” of decals as well to cover some of the administrative costs of the program. Given the relatively small number of permits that will be issued and administered in Yorktown (less than 100 at this point), staff believes the fee could be eliminated if that would make the system more palatable to residents.

Revisions to address both of the above noted issues are shown in the attached ordinance for the Board's consideration.

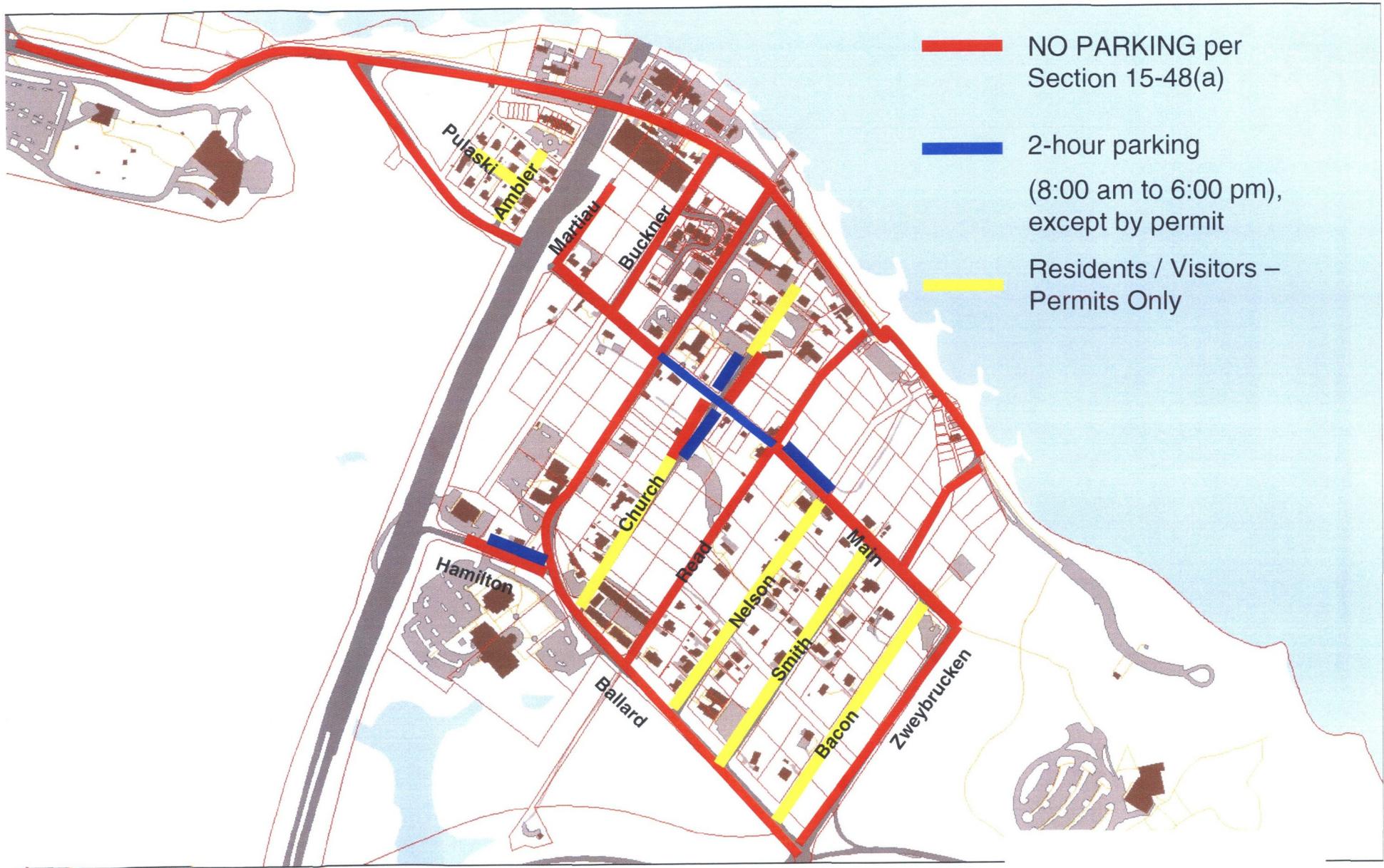
### Recommendation

I recommend that the provisions of Section 15-48 be re-adopted in the same form and content as was the case on June 15<sup>th</sup> (Ordinance No. 10-11(R)) but with the deletion of the fee for re-issuance of a lost or damaged decal. On the issue of seasonality, I recommend that the provisions remain in effect throughout the year. In the event the restrictions prove unnecessary or troublesome during the fall and winter of 2010/11, then they could be revisited in mid-2011 based on specific rather than speculative problems.

Carter/3337

Attachments

- Map depicting adopted restrictions
- Proposed Ordinance No. 10-15



Ordinance 10-11(R) – June 15, 2010

BOARD OF SUPERVISORS  
COUNTY OF YORK  
YORKTOWN, VIRGINIA

Ordinance

At a regular meeting of the York County Board of Supervisors held in York Hall, Yorktown, Virginia, on the \_\_\_\_ day of \_\_\_\_\_, 2010:

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Present

Vote

Donald E. Wiggins, Chairman  
George S. Hrichak, Vice Chairman  
Walter C. Zaremba  
Sheila S. Noll  
Thomas G. Shepperd, Jr.

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On motion of \_\_\_\_\_, which carried \_\_\_\_, the following ordinance was adopted:

AN ORDINANCE TO AMEND AND RE-ADOPT SECTION 15-48, PARKING PROHIBITED OR RESTRICTED IN SPECIFIC PLACES, AND SECTION 15-43, UNCONTESTED PAYMENT OF PARKING CITATIONS, OF THE YORK COUNTY CODE, TO ADD CERTAIN STREETS IN YORKTOWN TO THE LIST OF AREAS WHERE PARKING IS PROHIBITED AND TO ESTABLISH A RESIDENTS-ONLY PARKING PERMIT SYSTEM APPLICABLE TO CERTAIN OTHER STREETS IN YORKTOWN

WHEREAS, pursuant to Section 46.2-1220 of the Code of Virginia, the Board has the authority to regulate the parking, stopping and standing of vehicles within its limits; and

WHEREAS, pursuant to Section 46.2-1230 of the Code of Virginia, the Board of Supervisors has the authority to provide for the issuance of permits for motor vehicles parking on public streets, to set the rates for the permits, and to set the term of validity of the permits; and

WHEREAS, recognizing the demands for on-street parking created by attractions and activities in Yorktown and the potential for conflicts with resident parking needs and safe and convenient vehicular circulation, the Board established parking prohibitions on certain additional street segments and a residents-only parking permit system on others through adoption of an emergency ordinance on June 15, 2010; and

WHEREAS, in accordance with procedural requirements, those Code provisions must, within 60 days, be made available for public comment at a duly advertised public hearing and then re-adopted in their current or an amended form; and

WHEREAS, the Board has conducted a duly advertised public hearing and has taken into consideration the public comments received;

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this \_\_\_\_ day of \_\_\_\_\_, 2010, that Section 15-48(a) and Section 15-43 of Chapter 15, Motor Vehicles and Traffic, York County Code, be and they hereby are re-adopted and amended to read as follows:

**Sec. 15-48. Parking prohibited or restricted in specified places.**

- (a) *Secondary system highways.* No person shall park a vehicle in any of the following places within any part of the state secondary system of highways in the county:
- (1) On Comte de Grasse Street (a portion of State Route 1002) in Yorktown;
  - (2) On Read Street (State Route 1004) between Main and Water Streets in Yorktown;
  - (3) On Ballard Street (a portion of State Route 1001);
  - (4) On Buckner Street (State Route 1007) between Main and Water Streets in Yorktown;
  - (5) On Water Street (in part a portion of State Route 1002) in Yorktown between Comte de Grasse Street, on the east and its intersection with the Colonial National Historical Park access ramp opposite the Yorktown Victory Center on the west, excepting the south side of Water Street between Read Street and a point approximately 340 feet east of Ballard Street;
  - (6) On Mathews Street (Route 1001) between Route 17 and Water Street (Route 1002);
    - (6.1) On Zweybrucken Road (Route 1001) between Main Street and Ballard Street;
    - (6.2) On Main Street (Route 1001) between Zweybrucken Road and Read Street, except as set forth in Section (b)(1), herein;
    - (6.3) On Main Street (Route 1001) between Ballard Street and Martiau Street;
    - (6.4) On Martiau Street (Route 1008) between Main Street and dead end;

- (6.5) On Alexander Hamilton Boulevard (Route 1012) between Route 17 and Ballard Street, except as set forth in Section (b)(1), herein;
  - (6.6) On Read Street (Route 1004) between Main Street and Ballard Street;
  - (6.7) On Church Street (Route 1003) between Main Street and the entrance to the National Park Service parking lot, except as set forth in Section (b)(1), herein;
  - (6.8) On Church Street (Route 1003) between Main Street and the entrance to the York Hall parking lot, except as set forth in Section (b)(1), herein;
  - (7) On the Back Creek Park recreational access road (State Route 1291) from State Route 173 eastwardly approximately one thousand eight-hundred feet (1,800') to its terminus at a cul-de-sac;
  - (8) On the New Quarter Park recreational access road (State Route 1314) from State Route 1330 northwardly approximately one and two-tenths (1.2) miles to its terminus.
  - (9) On Glen Laurel Way (State Route 1069) between the hours of 7:00 am and 3:00 pm, Monday through Friday.
  - (10) On Elmhurst Drive (State Route 1370) and Crepe Myrtle Drive (State Route 1371), for their entire lengths.
- (b) Additional Parking Restrictions Applicable in Yorktown.
- (1) *Short-term Parking Allowed on Certain Streets:* Between the hours of 8:00 a.m. and 6:00 p.m., parking for a period of time in excess of two (2) hours shall be prohibited on the following streets or street segments, except by permit issued pursuant to this section:
    - a. Main Street (both sides) between Ballard Street and Read Street.
    - b. Main Street (north side) between Read Street and Nelson Street.
    - c. Church Street (east side) between Main Street and the entrance to the National Park Service parking lot.
    - d. Church Street (west side) between Main Street and the entrance to the York Hall parking lot.
    - e. Alexander Hamilton Boulevard (north side) between Ballard Street and the entrance to the York-Poquoson Courthouse.

The owner/operator of businesses fronting on any of the above listed street segments may request a special parking permit for their vehicle and for the vehicles of their employees which permit shall be for the purpose of allowing parking in excess of two (2) hours along the otherwise restricted street segments. Such permits shall be in the form of a decal for the business owner/operator's vehicle(s) and a mirror hanger for each of their employees.

- (2) *Residents-only on-street parking restrictions.* The following residents-only parking restrictions on certain streets in Yorktown are established in order to reduce or prevent congestion and hazardous traffic conditions in residential areas, to protect those areas from excessive noise and other adverse impacts of automobiles, to protect the residents of these areas from unreasonable burdens in gaining access to their property and to preserve the residential character of such areas and the property values therein. The provisions set forth in this subsection shall be in effect during the period from May 1 through October 30 of each calendar year.

a. *Restricted streets.* The following streets or street segments shall be covered by the restrictions set forth herein:

1. Bacon Street – entire length
2. Smith Street – entire length
3. Nelson Street – entire length
4. Church Street – between Ballard Street and the entrance to the National Park Service parking lot
5. Church Street – between the York Hall parking lot entrance and it terminus at the Church Street stairs to the waterfront
6. Ambler Street – entire length
7. Pulaski Street – entire length

Parking along the side or shoulders or within the right-of-way of the above listed streets shall be prohibited except by the holders of permits granted under the terms and procedures of this section, or pursuant to the exceptions established herein.

- b. *Eligibility for permit.* Persons who legally reside on, or who are owners of, property abutting a street regulated under this section may obtain permits to park in the otherwise restricted areas. Permits issued pursuant to this section shall be limited to one for each motor vehicle registered in the resident's or property owner's

name or held by the resident or property owner under a written automotive lease, which motor vehicle must be kept and regularly used by the owner or resident at his or her place of residence on the restricted street. Before issuing such permit, the County Administrator or his designee shall verify that the motor vehicle for which the permit is to be issued meets the above requirements. All applicable county motor vehicle taxes and fees relative to the motor vehicle must be paid prior to the issuance of a permit for such vehicle. An applicant for a permit must show evidence satisfactory to the county of ownership of the motor vehicle and, if the applicant occupies the property under a lease, produce a copy of a valid written lease for occupancy of the property.

- c. *Issuance of permits and decals.* Subject to verification of resident or property owner status as noted above, a permit and a display decal shall be issued for each registered vehicle. Permits and decals shall be issued on an annual, calendar-year basis. A parking permit decal issued hereunder shall be displayed only on the vehicle to which it is issued and assigned and shall not be transferred from one vehicle to another. Should a vehicle to which a parking permit and decal is issued and assigned be sold, traded or otherwise disposed of, such decal shall be removed and destroyed. A new permit and decal shall be secured for any replacement vehicle, which decal shall be issued for the remainder of the permit year, free of cost.
- d. *Exceptions.* The parking prohibitions of this division shall not apply to:
  1. Service or delivery vehicles when providing services or making deliveries to properties on the restricted street.
  2. Emergency, law enforcement, rescue, construction or utility vehicles or other public use vehicles when on a call or engaged in work on or along the subject streets.
- e. *Proper display of resident decals.* Decals shall be properly displayed as follows:
  1. A decal shall be displayed in the lower left corner of the rear window of the vehicle for which the permit has been issued. The decal must be adhered directly to the window and may not be taped or affixed in any other manner which may allow the transfer of the decal to another vehicle. If the vehicle does not have a rear window or the rear window is legally obscured (i.e., louvers), the decal may be displayed on the driver's side of the vehicle, adhered to the lower right

corner of the side window nearest to the rear of the vehicle. For a convertible or other vehicle with no permanent rear window, the decal may be adhered to the driver's side of the windshield. A decal issued with respect to a motorcycle shall be displayed beside the state inspection sticker on the motorcycle front fork or adjacent to the state inspection sticker, or shall be affixed to the lower portion of the windshield, if one exists.

2. Any alteration of a decal shall render invalid the decal and the parking permit with which it is associated.
  3. A person to whom a decal has been issued shall not loan, assign, sell or otherwise convey such decal to any other person or vehicle.
  4. Decals, if destroyed or lost, may be re-issued within the same permit year, upon written explanation, satisfactory to the county administrator, ~~and upon payment of a replacement fee of ten dollars (\$10.00).~~
- f. *Proper display of guest and visitor permits.* Guest and visitor permits shall be displayed by hanging from the center (interior) rear view mirror so that the printing on the permit faces the front windshield. Any alteration(s) to a guest permit, or obscuring of information printed on a guest permit, such as by opaque markings or by folding such permit so any printed information is not visible, shall render the guest permit invalid.
1. Each occupied residential property shall be issued three (3) guest parking permits (mirror hangers).
  2. Guest permits shall be displayed within a vehicle only while the owner or operator of such vehicle is a guest at the occupied residential property to which the permit has been issued.
  3. Guest permits may be temporarily loaned by the member(s) of one affected household only to another household located within the same restricted parking block as identified in subsection (a) above, for the purpose of accommodating a large gathering of guests at a particular household. No other transfers or loans of guest permits shall be permitted.
  4. Guest permits, if lost or misplaced, shall not be re-issued within the same permit year.

- g. *Special event parking.*
    - 1. A person legally residing on property which qualifies for a parking permit under this section may apply to the county administrator or his designee for the issuance of a special event parking waiver, to allow persons attending a special event taking place at the applicant's residence to park within the regulated area during such event. Qualifying special events include, but are not limited to, weddings, funerals, social functions and other similar events which would cause persons to visit the applicant's residence on a specific day between specified hours.
    - 2. If the county administrator or his designee is satisfied that the proposed event will require parking in excess of that normally allowed the applicant under this section, then the county administrator or his designee may suspend the permit parking requirements in all or a portion of the permit parking area as deemed necessary to provide additional parking for the particular event to an extent that will not unduly reduce the number of parking spaces needed by other residents of the area during the hours of such event.
  - h. *Penalty for violation.* Any person who violates any provision of this section shall be guilty of a traffic infraction and punished as provided in section 15-2 of this Chapter.
- (c) *Parking of certain classifications of vehicles in certain designated areas*
- (1) Statement of Intent: The purpose of the following regulations is to define certain classifications of vehicles and to identify those areas where it is necessary to prohibit the parking of such classified vehicles in order to enhance pedestrian and vehicular safety, protect and preserve the public investment in such streets that are designed primarily for residentially-related traffic, and to protect and preserve the character of residential areas. In addition, where applied in non-residential areas, such restrictions are intended to provide for enhanced vehicular safety and to protect and preserve the character of the subject industrial or office park or other commercial/industrial area.

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**Sec. 15-43. Uncontested payment of parking citation penalties; certification of contest of citation.**

- (a) Every person receiving a citation from a law-enforcement officer that he has violated a provision of this Code regulating parking may waive his right to appear

and be tried for the offense set forth in the citation. Such waiver shall be effective upon voluntary payment of ten dollars (\$10.00) to the county treasurer's office, within five (5) days after receipt of the citation, or upon voluntarily placing ten dollars (\$10.00) in a reply mail envelope and mailing it to the county treasurer's office, so that it is postmarked within forty-eight (48) hours after receipt of the citation; provided, however, that any citation for a violation of section 15-47.1 with respect to parking in a space reserved for persons with disabilities or for a violation of sections 15-48(a), (b) or (c) with respect to parking on certain designated streets or during restricted hours, parking on streets designated for resident-only parking, and the parking of certain classes of vehicles in areas zoned for residential use shall require a voluntary payment of fifty dollars (\$50.00) to effectuate the aforesaid waiver.

- (b) All uncontested parking citations paid under this section shall be accounted for by the county treasurer. The contest, by any person, of a parking citation shall be certified, in writing, upon an appropriate form, to the general district court by the county treasurer.
- (c) Whenever a reply mail envelope is used for transmitting cash, check, draft or money order by mail to the county treasurer's office pursuant to the provisions of this section, the responsibility for receipt of the cash, check, draft or money order by the treasurer shall be that of the registered owner of the vehicle on which the citation was placed.

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BE IT FURTHER ORDAINED that the Board finds that an emergency situation exists with respect to parking congestion on the streets of Yorktown and, therefore, finds it necessary to adopt these amendments on an emergency basis pursuant to Code of Virginia section 15.2-1427(F) to be effective immediately upon the installation of the regulatory signage and the issuance of the resident parking permits/decals.

# COUNTY OF YORK

## MEMORANDUM

**DATE:** June 28, 2010 (BOS Mtg. 7/20/10)

**TO:** York County Board of Supervisors

**FROM:** James O. McReynolds, County Administrator 

**SUBJECT:** Firearms Discharge Regulations

At the June 15, 2010, meeting the Board adopted a series of amendments to the firearms discharge regulations set forth in Section Nos. 16-7 and 16-37 of the County Code. In taking this action, the Board also directed that an ordinance to repeal those Code sections in their entirety be advertised for public hearing and consideration at the July 20<sup>th</sup> meeting.

Code excerpts showing Section Nos. 16-7 and 16-37, as amended, are attached. The principal changes adopted on June 15<sup>th</sup> were:

- all restrictions on the discharge of air- and gas-powered guns (pneumatic guns) were eliminated;
- the following areas to the list of areas restricted as to *firearms* discharges: Winterfield, Lakes at Dare, Wythe Creek Farms, Sherwood Forest, Overlook Point, Carriage Homes at Williamsburg Commons, Riverwalk Townes, Quarters of York, Willow Lakes, Rainbrook Villas, Villas on Shady Banks;
- the restriction on discharges within 300 feet of the listed restricted areas was eliminated (i.e., now discharges are prohibited only within the bounds of the named area, and the former restriction in the 300-foot perimeter area has been eliminated); and
- the list of exemptions for both firearms and rifle discharges was expanded and clarified to include: managed deer hunts, defense of life or property, and killing a dangerous or destructive animal.

The Board did not adopt the provision that would have restricted discharges within 300 feet of a school property and would have required notice of an intended discharge within 1000 feet.

### Considerations

Repeal of Section Nos. 16-7 and 16-37 would allow firearms and rifle discharges to occur in any of the currently restricted areas subject to compliance with the following sections of the criminal laws in the Code of Virginia:

**18.2-279.** Discharging firearms or missiles within or at building or dwelling house; penalty.

If any person maliciously discharges a firearm within any building when occupied by one or more persons in such a manner as to endanger the life or lives of such person or persons, or maliciously shoots at, or maliciously throws any missile at or against any dwelling house or other building when occupied by one or more persons, whereby the life or lives of any such person or persons may be put in peril, the person so offending is guilty of a Class 4 felony. In the event of the death of any person, resulting from such malicious shooting or throwing, the person so offending is guilty of murder in the second degree. However, if the homicide is willful, deliberate and premeditated, he is guilty of murder in the first degree.

If any such act be done unlawfully, but not maliciously, the person so offending is guilty of a Class 6 felony; and, in the event of the death of any person resulting from such unlawful shooting or throwing, the person so offending is guilty of involuntary manslaughter. If any person willfully discharges a firearm within or shoots at any school building whether occupied or not, he is guilty of a Class 4 felony.

**18.2-280.** Willfully discharging firearms in public places.

A. If any person willfully discharges or causes to be discharged any firearm in any street in a city or town, or in any place of public business or place of public gathering, and such conduct results in bodily injury to another person, he shall be guilty of a Class 6 felony. If such conduct does not result in bodily injury to another person, he shall be guilty of a Class 1 misdemeanor.

B. If any person willfully discharges or causes to be discharged any firearm upon the buildings and grounds of any public, private or religious elementary, middle or high school, he shall be guilty of a Class 4 felony, unless he is engaged in a program or curriculum sponsored by or conducted with permission of a public, private or religious school.

C. If any person willfully discharges or causes to be discharged any firearm upon any public property within 1,000 feet of the property line of any public, private or religious elementary, middle or high school property he shall be guilty of a Class 4 felony, unless he is engaged in lawful hunting.

D. This section shall not apply to any law-enforcement officer in the performance of his official duties nor to any other person whose said willful act is otherwise justifiable or excusable at law in the protection of his life or property, or is otherwise specifically authorized by law.

E. Nothing in this statute shall preclude the Commonwealth from electing to prosecute under any other applicable provision of law instead of this section.

**18.2-286.** Shooting in or across road or in street.

If any person discharges a firearm, crossbow or bow and arrow in or across any road, or within the right-of-way thereof, or in a street of any city or town, he shall, for each offense, be guilty of a Class 4 misdemeanor.

The provisions of this section shall not apply to firing ranges or shooting matches maintained, and supervised or approved, by law-enforcement officers and military personnel in performance of their lawful duties.

Staff stands ready to respond to questions or provide additional information.

Carter/3337

Attachment:

- Section 16-7, Discharging firearms within certain areas prohibited
- Section 16-37, Discharge of high-powered rifles prohibited
- Proposed Ordinance No. 10-13

**Sec. 16-7. Discharging firearms within certain areas prohibited.**

(a) *Definitions:* For the purposes of this section, terms shall have the following meanings:

- (1) *Firearm.* Any handgun, shotgun or rifle which will, is designed to, or may be readily converted to expel single or multiple projectiles by the action of a combustible material.
- (2) *Pneumatic Gun.* Any implement, designed as a gun, that will expel a BB or a pellet by action of pneumatic pressure. "Pneumatic weapon" includes a paintball gun that expels by action of pneumatic pressure plastic balls filled with paint or other liquid for the purpose of marking the point of impact.

(b) *Firearms restricted.*

- (1) Pursuant to the authority provided under section 15.2-1209 of the Code of Virginia, the board has determined that certain areas of the County are so heavily populated as to make the discharge of firearms dangerous to the inhabitants thereof. Accordingly, discharges of any firearms shall be prohibited in the following areas of York County. These restrictions shall not apply to the discharge of pneumatic guns:
  - a. Any property within any part of those areas or subdivisions in the county as described below or commonly known and designated on the plats of subdivision recorded in the clerk's office of the circuit court of the county:
    1. Old Quaker Estates, all sections.
    2. Banbury Cross, all sections.
    3. Skimino Hills, all sections.
    4. Scimmino Farms, all sections.
    5. Schenk Estates, Sections One, Two and Three.
    6. Greensprings/Bypass Road vicinity being further described as the area bounded by the Williamsburg city line on the south running westward to its intersection with Bypass Road, Bypass Road running eastward to its intersection with Waller Mill Road, Waller Mill Road on the west and northwest, a Virginia Power transmission line right-of-way on the northeast, and Route 132 on the southeast to its

intersection with the Williamsburg city line, including, but not limited to, the Plantation Heights, Green Acres, and Green Springs, and Williamsburg Commons subdivisions.

7. Parkway Estates/Queens Lake vicinity being further described as the area bounded by the Colonial Parkway on the south, the Williamsburg city line on the west, Queens Creek on the north, and New Quarter Park on the east, including, but not limited to, all sections of the Queens Lake, Royal Grant and Parkway Estates subdivisions.
8. Penniman Road/Government Road/Hubbard Lane vicinity being further described as the area bounded by Route 199 on the southeast, the James City County boundary on the southwest, the Williamsburg city line on the northwest, the Colonial Parkway on the north, and Interstate 64 on the northeast, including, but not limited to, all sections of the Queenswood, Charleston Heights, Springfield Terrace, Nelson Park, York Terrace, Magruder Woods, Penniman Woods, Queens Creek Estates, and Middletown Farms subdivisions.
9. Carver Gardens/Country Club Acres vicinity being further described as the area bounded by Route 143 on the southwest, Route 199 on the northwest, Interstate 64 on the northeast, and the Williamsburg Country Club on the southeast, including, but not limited to, all sections of the Carver Gardens, Williamsburg Bluffs and Country Club Acres subdivisions.
10. Sonshine Acres.
11. Woods of Yorktown.
  - 11.1 Riverwalk Townes, all sections.
12. Rivermeade/Yorktown Square vicinity being further described as the area bounded by Route 17 on the east, Route 238 on the south, and the Colonial National Historical Park on the west and north, including, but not limited to, all sections of the Hickory Hills and Kings Court subdivisions.
13. Yorktown, being further described as the area bounded by the York River on the northeast, the United States Coast Guard Training Center on the east, Route 238

and the Colonial Parkway on the southwest, and Yorktown Creek on the west.

14. Marlbank/York High School/Edgehill vicinity being further described as the Edgehill area bounded by Fort Eustis Boulevard on the south, Newport News Waterworks property on the west, the Colonial National Historical Park on the west and northwest, the West Branch of Wormley Creek on the northwest, Wormley Creek and the Harris Grove subdivision on the east and southeast, and the Melody Heights and Settler's Crossing subdivisions on the south, including but not limited to, all sections of the Edgehill, Burnt Bridge Run, Marlbank Farm, Marlbank Cove, Harris Grove, Melody Heights and Settler's Crossing subdivisions.
15. Woodtowne Quarters Townhouses, all sections.
  - 15.1. Quarters of York, all sections.
16. Dunmore.
17. Terrebone.
18. Colberts Trace.
19. Waterview Terrace.
20. Dandy Loop Estates (all sections) and Goodwin Neck Estates.
  - 20.1. Winterfield.
21. Seaford area, bounded as follows: Beginning at a point at the intersection of Seaford Road and the eastern boundary of the Evergreen Shores subdivision; thence in a southerly direction along the eastern boundary of Evergreen Shores Subdivision to the centerline of Chisman Creek; thence generally in a southwesterly direction along the centerline of Chisman Creek to the intersection of Chisman Creek and the southern boundary, extended, of the Heritage Hamlet subdivision, Sections Four and Six; thence in a northwesterly direction along the western boundary of the Heritage Hamlet subdivision to the intersection of Seaford Road; thence in an easterly direction along the centerline of Seaford Road to the westerly boundary of the Sommerville subdivision; thence in a northwest-

erly, then northerly and then easterly direction around the perimeter of the subdivision to Wornom Drive; thence in a northerly direction along the centerline of Wornom Drive and extended to the intersection of Back Creek Road; thence in a westerly direction along the centerline of Back Creek Road to the intersection of Back Creek Road and White's Lane; thence in a northerly direction along the centerline of White's Lane and extended to the centerline of Back Creek; thence in a line in an easterly direction along the centerline of Back Creek to a point where such line intersects a line parallel to Shirley Road extended in a northerly direction; thence in a southerly direction to the centerline of Shirley Road; thence in a westerly direction along the centerline of Shirley Road to the intersection of Shirley Road and Purgold Road; thence in a southerly direction along the centerline of Purgold Road to the intersection of Purgold Road to the intersection of Purgold Road and Claxton Creek Road; thence in an easterly direction along the centerline of Claxton Creek Road to the deadend of Claxton Creek Road; thence in a westerly direction along the centerline of Claxton Creek Road to the intersection of Claxton Creek Road and Back Creek Road; thence in a southwesterly direction along the centerline of Back Creek Road to the intersection of Back Creek Road and Seaford Road; thence in a southeasterly direction along the centerline of Seaford Road to the point of beginning.

22. York Point, all sections.
- 22.1 Withrow and Singing Woods subdivisions, all sections.
23. Cooper's Landing.
24. Rosewood Place, all sections.
25. Acree Acres, all sections.
26. Carver Place.
27. Wolftrap Estates
- 27.1. Willow Lakes, all sections.
28. Grafton Branch.

29. Scotch Tom's Wood.
30. Barcroft.
31. Millside.
32. Mill Cove, all sections.
33. Seven Hollys.
34. Ship Point, Ship Point Farm and Ship Point Homes, all sections.
35. Howards Landing, all sections.
36. Patricks Landing, all sections.
- 36.1. Lakes at Dare, all sections.
37. Brandywine/Lakeside Forest/York Crossing vicinity being further described as the area bounded by Route 17, Dare Road and Lakeside Drive and including, but not limited to, all sections of the Jacob's Springs, Brandywine, Providence Grove, Winders Pond, and Lakeside Forest subdivision, York Crossing Townhouses and Grafton Station Apartments.
38. Grafton Woods/Glen Laurel vicinity being further described as the area bounded on the east by Grafton Drive, on the south by Glen Laurel Townhouses, on the west by Newport News Waterworks property and on the north by Grafton Woods Townhouses and including, but not limited to, those developments.
- 38.1. Rainbrook Villas, all sections.
39. Kentucky Heights, all sections.
40. Quail Hollow/Meadowview vicinity being further described as the area bounded on the east by Route 17, on the south by Oriana Road, on the west by Burts Road and on the north by the Quail Hollow and Meadowview subdivisions and including, but not limited to, those developments.
41. Piney Point/Harwood's Mill vicinity being further described as the area bounded by Lakeside Drive and

Yorkville Road on the north, the Oyster Cove subdivision and Poquoson River on the east and south, and Route 17 on the west, including but not limited to, all sections of the Quartermarsh Estates, Castellow Heights, Piney Point, Devonshire, Breezy Point, Lee's Village, Harwood Heights, Cove Homes, Southall Battery, and Harwood's Mill subdivisions.

42. Whispering Pines.
43. Mill Farms, all sections.
44. Yorkshire, all sections .
45. King's Villa, all sections.
46. Plantation Acres, all sections.
47. Tabb Terrace vicinity being further described as the area bounded by Yorktown Road on the north, the Tabb Terrace and Smithville Terrace subdivision on the east, Route 171 on the south, and Route 134 on the west.
48. Hollymead.
49. Tidemill Estates, all sections.
50. Olde Port Cove, all sections.
51. Lambs Creek Estates, all sections.
52. River Haven, all sections.
53. Poquoson Shores, all sections.
54. Woods of Tabb, all sections.
  - 54.1. Wythe Creek Farms, all sections.
  - 54.2. Overlook Point.
55. Running Man, all sections.
56. Lotz Acres Estates, all sections.
  - 56.1. Sherwood Forest.

57. Yorkshire Downs, all sections.
  - 57.1. Villas on Shady Banks, all sections.
  58. Pines of York/Four Seasons/Belmont area being further described as the area bounded by Route 134 (Hampton Highway) on the north, the Hampton city line on the east and south, and Big Bethel Road on the west.
  59. Woodlake Crossing vicinity being further described as the area bounded by Route 171 on the north, Route 600 on the east, and Route 134 on the south and west, including, but not limited to, all sections of the Edgewood, Meadowlake Farms (Heatherlea), Woodlake Crossing, and Mill Crossing subdivisions.
  60. Tabb Lakes/Coventry vicinity being further described as the area bounded by Route 171 and Route 134 on the north, Route 600 on the east, the Hampton and Newport News city lines on the south, and Route 17 on the west, including, but not limited to, all sections of the York Meadows, Coventry, Tabb Lakes, Greenlands and Patriot Village subdivisions.
  61. Villages of Kiln Creek vicinity being further described as the area bounded by Route 17 on the east, the southern boundaries of Bethel Industrial Park and the Kiln Creek Corporate Center on the south, the Newport News city line on the west, and the northern boundaries of the Villages of Kiln Creek and Foxwood subdivisions and including, but not limited to, all sections of those subdivisions and York Manor and Rich Acres.
- (c) Exceptions. The provisions of section 16-7 shall not apply to law enforcement officers, animal wardens and game wardens in the line of duty, military personnel in the line of duty, the discharge of firearms on firing ranges or target ranges operating in conformance with the county's zoning regulations, the discharge of a firearm in conjunction with a managed hunt to control the deer population pursuant to Code of Virginia section 29.1-529, and any discharge of a firearm in lawful defense of property or persons or to kill a dangerous or destructive animal. Furthermore, the provisions of this section shall not apply to nail guns, rivet guns, or similar implements designed for construction purposes.

**Sec. 16-37. Discharge of high-powered rifles prohibited.**

- (a) *Prohibition; exceptions.* No person shall discharge at any location in the county any rifle of a caliber larger than .22 rimfire, except for the following:
- (1) Law enforcement officers, animal wardens and game wardens in the line of duty;
  - (2) Military personnel in the line of duty;
  - (3) Persons discharging a rifle on firing ranges operating in conformance with the county's zoning regulations;
  - (4) Persons discharging a rifle in conjunction with and as authorized by a permit to hunt to control the deer population pursuant to Code of Virginia section 29.1-529; and
  - (5) Persons discharging a rifle in lawful defense of property or persons or to kill a dangerous or destructive animal.
- (b) *Penalty for violation.* Any person violating this section shall be guilty of a Class 2 misdemeanor.

BOARD OF SUPERVISORS  
COUNTY OF YORK  
YORKTOWN, VIRGINIA

Ordinance

At a regular meeting of the York County Board of Supervisors held in York Hall, Yorktown, Virginia, on the \_\_\_\_ day of \_\_\_\_\_, 2010:

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Present

Vote

Donald E. Wiggins, Chairman  
George S. Hrichak, Vice Chairman  
Walter C. Zaremba  
Sheila S. Noll  
Thomas G. Shepperd, Jr.

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On motion of \_\_\_\_\_, which carried \_\_\_\_, the following ordinance was adopted:

AN ORDINANCE TO REPEAL SECTION 16-7, DISCHARGING FIRE-ARMS WITHIN CERTAIN AREAS PROHIBITED, AND SECTION 16-37, DISCHARGE OF HIGH POWERED RIFLES PROHIBITED, OF THE YORK COUNTY CODE

WHEREAS, the York County Board of Supervisors has determined that the public health, safety and welfare is protected adequately and appropriately through the statewide firearms discharge regulations set forth in various sections of the Code of Virginia; and

WHEREAS, the Board has determined, therefore, locally established firearms discharge regulations and restrictions are not necessary and should be repealed;

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this the \_\_\_\_ day of \_\_\_\_\_, 2010, that Section Nos. 16-7 and 16-37 of the York County Code be, and they are hereby, repealed in their entirety.

# COUNTY OF YORK

## MEMORANDUM

**DATE:** June 30, 2010 (BOS Mtg. 7/20/10)

**TO:** York County Board of Supervisors

**FROM:** James O. McReynolds, County Administrator 

**SUBJECT:** Parking Restrictions for Large Commercial, Recreational and Passenger-Carrying Vehicles – Phoenix Circle (Skimino Hills subdivision)

By letter received June 16, 2010 (copy attached), the owners/occupants of eight (8) of the ten (10) properties located on Phoenix Circle in the Skimino Hills subdivision have petitioned the Board for establishment of commercial vehicle parking restrictions on their street.

The parking restrictions for large commercial, recreational and passenger-carrying vehicles in certain designated areas of the County (Section 15-48, York County Code) have been in effect for several years and they appear to be providing the intended benefits to residents of these areas. The restrictions prohibit the parking of any of the following types of vehicles on the public streets within the designated community:

### Commercial Vehicles

- Greater than 10,000 lbs. gross weight, or
- Greater than 21 feet in length, including trailers and attachments.
- Any HazMat vehicle
- Heavy construction equipment
- Tractor truck, trailer, dump truck, concrete mixer, towing vehicle, beverage/food truck or trailer

### Passenger Carrying Vehicles

- 16 passengers or more, or
- Licensed as a common or contract carrier, or
- Licensed as a limousine

### Recreational Vehicles

- Gross weight greater than 10,000 lbs., or
- Greater than 21 feet in length.

It is important to note that these restrictions apply only to public streets that have been accepted into the VDOT Secondary System. It is also important to note that the restrictions do not apply to private property; instead, there are already provisions in place in the Zoning Ordinance accessory use regulations that describe the locations where recreational vehicles can be parked on residential lots (*only on driveways in front; in side or rear yards if not on driveway*).

Section 15-48 of the County Code sets out the following criteria for evaluating streets for inclusion in the commercial vehicle restrictions:

The determination of streets and areas to be subject to such parking restrictions shall be based on characteristics including, but not necessarily limited to:

1. location within a residential zoning classification or within a designated business, office or industrial park or other commercial/industrial area with special character or features that could be adversely impacted by on-street parking of large vehicles; The property on Phoenix Circle is zoned RR-Rural Residential.
2. density of development, with primary focus on residential subdivisions with a typical lot size of one (1) acre or less; Lot sizes range from approximately ½-acre to ¾-acre.
3. predominant lot width and street frontage characteristics, with primary focus on subdivision settings where typical lot widths are 150 feet or less; *The predominant lot width is 100 feet.*
4. location-specific safety issues including, but not limited to, considerations of traffic volumes, street surface width, sight distance, and use characteristics; *Phoenix Circle is an open ditch cross-section with a pavement width of approximately 21 feet; circulation and safety issues are discussed below in the supplementary information provided by one of the petitioners.*
5. documentation or determination of inappropriate parking of classified vehicles or the potential for such parking to occur. *Photos are attached.*

The attached photographs submitted by the petitioners show a parked commercial vehicle which obstructs part of the travel lane and also creates visibility problems for drivers traveling the street or trying to exit a private driveway. In addition to the attached letter, Mr. Miller provided the following explanation of the problems that large vehicle parking creates on Phoenix Circle:

*“As I spoke to everyone, I found out that they felt the same way I did about the commercial vehicle (with a trailer connected) being a safety hazard on the street. When parked in front of the house in question, it presents a bottle neck when trying to turn from Newman Rd (Rte. 199) onto Phoenix Circle. Some times while turning onto Phoenix Circle, residents meet up with traffic leaving Phoenix. This causes the cars turning onto Phoenix to wait, leaving their cars half on Newman Rd. and half on Phoenix Circle. This exposes the bumper of the turning car to traffic on a road with the speed limit at 45 mph. There is not enough room for 2 cars to pass by the parked commercial truck when it’s parked in front of the house*

*in question or just parked on Phoenix Circle. Also, some commented that the trailer can't be seen very well and some have almost crashed into it while turning onto the street."*

I believe that Phoenix Circle is an appropriate candidate for inclusion in the list of areas subject to the large vehicle parking restrictions. The street is clearly residential in character and is not suited for large vehicle parking or frequent travel. The density of development, lot width, and street frontage characteristics are such that large vehicle circulation or parking along Phoenix Circle could create safety hazards and negatively impact the character of the neighborhood.

I recommend that the Board approve the parking restrictions as requested. This can be accomplished by the adoption of proposed Ordinance No. 10-14.

Carter/3337:jmc

Attachments: Residents' letter  
Vicinity Map  
Photos of parked commercial vehicle  
Proposed Ordinance No. 10-14

Copy to: Mr. Todd Halacy, Williamsburg Residency Administrator (VDOT)

York County Board of Supervisors  
P.O. Box 532  
Yorktown, VA 23690

Attention: James O. McReynolds, County Administrator

Dear Mr. McReynolds:

On behalf of the residents of <sup>Skimino</sup> Hills subdivision, we would like to request that the Board of Supervisors add Phoenix Cir to the list of developments covered by the Commercial, Passenger Carrying and Recreational Vehicle No Parking restrictions set forth in section 15-48 of the York County Code. The streets in Phoenix Cir. are not capable of safely accommodating large vehicle parking and such activity is incompatible with the residential character of our community.

Thank you for considering our request. If there are questions, please don't hesitate to contact Barry Miller. 259-9158

Sincerely,

*Barry Miller*  
Homeowners Association President (or authorized representative) or

Multiple residents (the more, the better) signing the letter in the absence of a Homeowners Association

*[Signature]* 104 Phoenix Cir.

*[Signature]* 107 Phoenix Circle

*[Signature]* 101

*[Signature]* 103 PHOENIX CIRCLE

*[Signature]* 106 Phoenix Circle

*[Signature]* 109 Phoenix

*[Signature]* 105 Phoenix



**Barry S. Miller**  
102 Phoenix Cir.  
Williamsburg, VA 23188

*copy attached*



Newman Road

Skimino Fire Station

Phoenix Circle



BOARD OF SUPERVISORS  
COUNTY OF YORK  
YORKTOWN, VIRGINIA

Ordinance

At a regular meeting of the York County Board of Supervisors held in York Hall, Yorktown, Virginia, on the \_\_\_\_ day of \_\_\_\_\_, 2010:

---

Present

Vote

Donald E. Wiggins, Chairman  
George S. Hrichak, Vice Chairman  
Walter C. Zaremba  
Sheila S. Noll  
Thomas G. Shepperd, Jr.

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On motion of \_\_\_\_\_, which carried \_\_\_\_, the following ordinance was adopted:

AN ORDINANCE TO AMEND SECTION 15-48, PARKING PROHIBITED OR RESTRICTED IN SPECIFIC PLACES, OF THE YORK COUNTY CODE, TO ADD PHOENIX CIRCLE TO THE LIST OF SPECIFIC AREAS WHERE THE PARKING OF COMMERCIAL, RECREATIONAL AND PASSENGER-CARRYING VEHICLES ON PUBLIC STREETS IS PROHIBITED

WHEREAS, the York County Board of Supervisors has determined that the parking of large vehicles along certain streets, other than for temporary periods to allow deliveries, may present safety hazards for other vehicles and for pedestrians and may contribute to premature failure of road surfaces designed to accommodate primarily passenger vehicles; and

WHEREAS, pursuant to Section 46.2-1222 of the Code of Virginia, the Board has adopted an ordinance that prohibits the parking of certain classifications of vehicles on certain secondary system highways in designated areas of the County; and

WHEREAS, pursuant to a request made residents of the subject neighborhood, and the investigation of the street and parking characteristics, the Board has determined that it would be appropriate and desirable to add Phoenix Circle to the list of areas subject to the special parking restrictions;

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this \_\_\_\_ day of \_\_\_\_\_, 2010, that Section Nos. 15-48(c)(3) of Chapter 15,

Motor Vehicles and Traffic, York County Code, be and they are hereby amended as follows:

\*\*\*

- (3) Designation of Specific Vehicle Classifications and Areas Subject to Restriction

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- ll. Kings Court and Hickory Hill and Barham Boulevard

- mm. Phoenix Circle (Skimino Hills)

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# COUNTY OF YORK

## MEMORANDUM

**DATE:** July 6, 2010 (BOS Mtg. 7/20/10)

**TO:** York County Board of Supervisors

**FROM:** James O. McReynolds, County Administrator 

**SUBJECT:** Request to Extend the Chisman Creek No Wake Zone Approximately 350 Yards Farther East

### Issue

Mr. Dan Morris and several other property owners along Chisman Creek have submitted the attached letter requesting that the Board of Supervisors support the extension of the existing No Wake Zone (NWZ) approximately 350 yards farther east to address boating safety issues that have been observed recently.

### Background

Section 16-42 of the County Code establishes the “local” ordinance that is a prerequisite for Virginia Department of Game and Inland Fisheries (VDGIF) approval of safety-related No Wake designations. Section 16-42 was adopted on June 19, 2007 and in a companion action the Board requested that VDGIF approve the re-establishment / re-validation of “No Wake” designations on the following waterways:

- Poquoson River at Patricks Creek entrance
- Poquoson River at Lambs Creek entrance
- Chisman Creek at Goose Creek entrance
- Back Creek
- Queens Creek at “Marker 20”

The Virginia Department of Game and Inland Fisheries approved the Board’s request in July 2007. Each of these designations had been in place since 1975 but the 2007 actions were necessary to ensure that the restrictions would be enforceable by VDGIF officers.

As noted in Mr. Morris’ letter, even though the official eastern boundary of the Chisman Creek NWZ is the mouth of Goose Creek, for approximately the past four (4) years a No Wake sign, apparently installed by a private property owner, had been in place approximately 350 yards farther to the east. This sign had been attached to a channel marker maintained by the Coast Guard and was recently removed by Coast Guard personnel since it was an unauthorized attachment to a Coast Guard-maintained aid to navigation.

### Considerations

1. Despite being an “unofficial” sign, the now-removed No Wake notice apparently served its purpose and was respected by most boaters, as is discussed in the letter from Mr. Morris. Additionally, he notes that even in the absence of the sign,

some boaters continue to recognize the hazards created by the shallow and narrow channel and slow to “no wake” speed; however, a significant percentage do not.

2. It is important to note that Mr. Mike Hanna, representing Dare Marina and its numerous boaters, has joined in this request, as have several other upstream property owners. One might expect that none of these people would have joined in the request if they felt that boating operations would be adversely impacted. Also significant is the endorsement of the request provided by Officer Miller of the Virginia Marine Police (letter dated June 16, 2010 attached).
3. It appears from a review of aerial photos that eleven waterfront properties with piers front on the portion of Chisman Creek that would be encompassed by the extended NWZ. Three (3) of these properties are on the south side of the creek and nine (9) are on the north side.
4. The authority for Section 16-42 of the County Code is derived from Section 29.1-744.E. of the Code of Virginia which provides that “no wake” areas may be approved by VDGIF to provide for the safe and efficient operation of vessels. When established for those purposes and in accordance with applicable procedures, the NWZ restriction becomes enforceable by the VDGIF and VMRC marine patrols.
5. Section 16-42 stipulates that the “applicant” shall be responsible for the costs of placing and maintaining the approved regulatory markers. In this case, staff suggests that VDGIF be requested to authorize the placement of a sanctioned sign on the same piling where the previous sign was located, subject to Coast Guard approval. This would avoid the effort and expense of placing a new piling/sign support while taking advantage of a location that has a proven track record of effectiveness and respect. Staff has submitted a request to the Coast Guard asking that this be allowed (if the NWZ extension is approved by the Board and VDGIF); however, as of the date of this memorandum we do not know whether the request will be approved.

### Recommendation

This request is supported by various waterfront landowners, by the operator of a large marina whose patrons would be subject to the designation, and by a Marine Police Officer who patrols the area. Adding 350 yards to the officially designated No Wake area would re-establish controls that had apparently been well-respected by boaters over the past several years even though the “regulatory” sign was not officially sanctioned. Undoubtedly, there will be some opposition to official establishment of the proposed NWZ; however, the concerns and justifications cited by the proponents appear to staff to be worthy of consideration and favorable action. Accordingly, I recommend adoption of proposed Resolution R10-104 to endorse this request and to forward it on to the Virginia Department of Game and Inland Fisheries for review and consideration.

Carter/3337

Attachments

York County Board of Supervisors

July 6, 2010

Page 3

- Letter from Mr. Dan Morris (and others) requesting No Wake Zone
- Aerial photo of Chisman Creek area
- Letter dated June 16, 2010 from VMRC
- Section 16-42, York County Code
- Proposed Resolution R10-104

**Dan Morris**

833 Railway Road

Yorktown, VA 23692

Phone: (757) 572-6706

► **Mark Carter**

**Assistant County Administrator**

County of York

224 Ballard Street

Yorktown, VA 23690

Phone: (757) 890-3820

---

**Dear Mark,**

On or around May 21, 2010 a No Wake Zone (NWZ) sign was removed from the piling near the green number 5 channel marker on Chisman Creek. The sign was located on a piling which identifies a "Danger Area" caused by a shallow sand shoal running from the point of my property to just about the channel boundary. That NWZ sign had been in place prior to me buying the property at the end of Railway Road. According to employees of Dare Marina the NWZ sign had been in place for at least 4 years. I am not sure who installed the sign but it was an effective device to maintain boater speed and behavior in this area where the creek narrows before the marina. Although the NWZ was apparently an unauthorized marker it was recognized as the defacto start to the NWZ on Chisman Creek and was obeyed by the majority of boaters coming in and out of the creek.

Within the last few weekends since the NWZ sign was removed my neighbors and I have witnessed numerous near miss collisions at this location on the creek. Prior to removal of the sign; boaters towing tubers, wakeboarders and skiers generally turned around several hundred yards before the channel marker area. Since removal we have noticed a high number of boaters towing their passengers well into the area previously marked as NWZ and turning around at locations that are far closer to piers where there is very little maneuverability for boats leaving the marina or other areas down creek. At peak boating times this is a very busy section of the creek due to the narrow channel. It appears many of the boaters towing passengers are much more focused on the passengers attached to their tow lines than to the boat traffic in the creek. Because of this turns made extremely close to the paths of oncoming boat traffic are far too common.

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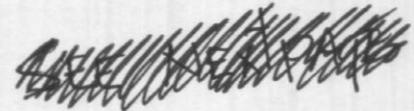
The need for the existing channel marker and "Danger Area" sign are evidence as to why boating in this area can be hazardous. If this was not a shallow and narrow area these markers would not be required. However, since they are it is also logical that this is a natural location for the NWZ to begin as it has for the last 4 years minimum. Even today it appears that close to 50% of boaters coming in and out of the creek still recognize this as the NWZ start area as they proceed to and from the Bay.

Therefore, per Ordinance 07-11 it is requested that the County Administrator prepare the necessary material so the Board of Supervisors can formally consider my request to place a "no wake" buoy or other acceptable marker at or near marker 5 on the Chisman Creek. This location would extend the existing NWZ on Chisman Creek by approximately 350 yards towards the east and would actually protect boats that are docked at Dare Marina. The current NWZ start location (Chisman Creek at Goose Creek entrance) does not provide any protection to the dozens of boats tied up at the marina. The image below identifies the existing NWZ (red) and the proposed extension (blue).

I have discussed this request with numerous neighbors and interested parties including Mike Hanna (Dare Marina) and Sheriff Danny Diggs (Goose Creek resident). Their signatures are provided below indicating their support of this request.

I look forward to the opportunity to speak with County staff and the Board of Supervisors regarding this request.

Best regards,



SEE NEXT PAGE

**Dan Morris**  
833 Railway Road  
6/12/2010

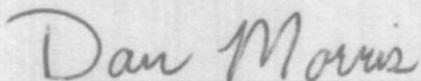
Mike Hanna  
Dare Marina  
6/12/2010

Therefore, per Ordinance 07-11 it is requested that the County Administrator prepare the necessary material so the Board of Supervisors can formally consider my request to place a "no wake" buoy or other acceptable marker at or near marker 5 on the Chisman Creek. This location would extend the existing NWZ on Chisman Creek by approximately 350 yards towards the east and would actually protect boats that are docked at Dare Marina. The current NWZ start location (Chisman Creek at Goose Creek entrance) does not provide any protection to the dozens of boats tied up at the marina. The image below identifies the existing NWZ (red) and the proposed extension (blue).

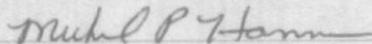
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I look forward to the opportunity to speak with County staff and the Board of Supervisors regarding this request.

Best regards,



Dan Morris  
833 Railway Road  
6/12/2010



Mike Hanna  
Dare Marina  
6/12/2010



Danny Diggs  
113 Goose Creek Road  
6/12/2010

The undersigned individuals have read this request and express support for this action by the BOS.

Name: James D. Brewer

Address: 831 Railway Rd.

Signature: [Signature]

Name: Bobby E. James

Address: 306 MARTIN AVE

Signature: SEAFORD, VA. 23696

Name: SUSAN Z. Brewer

Address: 831 RAILWAY RD.

Signature: [Signature]

Name: James K. Smith

Address: 609 Railway Rd.

Signature: [Signature]

Name: Nancy E. Nunn

Address: 725 Railway Rd.

Signature: [Signature]

Name: Bryan Herring

Address: 816A RAILWAY RD Dereella

Signature: Bryan Herring

Name: DEBORAH M. JENKINS

Address: 725 RAILWAY ROAD

Signature: Deborah M. Jenkins

Name: Tim Smith

Address: 810 Railway Rd.

Signature: [Signature]

Name: Isabel Althee

Address: 820 Railway Rd

Signature: Isabel Althee

Name: K. J. Smith

Address: 811 Railway Rd

Signature: [Signature]

Name: Picky Edgeton

Address: 721 Railway Rd

Signature: [Signature]

Name: Lillian J. Smith

Address: 811 Railway Rd

Signature: Lillian J. Smith



Goose Creek

Requested No Wake Area

Current No Wake Area

Chisman Creek

Dare Marina

Approximate location  
of Danger Area sign



# *COMMONWEALTH of VIRGINIA*

*Marine Resources Commission  
2600 Washington Avenue  
Third Floor  
Newport News, Virginia 23607*

Douglas W. Domenech  
Secretary of Natural Resources

Steven G. Bowman  
Commissioner

June 16, 2010

Mr. Dan Morris,

I am writing this letter in response to our conversation yesterday.

I would agree that the no wake zone in Chisman Creek should start where the old sign was located about 350 yards downstream from the current sign at the Goose Creek and Chisman Creek split in front of Dare Marina. I patrol this area on a regular basis and believe the boaters think that is the established no wake zone. In my opinion it would only make sense to have vessels slow before they get to Dare Marina.

Respectfully,

Officer J Miller  
Virginia Marine Police

*An Agency of the Natural Resources Secretariat*

[www.mrc.virginia.gov](http://www.mrc.virginia.gov)

Telephone (757) 247-2200 (757) 247-2292 V/TDD Information and Emergency Hotline 1-800-541-4646 V/TDD

**Section 16-42. “No Wake” regulatory markers on waterways.**

(a) As used in this section, the following terms shall have the meanings listed below:

"*Motorboat*" means any vessel propelled by machinery whether or not the machinery is the principal source of propulsion.

"*No wake*" means operation of a motorboat at the slowest possible speed required to maintain steerage and headway.

"*Operate*" means to navigate or otherwise control the movement of a motorboat or a vessel.

"*Personal watercraft*" means a motorboat less than sixteen feet in length which uses an inboard motor powering a jet pump, as its primary motive power and which is designed to be operated by a person sitting, standing, or kneeling on, rather than in the conventional manner of sitting or standing inside, the vessel.

"*Vessel*" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

(b) No person shall operate a motorboat or vessel, which shall include personal watercraft, at such a speed as to create a wake, swell or displacement wave in and on any waterway in York County that has been designated by a "no wake" buoy or other marker pursuant to the authority provided under Section 29.1-744 of the Code of Virginia:

(c) Any person who desires to place "no wake" buoys or other markers relating to safe and efficient operation of vessels shall apply to the county administrator who shall prepare the material necessary for the request to be formally considered and acted on by the board of supervisors. The applicant shall be responsible for paying the costs of a legal advertisement to be published at least 14 days prior to the board of supervisors' consideration of the request. Subsequent to the board of supervisors' action, the county administrator shall forward the request, along with documentation of the board's action, to the director of the Virginia Department of Game and Inland Fisheries who will, within thirty (30) days, approve, disapprove or approve with modifications the placement and type of "no wake" marker to be used. As used in this and the following subsection, the term "person" or "applicant" may include the board of supervisors acting on its own initiative.

(d) Upon authorization by VDGIF, the applicant shall place and maintain the approved regulatory marker(s), at the expense of the applicant. Any marker or buoy which is not in conformance with the VDGIF regulations shall be removed.

(e) All law enforcement officers may enforce the proper observance by watercraft operators of any marker installed under this article. Violations shall constitute a class 4 misdemeanor.

(Ord. No. 07-11, 6/19/07)

BOARD OF SUPERVISORS  
COUNTY OF YORK  
YORKTOWN, VIRGINIA

Resolution

At a regular meeting of the York County Board of Supervisors held in York Hall, Yorktown, Virginia, on the \_\_\_\_ day of \_\_\_\_\_, 2010:

Present

Vote

Donald E. Wiggins, Chairman  
George S. Hrichak, Vice Chairman  
Walter C. Zaremba  
Sheila S. Noll  
Thomas G. Shepperd, Jr.

On motion of \_\_\_\_\_, which carried \_\_\_\_, the following resolution was adopted:

A RESOLUTION TO FORMALLY REQUEST THAT THE EXISTING “NO WAKE” DESIGNATION FOR CHISMAN CREEK BE EXTENDED APPROXIMATELY 350 YARDS TO THE EAST AND TO FORWARD SAID REQUEST TO THE VIRGINIA DEPARTMENT OF GAME AND INLAND FISHERIES FOR CONSIDERATION AND ACTION

WHEREAS, the Virginia Department of Game and Inland Fisheries (VDGIF) promotes boating safety to minimize interference between various users of public waterways through a system of uniform regulatory markers; and

WHEREAS, the purpose of said regulatory markers is to convey to the operators of small watercraft, without need for reference charts or published regulations, the presence of areas where boating operations are, in some manner, restricted; and

WHEREAS, the York County Board of Supervisors has been requested to support the extension of the existing No Wake designation in Chisman Creek a distance of approximately 350 yards farther east; and

WHEREAS, the Board has determined that extension of the official No Wake Zone to cover a segment of Chisman Creek previously thought by boaters to be restricted would be an appropriate technique to promote boating safety;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors, this the \_\_\_\_ day of \_\_\_\_\_, 2010, that the proposal for extension of the existing Chisman Creek “No Wake” designation approximately 350 yards to the east be, and it is

hereby, forwarded to the Department of Game and Inland Fisheries for review and action as deemed appropriate by the Department;

BE IT FURTHER RESOLVED that the applicant(s) who submitted this request to the Board of Supervisors shall, pursuant to the terms of Section 16-42 of the York County Code, be responsible for the costs of establishing and maintaining such signs or other markers as may be approved by VDGIF.

MINUTES  
BOARD OF SUPERVISORS  
COUNTY OF YORK

Regular Meeting  
June 1, 2010

6:00 p.m.

Meeting Convened. A Regular Meeting of the York County Board of Supervisors was called to order at 6:04 p.m., Tuesday, June 1, 2010, in the Board Room, York Hall, by Chairman Donald E. Wiggins.

Attendance. The following members of the Board of Supervisors were present: Walter C. Zarembo, Sheila S. Noll, Donald E. Wiggins, and George S. Hrichak.

Thomas G. Shepperd, Jr. was absent.

Also in attendance were James O. McReynolds, County Administrator; J. Mark Carter, Assistant County Administrator; and James E. Barnett, County Attorney.

Invocation. Elizabeth Greenwood, York County Youth Commission, gave the invocation.

Pledge of Allegiance to the Flag of the United States of America. Chairman Wiggins led the Pledge of Allegiance.

## **PRESENTATIONS**

### YORK COUNTY YOUTH COMMISSION

#### Quarterly Report

Miss Casey Bata, Chairman, provided the Board with an update on the Commission's activities since March 16. On March 21 the Commissioners assisted with the annual Zweibrucken Student Exchange Reception; in April the Outstanding Youth of the Year were selected and awards presented to the recipients on May 18 by the Board of Supervisors; and the Commissioners hosted the annual Town Hall Meetings in each of the high schools the week of June 1. Miss Bata stated it was the primary goal of the Commission this spring to revamp the York County Youth Commission website. She indicated that many new changes had been made, and the site was more appealing to teens. There was a new opinion tool provided on the home page. She then displayed some of the changes for the Board, including a video clip from Mr. Zarembo.

#### Commendation of the 2009-2010 York County Youth Commission

Chairman Wiggins presented a bound and sealed certified copy of Resolution R10-45 to each of the members of the 2009-2010 York County Youth Commission, thanking each of them for their service to the youth of York County.

#### Introduction of the 2010-2011 York County Youth Commission

Chairman Wiggins introduced and presented County pins to each of the 2010-2011 York County Youth Commission members present as follows:

<u>Name</u>	<u>Election District</u>
Kelly Abbinanti	1

Delaney Burgett	1
Ty William Rinoski, Jr.	1
Kristen Andleton	2
Maruchi Kim	2
Jessica Lee	2
Kirstyn Cassidy	3
Mariah Kelley Hart	3
Hobie D. Kopczynski	3
Dylan Moody	4
Julia Rothmayr	4
Taylor Voilman	4
Brandon Euker	5
Jordan Ludwig	5
Aaron Williams	5

## **WORK SESSION**

### **SOIL STOCKPILING**

Mr. McReynolds explained that soil stockpiling was one of the items that came out of the Zoning Ordinance amendments the Board considered in 2009. A public hearing was held on the amendments January 19, and soil stockpiling was an item deferred for further study. Mr. McReynolds indicated that staff had addressed the issues raised at the public hearing and developed several different decision points on which they would like some direction tonight as to the crafting of the ordinance amendment. At the moment, soil stockpiling was not regulated in the County.

Chairman Wiggins stated he had reviewed the material, and there was only one problem he had, which was the maximum recommended height of 6 feet. He noted he understood the 6 feet had to do with the height of a dump truck, but the problem was with water that accumulated in the pile. The water goes to the bottom, and when the soil was moved, there would be nothing but mud. Mr. Wiggins stated if it were higher, the water would not go to the bottom.

Discussion ensued on how the rain affected soil stockpiling.

Mr. Zaremba indicated a lot of effort went into the staff report, and he felt the Board should hear it.

Mr. Carter then made a presentation on soil stockpiling, stating that today there were no regulations other than the basic sediment and erosion control and Chesapeake Bay regulations. He noted that staff had likened this issue to a borrow pit in reverse, and having the same types of regulations would be applicable. Based on the January public hearing comments, staff reviewed those regulations, and many that applied solely to a borrow pit operation have been taken out. Mr. Carter then reviewed the following decision points which the Board was being asked to consider at this time:

- What constitutes a “soil stockpile”
- What is not a “stockpile” (i.e., what is exempt?)
- What materials can be stockpiled
- Where permitted
- What type of permitting—administrative or special use permit
- What performance standards

The previous draft included what would not be a stockpile, including storage of any quantity of material from and on a site being developed per an approved site or subdivision plan, or storage of any quantity provided that the mounded portion over six feet in height did not exceed 2,500 square feet. Under the proposed re-drafted provisions, exempt activities would include: storage of any quantity of material from and on a site being developed per an approved site or subdivision plan; placement to change natural grade; or temporary storage covering no more than 2,500 square feet, not mechanically mounted, and where stockpiles meet building setbacks for district, stockpiles do not impact stormwater drainage, and stockpiles are not within tree drip-lines. The types of materials to be stockpiled would be limited to clean soil and not sand gravel, stone, or wood mulch. Mr. Carter indicated the original location proposal for soil stockpiling was for the IL and IG districts with an administrative permit, and by special use permit for all other districts. The discussion group has recommended the IG and IL districts by administrative permit, as well as all commercial property, if 200 feet from the nearest residence, and in the RR district if 300 feet from the nearest residence. The RC and other residential districts, and any administrative permit situation with lesser setbacks, were proposed through special use permit. Mr. Carter reviewed the following performance standards to be included in the proposed ordinance:

- Access
- Tree protection
- Hours of operation
- Noise, dust, vibration
- Setbacks
- Stockpile height
- Drainage
- Erosion and sediment control
- Equipment maintenance
- Required plans

Mr. Zaremba asked what had caused this issue to surface.

Mr. Carter indicated that in the past when soil stockpiling operations occurred, complaints often were received from adjacent property owners about the operation. At this time, the County has no regulations, and stockpiling could go on anywhere in the County as long as trees were not cleared to do it.

Mr. Zaremba asked if there was a state statute that addressed allowing the Board to do this.

Mr. Carter stated staff looked at it as a land use issue, and they were able to address the issue through the authority provided by the State Code for zoning.

Mr. Zaremba noted the last slide suggested that the Board could approve allowing a stockpile 40 feet high.

Mr. Carter explained that the dump load height provision applied to those things done without it being considered as stockpiling. The exemptions were things that could occur without being defined as stockpiling under this ordinance. Above those thresholds the permits would kick in with the higher height limits.

Discussion ensued regarding the requirement to show the temporary stockpiling site on the site plan, the height of the stockpiles, and on various scenarios for stockpile use.

Mr. Zaremba asked if grandfathering would apply for any case.

June 1, 2010

Mr. Carter stated any existing situations predating this ordinance adoption would be grandfathered.

Chairman Wiggins noted it made a lot of sense to allow a higher pile if it was going to be used. He indicated he did not feel the proposed height would be high enough.

Mr. Carter stated it was permissible or there was an opportunity to propose 25 feet in a residential area or 40 feet in commercial, but it would be through a special use permit. He noted that 6 feet would be the height allowable without any kind of permit as long as the coverage was not greater than 2500 square feet.

Mr. Zaremba agreed on a fixed height instead of dump truck height. He noted if a developer could dump a mound of dirt and it was close to an intersection, he wanted to be able to see what was perpendicular to his lane of travel. He asked if there would be something in the ordinance to prohibit line of sight problems.

Mr. Carter stated that would be addressed by setback regulations and also the general provisions regarding sight triangles at intersections.

Mr. Zaremba asked how other municipalities dealt with stockpiling.

Mr. Carter noted he found a few examples, and most look at it as borrow pits in reverse.

Chairman Wiggins stated the only problem he had was the height, and he felt it should be 25 feet residential and 40 feet commercial without a permit.

Mr. Carter asked for clarification of the Board's direction, stating he understood the Board wished to change the dump truck height to 6 feet. He asked about Chairman Wiggins' concern, stating he understood his suggestion was for those stockpiles with the 2,500 square foot land coverage limit to go higher than 6 feet.

Discussion ensued on direction to staff.

Chairman Wiggins reiterated he would like to see 25 and 40 feet without a permit.

Mrs. Noll expressed her disagreement, stating it should go to the Planning Commission and then back to the Board of Supervisors for a public hearing.

Mr. Hrichak asked if someone could have a 40-foot stockpile with the 2,500 square foot land coverage.

Mr. Carter stated he did not think it would meet the slope requirement. The issue was the safety and stability of the stockpile area.

Mr. McReynolds suggested there were any number of ways to do this. The maximum fence height was 8 feet on the back property line, and there should be some height that could work with the maximum slope.

Mr. Carter stated 8 feet would be about a 3:1 slope.

Mr. McReynolds noted he felt 8 feet seemed to be a reasonable compromise.

Discussion followed regarding cases where there would be a requirement for a special use permit.

Mr. McReynolds stated it was his understanding that the Board wanted staff to look at an 8-foot height with the 2,500 square foot land area, or a maximum height corresponding to the maximum slope.

Mr. Carter asked if the Board wanted this amendment to go back to Planning Commission.

Mr. Zaremba indicated he also wanted to know if there were similar ordinances in other localities. He stated he did not wish the matter to go back through the Planning Commission.

### **CONSENT CALENDAR**

Mrs. Noll asked that Item Nos. 5 and 6 be removed from the Consent Calendar.

Mr. Zaremba moved that Item No. 4 be removed from the Consent Calendar.

Mrs. Noll moved that the Consent Calendar be approved as submitted/as amended, Item Nos. 2, 3, and 7, respectively.

On roll call the vote was:

Yea: (4) Zaremba, Noll, Hrichak, Wiggins  
Nay: (0)

Thereupon, the following minutes were approved and resolutions adopted:

#### **Item No. 2. APPROVAL OF MINUTES**

The minutes of the May 4, 2010, Regular Meeting of the York County Board of Supervisors were approved.

#### **Item No. 3. INSURANCE RECOVERY FUNDS: Resolution R10-84**

##### **A RESOLUTION TO APPROPRIATE INSURANCE RECOVERY FUNDS IN THE GENERAL FUND AND COUNTY CAPITAL FUND AND TO APPROVE EXPENDITURES FOR EMERGENCY REPAIRS**

WHEREAS, on July 17, 2009, a series of fast moving storms swept through central and eastern North Carolina and southern Virginia; and

WHEREAS, at the time, York County's 911 Center was under construction due to the consolidation of the dispatch operations for the City of Williamsburg; and

WHEREAS, the fast moving storm containing heavy rains along with blowing winds created flooding conditions in the 911 Center along with the roof being compromised due to construction, resulting in water damage to equipment and property; and

WHEREAS, as a result of the water damage, in accordance with Purchasing Policy, an Emergency Purchase Order (EPO) was immediately issued to effect repairs, and a claim was reported to Virginia Municipal League on July 20, 2009, and the claim was settled on April 28, 2010, in the amount of \$185,774;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 1st day of June, 2010, that \$6,659 and \$179,115 be, and hereby is, appropriated in the General Fund and County Capital Fund, respectively, for the purposes of recovering labor and repair costs.

BE IT FURTHER RESOLVED that after-the-fact approval is granted by the BOS for the following two emergency purchase orders for repairs of storm damage to the 911 Center:

AMOUNT

June 1, 2010

Motorola	\$106,559
Precision Power	\$51,050

Item No. 7. PURCHASE AUTHORIZATION: Resolution R10-87

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR TO CONSTRUCT BRANDYWINE DRAINAGE IMPROVEMENT, PHASES II AND III

WHEREAS, it is the policy of the Board of Supervisors that all procurements of goods and services by the County involving the expenditure of \$30,000 or more be submitted to the Board for its review and approval; and

WHEREAS, the County Administrator has determined that the following procurements are necessary and desirable, they involve the expenditure of \$30,000 or more, and that all applicable laws, ordinances, and regulations have been complied with;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 1st day of June, 2010, that the County Administrator be, and hereby is, authorized to execute procurement arrangements for the following:

	<u>AMOUNT</u>
Brandywine Drainage Project, Phases II and III	\$914,876

Item No. 5. FY20 11 REVENUE SHARING PROGRAM: Proposed Resolution R10-86; Item No. 6. SIX-YEAR TRANSPORTATION IMPROVEMENT PROGRAM: Proposed Resolution R10-91; and Item No. 4. EAST ROCHAMBEAU WATER AND SEWER EXTENSION: Proposed Resolution R10-85 (Removed from Consent Calendar)

Mrs. Noll asked Mr. Carter to explain the need for Item Nos. 5 and 6.

Mr. Carter indicated Item No. 5 dealt with Revenue Sharing Funds, and he explained the purpose of the Revenue Sharing Program and what was proposed to be covered with this year's funds. He then explained Item No. 6 which was to identify York County's priorities for inclusion in the FY20 1 1-20 16 Six-Year Improvement Program to be developed by the Commonwealth Transportation Board.

Mrs. Noll asked how much funding had been cut from the County.

Mr. Carter indicated the Route 17 widening project was substantially funded in the Plan a couple of years ago, and now all construction funding has been removed. The case being made in this resolution was that the County had RSTP money to go towards a portion of the project, and it would be great if VDOT could provide the rest to finish the project.

Mr. Zaremba asked why Item No. 4 regarding the Rochambeau water and sewer projects was being presented to the Board at this time rather than going through the annual review of the Utilities Strategic Plan.

Mr. John Hudgins, Director of Environmental and Development Services, stated the property owners agreed to donate about \$200,000 toward the project, and the timing was very good.

Mr. Zaremba asked how much was coming from the commercial property owners.

Mr. James Noel, Director of Economic Development, stated commercial property owners were donating about \$180,000.

Discussion followed on the location of the project and when the project would start and be completed.

Mr. McReynolds noted this action did not change any of the other projects or their timing in the Capital Improvements Program.

Mrs. Noll then moved the adoption of proposed Resolutions R10-86, R10-91, and R10-85 that read as follows:

Proposed Resolution R10-86:

A RESOLUTION TO APPROVE AND ENDORSE YORK COUNTY'S  
REQUEST FOR FUNDING UNDER THE FY2011 REVENUE  
SHARING PROGRAM ADMINISTERED BY THE VIRGINIA DE-  
PARTMENT OF TRANSPORTATION

WHEREAS, the Virginia Department of Transportation has established guidelines for the FY 2011 Revenue Sharing Program and has solicited applications for funding; and

WHEREAS, the York County Board of Supervisors desires to participate in this program in order to facilitate improvements to the County's transportation system;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 1st day of June, 2010, that it does hereby approve the submission of a request to the Virginia Department of Transportation for an allocation of up to \$307,500 in funds through the FY 2011 Revenue Sharing Program for the Cook Road/Old York-Hampton Highway Drainage Improvements project, Shoulder Bikelanes — Mooretown Road and East Rochambeau Drive projects, and the Dogwood road/Route 238 Intersection Improvement project, each as described in the County Administrator's report to the Board dated May 20, 2010;

BE IT FURTHER RESOLVED that York County does hereby pledge and commit funding in the amount of \$365,500 to match and exceed the \$307,500 in state Revenue Sharing Program funds requested.

BE IT STILL FURTHER RESOLVED THAT the Board hereby grants authority for the County Administrator to execute project administration agreements for this Revenue Sharing project, if approved.

Proposed Resolution R:10-91:

A RESOLUTION TO IDENTIFY YORK COUNTY'S PRIORITIES FOR  
INCLUSION IN THE FY2011-2016 SIX-YEAR IMPROVEMENT  
PROGRAM TO BE DEVELOPED BY THE COMMONWEALTH  
TRANSPORTATION BOARD

WHEREAS, the Commonwealth Transportation Board has announced a public comment period intended to solicit comments and recommendations from local jurisdictions concerning priorities for inclusion in a revised FY 2011-2016 Six-Year Improvement Program for Interstate and Primary System needs; and

WHEREAS, the York County Board of Supervisors recognizes and appreciates the difficult task that faces the Commonwealth Transportation Board as it works to develop a revised Six-Year Improvement Program that matches current revenue projections; and

WHEREAS, the Board recognizes that transportation system improvement needs far exceed available revenues and that it is impossible to fund all priorities;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this

June 1, 2010

the 1st day of June, 2010, that it does hereby adopt the following recommended program of priorities and projects for consideration by the Commonwealth Transportation Board:

**Priority 1** — Ensure that sufficient funding, in addition to the \$13.4 million of RSTP funds, is allocated in the Plan to allow Project No. UPC 60843 (Route 17 widening between Wolf Trap Road and Route 134) to be fully funded and undertaken as a single, rather than segmented and phased, project.

**Priority 2** — Interstate 64 Widening to Route 199 (east interchange) and including the interchange.

BE IT FURTHER RESOLVED that the County Administrator be, and hereby is, authorized to transmit the information contained in this resolution to the Commonwealth Transportation Board to be entered into the record as the official position of the York County Board of Supervisors and to forward copies to the Commissioner and all others deemed appropriate.

BE IT STILL FURTHER RESOLVED that the Commonwealth Transportation Board be, and hereby is, commended for its dedicated efforts to address the Commonwealth's significant transportation system needs.

Proposed Resolution R10-85:

A RESOLUTION REQUESTING THE APPROPRIATION OF \$480,000 IN THE WATER UTILITY FUND AND \$480,000 IN THE SEWER UTILITY FUND FOR THE EAST ROCHAMBEAU WATER AND SEWER PROJECT; THE APPROVAL OF THE PROCUREMENT OF ENGINEERING SERVICES FOR THE DESIGN OF THE EAST ROCHAMBEAU WATER AND SEWER PROJECT; AND APPROVAL TO ACCEPT AND DESIGNATE AS REVENUE \$200,000 FROM THE ECONOMIC DEVELOPMENT AUTHORITY AND COMMERCIAL PROPERTY OWNERS FOR THE EAST ROCHAMBEAU WATER AND SEWER PROJECT

WHEREAS, the Economic Development Authority in cooperation with the Department of Environmental and Development Services, Division of Utilities, would like to extend public water and sanitary sewer along East Rochambeau Drive approximately 9,000 feet to provide public utilities to several businesses currently dependent upon private wells and private on-site sewerage treatment facilities; and

WHEREAS, the Economic Development Authority and commercial property owners have agreed to contribute \$200,000 to help finance the engineering and construction of the public utility improvements along East Rochambeau Drive; and

WHEREAS, working with the Department of Community Services Division of Housing and Neighborhood Revitalization, public water and sewer will be made available to the residents of Red Dirt Lane, where several homes having failing on-site sewerage treatment facilities; and

WHEREAS, requests for proposals were solicited for the professional design services for the East Rochambeau Water and Sewer Project, and fifteen proposals were received, with AES Consulting Engineers being selected, at a negotiated fee of \$85,000;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors, this the 1st day of June, 2010, that the Board hereby approves the appropriation of \$480,000 in the Water Utility Fund and \$480,000 in the Sewer Utility Fund to support the East Rochambeau Water and Sewer Project.

BE IT FURTHER RESOLVED that the Board accepts a \$200,000 financial contribution

from the Economic Development Authority and from commercial property owners along East Rochambeau Drive, and it has designated these funds as revenue towards this project.

BE IT STILL FURTHER RESOLVED that the Board authorizes the County Administrator to execute a professional engineering services contract with AES Consulting engineers in the amount of \$85,000 for the East Rochambeau Road Water and Sewer Project.

On roll call the vote was:

Yea: (4) Zaremba, Noll, Hrichak, Wiggins  
Nay: (0)

**CLOSED MEETING.** At 7:30 p.m. Mr. Hrichak moved that the meeting be convened in Closed Meeting pursuant to Section 2.2-3711(a)(1) of the Code of Virginia pertaining to appointments to Boards and Commissions.

On roll call the vote was:

Yea: (4) Noll, Hrichak, Zaremba, Wiggins  
Nay: (0)

Meeting Reconvened. At 7:40 p.m. the meeting was reconvened in open session by order of the Chair.

Mr. Hrichak moved the adoption of proposed Resolution SR-1 that reads:

A RESOLUTION TO CERTIFY COMPLIANCE WITH THE FREEDOM OF INFORMATION ACT REGARDING MEETING IN CLOSED MEETING

WHEREAS, the York County Board of Supervisors has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711.1 of the Code of Virginia requires a certification by the York County Board of Supervisors that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 1st day of June, 2010, hereby certifies that, to the best of each member's knowledge, (1) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (2) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed, or considered by the York County Board of Supervisors.

On roll call the vote was:

Yea: (4) Hrichak, Zaremba, Noll, Wiggins  
Nay: (0)

APPOINTMENT TO THE HISTORIC TRIANGLE BICYCLE ADVISORY COMMITTEE

Mrs. Noll moved the adoption of proposed Resolution R10-79 that reads:

A RESOLUTION TO APPOINT A MEMBER TO THE HISTORIC

June 1, 2010

TRIANGLE BICYCLE ADVISORY COMMITTEE

WHEREAS, the term of Mr. William V. Beatovich on the Historic Triangle Bicycle Advisory Committee expires on June 30, 2010; and

WHEREAS, the Board wishes to appoint a citizen to fill this vacancy;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 1st day of June, 2010, that the following individual is hereby appointed to serve on the Historic Triangle Bicycle Advisory Committee for a term beginning on July 1, 2010 and ending on June 30, 2013:

Johann Davisson

On roll call the vote was:

Yea: (4) Zaremba, Noll, Hrichak, Wiggins  
Nay: (0)

APPOINTMENTS TO THE WILLIAMSBURG AREA TRANSIT AUTHORITY BOARD OF DIRECTORS

Mr. Hrichak moved the adoption of proposed Resolution R10-89 that reads

A RESOLUTION TO APPOINT A MEMBER AND ALTERNATE MEMBER REPRESENTING YORK COUNTY ON THE WILLIAMSBURG AREA TRANSIT AUTHORITY BOARD OF DIRECTORS

WHEREAS, York County is a member of the Williamsburg Area Transit Authority and, pursuant to the enabling legislation and Bylaws for that Authority, is entitled to seat one (1) member on the Board of Directors and also to appoint an alternate; and

WHEREAS, the term of the current member will expire on June 30, 2010;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 1st day of June, 2010, that the following individual is hereby appointed to the Board of Directors of the Williamsburg Area Transit Authority for the specified term:

J. Mark Carter — term expiring June 30, 2014

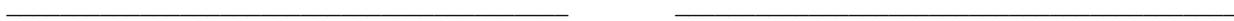
BE IT FURTHER RESOLVED that the following individual is hereby appointed as an alternate member:

Mark Bellamy — term expiring June 30, 2014

On roll call the vote was:

Yea: (4) Noll, Hrichak, Zaremba, Wiggins  
Nay: (0)

Meeting Adjourned. At 7:43 p.m. Chairman Wiggins declared the meeting adjourned sine die.



MINUTES  
BOARD OF SUPERVISORS  
COUNTY OF YORK

Regular Meeting  
June 15, 2010

6:00 p.m.

Meeting Convened. A Regular Meeting of the York County Board of Supervisors was called to order at 6:03 p.m., Tuesday, June 15, 2010, in the Board Room, York Hall, by Chairman Donald E. Wiggins.

Attendance. The following members of the Board of Supervisors were present: Walter C. Zarembo, Sheila S. Noll, Donald E. Wiggins, George S. Hrichak, and Thomas G. Shepperd, Jr.

Also in attendance were James O. McReynolds, County Administrator; J. Mark Carter, Assistant County Administrator; and James E. Barnett, County Attorney.

Invocation. Mr. McReynolds gave the invocation.

Pledge of Allegiance to the Flag of the United States of America. Chairman Wiggins led the Pledge of Allegiance

**PRESENTATIONS**

INTRODUCTION OF NEW MEMBERS TO YORK COUNTY BOARDS AND COMMISSIONS

Chairman Wiggins introduced and welcomed the following newly appointed members of York County's Boards and Commissions and presented them with a Boards and Commissions Handbook and County pin:

William Cole	Historic Yorktown Design Committee
Richard Biege	Regional Issues Committee

EMPLOYEE RECOGNITION PROGRAM

Chairman Wiggins congratulated Connie Bennett, Chief of Stormwater, Department of Environmental & Development Services, for her 25 years of service with the County, and presented her with her service pin and certificate.

COMMENDATION OF JAMES ORBAND

Chairman Wiggins congratulated Mr. James Orband, Virginia Cooperative Extension, upon the occasion of his retirement, and presented him with a bound and sealed certified copy of Resolution R10-71 commending him for more than 30 years of service to York County as the County's Extension Agent.

**CITIZENS COMMENT PERIOD**

Mrs. Beth Konopnicki, 1911 Yorktown Road, stated stormwater was the number one pollutant and growing contaminant in all waterways, and the problem was growing. She asked the Board to come up with a good management plan to contain, filter, and cleanse the water that runs into the waterways.

Ms. Robin McNamara, 323-A5 Water Street, President of the Riverwalk Landing Association, requested a formal meeting with the Board of Supervisors and the Economic Development Authority to discuss the outstanding issues regarding Riverwalk Landing and its tenants.

Mr. Thomas Nelson, Jr., 220 Church Street, addressed the Board regarding the Yorktown street parking restrictions that was included in the evening's agenda. He commended the Board for moving forward in this direction, and he asked that the Board consider a parking restriction for York Hall with "no beach parking" to make more available parking for visitors to Yorktown. He also suggested a time limit be placed on the parking lot at Read and Church Street and that it also be restricted as "no beach parking".

## **COUNTY ATTORNEY REPORTS AND REQUESTS**

Mr. Barnett stated the Virginia Municipal League legislation committee was already looking at forming a legislative program for the next General Assembly. He indicated he would be getting something out shortly to the Board and staff to start coming up with ideas for the County's legislative program.

## **COUNTY ADMINISTRATOR REPORTS AND REQUESTS**

Mr. McReynolds noted the 4th of July holiday was coming up in a couple of weeks, and the events schedule was on the County website. He stated there was only one Board meeting scheduled in July for the 20th.

## **MATTERS PRESENTED BY THE BOARD**

Mr. Zaremba spoke regarding an article that was in the Daily Press today that talked about the rankings of high schools across the country and that all four York County high schools ranked in the top 100 percent of the best high schools in America. He stated this was just one indicator of the quality of life that was afforded in York County. He then spoke of a survey that had been published in another nationwide publication several years ago that had ranked York County about 37 out of 37,000 counties as one of best counties in America in which to live.

Mrs. Noll agreed with Mr. Zaremba's comments, stating the County was very fortunate to have such a good education system that has been recognized nationally. She then expressed her congratulations to the seniors who would be graduating shortly and wished them well and a safe summer as they continue on with the wonderful beginning they have gotten from York County.

Mr. Shepperd stated he also had read the school article with a lot of pride. He stated the cost of education in York County was one of the lowest in the entire area, yet the County produced quality schools. He expressed his appreciation to the teachers, administrators, students, and the parents. He noted in another survey of all the counties in the United States that York County was in the top 5 percent for health. He spoke of the emails and concerns regarding the recycling pickup being reduced to a two-week cycle. He then discussed the County's membership in the Hampton Roads Military Federal Facilities Alliance (HRMFFA) questioning whether or not the County was receiving adequate benefit for its donation. He discussed the Alliance's recent removal of its executive director, which he felt was not done in an appropriate manner. He indicated he would be discussing this with other localities before he asked the Board to make any decision about removing York County from HRMFFA membership. Mr. Shepperd stated he thought the money might better be spent on recycling.

Mrs. Noll expressed her appreciation to Mr. Shepperd for his comments regarding the HRMFFA, and she agreed that the Board should look at removing the County's membership.

Chairman Wiggins spoke of two recent occasions he had attended with students of York County. He gave credit to the parents of the students for their dedication and involvement, which was a big part of what makes York County schools so great.

Meeting Recessed. At 6:51 p.m., Chairman Wiggins declared a short recess.

Meeting Reconvened. At 7:03 p.m., the meeting was reconvened in open session by order of the Chair.

## **PUBLIC HEARINGS**

### **REPEAL OF THE YORK COUNTY WETLANDS ORDINANCE**

Mr. McReynolds made a presentation on Ordinance No. 10-6 to repeal Chapter 23.1, Wetlands, of the York County Code. He explained that the Wetlands Board was established in the early 1980's to take over the function of administering the rules and regulations set by the state. Since its creation, a citizen-appointed board has addressed those issues, and appeals were forwarded to the Virginia Marine Resources Commission (VMRC). The Wetlands Board was provided assistance by staff of the Environmental & Development Services Department as well as consultation time as needed by the County Attorney.

Mr. Barnett stated that according to records in the County Clerk's office, the first ordinance was adopted in 1972. There are no requirements for a locality to have a Wetlands Board. In the absence of the board, applications are made directly to the Virginia Marine Resources Commission. He stated most of the jurisdictions in the Commonwealth did not have wetlands and, therefore, did not have a wetlands board. He felt the County had probably created the board at the same time as the adoption of the ordinance. He also was not aware of any other jurisdiction that had created a Wetlands Board and then repealed it. Mr. Barnett noted there was nothing in the Code of Virginia that addresses the repeal.

Mr. Zaremba asked the number of actions the Wetlands Board had made.

Mr. John Hudgins, Director of Environmental and Development Services, stated that over the last 10-year period there had been a total of 198 applications. He stated 173 applications were approved, 4 were denied, 14 were withdrawn, and 7 were reviewed yet no permit was necessary.

Mr. Zaremba asked how many of the denied applications were appealed to the Virginia Marine Resources Commission.

Mr. Barnett stated there had been one recently, and that was the only one that staff remembered in 11 years.

Mr. Zaremba asked how many applications the Virginia Marine Resources Commission (VMRC) addressed monthly, annually, and what was the length of time it took to process an application.

Discussion followed on the length of time it would take VRMC to process wetlands applications, the amount of staff time to assist the applicants and the Wetlands Board, the length of time it currently took the York County Wetlands Board to process an application, and if repealing the Wetlands Board would impact the staff's workload.

Mr. Hudgins explained to the Board the large amount of duties his department has, especially in the Stormwater Division, and the Wetlands Board was an extra duty various departments in the division had been involved in. He explained how enforcing the regulations required additional overtime.

Chairman Wiggins asked Mr. Barnett how much time he spent with the Wetlands Board.

Mr. Barnett stated that most of the applications that came to the Wetlands Board tended to be technical in nature, and most of the applications did not involve legal questions. He stated that he attended the meetings on an as-needed or requested basis.

Chairman Wiggins then called to order a public hearing on Ordinance No. 10-6 that was duly advertised as required by law and is entitled:

AN ORDINANCE REPEALING CHAPTER 23.1 OF THE YORK  
COUNTY CODE "WETLANDS"

Mr. David Rolston, 700 Water Fowl Drive, stated that the decision made must be based with a clear understanding of the issues, and the final decision be made for the wellbeing of the citizens of York County and not to address grievances of a small minority. He was concerned that many people did not understand the difference between the Wetlands and Chesapeake Bay boards, noting these were two entirely different boards and had two different actions. He gave the Board some clarification of how the cases were determined by the Wetlands Board and explained decisions that had been previously made by the Board. He stated the VMRC had a much broader responsibility, both geographically and by subject area, including piers and docks. The VMRC has over 2,000 cases a year, not including the applications of the Wetlands Board. He noted that the VMRC has a 60-day review process, and hearings were held during the week in Newport News. He also noted the hearings began early in the morning and could last sometimes until late at night.

Mr. Robert Holloway, 301 Ryans Way, spoke in support of repealing the Wetlands Board.

Mr. Patrick Konopnicki, 1911 Yorktown Road, suggested if the Board of Supervisors were truly concerned about the County waterways and wetlands, it should create a Stormwater Board. He offered comments about the York County Waterways Alliance, and he asked the Board to dissolve the Wetlands Board.

Mr. Joseph K. Taylor, 109 Marlbank Drive, urged the Board to keep the Wetlands Board, stating local issues were best settled by local systems. He suggested invoking term limits for the members of the Wetlands Board.

Ms. Toni Buccarelli Campbell, 1214 Dandy Loop Road, urged the board to keep the Wetlands Board. She thanked York County employee Connie Bennett for her service to the citizens, and she encouraged the Board to do what was best for the citizens and not to disband the group.

Mr. Bob Winstead, 125 Land Grant Road, spoke of his interaction with the Wetlands Board and the positive results he had with the Wetlands Board. He stated the Wetlands Board had strict guidelines, had been very professional, and he had received cooperation from it on various projects.

Mr. Jacques van Montfrans, 228 Church Street, stated he was deeply troubled by what was an attempt by a few County residents to dismantle any and all regulations devoted to wetlands protection. The first part of this effort resulted in separation of the Chesapeake Bay Board from the Wetlands Board so that a new group of individuals could be appointed who might feel that property owner rights trump those of state wetlands laws and laws designed to protect the valuable dwindling resources that abound in this County. In his view, to disband the Wetlands Board would only hurt the majority of the York County citizenry and favor a few realtors and marine contractors. He urged the Board to keep the York County Wetlands Board intact so that the County's wetlands were protected.

Mr. Maywood Wilson, 403 Calthrop Neck Road, spoke in favor of repealing the Wetlands Board. He stated he had served on both the Wetlands Board in its inception and also on the Planning Commission. He stated his attitude towards property rights had changed, and property owners should not have restricted use of their property.

Mr. Jeff Jorgensen, 18 N. Williard Avenue, Hampton, Marine Contractor, spoke in opposition of repealing the Wetlands Board. He had completed 30 projects in York County and never had a project turned down by the York County Wetlands Board. He felt that the Wetlands Board was an advocate for citizens, for the environment, and for the customers he represented as an agent to carry out the joint permit application process. He spoke of a letter he had sent to Mr.

McReynolds in favor of keeping the Wetlands Board. He felt if the VRMC were responsible for approving all applications, they would not be approved in a reasonable timeframe.

Mr. Ron Ward, 224 Kings Grant Drive, spoke in opposition of repealing the Wetlands Board.

Mr. Richard Gula, 424 Crockett Road, spoke in opposition of repealing the Wetlands Board. He indicated he had lived on water in York County and attended Wetlands Board meetings and could not find any logical reason to dissolve the board. He felt a decision to dissolve the Wetlands Board would offer no relevant budget savings. He spoke of the convenience of the meetings being held in the evening, and citizens would not get the personal service they were currently receiving from York County staff. He also stated that any sitting member of the Wetlands Board should not be a York county employee as it was a conflict of interest.

Mr. Thomas Nelson, Jr., 220 Church Street, stated that he felt citizens were confused and that the County should review the way the Wetlands Board handled permits and the resolution of conflicts.

Mr. Tim McCulloch, 118 Sandbox Lane, spoke in opposition to repealing the ordinance. Mr. McCulloch had many encounters with the Wetlands Board due to owning four waterfront properties, and he provided the Board with some personal experiences he had with the Wetlands Board, stating the Wetlands staff, board members, and staff from the County had always been professional and courteous. He stated that although he and the Board may not have always agreed on certain methods, it was impractical to repeal the Board based on a few disgruntled County citizens. He stated if the applications were moved to the VMRC, applications would not be moved as quickly as the County currently did. He encouraged the Board to keep the Wetlands Board.

Mr. Richard Hixson, 800 Dandy Loop Road, addressed the Board in opposition to repealing the wetlands ordinance. He stated he had an occasion to obtain a permit from both the Wetlands Board and the VRMC on a different project. He stated the process was much faster working through the Wetlands Board. He spoke of the tight control the General Assembly has over local governments, and he stated the Board would be surrendering part of its authority if the Wetlands Board were abolished.

Mr. Steven Sheriff, 332 Hodges Creek Road, urged the Board not to repeal the Wetlands ordinance.

Mr. Dennis Dietrich, 209 Belvin Lane, stated that as a semi-retired contractor he had worked many places as well as York County. His experience with the York County Wetlands Board was positive, and he never had problems that could not be resolved at the local level. He felt that due to a few disgruntled people, the Board was considering this action. He stated the Wetlands Board had guidelines that they and the citizens had to follow, and he encouraged the Board to keep the Wetlands Board and not to abolish it because of a few disgruntled citizens.

Mr. Elizabeth Wilkins, 228 Church Street, stated that the eco system deserves more protection, not less. She urged the Board to maintain the current citizen board structure that was set up to help provide protection of the wetlands. She stated that due to a small but powerful group of waterfront property owners and developers, who want to operate with virtually no regulations in their way, was the reason this issue was being considered. She stated the science behind these regulations was sound and of value to the County's wetlands, and she encouraged the Board not to eliminate the Wetlands Board.

Mr. Clark Dewing, 304 Oak Point Drive, spoke in opposition to repealing the Wetlands Board. He felt that many good points had already been mentioned, and he spoke of the ease and convenience of keeping the Wetlands Board local. He encouraged the Board not to abolish the Wetlands Board.

Mr. Greg Garrett, 122 Sandbox Lane, spoke in favor of repealing the Wetlands Board.

Mr. Bill Clack, 110 York Point Drive, addressed the Board in favor of retaining the Wetlands Board and having local citizens working local issues. He understood that the time to get a

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permit approved was significantly less, and he requested the Board to retain the Wetlands Board.

Mr. Chuck Roadly, 3315 Hillcrest Trail, Toano, spoke in favor of retaining the Wetlands Board. He spoke regarding his service while working with the VMRC and the large workload they had, and he urged the Board to retain the Wetlands Board.

Mr. Donald Phillips, 200 Dogwood Court, spoke regarding the vast amount of cases the VMRC heard each month and that it had a slow process for approving permits.

Mr. Gary Brocksmith, 709 Patricks Creek Road, spoke in favor of repealing the Wetlands Board. He stated that while he lived on the water, the application process was not as easy as other citizens had stated. He urged the Board to look at the financial burden of keeping the Wetlands Board and to use the money to support ways that could benefit all citizens.

There being no one else present who wished to speak concerning the subject ordinance, Chairman Wiggins closed the public hearing.

Mr. Shepperd spoke on his decision to change his mind about keeping the Wetlands Board. He stated that based on statements he had heard tonight, citizens liked having the Wetlands Board, and he explained why the County had a Wetlands Board. He further commented that the Board started to look at eliminating the Wetlands Board due to some citizens' concerns with the Wetlands Board. He also gave facts concerning the VMRC and its permitting process. He thanked residents for coming to the meeting and giving their opinions on this matter.

Mrs. Noll echoed Mr. Shepperd's comments concerning the Wetlands Board. She felt the Wetlands Board had worked well for the citizens, and she thanked those who came out to speak on the issue. She also commented that the Wetlands Board received grant money to create a training video that was being used not just in York County but elsewhere across the state, and the Board had won awards for it. She stated she never had wanted to do away with the Wetlands Board.

Mr. Zaremba disagreed with one of the speaker's comments this evening that everyone was confused with respect to the issues. He stated the issue before the Board was either to retain the Wetlands Board or not. He stated the Board prides itself as being objective, impartial, and unbiased in its decision making process. He commented on the large amount of emails the Board had received for and against the Wetlands Board, but he did not understand how any member of this board could do anything but vote no on this particular amendment.

Mr. Hrichak thanked citizens for coming out and sharing their opinions on this matter. He stated this matter had initially been brought up after some citizens had complained about the Wetlands and Chesapeake Bay Boards. He had heard both sides of the stories, but he learned that the County did not need a Wetlands Board, but it was something the County did voluntarily. He spoke about funding issues for the County and felt the money spent on the Wetlands Board would be better used for stormwater issues. Mr. Hrichak stated that if the County repealed the Wetlands Board, the same rules would still apply but the amount of time to get a permit would change as it would be processed by the VMRC. He stated this was a way to save money in tough financial times, and he was in favor of abolishing the Wetlands Board.

Chairman Wiggins spoke on the large amount of time he had spent in the last couple of years dealing with Wetlands issues. He spoke specifically concerning an issue that arose with a property owner's driveway expansion. He stated he was in favor of keeping the Wetlands Board, but he wanted to change the way the Wetlands Board was handling issues.

Mr. Hrichak then moved the adoption of proposed Ordinance No. 10-6 that reads:

AN ORDINANCE REPEALING CHAPTER 23.1 OF THE YORK COUNTY CODE "WETLANDS"

WHEREAS, following the holding of a duly advertised public hearing, this Board has determined that it is in the public's interest that the York County Wetlands Ordinance, specifi-

cally Chapter 23.1 of the York County code, should be repealed as of July 1, 2010, and that following such date, all applications for permits for activities regulated within a wetlands shall be made directly to the Virginia Marine Resources Commission;

BE IT ORDAINED by the York County Board of Supervisors this the 15th day of June, 2010, that Chapter 23.1 of the York County Code is hereby repealed, in its entirety, effective July 1, 2010.

BE IT FURTHER ORDAINED that all wetlands permit applications pending before the York County Wetlands Board as of the effective date of the repeal of Chapter 23.1 shall be transmitted forthwith to the Virginia Marine Resources Commission for further action.

On roll call the vote was:

Yea: (1) Hrichak  
Nay: (4) Zaremba, Noll, Shepperd, Wiggins

Meeting Recessed. At 8:52 p.m., Chairman Wiggins declared a short recess.

Meeting Reconvened. At 9:07 p.m., the meeting was reconvened in open session by order of the Chair.

#### FIREARMS ORDINANCE

Mr. Carter made a presentation on Ordinance No. O9-8(R-2) to amend and reenact Section 16-7, Discharging Firearms or Air or Gas Operated Weapons, York County Code, to define the terms "firearm" and "pneumatic gun"; delete all restrictions on pneumatic guns/air or gas operated weapons discharges; add requesting subdivisions to the list of restricted areas for firearms discharges; restrict firearms discharges within specified distances of a York County School Division site; establish exceptions for certain circumstances where discharges will be permitted; and amend Section 16-37, Discharge of High Powered Rifles, to provide exceptions for discharges in conjunction with authorized deer hunts and for defense of life or to kill a dangerous or destructive animal.

Chairman Wiggins spoke of Sheriff Digg's recent article in the Daily Press regarding the firearms ordinance and the email comments the Board had received regarding Sheriff Diggs' comments. He asked Sheriff Diggs, in his capacity as a professional law enforcement and public safety officer, to come forward to answer any questions the Board might have.

Mr. Shepperd stated it was his understanding that the premise for the argument to eliminate the firearms ordinance in York County was the fact that the state covered most, if not all, of what was in the County's current firearms ordinance.

Sheriff J. D. Diggs stated in his opinion that was correct.

Discussion followed regarding how state law would apply to different scenarios if there was no firearms ordinance, reckless handling of a firearm, hunting violations, reckless discharge of a firearm, and the consequences for violations.

Mr. Shepperd stated he had seen Sheriff Diggs' comments regarding the number of cases concerning weapons and most of them were some type of illegal action. He asked Sheriff Diggs if there was any aspect of the state law that was not covered that the Board should consider in creating an ordinance for public safety to support law enforcement or to support the community.

Sheriff Diggs stated it was his opinion that 99.9 percent of any kind of potential firearms violation was covered under the state law; and he felt if the Board repealed the ordinance in its entirety, there would be sufficient state law to appropriately resolve almost any situation that might occur in the County.

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Mrs. Noll stated her concern was there was a list of homeowner associations that had requested to be covered under the current ordinance. She asked if the rules in the homeowners associations would be covered by the state.

Sheriff Diggs stated it was his opinion anything passed by the homeowners associations as a general membership or as a board of directors would not be enforceable as it was just a neighborhood rule. He stated if it was written in the covenants of a homeowners association, it would be an association rule and not a violation of law.

Mrs. Noll asked if she was correct that under the current ordinance homeowners association rules were enforceable by law; but if the ordinance was repealed, the homeowners associations would not have coverage.

Sheriff Diggs stated the homeowner associations would have coverage under the state law.

Mrs. Noll asked Sheriff Diggs if he felt this was sufficient coverage.

Sheriff Diggs stated in his opinion, the coverage was sufficient.

Mr. Zaremba stated that Sheriff Diggs' opinion was giving great deference to the majority of the citizens in York County because of his position and given great deference by the Board. He noted in the emails the Board had received, Sheriff Diggs had been quoted many times as the basis for various members of the community suggesting that the ordinance be eliminated. He spoke of the Sheriff's responsibility to step out and stand up for the state statutes since he felt the County ordinance was not required. Mr. Zaremba then asked how the state law covered the 300-foot exclusionary area around school property, and the 1,000-foot area in which verbal notification to the school would be required.

Sheriff Diggs quoted the law which states "any person who willfully discharges or causes to be discharged any firearm upon any public property within 1000 feet of any school shall be found guilty of a class 4 felony unless that person is engaged in lawful hunting."

Mr. Zaremba noted that repealing the ordinance would dispense with the requirement to notify the school.

Mr. Barnett stated that under Section 18.20-280 Subsection C, the statutory 1,000 foot restriction around schools was only applicable on public property and would not apply if you were on your own private land or somebody else's private land.

Mr. Zaremba asked why any municipality would put into place a local ordinance that was nothing more than redundant to the state statute.

Mr. Barnett indicated if the Board chose to rely on state statutes, there would be some differences in enforcement. He noted the state statutes typically lay out several points in addition to merely discharging a firearm and each point has to be proven. He stated the elements of proof under the criminal statutes tend to be more rigorous than the current ordinance that was before the Board.

Mr. Zaremba asked Sheriff Diggs to reiterate the number of calls he had provided to the Board so that the people in the audience and those watching on TV might know how infrequent this ordinance had to be enforced.

Sheriff Diggs stated in the past three and a half years there had been 731 calls for shots fired with 6 arrests made.

Mr. Zaremba asked if those firings were relative to a criminal act.

Sheriff Diggs stated some of the calls did lead to criminal acts.

Mr. Shepperd clarified that the ordinance before the Board this evening was to amend the firearms ordinance and not to repeal it. He noted a lot of questions had been oriented towards the elimination of the ordinance. He stated there had been no public announcement of the possible elimination of the ordinance, and that action would require another public hearing.

Mr. Barnett stated the public hearing advertisement had been for the possibility of amending the ordinance and all or some of the proposed amendments could be made and modifications could be made as long as they were not more restrictive than what had been advertised. He reiterated that the possible repeal would require a separate advertisement and public hearing.

Mr. McReynolds noted that in previous deliberations on this matter, the Board had discussed the ability of a homeowners' association to ask the Board to be exempted. He stated this would not be an option under state law. He also stated that state law does not distinguish between the discharge of high powered rifles versus a shot gun or a .22 caliber firearm. If the Board chose to eliminate the ordinance, any caliber weapon could be discharged provided it was not in a reckless matter.

Mr. Shepperd asked if it addressed pneumatic weapons.

Mr. Barnett stated he had not researched state statutes on pneumatic weapons, but he did not believe the discharge of pneumatic weapons were regulated other than the ability of a locality to prohibit them in areas where they felt they should be prohibited.

Mr. Hrichak asked if Section 16-7(b) of the proposed ordinance could be eliminated.

Mr. Barnett stated it could not be eliminated because the residents of those communities would need to given notice of intent to remove them from the protection of this ordinance, and this action had not been advertised.

Discussion followed regarding what sections could be eliminated from the proposed ordinance, the proposed prohibition of firearms discharge near school sites, and the proposed requirement that a school should be notified of any intention to discharge firearms within 1,000 feet of school property.

Chairman Wiggins then called to order a public hearing on Ordinance No. O9-8(R-2) duly advertised as required by law. Proposed Ordinance No. O9-8(R-2) is entitled:

AN ORDINANCE TO AMEND AND REENACT SECTION 16-7, DISCHARGING FIREARMS OR AIR OR GAS OPERATED WEAPONS, YORK COUNTY CODE, TO: DEFINE THE TERMS "FIREARM" AND "PNEUMATIC GUN"; DELETE ALL RESTRICTIONS ON PNEUMATIC GUNS/AIR OR GAS OPERATED WEAPONS DISCHARGES; ADD RIVERWALK TOWNES, QUARTERS OF YORK, WINTERFIELD, WILLOW LAKES, WITHROW, SINGING WOODS, LAKES AT DARE, RAINBROOK VILLAS, WYTHE CREEK FARMS, OVERLOOK POINT, SHERWOOD FOREST, VILLAS ON SHADY BANKS AND BELMONT APARTMENTS TO THE LIST OF RESTRICTED AREAS FOR FIREARMS DISCHARGES; AND, ESTABLISH EXCEPTIONS FOR CERTAIN CIRCUMSTANCES WHERE DISCHARGES WILL BE PERMITTED; AND, TO AMEND SECTION 16-37, DISCHARGE OF HIGH POWERED RIFLES, TO PROVIDE EXCEPTIONS FOR DISCHARGES IN CONJUNCTION WITH AUTHORIZED DEER HUNTS AND FOR LAWFUL DEFENSE OF PROPERTY OR PERSONS OR TO KILL A DANGEROUS OR DESTRUCTIVE ANIMAL

Mr. Stephen Roane, 307 Fielding Lewis Drive, stated he felt the ordinance was redundant to the state code and unnecessary. He also felt it was unrealistic to expect an individual to be able to identify the 60-plus areas in the County where firearm discharges were prohibited as some of the areas were very confusing. He asked the Board to amend the ordinance if it could not be repealed at this time.

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Mr. David Lloyd, 175 Owl Creek Circle, Hampton, spoke of the rights of an individual to bear arms under the Second Amendment. He asked the Board to amend the ordinance since it could not be repealed at this time.

Mr. Philip Van Cleave, 5509 West Bay Court, Midlothian, representing the Virginia Citizens Defense League, encouraged the Board to repeal the ordinance.

Ms. Pam Pouchot, 103 Kimberly Court, addressed the Board stating this ordinance should not be about gun rights or politics but about gun safety. She stated the current ordinance restricts the discharge of firearms in 62 subdivisions or large areas. She noted eight other subdivisions had requested to be added to the ordinance, and that should send a message to the Board that public safety was a great concern to most York County Citizens. She then spoke of the serious consequences that might be caused by the discharge of a firearm even though a person had no malicious intent. She urged the Board to approve the firearms ordinance with the inclusion of the school restriction.

Mr. Greg Garrett, 122 Sandbox Lane, encouraged the Board to repeal the firearms ordinance in its entirety.

Mr. Wesley Thomas, 111 Bethany Terrace, stated he felt the County discharge ordinance was an unconstitutional position. He encouraged the Board to pass the amended statute until such time as the ordinance could be repealed in its entirety.

Mr. Maywood Wilson, 403 Calthrop Neck Road, spoke regarding the right to bear arms under the Second Amendment. He asked the Board to abolish the ordinance and to rely on the State of Virginia laws.

Mr. John Bender, Virginia Beach, spoke as a member of the Virginia Citizens Defense League. He stated the definitions of the ordinance need to be consistent with state law. He indicated he felt the amendments would be a measurable improvement until the ordinance could be repealed.

There being no one else present who wished to speak concerning the subject ordinance, Chairman Wiggins closed the public hearing.

Mr. Shepperd stated he felt the number of firearms incidents reported to the Sheriff's Office did not warrant the County having this ordinance.

Chairman Wiggins indicated he felt there might be a consensus of the Board to take the Sheriff's advice on this ordinance. He asked Mr. McReynolds what the outcome would be if the Board tabled the ordinance and had another public hearing with the option of either amending or repealing the ordinance.

Mr. McReynolds stated if there was no action on the proposed ordinance tonight, the ordinance that was currently in effect would stay in effect.

Chairman Wiggins asked if the options to combine amending or eliminating the ordinance could be combined into one public hearing.

Mr. Barnett stated the proposed ordinance could be tabled and an option to repeal the ordinance could be advertised then both matters could be debated at the same time, but it would be two separate matters.

Mr. Carter stated that adding the school restriction would make the ordinance more restrictive, but if the Board eliminated that language and then adopted the ordinance as it stood, it would make the ordinance less restrictive because the regulations governing the 300-foot perimeter areas and those dealing with pneumatic guns would be eliminated, making it less restrictive and making it effective immediately.

Mr. Barnett stated he had received an email from a citizen who suggested expanding the self defense exception to include person and property. He then suggested adopting the ordinance as an R-3, taking out the school provisions, and adding lawful defense of property or persons or to kill a dangerous or destructive animal in Section 16-7 and 16-37.

Mr. Hrichak then moved the adoption of proposed Ordinance No. O9-8(R-3) that reads:

AN ORDINANCE TO AMEND AND REENACT SECTION 16-7, DISCHARGING FIREARMS OR AIR OR GAS OPERATED WEAPONS, YORK COUNTY CODE, TO: DEFINE THE TERMS "FIREARM" AND "PNEUMATIC GUN"; DELETE ALL RESTRICTIONS ON PNEUMATIC GUNS/AIR OR GAS OPERATED WEAPONS DISCHARGES; ADD RIVERWALK TOWNES, QUARTERS OF YORK, WINTERFIELD, WILLOW LAKES, WITHROW, SINGING WOODS, LAKES AT DARE, RAINBROOK VILLAS, WYTHE CREEK FARMS, OVERLOOK POINT, SHERWOOD FOREST, VILLAS ON SHADY BANKS AND BELMONT APARTMENTS TO THE LIST OF RESTRICTED AREAS FOR FIREARMS DISCHARGES; AND, ESTABLISH EXCEPTIONS FOR CERTAIN CIRCUMSTANCES WHERE DISCHARGES WILL BE PERMITTED; AND, TO AMEND SECTION 16-37, DISCHARGE OF HIGH POWERED RIFLES, TO PROVIDE EXCEPTIONS FOR DISCHARGES IN CONJUNCTION WITH AUTHORIZED DEER HUNTS AND FOR LAWFUL DEFENSE OF PROPERTY OR PERSONS OR TO KILL A DANGEROUS OR DESTRUCTIVE ANIMAL

WHEREAS, the York County Board of Supervisors has determined that changes in development patterns and population concentrations necessitate the inclusion of additional areas and subdivisions in the list of areas where firearms discharges are prohibited; and

WHEREAS, the Board has determined that it is appropriate and desirable to distinguish between firearms and pneumatic guns; and

WHEREAS, the Board has determined that additional specific regulations pertaining to discharges in the vicinity of school sites are warranted;

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this the 15th day of June, 2010 that Section Nos. 16-7 and 16-37 of the York County Code be, and they are hereby, amended and reenacted to read as follows:

**Sec. 16-7. Discharging firearms within certain areas prohibited.**

- (a) *Definitions:* For the purposes of this section, terms shall have the following meanings:
- (1) *Firearm.* Any handgun, shotgun or rifle which will, is designed to, or may be readily converted to expel single or multiple projectiles by the action of a combustible material.
  - (2) *Pneumatic Gun.* Any implement, designed as a gun, that will expel a BB or a pellet by action of pneumatic pressure. "Pneumatic weapon" includes a paintball gun that expels by action of pneumatic pressure plastic balls filled with paint or other liquid for the purpose of marking the point of impact.
- (b) *Firearms restricted.*
- (1) Pursuant to the authority provided under section 15.2-1209 of the Code of Virginia, the board has determined that certain areas of the County are so heavily populated as to make the discharge of firearms dangerous to the inhabitants thereof. Accordingly, discharges of any firearms shall be prohibited in the following areas of York County. These restrictions shall not apply to the discharge of pneumatic guns:

- a. Any property within any part of those areas or subdivisions in the county as described below or commonly known and designated on the plats of subdivision recorded in the clerk's office of the circuit court of the county:
1. Old Quaker Estates, all sections.
  2. Banbury Cross, all sections.
  3. Skimino Hills, all sections.
  4. Scimmino Farms, all sections.
  5. Schenk Estates, Sections One, Two and Three.
  6. Greensprings/Bypass Road vicinity being further described as the area bounded by the Williamsburg city line on the south running westward to its intersection with Bypass Road, Bypass Road running eastward to its intersection with Waller Mill Road, Waller Mill Road on the west and northwest, a Virginia Power transmission line right-of-way on the northeast, and Route 132 on the southeast to its intersection with the Williamsburg city line, including, but not limited to, the Plantation Heights, Green Acres, and Green Springs, and Williamsburg Commons subdivisions.
  7. Parkway Estates/Queens Lake vicinity being further described as the area bounded by the Colonial Parkway on the south, the Williamsburg city line on the west, Queens Creek on the north, and New Quarter Park on the east, including, but not limited to, all sections of the Queens Lake, Royal Grant and Parkway Estates subdivisions.
  8. Penniman Road/Government Road/Hubbard Lane vicinity being further described as the area bounded by Route 199 on the southeast, the James City County boundary on the southwest, the Williamsburg city line on the northwest, the Colonial Parkway on the north, and Interstate 64 on the northeast, including, but not limited to, all sections of the Queenswood, Charleston Heights, Springfield Terrace, Nelson Park, York Terrace, Magruder Woods, Penniman Woods, Queens Creek Estates, and Middletown Farms subdivisions.
  9. Carver Gardens/Country Club Acres vicinity being further described as the area bounded by Route 143 on the southwest, Route 199 on the northwest, Interstate 64 on the northeast, and the Williamsburg Country Club on the southeast, including, but not limited to, all sections of the Carver Gardens, Williamsburg Bluffs and Country Club Acres subdivisions.
  10. Sonshine Acres.
  11. Woods of Yorktown.
  - 11.1 Riverwalk Townes, all sections.
  12. Rivermeade/Yorktown Square vicinity being further described as the area bounded by Route 17 on the east, Route 238 on the south, and the Colonial National Historical Park on the west and

- north, including, but not limited to, all sections of the Hickory Hills and Kings Court subdivisions.
13. Yorktown, being further described as the area bounded by the York River on the northeast, the United States Coast Guard Training Center on the east, Route 238 and the Colonial Parkway on the southwest, and Yorktown Creek on the west.
  14. Marlbank/York High School/Edgehill vicinity being further described as the Edgehill area bounded by Fort Eustis Boulevard on the south, Newport News Waterworks property on the west, the Colonial National Historical Park on the west and northwest, the West Branch of Wormley Creek on the northwest, Wormley Creek and the Harris Grove subdivision on the east and southeast, and the Melody Heights and Settler's Crossing subdivisions on the south, including but not limited to, all sections of the Edgehill, Burnt Bridge Run, Marlbank Farm, Marlbank Cove, Harris Grove, Melody Heights and Settler's Crossing subdivisions.
  15. Woodtowne Quarters Townhouses, all sections.
    - 15.1. Quarters of York, all sections.
  16. Dunmore.
  17. Terrebone.
  18. Colberts Trace.
  19. Waterview Terrace.
  20. Dandy Loop Estates (all sections) and Goodwin Neck Estates.
    - 20.1. Winterfield.
  21. Seaford area, bounded as follows: Beginning at a point at the intersection of Seaford Road and the eastern boundary of the Evergreen Shores subdivision; thence in a southerly direction along the eastern boundary of Evergreen Shores Subdivision to the centerline of Chisman Creek; thence generally in a southwesterly direction along the centerline of Chisman Creek to the intersection of Chisman Creek and the southern boundary, extended, of the Heritage Hamlet subdivision, Sections Four and Six; thence in a northwesterly direction along the western boundary of the Heritage Hamlet subdivision to the intersection of Seaford Road; thence in an easterly direction along the centerline of Seaford Road to the westerly boundary of the Sommerville subdivision; thence in a northwesterly, then northerly and then easterly direction around the perimeter of the subdivision to Wornom Drive; thence in a northerly direction along the centerline of Wornom Drive and extended to the intersection of Back Creek Road; thence in a westerly direction along the centerline of Back Creek Road to the intersection of Back Creek Road and White's Lane; thence in a northerly direction along the centerline of White's Lane and extended to the centerline of Back Creek; thence in a line in an easterly direction along the centerline of Back Creek to a point where such line intersects a line parallel to Shirley Road extended in a northerly direction; thence in a southerly direction to the centerline of Shirley Road; thence in a westerly direction along the centerline of Shirley Road to the intersection of Shirley Road and Purgold Road; thence in a southerly direction along the

centerline of Purgold Road to the intersection of Purgold Road to the intersection of Purgold Road and Claxton Creek Road; thence in an easterly direction along the centerline of Claxton Creek Road to the deadend of Claxton Creek Road; thence in a westerly direction along the centerline of Claxton Creek Road to the intersection of Claxton Creek Road and Back Creek Road; thence in a southwesterly direction along the centerline of Back Creek Road to the intersection of Back Creek Road and Seaford Road; thence in a southeasterly direction along the centerline of Seaford Road to the point of beginning.

22. York Point, all sections.
- 22.1 Withrow and Singing Woods subdivisions, all sections.
23. Cooper's Landing.
24. Rosewood Place, all sections.
25. Acree Acres, all sections.
26. Carver Place.
27. Wolftrap Estates
- 27.1. Willow Lakes, all sections.
28. Grafton Branch.
29. Scotch Tom's Wood.
30. Barcroft.
31. Millside.
32. Mill Cove, all sections.
33. Seven Hollys.
34. Ship Point, Ship Point Farm and Ship Point Homes, all sections.
35. Howards Landing, all sections.
36. Patricks Landing, all sections.
- 36.1. Lakes at Dare, all sections.
37. Brandywine/Lakeside Forest/York Crossing vicinity being further described as the area bounded by Route 17, Dare Road and Lakeside Drive and including, but not limited to, all sections of the Jacob's Springs, Brandywine, Providence Grove, Winders Pond, and Lakeside Forest subdivision, York Crossing Townhouses and Grafton Station Apartments.
38. Grafton Woods/Glen Laurel vicinity being further described as the area bounded on the east by Grafton Drive, on the south by Glen Laurel Townhouses, on the west by Newport News Waterworks property and on the north by Grafton Woods Townhouses and including, but not limited to, those developments.
- 38.1. Rainbrook Villas, all sections.

39. Kentucky Heights, all sections.
40. Quail Hollow/Meadowview vicinity being further described as the area bounded on the east by Route 17, on the south by Oriana Road, on the west by Burts Road and on the north by the Quail Hollow and Meadowview subdivisions and including, but not limited to, those developments.
41. Piney Point/Harwood's Mill vicinity being further described as the area bounded by Lakeside Drive and Yorkville Road on the north, the Oyster Cove subdivision and Poquoson River on the east and south, and Route 17 on the west, including but not limited to, all sections of the Quartermarsh Estates, Castellow Heights, Piney Point, Devonshire, Breezy Point, Lee's Village, Harwood Heights, Cove Homes, Southall Battery, and Harwood's Mill subdivisions.
42. Whispering Pines.
43. Mill Farms, all sections.
44. Yorkshire, all sections .
45. King's Villa, all sections.
46. Plantation Acres, all sections.
47. Tabb Terrace vicinity being further described as the area bounded by Yorktown Road on the north, the Tabb Terrace and Smithville Terrace subdivision on the east, Route 171 on the south, and Route 134 on the west.
48. Hollymead.
49. Tidemill Estates, all sections.
50. Olde Port Cove, all sections.
51. Lambs Creek Estates, all sections.
52. River Haven, all sections.
53. Poquoson Shores, all sections.
54. Woods of Tabb, all sections.
- 54.1. Wythe Creek Farms, all sections.
- 54.2. Overlook Point.
55. Running Man, all sections.
56. Lotz Acres Estates, all sections.
- 56.1. Sherwood Forest.
57. Yorkshire Downs, all sections.
- 57.1. Villas on Shady Banks, all sections.

58. Pines of York/Four Seasons/Belmont area being further described as the area bounded by Route 134 (Hampton Highway) on the north, the Hampton city line on the east and south, and Big Bethel Road on the west.
59. Woodlake Crossing vicinity being further described as the area bounded by Route 171 on the north, Route 600 on the east, and Route 134 on the south and west, including, but not limited to, all sections of the Edgewood, Meadowlake Farms (Heatherlea), Woodlake Crossing, and Mill Crossing subdivisions.
60. Tabb Lakes/Coventry vicinity being further described as the area bounded by Route 171 and Route 134 on the north, Route 600 on the east, the Hampton and Newport News city lines on the south, and Route 17 on the west, including, but not limited to, all sections of the York Meadows, Coventry, Tabb Lakes, Greenlands and Patriot Village subdivisions.
61. Villages of Kiln Creek vicinity being further described as the area bounded by Route 17 on the east, the southern boundaries of Bethel Industrial Park and the Kiln Creek Corporate Center on the south, the Newport News city line on the west, and the northern boundaries of the Villages of Kiln Creek and Foxwood subdivisions and including, but not limited to, all sections of those subdivisions and York Manor and Rich Acres.

- (c) Exceptions. The provisions of section 16-7 shall not apply to law enforcement officers, animal wardens and game wardens in the line of duty, military personnel in the line of duty, the discharge of firearms on firing ranges or target ranges operating in conformance with the county's zoning regulations, the discharge of a firearm in conjunction with a managed hunt to control the deer population pursuant to Code of Virginia section 29.1-529, and any discharge of a firearm in lawful defense of property or persons or to kill a dangerous or destructive animal. Furthermore, the provisions of this section shall not apply to nail guns, rivet guns, or similar implements designed for construction purposes.

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**Sec. 16-37. Discharge of high-powered rifles prohibited.**

- (a) *Prohibition; exceptions.* No person shall discharge at any location in the county any rifle of a caliber larger than .22 rimfire, except for the following:
- (1) Law enforcement officers, animal wardens and game wardens in the line of duty;
  - (2) Military personnel in the line of duty;
  - (3) Persons discharging a rifle on firing ranges operating in conformance with the county's zoning regulations;
  - (4) Persons discharging a rifle in conjunction with and as authorized by a permit to hunt to control the deer population pursuant to Code of Virginia section 29.1-529; and
  - (5) Persons discharging a rifle in lawful defense of property or persons or to kill a dangerous or destructive animal.
- (b) *Penalty for violation.* Any person violating this section shall be guilty of a Class 2 misdemeanor.

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On roll call the vote was:

Yea: (5) Noll, Hrichak, Shepperd, Zaremba, Wiggins  
Nay: (0)

APPLICATION NO. PD-28-10, YORKSHIRE DOWNS MASTER ASSOCIATION AND YORKSHIRE DOWNS CONDOMINIUM OWNERS' ASSOCIATION, INC.

Mr. Carter made a presentation on Application No. PD-28-10 to amend the approved Master Plan for the Yorkshire Downs Planned Development by eliminating a required picnic area/tot lot that was removed without authorization from the County.

Mr. Shepperd asked which association owned the subject property.

Mr. Carter stated the property was owned by the condominium association; so before anything else could be put back on the property, it would require action by the condominium association.

Mr. Shepperd asked if the condominium association would have to come before the Board before making a change to the property.

Mr. Carter stated the association wants to change the property back to a playground; but if they wanted to build a swimming pool or make a major change in the project layout, it would be required to come before the Board.

Mr. Zaremba stated while reviewing the comments made by the Planning Commission, it appeared that there had been some kind of a legal issue whether or not the condominium association had the authority to bring this application before the Board.

Mr. Barnett stated there had been a lack of clarity as to exactly who had responsibility for the tot lot, so the County had taken the position that it was a joint responsibility of the master association and the condominium association, and they both were unanimous in this decision to bring this application before the Board.

Chairman Wiggins then called to order a public hearing on Application No. PD-28-10 that was duly advertised as required by law. Proposed Ordinance No. 10-10 is entitled:

AN ORDINANCE TO APPROVE AN APPLICATION TO AMEND THE APPROVED OVERALL DEVELOPMENT MASTER PLAN FOR YORKSHIRE DOWNS BY ELIMINATING THE REQUIREMENT FOR A TOT LOT/PICNIC AREA ON EAST BRISTOL LANE

Ms. Melissa McDonald, 105 East Bristol Lane, addressed the Board expressing her dissatisfaction with the removal of the playground. She indicated there were about 150 households that did not have access to the amenities within walking distance without going down York Downs Drive.

Mr. Robert English, 205 F Amersham Drive, appeared before the Board to address his concerns with the playground that had been on the subject property. He noted the master plan had included a tot lot on the property, but that was not what had been there. He stated the fence enclosure had afforded a good opportunity for older children to do things they should not have been doing and also brought in children from the Four Seasons Apartments. He stated he would not like to see the playground come back.

Mr. Dan Quarles, 5388 Discovery Park Boulevard, attorney representing the applicant, noted the applicant was seeking to amend the approved master plan to be relieved of any obligation to have a tot lot on the subject location. He reiterated that the recreational facilities at Yorkshire Downs exceed the requirements of the zoning ordinance. He stated there had been modifications to the master plan which had reduced the density of the master plan, but the recrea-

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tional facilities had never been modified. He reviewed the recreational facilities and the amenities at Yorkshire Downs and spoke of how the close proximity of the tot lot to the road had necessitated a screened, fenced enclosure. He explained how the area had become a source of unhappiness, being used as a place for teenagers and older children to come and hang out. He noted it also generated police calls for noise complaints at night and underage smoking. In addition, prophylactics and needles were found on the lot and it became a situation where the condominium residents wanted the tot lot removed. Mr. Quarles explained that both the condominium and master associations had unanimously agreed to make this application to the Board.

There being no one else present who wished to speak concerning the subject ordinance, Chairman Wiggins closed the public hearing.

Mr. Shepperd noted the tot lot had been a long-standing problem and source of friction between the associations. He indicated he had put some pressure on staff to get the problem resolved, and he recommended approval of the ordinance.

Mr. Zaremba asked if all the residents in Yorkshire Downs had access to all the recreational facilities and amenities.

Mrs. Felder, president of the condominium association, stated all condominium residents paid a monthly fee of \$31.00 which provided access to all the amenities on the entire property. She stated she did not know how much the homeowner pays to the master association.

Mrs. Elizabeth White, attorney representing the master association, stated every resident of Yorkshire Downs had access to all the amenities. She noted the general fees paid to the master association supported the amenities. The single family homes paid a general assessment, and the condominium association or any of the other sub-associations would pay an assessment to the condominium association on top of what was paid to the master association.

Mr. Zaremba asked if all the assessments were mandatory.

Mrs. White stated that was correct.

Mr. Shepperd then moved the adoption of proposed Ordinance No. 10-10 that reads:

AN ORDINANCE TO APPROVE AN APPLICATION TO AMEND THE APPROVED OVERALL DEVELOPMENT MASTER PLAN FOR YORKSHIRE DOWNS BY ELIMINATING THE REQUIREMENT FOR A TOT LOT/PICNIC AREA ON EAST BRISTOL LANE

WHEREAS, on December 20, 1973, the York County Board of Supervisors approved a rezoning application creating the Shady Banks Planned Unit Development; and

WHEREAS, on March 7, 1985, the Board adopted Resolution No. R85-37, interpreting and clarifying its prior approval of the Shady Banks PUD; and

WHEREAS, on May 1, 1986, the Board adopted Resolution No. R86-63(R), approving the revised Overall Development Master Plan of Shady Banks PUD; and

WHEREAS, on February 5, 1987, the Board adopted Ordinance No. 86-78, which reclassified property from OPR and R-17 to PD-RC, incorporated said property into the Yorkshire Downs (formerly Shady Banks) Planned Unit Development, and approved the "Overall Development Master Plan for Yorkshire Downs" prepared by Talbot and Associates, dated April 23, 1986 and revised September 11, 1986; and

WHEREAS, the Yorkshire Downs Master Association and the Yorkshire Downs Condominium Owners' Association, Inc. have submitted Application No. PD-28-10 to amend the approved "Overall Development Master Plan for the Yorkshire Downs," pursuant to Section 24.1-362(c)(7) of the York County Zoning Ordinance, by eliminating a "tot lot/picnic area" located on property, further identified as Assessor's Parcel Nos. 38A2-9-2-A and 38A2-9-5-A

(GPINs V02c-2386-2449 and V02d-2598-2483), on the north side of East Bristol Lane (Route 1679) between Cheltenham Way and Camden Way and across from Sudbury Way (all of which are private roads); and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission recommends approval of this application; and

WHEREAS, the York County Board of Supervisors has conducted a duly advertised public hearing on this application; and

WHEREAS, the Board has carefully considered the public comments and Planning Commission recommendation with respect to this application;

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this the 15<sup>th</sup> day of June, 2010, that Application No. PD-28-10 be, and it is hereby, approved to amend the approved "Overall Development Master Plan for the Yorkshire Downs" prepared by Talbot and Associates, dated April 23, 1986 and revised September 11, 1986, pursuant to Section 24.1-362(c)(7) of the York County Zoning Ordinance, by eliminating the requirement, but not the opportunity, to establish and maintain a "tot lot/picnic area" located on property, further identified as Assessor's Parcel Nos. 38A2-9-2-A and 38A2-9-5-A (GPINs V02c-2386-2449 and V02d-2598-2483), on the north side of East Bristol Lane (Route 1679) between Cheltenham Way and Camden Way and across from Sudbury Way (all of which are private roads).

On roll call the vote was:

Yea: (5) Shepperd, Zaremba, Noll, Hrichak, Wiggins  
Nay: (0)

APPLICATION NO. UP-777-10, ROBERT K. AND SHERI D. MANN

Mr. Carter made a presentation on Application No. UP-777-10 requesting a Special Use Permit to establish a tourist home on a portion of two parcels containing a total of 0.42 acre located at 121 Lafayette Road. The Planning Commission considered the application and forwarded it to the Board of Supervisors with a recommendation of approval 7:0, and staff recommended approval of the application through the adoption of proposed Resolution R10-92.

Mr. Zaremba stated he was abstaining from the discussion and vote on the application because his firm had previously done work for applicant.

Mr. Robert Mann, 121 Lafayette Road, the applicant, explained the purpose of this application was to establish a vacation rental by owner (VRBO). He stated he had a statement signed by 27 of his neighbors stating they had read the proposal for a tourist home at 121 Lafayette Road and supported the application for the special use permit. He then read several emails from neighbors in support of the application. Mr. Mann stated he had visited the County's Information Office in June of 2009 and asked if there was any County guidance restricting VRBOs, and staff looked and found nothing restricting them. He then reviewed the criteria for staying at the cottage, noting it would only be rented when they were present. He stated there were currently other commercial enterprises in the neighborhood.

Chairman Wiggins then called to order a public hearing on Application No. UP-777-10 that was duly advertised as required by law. Proposed Resolution R10-92 is entitled:

A RESOLUTION TO APPROVE A SPECIAL USE PERMIT APPLICATION TO AUTHORIZE THE ESTABLISHMENT OF A TOURIST HOME IN AN EXISTING DETACHED ACCESSORY STRUCTURE AT 121 LAFAYETTE ROAD

Mr. Hank Viccellio, 113 Lafayette Road, addressed the Board in support for the application stating it was a compatible use for the neighborhood and would be good for the economy.

Mr. Reggie Tucker, 103 Cornwallis Road, appeared before the Board in support of the application. He spoke of the mixed use of the neighborhood, stating the cottage would be not out of character for the neighborhood. He asked the Board to approve the application.

Ms. Sally Lopez, 216 Nelson Road, stated the cottage was very quaint and cute and a wonderful addition that would serve the neighborhood and the community well.

There being no one else present who wished to speak concerning the subject application, Chairman Wiggins closed the public hearing.

Mrs. Noll then moved the adoption of proposed Resolution R10-92 that reads:

A RESOLUTION TO APPROVE A SPECIAL USE PERMIT APPLICATION TO AUTHORIZE THE ESTABLISHMENT OF A TOURIST HOME IN AN EXISTING DETACHED ACCESSORY STRUCTURE AT 121 LAFAYETTE ROAD

WHEREAS, Robert K. and Sheri D. Mann have submitted Application No. UP-777-10, requesting a Special Use Permit, pursuant to Section 24.1-306 of the York County Zoning Ordinance (Category 1, No. 6), to authorize the establishment of a tourist home in an existing detached accessory structure on the eastern side of property located at 121 Lafayette Road and further identified as Assessor's Parcel Nos. 19A-1F-11 (GPIN Q11d-2757-1072) and 19A-1F-12 (GPIN Q11d-2804-1055); and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission recommends approval of this application; and

WHEREAS, the York County Board of Supervisors has conducted a duly advertised public hearing on this application; and

WHEREAS, the Board has carefully considered the public comments and Planning Commission recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 15<sup>th</sup> day of June, 2010, that Application No. UP-777-10 be, and it is hereby, approved to authorize a Special Use Permit, pursuant to section 24.1-306 of the York County Zoning Ordinance (Category 1, No. 6), for the establishment of a tourist home in an existing detached accessory structure on the eastern side of property located at 121 Lafayette Road and further identified as Assessor's Parcel Nos. 19A-1F-11 (GPIN Q11d-2757-1072) and 19A-1F-12 (GPIN Q11d-2804-1055) subject to the following conditions:

1. This use permit shall authorize a tourist home in an existing detached accessory structure on the eastern side of property located at 121 Lafayette Road and further identified as Assessor's Parcel Nos. 19A-1F-11 (GPIN Q11d-2757-1072) and 19A-1F-12 (GPIN Q11d-2804-1055). The establishment shall be operated in accordance with the narrative description provided by the applicants, received by the York County Planning Division April 2, 2010, a copy of which shall remain on file in the office of the Planning Division.
2. The site layout associated with the tourist home (building location, parking location) shall be and shall remain as they exist and as depicted on the sketch plan submitted in conjunction with this application and received April 2, 2010 by the York County Planning Division. The tourist home interior configuration shall be and shall remain as depicted on the floor plans received by the York County Planning Division on April 7, 2010, copies of which shall remain on file in the offices of the Planning Division and Environmental and Development Services Development and Compliance Division.

3. Operation of the tourist home shall be in compliance with the performance standards set forth in Section 24.1-409 of the Zoning Ordinance. The applicants shall be responsible for obtaining all applicable permits and/or approvals required in accordance with regulations of the Virginia Uniform Statewide Building Code prior to use of the accessory structure as a tourist home.
4. The operator of the tourist home shall reside on the subject property.
5. The maximum number of guest suites shall be one (1). The maximum number of guests occupying the tourist home at any one time shall be two (2).
6. Retail sales shall not be permitted on the premises.
7. The off-street parking area for guest vehicles shall be maintained on the property in the general location and configuration as described in the narrative referenced in Condition No. 2 above. The parking space shall be buffered from view from Lafayette Road, Moore House Road, and adjoining properties by landscaping.
8. The applicant shall be responsible for obtaining and maintaining any and all applicable and necessary permits and licenses from the Virginia Department of Health and the Alcoholic Beverage Control Board.
9. The applicant shall be responsible for obtaining a County business license, establishing a County transient occupancy tax account, and filing with the Virginia Department of Taxation for a Virginia State Sales Tax account prior to use of the accessory structure as a tourist home.
10. A certified copy of this resolution shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court prior to application for site plan approval or issuance of a certificate of use and occupancy for the tourist home facility.

BE IT FURTHER RESOLVED that these conditions of approval are severable and invalidation of any word, phrase, clause, sentence, or paragraph shall not invalidate the remainder.

On roll call the vote was:

Yea:	(4)	Noll, Hrichak, Shepperd, Wiggins
Nay:	(0)	
Abstain	(1)	Zaremba

PARKING PROHIBITION: WOODTOWNE QUARTERS

Mr. Carter made a presentation Ordinance No. 10-9 to amend Section 15-48, Parking Prohibited or Restricted in Specific Places, of the York County Code, to add Crepe Myrtle Drive (Route 1371) and Elmhurst Drive (Route 1370) to the list of secondary system streets where parking was prohibited.

Chairman Wiggins asked if the homeowners association could add these parking restrictions without the permission of the Board.

Mr. Carter stated that homeowners associations do have regulations that apply to the property that was owned by the association, but Crepe Myrtle Drive and Elmhurst Drive were public streets in the State's Secondary System, so the parking restriction had to be accomplished either by VDOT or the County.

Chairman Wiggins then called to order a public hearing on Ordinance No. 10-9 that was duly advertised as required by law and is entitled:

AN ORDINANCE TO AMEND SECTION 15-48, PARKING PROHIBITED OR RESTRICTED IN SPECIFIC PLACES, OF THE YORK COUNTY CODE, TO ADD CREPE MYRTLE DRIVE (ROUTE 1371) AND ELMHURST DRIVE (ROUTE 1370) TO THE LIST OF AREAS WHERE PARKING IS PROHIBITED

Ms. Elizabeth Brown, 310 Crestwood Court, representing Woodtowne Quarters, stated the main reason for this request was for the safety of residents and to have an unobstructed flow of traffic. She asked the Board to approve the ordinance.

Chairman Wiggins asked if these streets only led into the subdivision.

Ms. Brown stated there was a new subdivision next Woodtowne Quarters, and there was an emergency access road which was blocked that was only for the use of the fire department and the police.

There being no one else present who wished to speak concerning the subject ordinance, Chairman Wiggins closed the public hearing.

Mrs. Noll then moved the adoption of proposed Ordinance No. 10-9 that reads:

AN ORDINANCE TO AMEND SECTION 15-48, PARKING PROHIBITED OR RESTRICTED IN SPECIFIC PLACES, OF THE YORK COUNTY CODE, TO ADD CREPE MYRTLE DRIVE (ROUTE 1371) AND ELMHURST DRIVE (ROUTE 1370) TO THE LIST OF AREAS WHERE PARKING IS PROHIBITED

WHEREAS, the Wood Towne Quarters Townhouses Owners' Association has requested that the York County Board of Supervisors designate Crepe Myrtle Drive (Route 1371) and Elmhurst Drive (Route 1370) as streets where parking is prohibited; and

WHEREAS, pursuant to Section 46.2-1220 of the Code of Virginia, the Board has the authority to regulate the parking, stopping, and standing of vehicles within its limits; and

WHEREAS, based on the request of the Wood Towne Quarters Owners' Association and the problems and concerns that have been cited regarding parking on Crepe Myrtle Drive and Elmhurst Drive, and subsequent to conducting a duly advertised public hearing, the Board has determined that establishment of the requested parking restriction would be appropriate;

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this 15<sup>th</sup> day of June, 2010, that Section 15-48(a) of Chapter 15, Motor Vehicles and Traffic, York County Code, be and it is hereby amended to add subsection (10) as follows:

**Sec. 15-48. Parking prohibited or restricted in specified places.**

- (a) *Secondary system highways.* No person shall park a vehicle in any of the following places within any part of the state secondary system of highways in the county:
- (1) On Comte de Grasse Street (a portion of State Route 1002) in Yorktown;
  - (2) On Read Street (State Route 1004) between Main and Water Streets in Yorktown;
  - (3) On Ballard Street (a portion of State Route 1001);
  - (4) On Buckner Street (State Route 1007) between Main and Water Streets in Yorktown;
  - (5) On Water Street (in part a portion of State Route 1002) in Yorktown between Comte de Grasse Street, on the east and its intersection with the Colonial National Historical Park access ramp opposite the Yorktown Victory Center on the

west, excepting the south side of Water Street between Read Street and a point approximately 340 feet east of Ballard Street;

- (6) On Mathews Street (Route 1001) between Route 17 and Water Street (Route 1002);
- (7) On the Back Creek Park recreational access road (State Route 1291) from State Route 173 eastwardly approximately one thousand eight-hundred feet (1,800') to its terminus at a cul-de-sac;
- (8) On the New Quarter Park recreational access road (State Route 1314) from State Route 1330 northwardly approximately one and two-tenths (1.2) miles to its terminus.
- (9) On Glen Laurel Way (State Route 1069) between the hours of 7:00 am and 3:00 pm, Monday through Friday.
- (10) On Elmhurst Drive (State Route 1370) and Crepe Myrtle Drive (State Route 1371), for their entire lengths.

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On roll call the vote was:

Yea: (5) Shepperd, Zaremba, Noll, Hrichak, Wiggins  
Nay: (0)

#### SIX-YEAR SECONDARY ROAD IMPROVEMENT PROGRAM

Mr. Todd Halacy introduced Mr. Bruce Duvall, the new government liaison for York County from the Suffolk office.

Mr. Carter made a presentation on proposed Resolution R10-96 to approve a project priority listing for secondary road construction for the six-year period FY2011 through FY2016 and to approve a construction budget for FY2011.

Mrs. Noll asked if the three proposed projects would be fully covered by the amount of money that supposedly was in the plan.

Mr. Carter stated that assuming the County continues to realize the funds that were projected over the next six years, it would still not be enough to fully fund each of the three projects.

Mrs. Noll noted the Penniman Road project had been around for a long time.

Mr. Carter stated the Penniman Road project went back to the late 1990's. He stated that as the money had gone down, the construction costs had gone up.

Mr. Zaremba asked if any work was currently being done on these projects.

Mr. Halacy stated the Lakeside Drive project was moving towards an advertisement date. He noted Penniman was now scheduled for 2012, but VDOT was hoping that the date could be accelerated.

Mr. Carter stated there was some preliminary engineering work done a couple of years ago on Penniman and Government Roads to outline a concept for the design of the road work. He noted that because of the lack of funding, the engineering had not resumed.

Mr. Zaremba asked about the Cook Road bicycle project.

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Mr. Carter noted staff had been in some serious discussions with the Park Service about the acquisition of the easements necessary to accommodate the bike lanes. He stated VDOT was waiting on additional traffic counts to be made along Cook Road so it could get back with the Park Service and hopefully work out the easements.

Mr. Zaremba asked if the \$1,353,359 shown on the slide represented the overall cost of the project.

Mr. Carter stated it was the overall cost, but the majority of the project would be funded through the Regional Bikeway Improvement Program which was a separate pot of money. The secondary road allocations would be used to pay the 20 percent local match that was required to secure those funds from the other pot of money.

Mr. Zaremba asked what was the likelihood of the bike money being available.

Mr. Carter stated it was very strong.

Chairman Wiggins noted that where Route 199 became Penniman Road the road was badly deteriorated. He asked Mr. Halacy if it was possible to have some asphalt placed on Penniman Road at that location as the road was a hazard.

Mr. Halacy stated he would check to see if some temporary repairs could be made. He noted that segment of Penniman Road was scheduled to be milled, paved, and overlaid soon.

Chairman Wiggins then called to order a public hearing on Resolution R10-96 that was duly advertised as required by law and is entitled:

A RESOLUTION TO APPROVE A PROJECT PRIORITY LISTING  
FOR SECONDARY ROAD CONSTRUCTION FOR THE SIX-YEAR  
PERIOD FY2011 THROUGH FY2016 AND TO APPROVE A CON-  
STRUCTION BUDGET FOR FY 2011  
A RESOLUTION

There being no one present who wished to speak concerning the subject resolution, Chairman Wiggins closed the public hearing.

Mrs. Hrichak then moved the adoption of proposed Resolution R10-96 that reads:

A RESOLUTION TO APPROVE A PROJECT PRIORITY LISTING  
FOR SECONDARY ROAD CONSTRUCTION FOR THE SIX-YEAR  
PERIOD FY2011 THROUGH FY2016 AND TO APPROVE A CON-  
STRUCTION BUDGET FOR FY 2011

WHEREAS, the York County Board of Supervisors has been requested to give consideration to a proposed program of secondary road improvements contained in the six-year plan; and

WHEREAS, the Williamsburg Residency Administrator of the Virginia Department of Transportation has provided a recommended program which the Board of Supervisors has carefully considered; and

WHEREAS, the projects on this list have been determined by the York County Planning Commission to be in conformance with the York County Comprehensive Plan; and

WHEREAS, the Board and the Virginia Department of Transportation have jointly conducted a duly advertised public hearing on the proposal in accordance with applicable procedures; and

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 15th day of June, 2010, that the Board does hereby adopt the following project priorities for the Six-Year Secondary Road Plan during the six-year period of FY2010 through FY2015:

1. **Lakeside Drive** – intersection and turning lane improvements between Route 17 and Dare Road.
2. **Penniman Road** – reconstruct and repave from Alexander Lee Parkway to Fillmore Drive.
3. **Cook Road** – provide 20% local match for CMAQ-funded project to construct bicycle lanes between the northern intersection of Surrender Road and Ballard Street.

BE IT FURTHER RESOLVED that the Board of Supervisors hereby approves the Secondary System Construction Budget for FY 2011 as presented by the Williamsburg Residency Administrator of the Virginia Department of Transportation.

BE IT STILL FURTHER RESOLVED that the Residency Administrator be, and he is hereby, commended for his assistance and support in addressing the transportation needs of the County.

BE IT STILL FURTHER RESOLVED that the County Administrator be, and he is hereby, authorized to sign and execute all such documents as are necessary to evidence the Board's approval of the Construction Budget and the Six-Year Plan.

On roll call the vote was:

Yea: (5) Shepperd, Zaremba, Noll, Hrichak, Wiggins  
 Nay: (0)

#### REAUTHORIZATION OF THE BOARD OF SUPERVISORS' SALARIES

Mr. McReynolds made a presentation on Ordinance No. 10-7 to continue the current salaries of the members of the York County Board of Supervisors.

Chairman Wiggins then called to order a public hearing on Ordinance No. 10-7 duly advertised as required by law and is entitled:

AN ORDINANCE TO ESTABLISH THE SALARIES OF MEMBERS OF THE YORK COUNTY BOARD OF SUPERVISORS AT THE SUM OF \$9,000.00 PER ANNUM, PLUS AN ADDITIONAL SALARY OF \$1,800.00 FOR THE BOARD CHAIRMAN AND AN ADDITIONAL SUM OF \$1,200.00 FOR THE BOARD VICE-CHAIRMAN, EFFECTIVE JULY 1, 2010

There being no one present who wished to speak concerning the subject ordinance, Chairman Wiggins closed the public hearing.

Mr. Zaremba then moved the adoption of proposed Ordinance No. 10-7 that reads:

AN ORDINANCE TO ESTABLISH THE SALARIES OF MEMBERS OF THE YORK COUNTY BOARD OF SUPERVISORS AT THE SUM OF \$9,000.00 PER ANNUM, PLUS AN ADDITIONAL SALARY OF \$1,800.00 FOR THE BOARD CHAIRMAN AND AN ADDITIONAL SUM OF \$1,200.00 FOR THE BOARD VICE-CHAIRMAN, EFFECTIVE JULY 1, 2010

BE IT ORDAINED by the York County Board of Supervisors this 15<sup>th</sup> day of June, 2010, that the salaries of members of the York County Board of Supervisors be established at the sum of \$9,000.00 per annum, plus an additional sum of \$1,800.00 for the Board Chairman and an additional sum of \$1,200.00 for the Board Vice-Chairman, effective July 1, 2010, pursuant to Code of Virginia § 15.2-1414.3.

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On roll call the vote was:

Yea: (5) Noll, Hrichak, Shepperd, Zaremba, Wiggins  
Nay: (0)

### **CONSENT CALENDAR**

Mr. Zaremba addressed Item No. 9, asking Mr. McReynolds to explain the authorization of the workers compensation fund.

Mr. McReynolds explained the County had decided a number of years ago that it was more cost effective to self-insure for workers compensation rather than paying premiums and administrative costs. He further explained that the County stills paid into a fund that was controlled by the County to handle losses when there was a workers compensation claim for an employee who was injured on the job. He stated the County's third party administrator, the Virginia Association of Counties, had negotiated a lower settlement, but the settlement would be paid in one lump sum rather than being paid overtime. He noted this request was for an additional appropriation from the fund so that the claim could be paid in one lump sum.

Mr. Zaremba asked if the amount requested was in addition to what was available.

Mr. McReynolds stated it was in addition to what was budgeted, not what was available.

Mr. Hrichak addressed Item No. 15, asking how the state option worked to have the employees pay part of their retirement.

Mr. McReynolds explained that part of the state's budget process had given localities the option of having employees hired on July 1 or later pay up to 5 percent of their retirement costs. He stated they had been monitoring the other jurisdictions state-wide, and it appeared the majority of the jurisdictions were picking up the cost. He stated this funding was being recommended to stay competitive. He noted funding was included in the FY 2011 budget that was adopted. He further explained this funding could be decided on a year-to-year basis.

Mr. Zaremba asked if there was any rationale behind this action other than tough budgetary times.

Mr. Barnett stated that was his understanding.

Mr. Hrichak then moved that the Consent Calendar be approved as submitted, Item Nos. 8, 9, 10, 11, 12, 13, 14, 15, 16, and 17, respectively.

On roll call the vote was:

Yea: (5) Hrichak, Shepperd, Zaremba, Noll, Wiggins  
Nay: (0)

Thereupon, the following minutes were approved and resolutions adopted:

### **Item No. 8. APPROVAL OF MINUTES**

The minutes of the May 18, 2010, Regular Meeting of the York County Board of Supervisors were approved.

### **Item No. 9. WORKERS' COMPENSATION FUND: Resolution R10-77**

A RESOLUTION TO APPROPRIATE ADDITIONAL FUNDS FOR  
FISCAL YEAR 2010 IN THE WORKERS' COMPENSATION FUND

WHEREAS, the Workers' Compensation Fund accounts for the payment of workers' compensation claims; and

WHEREAS, for fiscal year 2010, the actual claims are projected to exceed the budgeted amount;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 15th day of June 2010, that \$95,000 be, and hereby is, appropriated in the Workers' Compensation Fund for the purposes of covering claims for the balance of fiscal year 2010.

Item No. 10. COMMENDATION OF RETIRING EMPLOYEE: Resolution R10-93

A RESOLUTION TO COMMEND CHERYL A. SONDERMAN, YORK  
COUNTY PARKS AND RECREATION MANAGER, ON THE OCCA-  
SION OF HER RETIREMENT

WHEREAS, Cheryl A. Sonderman, began work on September 17, 1977, first to work with the Yorktown Fife and Drum Corps and later to oversee beach and lifeguard operations at the Yorktown Waterfront; and

WHEREAS, throughout the 1980s Ms. Sonderman worked with a wide variety of Parks and Recreation programs and services, experiencing each and contributing to all such activities as youth and adult sports, a range of instructional programs, Summer Fun and Special Recreation Camp; and

WHEREAS, her skills, abilities, and many accomplishments resulted in her promotion in January of 1989 to Division Manager for Parks and Recreation, and in that capacity, she has developed an excellent, highly professional, and deeply skilled staff; and

WHEREAS, when Ms. Sonderman began work York County had a single park - Brown Park in Lackey, and during her tenure she has successfully developed five additional parks - Back Creek, Chisman, Wolftrap, Kiln Creek, and New Quarter Parks; and

WHEREAS, during her tenure, Ms. Sonderman pioneered the innovative and award winning County-School Parks Program, which places a neighborhood park at each elementary school site through an agreement between the Board of Supervisors and the School Board, which not only makes a network of additional neighborhood parks available throughout the County, but does so by maximizing the public investment in school site acquisition; and

WHEREAS, the collaboration between the County and the School Division has been further demonstrated during her tenure by the placement of gymnasiums at certain school sites which are used for Parks and Recreation's instructional programs; and

WHEREAS, Ms. Sonderman oversees the additional agreement between the Board of Supervisors and the School Board which results in school gyms and athletic fields, other than those at the high school level, being scheduled by County Parks and Recreation staff; and

WHEREAS, water access to the beautiful rivers and creeks which abound in York County is an important service to the citizens of York, Ms. Sonderman has helped develop and oversees boat landings at Back Creek Park, Rogers A. Smith Boat Landing, and Old Wormley Creek, as well as a kayak and canoe site at New Quarter Park; and

WHEREAS, Ms. Sonderman and her staff are responsible for providing support to the Parks and Recreation Advisory Board, the July 4<sup>th</sup> Committee, the Arts Commission, and overseeing implementation of the County's Arts program; serving as liaison to the Historical Committee and Museum, the Celebrate Yorktown Committee, Tall Ships Committee, and oversight

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of the Gallery in York Hall – with Boards, commissions, committees, and colleagues, she is respected and liked by all; and

WHEREAS, when the Board of Supervisors chose to develop an internal function for tourism development and promotion, she became responsible for the oversight of those functions which have promoted Yorktown and the County of York in a highly successful manner; and

WHEREAS, Ms. Sonderman is responsible for staff that develop and implement County events, ranging from Employee and Volunteer Appreciation Picnics to weekend concerts on the waterfront and are the primary organizational support for major events such as July 4<sup>th</sup> and various seasonal Holiday events that not only bring visitors to Yorktown but also which bring together York County citizens and promote “community”; and

WHEREAS, the revitalization of the Yorktown waterfront and the creation of Riverwalk Landing by the Board of Supervisors included establishment of piers for which Ms. Sonderman serves as “Harbor Master” with responsibilities for cruise ship dockings, for administration of the County contract for dockmaster services and leasing agreement the tall ship home ported in the Village, and for other aspects of pier operations; and

WHEREAS, Ms. Sonderman completed an Athletic Field Analysis and was instrumental in securing a land lease agreement with the City of Newport news and was deeply involved in the design and development of the new York County Sports Complex, which she is now responsible for overseeing and operating; and

WHEREAS, the County of York is justifiably proud of these and Ms. Sonderman’s many other accomplishments, achievements, and countless contributions to the efficient operation of County government and to the well-being of the citizens of York; and

WHEREAS, Ms. Sonderman is a consummate professional, serving faithfully and with dedication, who has always and unfailingly demonstrated a firm and enthusiastic commitment to the County of York and in so doing has been an effective advocate for programs and services that have touched the lives of literally tens of thousands of York County citizens; and

WHEREAS, after 33 years of such devoted service Ms. Sonderman is retiring from her position as Parks and Recreation Manager;

NOW, THEREFORE, BE IT RESOLVED, by the York County Board of Supervisors this 15th day of June, 2010, that Cheryl A. Sonderman be, and she is hereby, commended for her dedication, her loyalty, and her commitment throughout the past 33 years and for her exemplary efforts, exceptional accomplishments, and extraordinary contributions.

BE IT FURTHER RESOLVED that at this time of her retirement, an expression of appreciation for all that she has done and all that she has accomplished be conveyed to Ms. Sonderman on behalf of the County of York, its staff and the countless citizens who have benefited from her skills, her caring, and her many contributions;

BE IT STILL FURTHER RESOLVED that the Board of Supervisors offers the very best wishes to Ms. Sonderman for a rewarding and pleasurable retirement.

Item No. 11. ARTS FUNDING FOR FY2011: Resolution R10-81

A RESOLUTION TO APPROVE FY2011 COUNTY AND STATE  
FUNDING FOR LOCAL ARTS ORGANIZATIONS

WHEREAS, the Board of Supervisors appropriated \$30,400 in support of local cultural arts organizations in the FY2011 budget and the County is expected to receive an estimated \$5,000 grant from the Virginia Commission for the Arts to supplement the County’s appropriations for the arts; and

WHEREAS, the York County Arts Commission was appointed by the Board of Supervisors to review funding requests from cultural arts organizations and to make recommendations to the Board concerning the distribution of budget appropriations to the arts; and

WHEREAS, the Arts Commission has undertaken a careful and thorough review of all applications from arts groups, in some cases interviewing and otherwise observing and interacting with these organizations; and

WHEREAS, the Arts Commission has completed its review of the funding requests for FY2011 and has developed recommendations for funding allocations for each organization using the total available arts-related funds contained in the approved FY2011 York County Budget; and

WHEREAS, allocations from grant funding from the Virginia Commission for the Arts, will be made to the Fifes and Drums of York Town, Celebrate Yorktown Committee, upon receipt of those funds from the Commonwealth;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 15th day of June, 2010, that the determination made by the York County Arts Commission be, and they hereby are, approved and that the following organizations receive funding in the following amounts under the York County Arts Commission Grant Program:

Arc of Greater Williamsburg	\$ 300
Celebrate Yorktown Committee/Concerts	\$ 1,600
Celebrate Yorktown Committee/Virginia Symphony	\$ 2,350
Chesapeake Bay Wind Ensemble	\$ 100
Community Alliance for the Performing Arts	\$ 300
Coventry Elementary School PTA	\$ 200
Cultural Alliance of Greater Hampton Roads	\$ 150
Fifes and Drums of York Town	\$ 7,400
Flute Frenzy	\$ 150
Grafton Middle School PTA	\$ 200
Grafton High School PTA	\$ 200
Jamestown/Yorktown Foundation	\$ 2,300
Peninsula Community Theatre	\$ 250
Poquoson Island Players	\$ 250
Public Times Chorus	\$ 400
Riverwalk Landing Business Association	\$ 1,500
Senior Center of York (Challenge)	\$ 200
Stagelights	\$ 300
Theatre IV	\$ 1,700
This Century Art Gallery	\$ 500
Virginia Chorale	\$ 250
Virginia Opera	\$ 2,700
Virginia Shakespeare Festival	\$ 700
Virginia Stage Company	\$ 700
Virginia Symphony	\$ 900
1781 Foundation (Challenge)	\$ 500
Watermen's Museum	\$ 900
Williamsburg Consort (Challenge)	\$ 500
Williamsburg Consort ( Project)	\$ 200
Williamsburg Parks and Recreation	\$ 250
Williamsburg Players, Inc.	\$ 1,000
Williamsburg Regional Library	\$ 250
Williamsburg Symphonia	\$ 400
Williamsburg Youth Orchestra	\$ 200
York County Historical Museum	\$ 500
York County Public Library	\$ 750
York River Symphony	\$ 150
Yorktown Arts Foundation	\$ 2,000
Yorktown Chorale	\$ 300

Young Audiences of Virginia

TOTAL:  $\frac{\$ 1,900}{\$35,400}$

Item No. 12. VIRGINIA COOPERATIVE EXTENSION: Resolution R10-83

A RESOLUTION TO AUTHORIZE THE EXECUTION OF AN AGREEMENT TO PROVIDE FOR THE OPERATION OF THE VIRGINIA COOPERATIVE EXTENSION OFFICE FOR FY2011

WHEREAS, Virginia Cooperative Extension Service has long served York County citizens by offering a wide array of services ranging from youth activities to horticultural guidance that protects our wetlands and greater environment, as well as providing access to a broader network of technical information and resources through Virginia's Land Grant University System at both VPI and Virginia State University; and

WHEREAS, County and Extension staff plan and coordinate services throughout the year to prevent duplication of effort and to assure that Extension activities extend and enhance County programs; and

WHEREAS, the Board of Supervisors authorized funding for this activity in the FY2011 approved budget sufficient to continue participation in this program and to provide an adequate level of service to the citizens of York County;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 15th day of June, 2010, that the County Administrator be, and he is hereby, authorized to execute for and on behalf of the Board, a Memorandum of Understanding with Virginia Cooperative Extension, including any necessary amendments thereto, that has been approved as to form by the County Attorney and which is substantially in the same form as that which was transmitted to the Board by report of the County Administrator dated May 25, 2010, for the provision of Virginia Cooperative Extension within the County.

Item No. 13. NAME CHANGE FOR COLONIAL MENTAL HEALTH AND MENTAL RETARDATION SERVICES BOARD: Resolution R10-82

A RESOLUTION TO APPROVE A LEGAL NAME CHANGE FOR THE "COLONIAL MENTAL HEALTH AND MENTAL RETARDATION SERVICES BOARD FOR WILLIAMSBURG, YORK COUNTY, JAMES CITY COUNTY AND POQUOSON" TO "COLONIAL BEHAVIORAL HEALTH" EFFECTIVE JULY 1, 2010

WHEREAS, Section 37.2-501 of the Code of Virginia, 1950 as amended, requires each locality to establish, singly or in combination, a community services board for the provision of mental health, mental retardation, and substance abuse services to its residents; and

WHEREAS, pursuant to this statutory provision, the County of York has established the regional Colonial Mental Health and Mental Retardation Services Board for Williamsburg, York County, James City County and Poquoson, also known as "The Colonial Services Board," in conjunction with James City County and the cities of Williamsburg and Poquoson; and

WHEREAS, the staff, Board and consumers of the Colonial Services Board have worked diligently to encompass current behavioral health terminology in its policies, literature and signage, and to adopt an organization name which is more reflective of services provided; and

WHEREAS, the Colonial Services Board's Board of Directors voted in the affirmative on December 1, 2009, to change the legal name of the organization from "The Colonial Mental Health and Mental Retardation Services Board for Williamsburg, York County, James City County and Poquoson" to "Colonial Behavioral Health" effective July 1, 2010, in order to more accurately reflect to the public their services which are provided.

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 15th day of June, 2000, that the Board approves the legal name of the "Colonial Mental Health and Mental Retardation Services Board for Williamsburg, York County, James City County and Poquoson," be changed to "Colonial Behavioral Health" effective July 1, 2010.

Item No. 14. PURCHASE AUTHORIZATION: Resolution R10-88

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR TO CONSTRUCT VARIOUS PAVEMENT RESURFACING PROJECTS, VARIOUS SIDEWALK PROJECTS, THE ROUTE 134 TURN LANE PROJECT, AND CONTRACT FOR MOWING SERVICES AT SPECIFIED LOCATIONS

WHEREAS, it is the policy of the Board of Supervisors that all procurements of goods and services by the County involving the expenditure of \$30,000 or more be submitted to the Board for its review and approval; and

WHEREAS, the County Administrator has determined that the following procurements are necessary and desirable, they involve the expenditure of \$30,000 or more, and that all applicable laws, ordinances, and regulations have been complied with;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 15th day of June, 2010, that the County Administrator be, and hereby is, authorized to execute procurement arrangements for the following:

	<u>AMOUNT</u>
Various Pavement Resurfacing Projects	\$1,012,749
Various Sidewalk Projects	246,958
Route 134 Turn Lane Project	83,471
Mowing Services (Annual Contract)	48,699

BE IT FURTHER RESOLVED that the Board's authorization for execution of the procurement arrangements for the paving, sidewalk, and turning lane projects shall be contingent on approval by the Virginia Department of Transportation of the bids and other prerequisites associated with the ARRA (American Recovery and Reinvestment Act) funding.

Item No. 15. VIRGINIA RETIREMENT SYSTEM (VRS): Resolution R10-56

A RESOLUTION TO AUTHORIZE PICK UP OF THE EMPLOYEE'S CONTRIBUTION TO THE VIRGINIA RETIREMENT SYSTEM (VRS) UNDER § 414(H) OF THE INTERNAL REVENUE CODE FOR PLAN 2 EMPLOYEES

WHEREAS, the Virginia General Assembly, in its 2010 session passed legislation creating a separate retirement plan for employees hired on or after July 1, 2010 (hereafter referred to as "Plan 2 Employees"). The legislation stipulates that Plan 2 Employees will pay their 5 percent member contribution and that, absent other action by the employer, such contribution will be paid through salary reduction according to Internal Revenue Code § 414 (h) on a pre-tax basis; and

WHEREAS, the legislation allows certain employers, including the County of York, to pick up and pay all or a portion of the member contributions on behalf of its Plan 2 Employees as an additional benefit not paid as salary; and

WHEREAS, the election to pick up and pay all or a portion of the member contributions on behalf of its Plan 2 Employees as an additional benefit not paid as salary shall, once made, remain in effect for fiscal year 2011 (July 1, 2010 - June 30, 2011) and shall continue in effect beyond the end of such fiscal year absent a subsequent resolution changing the way the 5 percent member contribution is paid; and

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WHEREAS, employee contributions that are picked-up as an additional benefit not paid as salary are not considered wages for purposes of VA Code § 51.1-700 et seq. nor shall they be considered salary for purposes of VA Code § 51.1-100 et seq.; and

WHEREAS, the County of York desires to pick-up and pay its Plan 2 Employees' member contributions to VRS as an additional benefit not paid as salary in an amount equal to 5 percent of creditable compensation; and

WHEREAS, VRS tracks such picked-up member contributions and is prepared to treat such contributions as employee contributions for all purposes of VRS;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors, this the 15th day of June, 2010, that effective the first day of July, 2010, the County of York shall pick up member contributions of its Plan 2 Employees to VRS as an additional benefit not paid as salary in an amount equal to 5 percent of creditable compensation subject to the terms and conditions described above.

BE IT FURTHER RESOLVED that such contributions, although designated as member contributions, are to be made by the County of York in lieu of member contributions.

BE IT STILL FURTHER RESOLVED that nothing herein shall be construed so as to permit or extend an option to VRS members to receive the picked-up contributions made by the County of York directly instead of having them paid to VRS.

Item No. 16. PUBLIC SEWER EXTENSION AGREEMENT: Resolution R10-90

A RESOLUTION TO AUTHORIZE AN EXTENSION OF THE COUNTY'S SANITARY SEWER SYSTEM TO A PROPOSED DEVELOPMENT KNOWN AS MAYS HOLLOW, AND AUTHORIZING EXECUTION OF THE NECESSARY PUBLIC SEWER EXTENSION AGREEMENT

WHEREAS, Pomoco Developments, Inc. has requested that the County enter into a public sewer extension agreement pursuant to §18.1-53(b) of the York County Code to serve 10 residential lots; and

WHEREAS, the plan for the proposed project has been reviewed by the County; and

WHEREAS, prior to final approval of these plans and the initiation of any construction activity, it is necessary that a determination be made as to whether the Board will authorize the extension of the public sewer facilities of the County to serve the proposed development; and

WHEREAS, it has been determined that sufficient capacity exists in the County's existing sewer system to serve the proposed development, or will exist when the facilities proposed by the developer are constructed; and

WHEREAS, in accordance with the terms of Chapter 18.1 of the York County Code the total connection fee to be paid to the County for the proposed extension to serve this development has been determined to be \$27,000;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors, this the 15th day of June, 2010, that the Board hereby approves the extension of the County's public sewer system to serve the proposed development, Mays Hollow, and that the County Administrator be, and he hereby is, authorized to execute a public sewer extension agreement with Pomoco Developments, Inc., for the proposed extension; such agreement to be approved as to form by the County Attorney.

Item No. 17. REFUND OF TAXES: Resolution R10-97

A RESOLUTION TO AUTHORIZE A TAX REFUND OF REAL  
PROPERTY TAXES TO KCCC, LLC

WHEREAS, York County Code § 21-7.3 requires approval from the Board of Supervisors for the payment of any refund of taxes, penalties and interest in excess of \$2,500.00; and

WHEREAS, the County's Assessor has determined that four properties owned by KCCC, LLC have been over assessed and is therefore due a tax refund for real estate taxes because of the over assessment of the properties; and

WHEREAS, the Request for Tax Refund has been approved and recommended by the Commissioner of the Revenue, the Treasurer, and the County Attorney.

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 15th day of June, 2010, that the Treasurer is authorized to refund to KCCC, LLC, real estate taxes in the principal amount of \$12,863.30, plus interest through the date of payment as required by applicable law.

**NEW BUSINESS**

PARKING RESTRICTIONS ON THE STREETS OF YORKTOWN

Mr. Carter made a presentation on proposed Ordinance No. 10-11 to amend Section 15-48 of the York County Code to add certain streets in Yorktown to the list of areas where parking was prohibited and to establish a residents-only parking permit system applicable to certain other streets in Yorktown. He noted the agenda materials for this item had been circulated in summary form to the residents of Yorktown last week either by email or hand delivery, which provided about 90 percent coverage to the residents. He noted that after the circulation, staff had received feedback and suggestions for some modifications to the ordinance. He noted those supplementary suggestions were reflected in the redraft of the ordinance that Mr. McReynolds had distributed by email to the Board yesterday. He then summarized the changes in the redraft of the ordinance, and he then recommended adoption of proposed Ordinance No. 10-11(R).

Mrs. Noll indicated if it was agreeable with the Board, she would like the restricted parking to be from Memorial Day to Labor Day which would cover the concerts and the 4<sup>th</sup> of July activities, but would not restrict the entire year.

Mr. Zaremba noted that was the same proposal Mr. Bowditch had included in his email to the Board.

Mr. Zaremba stated he would not be adverse to the suggested timeframe.

Mr. Carter stated Memorial Day might be too late to handle some of the fairly warm weather days that had been seen in the May timeframe, and even in late April of this year there had been some pretty heavy beach parking demand days because of the warm weather. He stated the whole package would be coming back before the Board within the next 60 days to be re-heard and readopted. He suggested, as it was already beyond Memorial Day, to wait and see how the current proposal operated over the next 30 to 45 days before making a decision as to whether it be a seasonal restriction. He noted there might be other tweaks that would need to be made in addition to considering the seasonality. If it operated well, and the residents felt like it was a good system, then maybe it could be year-round without being too onerous and too restrictive on the residents. He indicated making the parking seasonal might require fine print on the signs to designate the time periods or taking the signs down. Mr. Carter indicated he thought most of the residents of the town were aware of the proposal. He stated the plan was to put a sign at the end of each of the residential streets, both at the Ballard and Main Street ends, and he felt this would provide sufficient notice.

June 15, 2010

Mr. Hrichak noted that people coming from out of town or out of the County on weekends would all of sudden find the parking restricted, and he asked if there could be some type of notice.

Mr. Carter stated the objective was to get as much of the traffic as possible to use the parking lots at the Administration Building and the Courthouse. He stated signs were recently installed at the entrances of those two parking lots to indicate beach and event parking.

Mr. Hrichak asked how the parking restrictions would be enforced.

Mr. Carter stated staff had coordinated with the Sheriff's Department on the preparation of this ordinance, and it was prepared to be involved in the enforcement.

Mr. Zaremba asked what the fee would be for violations.

Mr. Carter stated the fee for an uncontested violation would be \$50.00; but if one chose to contest the violation, the fine could be up to \$200.

Mr. Zaremba asked about the proposed two-hour parking change in front of York Hall.

Mr. Carter stated the current restricted area, which has a one-hour limit, runs from Ballard Street to Read Street, which would be in front of York Hall, the Yorktown Shop, and Period Designs. He noted the parking restrictions were only applicable during from 8:00 a.m. to 6:00 p.m.

Mr. Zaremba asked if this proposal had been vetted with the citizens of the village.

Mr. Carter stated an email had been distributed to all the email addresses he had, and he had walked the summary sheet around to the residents' doors last Friday. He felt there was about 90 percent coverage with that effort.

Mr. Zaremba asked Mr. Carter if he had received any input on the proposed ordinance.

Mr. Carter indicated that, generally speaking, the residents were very happy that the Board was considering this action.

Chairman Wiggins read a letter from Mr. Chuck Murray, 118 Chischiak Watch, regarding his input to the parking situation.

Mr. Zaremba then moved adoption of proposed Ordinance No. 10-11(R) that reads:

AN EMERGENCY ORDINANCE TO AMEND SECTION 15-48, PARKING PROHIBITED OR RESTRICTED IN SPECIFIC PLACES, AND SECTION 15-43, UNCONTESTED PAYMENT OF PARKING CITATIONS, OF THE YORK COUNTY CODE, TO ADD CERTAIN STREETS IN YORKTOWN TO THE LIST OF AREAS WHERE PARKING IS PROHIBITED AND TO ESTABLISH A RESIDENTS-ONLY PARKING PERMIT SYSTEM APPLICABLE TO CERTAIN OTHER STREETS IN YORKTOWN

WHEREAS, pursuant to Section 46.2-1220 of the Code of Virginia, the Board has the authority to regulate the parking, stopping and standing of vehicles within its limits; and

WHEREAS, pursuant to Section 46.2-1230 of the Code of Virginia, the Board of Supervisors has the authority to provide for the issuance of permits for motor vehicles parking on public streets, to set the rates for the permits, and to set the term of validity of the permits; and

WHEREAS, recognizing the demands for on-street parking created by attractions and activities in Yorktown and the potential for conflicts with resident parking needs and safe and convenient vehicular circulation, the Board wishes to consider the establishment of parking

prohibitions on certain additional street segments and a residents-only parking permit system on others;

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this 15th day of May, 2010, that Section 15-48(a) and Section 15-43 of Chapter 15, Motor Vehicles and Traffic, York County Code, be and they hereby are amended to read as follows:

**Sec. 15-48. Parking prohibited or restricted in specified places.**

- (a) *Secondary system highways.* No person shall park a vehicle in any of the following places within any part of the state secondary system of highways in the county:
- (1) On Comte de Grasse Street (a portion of State Route 1002) in Yorktown;
  - (2) On Read Street (State Route 1004) between Main and Water Streets in Yorktown;
  - (3) On Ballard Street (a portion of State Route 1001);
  - (4) On Buckner Street (State Route 1007) between Main and Water Streets in Yorktown;
  - (6) On Water Street (in part a portion of State Route 1002) in Yorktown between Comte de Grasse Street, on the east and its intersection with the Colonial National Historical Park access ramp opposite the Yorktown Victory Center on the west, excepting the south side of Water Street between Read Street and a point approximately 340 feet east of Ballard Street;
  - (6) On Mathews Street (Route 1001) between Route 17 and Water Street (Route 1002);
  - (6.1) On Zweybrucken Road (Route 1001) between Main Street and Ballard Street;
  - (6.2) On Main Street (Route 1001) between Zweybrucken Road and Read Street, except as set forth in Section (b)(1), herein;
  - (6.3) On Main Street (Route 1001) between Ballard Street and Martiau Street;
  - (6.4) On Martiau Street (Route 1008) between Main Street and dead end;
  - (6.5) On Alexander Hamilton Boulevard (Route 1012) between Route 17 and Ballard Street, except as set forth in Section (b)(1), herein;
  - (6.6) On Read Street (Route 1004) between Main Street and Ballard Street;
  - (6.7) On Church Street (Route 1003) between Main Street and the entrance to the National Park Service parking lot, except as set forth in Section (b)(1), herein;
  - (6.8) On Church Street (Route 1003) between Main Street and the entrance to the York Hall parking lot, except as set forth in Section (b)(1), herein;
  - (7) On the Back Creek Park recreational access road (State Route 1291) from State Route 173 eastwardly approximately one thousand eight-hundred feet (1,800') to its terminus at a cul-de-sac;
  - (8) On the New Quarter Park recreational access road (State Route 1314) from State Route 1330 northwardly approximately one and two-tenths (1.2) miles to its terminus.
  - (9) On Glen Laurel Way (State Route 1069) between the hours of 7:00 am and 3:00 pm, Monday through Friday.

- (10) On Elmhurst Drive (State Route 1370) and Crepe Myrtle Drive (State Route 1371), for their entire lengths.

(b) Additional Parking Restrictions Applicable in Yorktown.

- (1) *Short-term Parking Allowed on Certain Streets:* Between the hours of 8:00 a.m. and 6:00 p.m., parking for a period of time in excess of two (2) hours shall be prohibited on the following streets or street segments, except by permit issued pursuant to this section:
- a. Main Street (both sides) between Ballard Street and Read Street.
  - b. Main Street (north side) between Read Street and Nelson Street.
  - c. Church Street (east side) between Main Street and the entrance to the National Park Service parking lot.
  - d. Church Street (west side) between Main Street and the entrance to the York Hall parking lot.
  - e. Alexander Hamilton Boulevard (north side) between Ballard Street and the entrance to the York-Poquoson Courthouse.

The owner/operator of businesses fronting on any of the above listed street segments may request a special parking permit for their vehicle and for the vehicles of their employees which permit shall be for the purpose of allowing parking in excess of two (2) hours along the otherwise restricted street segments. Such permits shall be in the form of a decal for the business owner/operator's vehicle(s) and a mirror hanger for each of their employees.

- (2) *Residents-only on-street parking restrictions.* The following residents-only parking restrictions on certain streets in Yorktown are established in order to reduce or prevent congestion and hazardous traffic conditions in residential areas, to protect those areas from excessive noise and other adverse impacts of automobiles, to protect the residents of these areas from unreasonable burdens in gaining access to their property and to preserve the residential character of such areas and the property values therein.
- a. *Restricted streets.* The following streets or street segments shall be covered by the restrictions set forth herein:
    1. Bacon Street – entire length
    2. Smith Street – entire length
    3. Nelson Street – entire length
    4. Church Street – between Ballard Street and the entrance to the National Park Service parking lot
    5. Church Street – between the York Hall parking lot entrance and it terminus at the Church Street stairs to the waterfront
    6. Ambler Street – entire length
    7. Pulaski Street – entire length

Parking along the side or shoulders or within the right-of-way of the above listed streets shall be prohibited except by the holders of permits

granted under the terms and procedures of this section, or pursuant to the exceptions established herein.

- b. *Eligibility for permit.* Persons who legally reside on, or who are owners of, property abutting a street regulated under this section may obtain permits to park in the otherwise restricted areas. Permits issued pursuant to this section shall be limited to one for each motor vehicle registered in the resident's or property owner's name or held by the resident or property owner under a written automotive lease, which motor vehicle must be kept and regularly used by the owner or resident at his or her place of residence on the restricted street. Before issuing such permit, the County Administrator or his designee shall verify that the motor vehicle for which the permit is to be issued meets the above requirements.
- All applicable county motor vehicle taxes and fees relative to the motor vehicle must be paid prior to the issuance of a permit for such vehicle. An applicant for a permit must show evidence satisfactory to the county of ownership of the motor vehicle and, if the applicant occupies the property under a lease, produce a copy of a valid written lease for occupancy of the property.
- c. *Issuance of permits and decals.* Subject to verification of resident or property owner status as noted above, a permit and a display decal shall be issued for each registered vehicle. Permits and decals shall be issued on an annual, calendar-year basis. A parking permit decal issued hereunder shall be displayed only on the vehicle to which it is issued and assigned and shall not be transferred from one vehicle to another. Should a vehicle to which a parking permit and decal is issued and assigned be sold, traded or otherwise disposed of, such decal shall be removed and destroyed. A new permit and decal shall be secured for any replacement vehicle, which decal shall be issued for the remainder of the permit year, free of cost.
- d. *Exceptions.* The parking prohibitions of this division shall not apply to:
1. Service or delivery vehicles when providing services or making deliveries to properties on the restricted street.
  2. Emergency, law enforcement, rescue, construction or utility vehicles or other public use vehicles when on a call or engaged in work on or along the subject streets.
- e. *Proper display of resident decals.* Decals shall be properly displayed as follows:
1. A decal shall be displayed in the lower left corner of the rear window of the vehicle for which the permit has been issued. The decal must be adhered directly to the window and may not be taped or affixed in any other manner which may allow the transfer of the decal to another vehicle. If the vehicle does not have a rear window or the rear window is legally obscured (i.e., louvers), the decal may be displayed on the driver's side of the vehicle, adhered to the lower right corner of the side window nearest to the rear of the vehicle. For a convertible or other vehicle with no permanent rear window, the decal may be adhered to the driver's side of the windshield. A decal issued with respect to a motorcycle shall be displayed beside the state inspection sticker on the motorcycle front fork or adjacent to the state inspection sticker, or shall be affixed to the lower portion of the windscreen, if one exists.
  2. Any alteration of a decal shall render invalid the decal and the parking permit with which it is associated.

3. A person to whom a decal has been issued shall not loan, assign, sell or otherwise convey such decal to any other person or vehicle.
  4. Decals, if destroyed or lost, may be re-issued within the same permit year, upon written explanation, satisfactory to the county administrator, and upon payment of a replacement fee of ten dollars (\$10.00).
- f. *Proper display of guest and visitor permits.* Guest and visitor permits shall be displayed by hanging from the center (interior) rear view mirror so that the printing on the permit faces the front windshield. Any alteration(s) to a guest permit, or obscuring of information printed on a guest permit, such as by opaque markings or by folding such permit so any printed information is not visible, shall render the guest permit invalid.
1. Each occupied residential property shall be issued three (3) guest parking permits (mirror hangers).
  2. Guest permits shall be displayed within a vehicle only while the owner or operator of such vehicle is a guest at the occupied residential property to which the permit has been issued.
  3. Guest permits may be temporarily loaned by the member(s) of one affected household only to another household located within the same restricted parking block as identified in subsection (a) above, for the purpose of accommodating a large gathering of guests at a particular household. No other transfers or loans of guest permits shall be permitted.
  4. Guest permits, if lost or misplaced, shall not be re-issued within the same permit year.
- g. *Special event parking.*
1. A person legally residing on property which qualifies for a parking permit under this section may apply to the county administrator or his designee for the issuance of a special event parking waiver, to allow persons attending a special event taking place at the applicant's residence to park within the regulated area during such event. Qualifying special events include, but are not limited to, weddings, funerals, social functions and other similar events which would cause persons to visit the applicant's residence on a specific day between specified hours.
  2. If the county administrator or his designee is satisfied that the proposed event will require parking in excess of that normally allowed the applicant under this section, then the county administrator or his designee may suspend the permit parking requirements in all or a portion of the permit parking area as deemed necessary to provide additional parking for the particular event to an extent that will not unduly reduce the number of parking spaces needed by other residents of the area during the hours of such event.
- h. *Penalty for violation.* Any person who violates any provision of this section shall be guilty of a traffic infraction and punished as provided in section 15-2 of this Chapter.

- (1) Statement of Intent: The purpose of the following regulations is to define certain classifications of vehicles and to identify those areas where it is necessary to prohibit the parking of such classified vehicles in order to enhance pedestrian and vehicular safety, protect and preserve the public investment in such streets that are designed primarily for residentially-related traffic, and to protect and preserve the character of residential areas. In addition, where applied in non-residential areas, such restrictions are intended to provide for enhanced vehicular safety and to protect and preserve the character of the subject industrial or office park or other commercial/industrial area.

\*\*\*

**Sec. 15-43. Uncontested payment of parking citation penalties; certification of contest of citation.**

- (a) Every person receiving a citation from a law-enforcement officer that he has violated a provision of this Code regulating parking may waive his right to appear and be tried for the offense set forth in the citation. Such waiver shall be effective upon voluntary payment of ten dollars (\$10.00) to the county treasurer's office, within five (5) days after receipt of the citation, or upon voluntarily placing ten dollars (\$10.00) in a reply mail envelope and mailing it to the county treasurer's office, so that it is postmarked within forty-eight (48) hours after receipt of the citation; provided, however, that any citation for a violation of section 15-47.1 with respect to parking in a space reserved for persons with disabilities or for a violation of sections 15-48(a), (b) or (c) with respect to parking on certain designated streets or during restricted hours, parking on streets designated for resident-only parking, and the parking of certain classes of vehicles in areas zoned for residential use shall require a voluntary payment of fifty dollars (\$50.00) to effectuate the aforesaid waiver.
- (b) All uncontested parking citations paid under this section shall be accounted for by the county treasurer. The contest, by any person, of a parking citation shall be certified, in writing, upon an appropriate form, to the general district court by the county treasurer.
- (c) Whenever a reply mail envelope is used for transmitting cash, check, draft or money order by mail to the county treasurer's office pursuant to the provisions of this section, the responsibility for receipt of the cash, check, draft or money order by the treasurer shall be that of the registered owner of the vehicle on which the citation was placed.

\*\*\*

BE IT FURTHER ORDAINED that the Board finds that an emergency situation exists with respect to parking congestion on the streets of Yorktown and, therefore, finds it necessary to adopt these amendments on an emergency basis pursuant to Code of Virginia section 15.2-1427(F) to be effective immediately upon the installation of the regulatory signage and the issuance of the resident parking permits/decals.

On roll call the vote was:

Yea: (5) Zaremba, Noll, Hrichak, Shepperd, Wiggins  
Nay: (0)

Meeting Adjourned. At 11:46 p.m. Chairman Wiggins declared the meeting adjourned sine die.

**790**

June 15, 2010

# COUNTY OF YORK

## MEMORANDUM

**DATE:** July 7, 2010 (BOS Mtg. 7/20/10)  
**TO:** York County Board of Supervisors  
**FROM:** James O. McReynolds, County Administrator   
**SUBJECT:** Approval of Procurement Action

The attached resolution provides for the approval of County purchases by the Board of Supervisors in accordance with its policy for procurements of over \$30,000. The Board's approval is requested for procurement of the following:

*Fire Station Bay Additions* – As part of a 2008 bond issue, approved through adoption of Resolution R08-124, the Board approved bay additions to Fire Station #4 (Yorktown), Fire Station #6 (Seaford), and Fire Station #5 (Skimino). Since that time the Board also approved the A&E contract, and the design work has been completed. Recently an Invitation for Bid (IFB) was issued and advertised to complete the construction of the approximately 3,200 square foot additions consisting of two new drive through apparatus bays and heavy duty pavement at the Fire Stations. Ten (10) firms responded to the IFB with the lowest responsive and responsible bidder being Oyster Point Construction in the amount of \$1,689,700. Sufficient funds are available in the County Capital Fund to complete this project.

This procurement has been conducted in accordance with State procurement laws and/or County procurement policy, and I recommend it be approved through the adoption of proposed Resolution R10-105.

Sawyer/3681  
Attachment

- Proposed Resolution R10-105

BOARD OF SUPERVISORS  
COUNTY OF YORK  
YORKTOWN, VIRGINIA

Resolution

At a regular meeting of the York County Board of Supervisors held in York Hall, Yorktown, Virginia, on the \_\_\_\_ day of \_\_\_\_\_, 2010:

---

Present

Vote

Donald E. Wiggins, Chairman  
George S. Hrichak, Vice Chairman  
Walter C. Zaremba  
Sheila S. Noll  
Thomas G. Shepperd, Jr.

---

On motion of \_\_\_\_\_, which carried \_\_\_\_, the following resolution was adopted:

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR TO CONSTRUCT FIRE STATION BAY ADDITIONS AT STATIONS 4, 5, AND 6

WHEREAS, it is the policy of the Board of Supervisors that all procurements of goods and services by the County involving the expenditure of \$30,000 or more be submitted to the Board for its review and approval; and

WHEREAS, the County Administrator has determined that the following procurements are necessary and desirable, they involve the expenditure of \$30,000 or more, and that all applicable laws, ordinances, and regulations have been complied with;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this \_\_\_\_ day of \_\_\_\_\_, 2010, that the County Administrator be, and he is hereby, authorized to execute procurement arrangements for the following:

	<u>AMOUNT</u>
Fire Station Bay Additions	\$1,689,700

# COUNTY OF YORK

## MEMORANDUM

**DATE:** July 15, 2010 (BOS Mtg. 7/20/10)  
**TO:** York County Board of Supervisors  
**FROM:** James O. McReynolds, County Administrator



**SUBJECT:** Conveyance of property to the Economic Development Authority

The York County Economic Development Authority (EDA) has entered into a contract with S. B. Cox, Inc. ("Cox") to sell a parcel of approximately ten acres of land to Cox upon which Cox intends to construct a construction debris recycling facility. That parcel is shown as "Parcel C, 10.18 acres" on the attached subdivision plat. The land in question is adjacent to the County's Waste Management Center and consists of approximately two acres to be subdivided from property currently owned by the EDA and having an address of 410 Old York-Hampton Highway, with the remaining approximately eight acres currently belonging to the County, and to be subdivided from the rear portion of the Waste Management Center on Goodwin Neck Road. The County's land in question is currently unused in connection with the landfill or the Waste Management Center, although from time to time it has been used as a convenient location for short term storage of crushed stone and similar materials.

In addition, in connection with the conveyance to Cox, the EDA wishes to complete an assemblage of parcels having frontage on Old York-Hampton Highway which will include a new Parcel B as shown on the attached subdivision plat excerpt, and a right-of-way for a road to be named Cox Drive. A portion of proposed new Parcel B and a portion of Cox Drive are also on land currently owned by the County, and will need to be conveyed to the EDA to preserve units of ownership for the affected land. The assemblage, including Parcel B and Cox Drive, will be held and developed by the EDA as a light industrial/business park, as yet unnamed. The attached survey entitled "Exhibit Showing 9.0830 acres to be Conveyed from the County of York, Virginia, to EDA of York County, Virginia" shows the entirety of the County land proposed to be deeded to the EDA. Subsequently, new Parcel C will be conveyed by the EDA to S. B. Cox, Inc. The subdivision plat also shows a 20' utility easement on property which will remain owned by the County, within which the EDA and Cox will construct a sewer line extension. The attached resolution conveys to the EDA a license to perform that construction, after which the sewer line will belong to the County.

This matter was previously discussed with members of the Board and a consensus was obtained to bring this matter back for formal action at such time as the boundary lines of the actual area to be conveyed to the EDA and thence to Cox had finally been determined. As of this date, a draft subdivision plat has been prepared from which the attached plat excerpt is taken, and the boundary lines of the area to be subdivided out of the County's property have been determined. The agreement between the EDA and Cox also contains provisions for the joint development of certain infrastructure to serve not only the new parcel being conveyed to Cox, but the EDA's remaining property which it will

seek to improve for economic development purposes. As part of that agreement, Cox will pay for the design of Cox Drive, with the road to be constructed by Cox, the costs of which will be reimbursed by the EDA. There are also provisions for cost sharing for the provision of sewer, water, and the improvement of stormwater management facilities which will be designed to serve the Cox property and the EDA's parcels.

This matter is before you to authorize the County Administrator to execute a final subdivision plat and a deed conveying the approximately nine acres owned by the County to the EDA, for further conveyance of a portion of that land to Cox. This matter does not require a public hearing, as Code of Virginia § 15.2-4917 authorizes conveyances of land to an economic development authority by resolution without a public hearing. The attached Resolution R10-101(R) will provide that authority, and I recommend its adoption.

JEB/3340:sw

Attachments

- Subdivision plat
- Exhibit showing the subject property
- Resolution R10-101(R)

SUBDIVISION OF THE PROPERTIES OF  
**THE ECONOMIC DEVELOPMENT AUTHORITY  
 OF YORK COUNTY, VIRGINIA  
 AND  
 COUNTY OF YORK, VIRGINIA**

BEING LOCATED IN THE  
 NELSON MAGISTERIAL DISTRICT, YORK COUNTY, VIRGINIA

DATE: 6-23-2010 SCALE: 1"=100' JOB # 10-024

**CURVE TABLE**

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	50.00'	75.08'	68.22'	N 24°15'30" E	86°02'16"
C2	1874.86'	73.99'	73.99'	N 16°56'29" W	2°15'41"
C3	1874.86'	246.06'	245.88'	N 07°47'40" W	7°31'10"
C4	375.00'	354.83'	341.74'	S 85°36'56" E	54°12'52"
C5	375.00'	221.60'	218.39'	S 41°34'45" E	33°51'29"
C6	25.00'	35.76'	32.79'	S 66°32'13" E	81°57'01"
C7	60.00'	271.16'	92.60'	S 24°49'18" W	258°58'24"
C8	325.00'	499.28'	451.52'	N 68°41'23" W	88°06'56"
C9	375.00'	23.28'	23.27'	S 56°43'48" E	3°33'24"

**LINE TABLE**

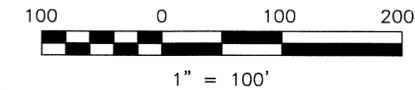
LINE	BEARING	DISTANCE
L1	S 62°11'19" E	12.28'
L2	N 81°45'00" E	9.04'
L3	N 64°18'30" E	35.00'
L4	N 18°45'38" W	22.99'

**LandTech  
Resources, Inc.**

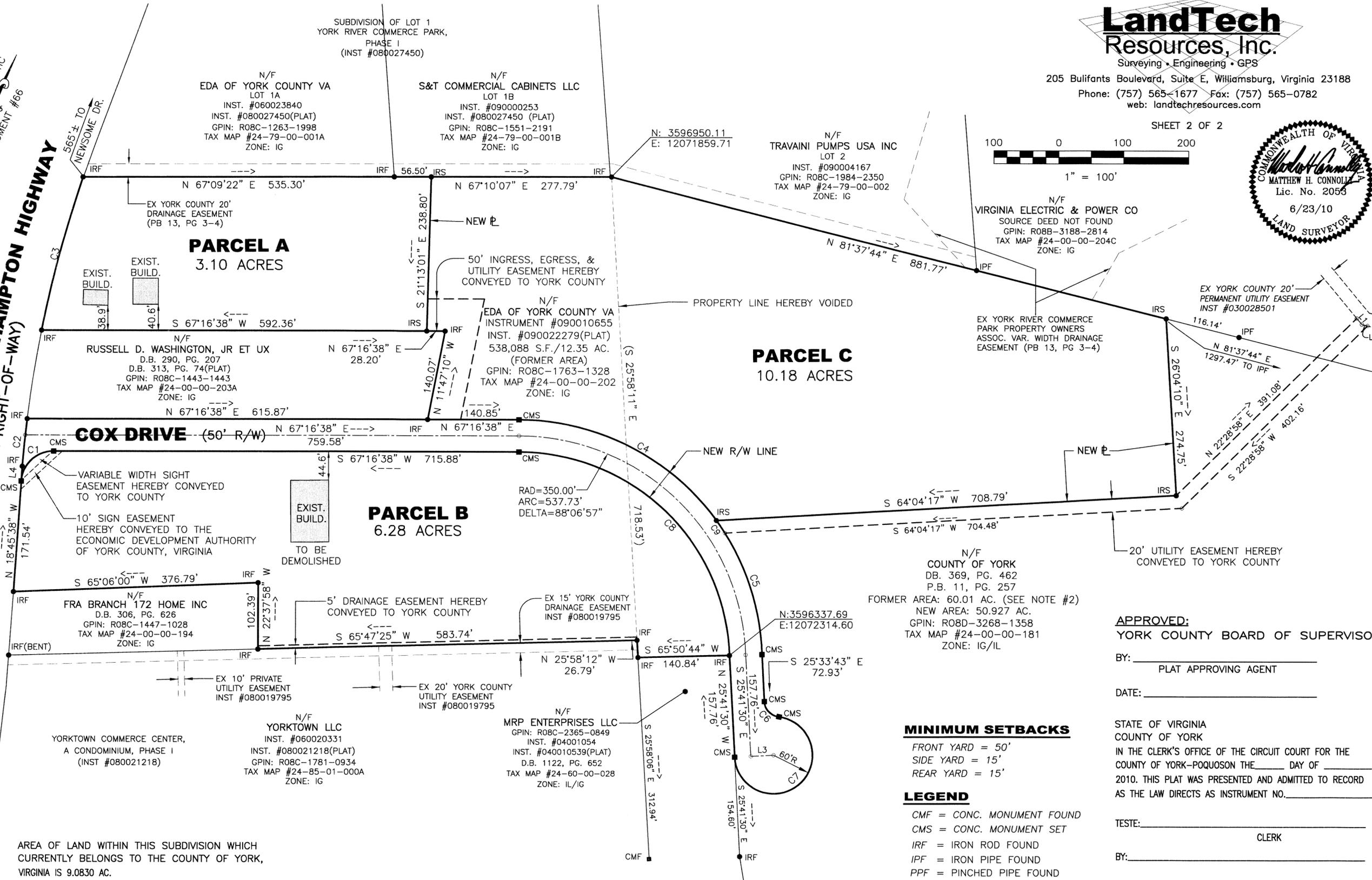
Surveying • Engineering • GPS

205 Bulfants Boulevard, Suite E, Williamsburg, Virginia 23188  
 Phone: (757) 565-1677 Fax: (757) 565-0782  
 web: landtechresources.com

SHEET 2 OF 2



**VIRGINIA STATE ROUTE 634 - OLD YORK-HAMPTON HIGHWAY**  
 (VARIABLE WIDTH RIGHT-OF-WAY)



AREA OF LAND WITHIN THIS SUBDIVISION WHICH CURRENTLY BELONGS TO THE COUNTY OF YORK, VIRGINIA IS 9.0830 AC.

**MINIMUM SETBACKS**  
 FRONT YARD = 50'  
 SIDE YARD = 15'  
 REAR YARD = 15'

**LEGEND**  
 CMF = CONC. MONUMENT FOUND  
 CMS = CONC. MONUMENT SET  
 IRF = IRON ROD FOUND  
 IPF = IRON PIPE FOUND  
 PPF = PINCHED PIPE FOUND

**APPROVED:**  
 YORK COUNTY BOARD OF SUPERVISORS

BY: \_\_\_\_\_  
 PLAT APPROVING AGENT

DATE: \_\_\_\_\_

STATE OF VIRGINIA  
 COUNTY OF YORK  
 IN THE CLERK'S OFFICE OF THE CIRCUIT COURT FOR THE  
 COUNTY OF YORK-POQUOSON THE \_\_\_\_\_ DAY OF \_\_\_\_\_  
 2010. THIS PLAT WAS PRESENTED AND ADMITTED TO RECORD  
 AS THE LAW DIRECTS AS INSTRUMENT NO. \_\_\_\_\_

TESTE: \_\_\_\_\_  
 CLERK

BY: \_\_\_\_\_

**CURVE TABLE**

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	375.00'	221.60'	218.39'	S 41°34'45" E	33°51'29"
C2	25.00'	35.76'	32.79'	S 66°32'13" E	81°57'01"
C3	60.00'	271.16'	92.60'	S 24°49'18" W	258°58'24"

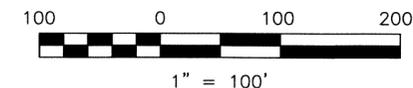
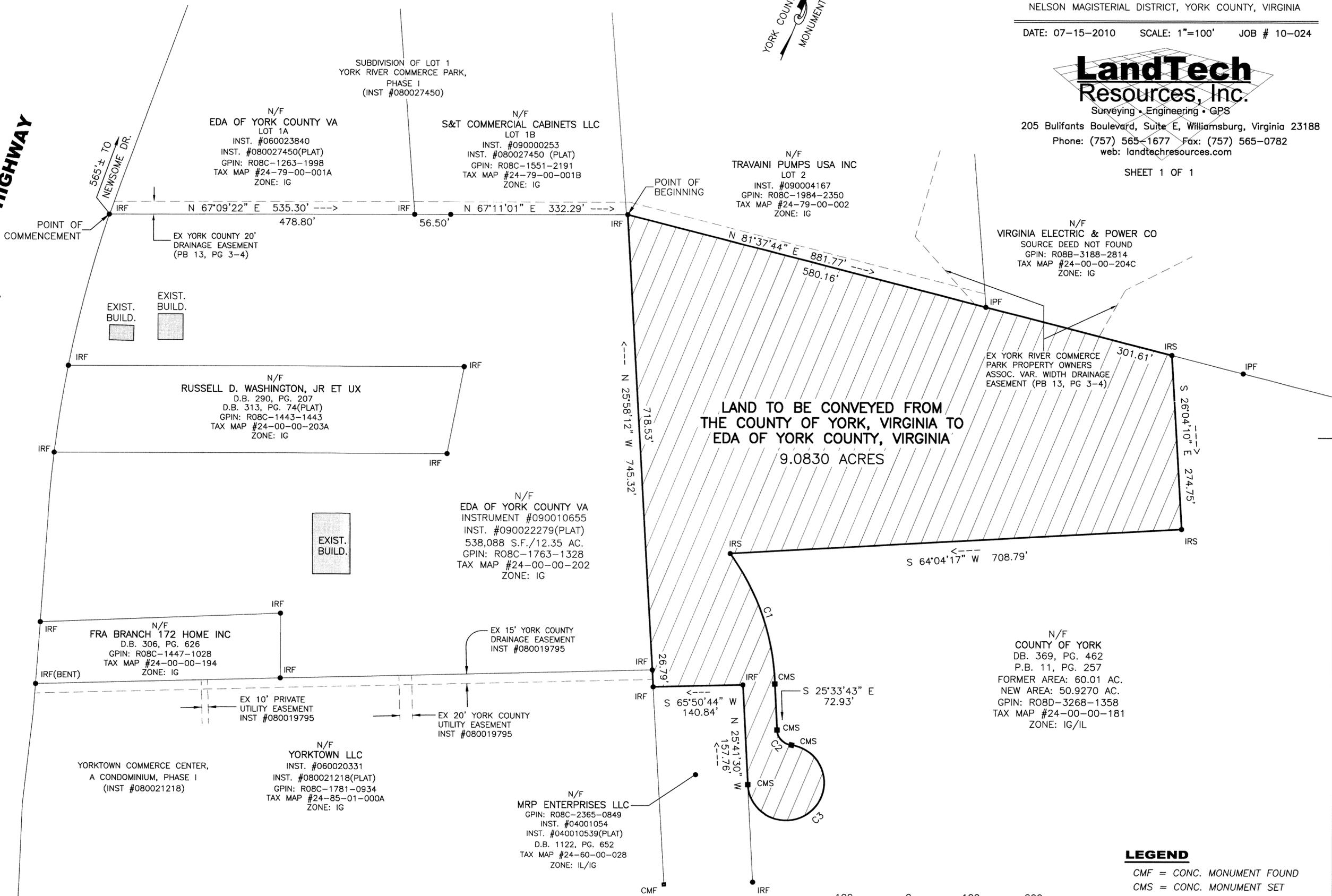
EXHIBIT SHOWING 9.0830 ACRES TO BE CONVEYED FROM  
**THE COUNTY OF YORK, VIRGINIA**  
 TO  
**EDA OF YORK COUNTY, VIRGINIA**  
 BEING LOCATED IN THE  
 NELSON MAGISTERIAL DISTRICT, YORK COUNTY, VIRGINIA  
 DATE: 07-15-2010 SCALE: 1"=100' JOB # 10-024

**LandTech**  
**Resources, Inc.**  
 Surveying • Engineering • GPS

205 Bulifants Boulevard, Suite E, Williamsburg, Virginia 23188  
 Phone: (757) 565-1677 Fax: (757) 565-0782  
 web: landtechresources.com

SHEET 1 OF 1

**VIRGINIA STATE ROUTE 634 - OLD YORK-HAMPTON HIGHWAY**  
 (VARIABLE WIDTH RIGHT-OF-WAY)



**LEGEND**  
 CMF = CONC. MONUMENT FOUND  
 CMS = CONC. MONUMENT SET  
 IRF = IRON ROD FOUND  
 IPF = IRON PIPE FOUND  
 PPF = PINCHED PIPE FOUND

BOARD OF SUPERVISORS  
COUNTY OF YORK  
YORKTOWN, VIRGINIA

Resolution

At a regular meeting of the York County Board of Supervisors held in York Hall, Yorktown, Virginia, on the \_\_\_\_ day of \_\_\_\_\_, 2010:

Present

Vote

Donald E. Wiggins, Chairman  
George S. Hrichak, Vice Chairman  
Walter C. Zaremba  
Sheila S. Noll  
Thomas G. Shepperd, Jr.

On motion of \_\_\_\_\_, which carried \_\_\_\_, the following resolution was adopted:

A RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE A SUBDIVISION PLAT AND A DEED CREATING AND CONVEYING TO THE ECONOMIC DEVELOPMENT AUTHORITY OF YORK COUNTY, VIRGINIA, APPROXIMATELY ~~EIGHT (8)~~NINE (9) ACRES OF LAND TO BE SUBDIVIDED FROM PROPERTY OWNED BY THE COUNTY AND LOCATED AT 145 GOODWIN NECK ROAD

WHEREAS, the Economic Development Authority of York County (EDA) has entered into a real estate sales agreement with S. B. Cox, Inc., a Virginia Corporation, for the sale of approximately ten (10) acres of land to be developed as a construction debris recycling facility, such land to consist in part of approximately eight (8) acres of land currently unused and being a portion of the parcel owned by the County and having a street address of 145 Goodwin Neck Road, subject to the subdivision and prior conveyance by the County to the EDA of such property; and

WHEREAS, the EDA desires to develop a light industrial and business park on Old York-Hampton Highway, to include both the approximately eight acres to be conveyed to S. B. Cox, Inc. and an additional acre of land, more or less, acquired from the County; and

WHEREAS, it appears in the public interest to convey such property to the EDA for the purpose of subsequent conveyance to S. B. Cox, Inc.

NOW, THEREFORE, BE IT RESOLVED that the County Administrator is au-

thorized to execute a deed, a subdivision plat, and such other documents as may be required to create and to convey to the Economic Development Authority of York County, Virginia, property consisting of ~~approximately eight (8)~~9.0830 acres of land, more or less, and being a portion of that larger parcel owned by the County and having a street address of 145 Goodwin Neck Road, being York County GPIN parcel R08d-3268-1358, for subsequent conveyance to S. B. Cox, Inc., and being that property described in the County Administrator's memorandum dated ~~June 14~~July 15, 2010, and shown on an exhibit titled "Exhibit Showing 9.0830 Acres to be Conveyed from the County of York, Virginia to EDA of York County, Virginia" by LandTech Resources, Inc., dated July 15, 2010, together with a license agreement granted to the EDA to construct a sewer extension line within that area shown on the referenced subdivision plat as "20' Utility Easement Hereby Conveyed to York County," such deed and other documents to be approved as to form by the County Attorney.

# COUNTY OF YORK

## MEMORANDUM

**DATE:** June 29, 2010 (BOS Mtg. 7/20/10)

**TO:** York County Board of Supervisors

**FROM:** James O. McReynolds, County Administrator 

**SUBJECT:** Proposed amended Grounds Maintenance Agreement with York County School Division

In 1992, the County and the School Division entered into an agreement whereby the County would provide ongoing maintenance services for the landscaping and grounds of the sites of the various York County schools and the York County School Board Office. A modified agreement is now proposed for your approval, having already been approved by the County School Board. Over the years, the actual practice followed by the County and the School Division regarding grounds maintenance has evolved, and the proposed agreement seeks to memorialize the current practice. Among other things, the revised agreement, in comparison with the 1992 contract:

- Deducts Bailey Field from the acreage to be mowed (by virtue of the conversion of Bailey Field to synthetic turf) but adds the School Maintenance Complex on Cook Road;
- Increases the frequency of mowing and fertilizing to reflect the work as it has actually been performed, as required by standard maintenance practices;
- Adds maintenance for trees, shrubs, and ground cover, which was previously a responsibility of the School Division;
- Increases mulching of playground areas from once to twice per year;
- Adds the field lighting at Tabb Middle School, Dare Elementary School, and Grafton Bethel Elementary School to the list of facilities where the County will maintain athletic field lighting, due to the installation of lighting at each of those facilities since 1992;
- Clarifies that the School Division will maintain lighting at various high school fields and tennis courts not previously identified in any agreement, including the Tabb High School tennis court, and removed the responsibility for maintenance of the York High School baseball field lighting from the County to the School Division;
- Clarifies that the School Division will maintain any Beautification Gardens planted by students and teachers; and

Board of Supervisors

June 29, 2010

Page 2

- Clarifies that the School Division will maintain and repair all portable athletic equipment and perform routine safety inspections for School playgrounds.

Staff for both the County and School Division have proposed these changes, and I recommend the adoption of the attached resolution authorizing the County Administrator to execute the draft Grounds Maintenance Agreement.

Barnett/3440:swh

Attachments

- Proposed Grounds Maintenance Agreement
- Proposed Resolution R10-107

GROUNDS MAINTENANCE AGREEMENT

FOR

YORK COUNTY SCHOOL DIVISION

THIS AGREEMENT made this \_\_\_\_ day of \_\_\_\_\_, 2010, by and between the County School Board of York County, Virginia (hereinafter "Schools") and the Board of Supervisors of York County, Virginia (hereinafter "County") is for the purpose of optimizing the use of tax dollars in maintaining the Schools' grounds and playing fields.

RECITALS

The grounds and playing fields of public schools in York County require the expenditure of public funds for proper maintenance. These grounds and playing fields are similar in all respects to the other public grounds and playing fields in York County which are maintained by the County's staff. Certain economies of scale and efficiencies in operations can be realized by the consolidation of all grounds-keeping activities. Such economies and increased efficiency will return to the taxpayers of the County better grounds maintenance per tax dollar expended.

AGREEMENT

NOW, THEREFORE, the Schools and County agree as follows:

1. Performance of grounds maintenance.
  - a. Maintenance performed under this Agreement shall apply to all surfaces located from the exterior walls of school buildings and the School Board office building to the property lines of the Schools' realty, as noted in Attachment A of this Agreement.
  - b. The County will perform maintenance on the School's fields and grounds. The scope, frequency, and limitations of said maintenance will be as set forth in Attachment A of this Agreement.
  - c. All landscaping shall be installed and maintained in conformance with the School's approved

site development plans and landscape plans prepared by the County and approved by the Schools.

2. Funding for School Grounds Maintenance.

- a. No later than December 15 of each year the County Administrator, or his designee, and the School Division Superintendent, or his designee, shall compute the estimated cost of grounds maintenance for the next fiscal year using the criteria in Attachment A of this Agreement. This estimated cost of grounds maintenance shall be incorporated in the Superintendent's operating budget for the next fiscal year.
- b. When estimating the cost of grounds maintenance, personnel costs shall be based on the County's pay plan and on the staffing ratios set forth in Attachment A of this Agreement for field employees as well as the costs of administrative and clerical staff. Equipment required for the grounds maintenance performed by the County shall be determined by the County. Estimated procurement costs of any equipment needed by the County to fulfill this Agreement shall be included in the estimate of grounds maintenance costs as well as estimated operating costs for fuel, maintenance, and insurance, and costs for labor and materials and contractual services needed for preventive and corrective maintenance of sites and fixtures.
- c. Appropriations by the Board of Supervisors to the County School Board for grounds maintenance pursuant to this Agreement shall be made in the same manner as other appropriations to the Schools. In the event of appropriations less than that identified in paragraph 2(a) above, the Superintendent of Schools and the County Administrator shall agree on a revised scope of services.

3. Payments for School Grounds Maintenance.

The Division Superintendent, or his designee, by appropriate accounting procedures, shall transfer the full appropriation made to the School Board for grounds maintenance to the County's account specified by the County Administrator, or his designee, as payment to the County for performance of school grounds maintenance. Equal payments shall be made on a

quarterly basis as specified by the County Administrator, or his designee. County shall perform all services as agreed in exchange for the payments made hereunder.

4. Capital improvements and capital maintenance.

- a. Construction affecting a school building is outside the scope of this Agreement. However, when either party to this Agreement contemplates either a capital improvement project or a capital maintenance project which affects school grounds, the parties agree that their respective staffs will undertake joint planning. Such joint activity will ensure that capital projects will be planned and accomplished in a manner which facilitates long-term maintenance and optimizes overall utility of the affected school grounds.
- b. The County will take the lead in the planning of capital improvement projects or capital maintenance projects for school grounds, subject to the approval of the Schools.
- c. The parties agree that the County shall procure consulting services, contractor services, and materials and supplies as necessary to complete approved capital improvement or capital maintenance projects for school fields and grounds.
- d. Approval of capital projects will be as provided through the established budgeting process.
- e. All capital improvements shall be owned by the Schools unless otherwise agreed in writing.

5. Amendments.

This Agreement including Attachment A may be amended from time to time as agreed in writing by both parties. Amendments shall be approved formally by the County and Schools before the amendment becomes effective. Notwithstanding, the service areas, levels of services as set out in Attachment A, and general administrative details can be amended by agreement of the Superintendent of Schools and the County Administrator provided no such amendment shall result in expenditures exceeding appropriations made for the current fiscal year.

6. Term.

This Agreement shall be in effect for a two-year period from the date first shown above. This Agreement shall be renewed annually thereafter without any actions by either party. Either party can terminate the Agreement 180 days after the date of written notice to the other party of the intent to terminate.

7. Entire Agreement.

The foregoing represents the entire agreement on maintenance of School grounds by the County's staff. Any other agreement, understanding, commitment, or covenant is without effect.

Attest:

  
\_\_\_\_\_  
Paula Rader, Clerk  
York County School Board

ATTEST:

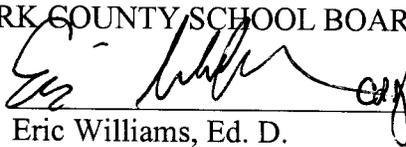
\_\_\_\_\_

Title: \_\_\_\_\_

Approved as to Form:

\_\_\_\_\_

YORK COUNTY SCHOOL BOARD

By:   
\_\_\_\_\_  
Eric Williams, Ed. D.  
Superintendent

COUNTY OF YORK, VIRGINIA

By: \_\_\_\_\_  
James O. McReynolds  
County Administrator

**ATTACHMENT A**  
**TO**  
**GROUNDS MAINTENANCE AGREEMENT**  
**FOR**  
**YORK COUNTY SCHOOL DIVISION**

**THIS ATTACHMENT** to the Grounds Maintenance Agreement for York County School Division (School), dated \_\_\_\_\_, identifies school sites to be maintained and specific responsibilities delegated to School and County staffs including frequencies that various maintenance tasks are generally to be performed.

**1. Definitions:**

As used in this Attachment, the following terms shall have the meaning set forth below:

a. Auxiliary Buildings & Structures:

A building or structure separate from a main school building functioning in a subsidiary capacity for school, county, or community needs, including but not limited to rest room buildings, storage buildings, baseball dugouts, concession stands, and stadium seating.

b. Capital Improvement:

A project which contributes to the improvement of school grounds that is usually non-recurring and represents a significant investment with an extended useful life. These projects generally call for an investment in excess of \$30,000 and have a useful life of at least five (5) years.

c. Capital Maintenance:

Major repairs and renovations to existing school grounds or athletic fields requiring an investment of \$30,000 or more and having a useful life of at least five (5) years.

d. Cool Season Turf Athletic Fields:

All athletic fields that have a turf-type tall fescue or perennial rye grass turf cover including, but not limited to, baseball fields, softball fields, football fields, field hockey fields, and soccer fields.

e. Lawn:

Grassy areas not designated as an athletic field.

f. Natural Areas:

Wooded areas without grass.

g. Paved Surfaces:

Concrete, asphalt, and other impervious areas.

h. Portable Athletic Equipment:

All portable equipment including but not limited to track and field equipment (hurdles, high jump equipment, etc.), football blocking sleds, baseball practice cages, baseball batting cage nets, portable baseball bases, portable soccer and field hockey goals, and athletic scoreboards.

I. Privatization:

The contracting of all or some of the grounds maintenance responsibilities to the private sector.

j. Site Fixtures:

Something that is fixed or attached to the School's realty as a permanent appendage or an item of moveable property so incorporated into real property that it may be regarded as legally a part of it, to include but not be limited to swings, slides, and other permanent playground equipment, concrete waste containers and plastic inserts (installed by County), basketball standards, baseball backstops, bleachers, team benches, fencing, and tennis court equipment.

k. Warm Season Turf Athletic Fields:

All athletic fields that have a Hybrid Bermuda grass turf cover including but not limited to, irrigated and non-irrigated softball fields, baseball fields, football fields, field hockey fields, and soccer fields.

**2. Summary of Areas to be Maintained:**

The chart on page 3 summarizes the estimated acreage (rounded to the nearest tenth acre) for each of the categories to be maintained.

ACREAGE MAINTAINED BY LOCATION								
SCHOOL	PAVED SURFACE	NATURAL AREA	ATHLETIC FIELDS COOL SEASON TURF	ATHLETIC FIELDS WARM SEASON TURF	SYNTHETIC TURF	LAWN	TOTAL MAINT. SURFACE	TOTAL SITE
Bailey Field <sup>3</sup>	0.00	0.00	0.00	0.00	2.00	.5	2.50	3.00
Bethel Manor Elem	1.00	0.00	3.00	0.00	0.00	6.00	10.00	11.20
Bruton High	5.60	14.80	6.00	2.40	0.00	15.50	44.30	48.00
Coventry Elem	2.60	2.10	0.00	4.20	0.00	4.00	12.90	15.00
Dare Elem	2.30	0.58	0.00	3.82	0.00	6.60	13.30	14.60
Grafton Bethel Elem	2.60	2.50	2.13	1.37	0.00	4.80	13.40	15.70
Grafton High/Middle	7.70	15.10	8.33	3.67	0.00	21.40	56.20	60.00
Magruder Elem	2.30	1.40	0.00	4.00	0.00	4.80	12.50	14.10
Mt. Vernon Elem	1.90	1.90	2.25	1.75	0.00	5.90	13.70	15.00
Queens Lake Middle	0.70	11.30	0.00	6.00	0.00	7.10	25.10	27.00
School Board Office	0.70	6.60	0.00	0.00	0.00	0.20	7.50	7.70
Seaford Elem	1.60	7.60	2.90	2.00	0.00	4.60	18.70	19.70
Tabb Elem	2.00	3.10	2.50	0.00	0.00	5.60	13.20	14.80
Tabb High <sup>1</sup>	5.50	8.50	7.14	1.85	0.00	7.60	30.60	30.00
Tabb Middle	2.80	9.20	0.00	5.00	0.00	7.50	24.50	26.70
Waller Mill Elem	1.12	2.50	3.00	0.00	0.00	6.90	13.50	14.30
York High	8.40	2.20	8.00	2.00	0.00	11.70	34.30	39.00
York Elem	1.60	0.70	1.38	1.32	0.00	7.90	12.90	14.20
York Middle	1.70	7.80	6.00	0.00	0.00	2.60	18.10	19.90
Maintenance Complex	2	0.00	0.00	0.00	0.00	1.0	1.0	3.5
<b>Totals</b>	<b>54.12</b>	<b>97.88</b>	<b>52.63</b>	<b>39.38</b>	<b>2.00</b>	<b>132.20</b>	<b>378.20</b>	<b>414.40</b>

1. Tabb High School lawn area includes approximately 3.8 acres leased from Bethel Baptist Church
2. The difference between total site and total maintenance surface is the footprint area of buildings.
3. Bailey Field was converted to Synthetic Turf August 2007.

UNITS: U.S. acres (4,840 sq. yds.)

Source: York County GIS

**3. Staffing Ratios:**

The number of employees retained in order to perform required work in an efficient manner shall be determined by the County. However, the staffing ratio for field employees shall not be less than 1 employee for each 35 acres maintained and no more than 1 employee for every 25 acres maintained. By mutual agreement of the County Administrator and Division Superintendent, staffing can be reduced to allow for privatization of some or all of the grounds maintenance responsibilities.

**4. County’s Responsibilities for Grounds Maintenance:**

- a. Turf areas that will be maintained by the County shall generally be described in the chart below. Higher levels of maintenance can be provided upon agreement of the County Administrator and Division Superintendent.

<b>Maintenance of Turf Areas</b>			
<b>Performed by York County for the York County School Division</b>			
Maintenance Tasks	School Lawns (Frequency per Year)	Warm Season Turf Athletic Fields (Frequency per Year)	Cool Season Turf Athletic Fields & School Board Office (Frequency per Year)
Mowing	As needed to keep grass no higher than 4” and no less than 30 times per year	As needed to keep grass no higher than 1” and no less than 50 times per year	As needed to keep grass no higher than 3” and no less than 40 times per year.
Fertilization	Not performed	4 to 5 times per year or as required by soil testing	3 to 4 times per year or as required by soil testing
Liming	Not Performed	As required by soil testing	As required by soil testing
Watering	Not Performed	Automatic Irrigation System Supplements rainfall	Not performed
Aerification	Not Performed	2 to 4 times per year	1 to 2 times per year
Vertical Mowing	Not Performed	2 to 4 times per year	Not Performed
Trimming & Edging	As required to maintain a clean and neat appearance around all Site fixtures, Auxiliary buildings, and Structures.		
Leaf Removal	1 to 3 times per year	As required	As required
Weed Control	As required to maintain weed free turf.		
Broadleaf Control	Not performed		
Pre-emergent Crabgrass Control	Not Performed		
Insect Control	Not performed	As required to maintain healthy turf.	
Disease Control	Not performed	As required to maintain healthy turf.	
Overseeding	Not performed	As required by turf conditions and scheduled sports activities.	

- b. The following miscellaneous responsibilities shall also be performed by the County:

- Site Lighting: Maintenance of the following athletic field lighting:

- Magruder Elementary School soccer field.
- Coventry Elementary School soccer/baseball field.
- Tabb Middle School soccer/football/softball Field.
- Dare Elementary School soccer/baseball field.
- Grafton Bethel Elementary baseball field.
- Yorktown Middle School football field.

○ Portable Bleachers:

Relocation of portable bleachers. Bleachers shall generally be moved on a seasonal basis. Other movement for special events shall be arranged at least five (5) working days in advance by work request.

○ Site Fixtures:

All corrective and preventive maintenance required for site fixtures limited to what can be funded within the annual operating budget.

○ Installation of Landscaping:

Coordination of the installation of any new landscaping consistent with the School's Site Concept Plan and as approved by the Schools' Chief Operations Officer. The County shall not be responsible for the costs of new landscaping.

○ Sidewalks:

- Blow Debris – 12 to 24 times per year.
- Leaf Removal - 1 to 3 times per year.
- Power & Chemical Edging – To be performed as frequently as needed to keep grass from growing over sidewalks.

○ Parking Lots & Roads:

- Blow Debris – 12 to 24 times per year.
- Leaf Removal - 1 to 3 times per year.
- Power & Chemical Edging – To be performed as frequently as needed to keep grass from growing over parking lots and roads.

-Routine re-striping.

○ Basketball and Tennis Courts:

-All major repairs and renovations.

-Blow Debris – 12 to 24 times per year.

-Leaf Removal – 1 to 3 times per year.

-Power & Chemical Edging – To be performed as frequently as needed to keep grass from growing over basketball and tennis courts.

○ Maintenance of Trees, Shrubs, & Ground Cover:

Landscape areas that will be maintained by the County shall generally be described in the chart below. Higher levels of maintenance can be provided upon agreement of the County Administrator and Division Superintendent.

Maintenance Tasks	School Landscape Areas (Frequency per Year)
Mulching	Once per year June thru August
Fertilization of Trees & Shrubs	As required to maintain healthy landscape material
Pruning Trees & Shrubs	Once per year November thru February
Pre-emergent application	Once per year February thru March
Herbicide application	26 cycles
Bed Cleaning	1 to 3 times per year November thru February
Insect Control	As required to maintain healthy landscape material

○ Playground Safety

-Replenishment of resilient base material twice per year.

○ Baseball and Softball Infield Maintenance:

-Application of in-field mix prior to beginning of each season.

-Removal of grass from all infields once per year, prior to the beginning of each season.

-Routine dragging of skinned area to level in support of County sponsored baseball and softball games.

-All other maintenance of baseball and softball infields needed to support School activities shall be the responsibility of the School Division.

5. **School's Responsibilities for Grounds Maintenance:**

- a. The School Division shall be responsible for:
- Litter Control:  
Litter cleanup on all turf areas, paved surfaces, natural areas and emptying trash containers and installing clean trash bags.
  - Portable Athletic Equipment:
    - Maintenance and repair of all portable athletic equipment.
    - Removal of all portable athletic equipment from fields to appropriate storage facilities at the end each school event or season as necessary for efficient grass cutting operations by County.
  - Site Lighting:  
Maintenance of the following site lighting:
    - All parking lot lighting.
    - All Security lighting.
    - Bailey Field athletic lighting.
    - Bruton High School football field lighting.
    - York High School baseball/softball field lighting.
    - Tabb High School tennis court lighting.
    - All High School and athletic field lighting.
  - Auxiliary Buildings & Structures:  
Maintenance of auxiliary buildings & structures including restroom buildings, storage buildings, baseball and softball dugouts, concessions stands, and stadium seating.
  - Snow Removal:  
All snow removal at school sites and the School Board Office building.
  - Maintenance of Beautification Gardens:  
Weed control, fertilization, pruning, application of pest control, and removal of dead plant material in all beautification/learning gardens.
  - Athletic Field Preparation:

All athletic field dragging and lining as required for school-sponsored sporting events.

○ Playground Safety:

-Routine safety inspections of school playground equipment.

-Raking and leveling of surfaces under playground equipment as required for safety.

-Maintenance and repair of playground structures.

○ Flags: Proper display and care of all flags.

○ Baseball and Softball Infield Maintenance

-Installation of bases, home-plate, and pitchers rubbers.

-Routine dragging of skinned areas to level infields in support of school sponsored baseball and softball games.

-Weed control of skinned areas in support of school-sponsored baseball and softball games.

**6. Repairs of Asphalt and Concrete Surfaces:**

The School's Chief Operations Officer and the County's Director of General Services shall define the scope and responsibility for repairing paved surfaces on an annual basis in conjunction with the budget process. Parties shall also define on an annual basis the limits of funding and identify the appropriate expenditure budget(s) for the following work:

○ Sidewalks:

-Repairs and renovations of sidewalks.

○ Parking Lots & Roads:

-Pot hole repairs in asphalt surfaces.

-Asphalt overlays, re-striping, major repairs and renovations.

-Sealcoating and re-striping asphalt areas.

○ Basketball and Tennis Courts:

- Major repairs and renovations of basketball courts and tennis courts.
- Color coating of tennis courts.

7. **Procedures for Requesting Work:**

- a. All requests from School's staff for work shall be channeled through the School's Director of Maintenance who will forward request with comments to the County's Department of General Services.
- b. Proposed capital improvements initiated by the County require prior concurrence from the School's Chief Operations Officer.
- c. Requirements for Capital Improvement Projects and Capital Maintenance shall be identified by both County and School Staff on an annual basis and recommended priorities and implementation procedures shall be jointly planned by both parties.

BOARD OF SUPERVISORS  
COUNTY OF YORK  
YORKTOWN, VIRGINIA

Resolution

At a regular meeting of the York County Board of Supervisors held in York Hall, Yorktown, Virginia, on the \_\_\_\_ day of \_\_\_\_\_, 2010:

Present

Vote

Donald E. Wiggins, Chairman  
George S. Hrichak, Vice Chairman  
Walter C. Zaremba  
Sheila S. Noll  
Thomas G. Shepperd, Jr.

On motion of \_\_\_\_\_, which carried \_\_\_\_, the following resolution was adopted:

A RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE A MODIFIED GROUNDS MAINTENANCE AGREEMENT BETWEEN THE COUNTY AND YORK COUNTY SCHOOL DIVISION

WHEREAS, by Resolution R92-80, this Board authorized the execution of a Grounds Maintenance Agreement between the County of York and the York County School Division; and

WHEREAS, the Superintendent of Schools and the County Administrator have suggested modifications to the Grounds Maintenance Agreement which this Board deems to be consistent with efficient government practice.

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this \_\_\_\_ day of \_\_\_\_\_, 2010, that County Administrator is hereby authorized to execute a modified Grounds Maintenance Agreement for the York County School Division as described in the County Administrator’s memorandum of June 29, 2010, subject to approval as to form by the County Attorney.

# COUNTY OF YORK

## MEMORANDUM

**DATE:** June 30, 2010 (BOS Mtg. 7/20/10)

**TO:** York County Board of Supervisors

**FROM:** James O. McReynolds, County Administrator 

**SUBJECT:** Proposed transition of a portion of Naval Weapons Station housing from exclusive to concurrent federal jurisdiction

The County has been approached by the United States Navy to inquire whether the County would support the transfer of a portion of the housing area of the Naval Weapons Station and located in York County from “exclusive” federal jurisdiction to “concurrent” jurisdiction. You may recall that in recent years the County indicated its consent to a similar request with respect to the entirety of the Yorktown Coast Guard Center, and that change in jurisdiction appears to have worked to everyone’s benefit. I anticipate that the same would be true for a change in jurisdiction for a portion of the Naval Weapons Station housing area, as requested.

There are three kinds of jurisdiction which the federal government may exercise over property which it owns in any state or locality, and examples of each exist in York County. At the lowest level is “proprietary” jurisdiction, which means simply that the United States government has purchased land but chosen to exercise no more jurisdiction over it than any property owner exercises over his own land. The Bethel Manor housing for Langley Air Force Base is an example of land within federal proprietary jurisdiction. Within such areas, state and local laws apply and may be enforced by state and local officials, subject to some deference to the unique needs of the United States in response to defense needs or emergencies. At the other end of the scale is “exclusive” jurisdiction, and within such areas most state and federal laws and regulations have no application with certain limited exceptions (one example being that state laws regarding child welfare will apply within an area of exclusive federal jurisdiction, and orders issued by the juvenile and domestic relations court may be enforced within such areas). Currently, the entirety of the Naval Weapons Station within York County is an area of exclusive federal jurisdiction. Lastly, concurrent jurisdiction represents a hybrid of the two extremes, such that federal and local laws may be enforced equally. The Command Officers at the Naval Weapons Station have indicated that their desire to have the portion of their housing located in York County transferred from exclusive to concurrent jurisdiction is to allow greater cooperation between the law enforcement agencies of the military base and the York County Sheriff’s Department in the event that the need for law enforcement arises. See the attached letter dated April 13, 2010, from Capt. Bolivar, Commanding Officer of the Naval Weapons Station. Given that the area in question (shown outlined in red on the attached GIS map) contains only 76 housing units with very little criminal activity reported over the years, the impact on the County’s law enforcement resources appears to be minimal at worst.

Board of Supervisors

June 30, 2010

Page 2

York County senior staff have been advised of this request by the Naval Weapons Station, as has the Sheriff, and no objections have been raised. For your information, the change from one form of jurisdiction to another is actually accomplished at the state level by the Governor's Office, pursuant to Code of Virginia § 1-408, however, the Governor's Office has typically requested affected localities to indicate whether they concur in such a request. On the assumption that you will have no difficulty supporting this request, a draft resolution is attached expressing support for the Navy's request for the change in jurisdiction. If it is your pleasure to adopt such a resolution, I will forward it to appropriate officials at the Naval Weapons Station and they will include it in their submission to the Governor's Office.

Barnett/3440:swh

Attachments

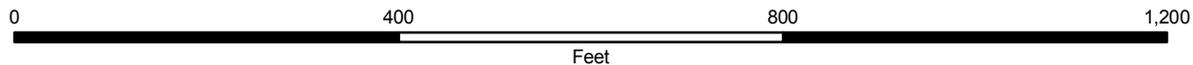
- GIS map showing subject area
- Correspondence from Capt. B. Bolivar, Commanding Officer, w/attachments
- Proposed Resolution R10-108



# Naval Weapons Station - Covenant Trace

**York County**  
VIRGINIA  
Established 1784  
GEOGRAPHIC INFORMATION SYSTEMS  
Division of Computer Support Services  
Department of Financial & Management Services  
WWW.YORKCOUNTY.GOV

Image Copyright 2009  
Commonwealth of Virginia



THIS IS NOT A LEGAL PLAT.  
This map should be used for  
information purposes. It is not  
suitable for detailed site planning.



DEPARTMENT OF THE NAVY

NAVAL WEAPONS STATION YORKTOWN

P.O. DRAWER 160

YORKTOWN, VA 23691-0160

5800

Ser 00/050

April 13, 2010

Board of Supervisors  
County of York, Virginia  
c/o James McReynolds, County Administrator  
224 Ballard Street  
York, Virginia 23690

Dear Members of the Board:

During the past year, I and my staff have completed the preliminary work required to submit a request to the Secretary of the Navy and Commonwealth of Virginia to change the legislative jurisdiction of Covenant Trace, a military housing area located outside of Naval Weapons Station Yorktown, Yorktown, Virginia.

Covenant Trace contains 76 housing units utilized by enlisted personnel and their families. Currently, Covenant Trace exclusive federal jurisdiction applies within Covenant Trace. It is our goal to change the jurisdiction within Covenant Trace from exclusive federal jurisdiction to concurrent jurisdiction with the Commonwealth of Virginia.

A change in legislative jurisdiction will ensure that a full range of options is available on the infrequent occasions when the Naval Weapons Station Security Department responds to reports of criminal activity committed by civilians within the Covenant Trace housing area. With a change in legislative jurisdiction, these options will include adjudication of civilian criminal cases within either the United States Magistrate Court or York County Circuit and General District Courts.

As shown on the attached data sheet previously provided to the York County Administrator, Attorney and Sheriff (collectively the "County Officials"), there have been a relatively low number of criminal incidents within all of our base housing areas, with traffic offenses inside the base creating the most work for law enforcement. The Sheriff's Office has informed me that a patrol already extends to the area of York County that surrounds Covenant Trace. Consequently, I and the County Officials agree that support from York County will not result in additional law enforcement cost, manpower or resources should the legislative jurisdiction within Covenant Trace be changed to concurrent jurisdiction.

Furthermore, the proposed change does not involve a request that York County provide primary law enforcement services to the Covenant Trace housing area, only secondary support in cases involving civilian residents or guests. The Naval Weapons Station provides primary law enforcement patrols and response within Covenant Trace and will continue to do so.

Handwritten initials and date: "RMC 4/13/10 1:20"

5800  
Ser 00/050  
April 13, 2010

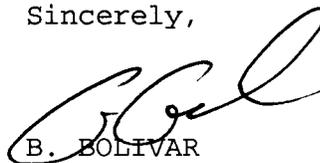
The County of York and Naval Weapons Station Yorktown have enjoyed a strong relationship as neighbors for many years, to include terrific coordination between the Naval Weapons Station Yorktown Security Department and the York County Sheriff's Office and Fire and Rescue Squads. I believe this change in legislative jurisdiction will only enhance that relationship and the level of safety provided to the citizens of the Covenant Trace community.

Accordingly, I respectfully request a written resolution be issued in support of the proposed change in legislative jurisdiction from exclusive federal jurisdiction to concurrent jurisdiction within the Covenant Trace housing area.

The next steps in this process include notifying the Governor of Virginia and U.S. Attorney for the Eastern District of Virginia of this planned change and submitting a formal request to the Secretary of the Navy and Commonwealth of Virginia for approval of such a change. Once such approvals are obtained, a deed of cession will be prepared for execution by the Secretary of the Navy and Governor of Virginia. The execution and recording of such a deed in the Office of the Clerk of the Circuit Court of York County finalizes the change in legislative jurisdiction.

Thank you for your consideration of this request. If you or any County Officials have questions, please contact me or my Executive Officer, LCDR Timothy Shipman, at (757) 887-4242. We are available to appear before the Board of Supervisors at your invitation and convenience to discuss this request.

Sincerely,



B. BOLIVAR  
Captain, U. S. Navy  
Commanding Officer  
Naval Weapons Station Yorktown

Enclosure: 1. Incident Data Report  
2. Draft Support Letter

Copy to: CNRMA (NOOJ)  
RLSO MIDLANT  
York County Attorney  
York County Sheriff's Office

April , 2010

Commanding Officer  
Naval Weapons Station Yorktown  
Attn: CAPT. B. Bolivar  
P. O. Drawer 160  
Yorktown, VA 23691-0160

Re: CHANGE IN LEGISLATIVE JURISDICTION WITHIN COVENANT TRACE  
MILITARY HOUSING AREA

Dear Captain Bolivar:

We are in receipt of your April, 2010, letter requesting a resolution in support of a change in legislative jurisdiction from exclusive federal to concurrent jurisdiction within the Covenant Trace military housing area located outside Naval Weapons Station Yorktown, Virginia.

We have considered the impact that the requested change in jurisdiction would have upon the County of York, Virginia (the "County"), and determined such a change and the potential cost of providing County services in the subject housing area would not adversely impact the County.

Accordingly, we concur with your request as Commanding Officer of Naval Weapons Station, Yorktown, Virginia, that the County support the proposed change in legislative jurisdiction from exclusive federal to concurrent within the Covenant Trace military housing area.

Sincerely,

**FY2005**

LOCATION	D/V ASSAULT	Sexual Assault	DUI/ REFUSAL	Alcohol (Minor)	Traffic	Theft	Juvenile Cases	INFRACTIONS	TOTAL
NWS YORKTOWN	4	0	7	2	7	1	0	1	22
TOTAL									22

**FY2006**

LOCATION	D/V ASSAULT	Sexual Assault	DUI/ REFUSAL	Alcohol (Minor)	Traffic	Theft	Juvenile Cases	INFRACTIONS	TOTAL
NWS YORKTOWN	4	1	9	6	6	4	8	3	41
TOTAL									41

**FY2007**

LOCATION	D/V ASSAULT	Sexual Assault	DUI/ REFUSAL	Alcohol (Minor)	Traffic	Theft	Juvenile Cases	INFRACTIONS	TOTAL
NWS YORKTOWN	3	3	3	4	6	13	7	2	41
TOTAL									41

**FY2008**

LOCATION	D/V ASSAULT	Sexual Assault	DUI/ REFUSAL	Alcohol (Minor)	Traffic	Theft	Juvenile Cases	INFRACTIONS	TOTAL
NWS YORKTOWN	5	2	5	2	190	6	0	0	210
TOTAL									210

**FY 2009**

LOCATION	D/V ASSAULT	Sexual Assault	DUI/ REFUSAL	Alcohol (Minor)	Traffic	Theft	Juvenile Cases	INFRACTIONS	TOTAL
NWS YORKTOWN	5	2	1	0	211	2	3	3	227
TOTAL									227

NOTE: INCREASE IN OVERALL NUMBER FOR FY-08 and FY-09 REFLECTIVE OF INCREASE IN TRAFFIC OFFENSES

**FY2005**

NEIGHBORHOOD	FIRE/OTHER	EMS	TOTAL
HAMILTON REDOUBT	Newport News 4	13	17
COVENANT TRACE	Yorktown 7	12	19
GARRISON WAY	Newport News 16	19	35
<b>TOTAL</b>	<b>27</b>	<b>44</b>	<b>71</b>

**FY2006**

NEIGHBORHOOD	FIRE/OTHER	EMS	TOTAL
HAMILTON REDOUBT	Newport News 6	3	9
COVENANT TRACE	Yorktown 3	7	10
GARRISON WAY	Newport News 14	4	18
<b>TOTAL</b>	<b>23</b>	<b>14</b>	<b>37</b>

**FY2007**

NEIGHBORHOOD	FIRE/OTHER	EMS	TOTAL
HAMILTON REDOUBT	Newport News 3	7	10
COVENANT TRACE	Yorktown 6	10	16
GARRISON WAY	Newport News 1	3	4
<b>TOTAL</b>	<b>10</b>	<b>20</b>	<b>30</b>

**FY2008**

NEIGHBORHOOD	FIRE/OTHER	EMS	TOTAL
HAMILTON REDOUBT	Newport News 4	8	12
COVENANT TRACE	Yorktown 1	4	5
GARRISON WAY	Newport News 2	3	5
<b>TOTAL</b>	<b>7</b>	<b>15</b>	<b>22</b>

**FY2009**

NEIGHBORHOOD	FIRE/OTHER	EMS	TOTAL
HAMILTON REDOUBT	Newport News 1	12	13
COVENANT TRACE	Yorktown 4	18	22
GARRISON WAY	Newport News 0	12	12
<b>TOTAL</b>	<b>5</b>	<b>42</b>	<b>47</b>

	Number of Housing Units per area
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FY09 INCIDENT REPORT  
COVENANT TRACE

MONTH/YEAR	MEDICAL EMERGENCY	TRESPASSING	JUVENILE DELINQUENCY	VERBAL DISPUTE	MUTUAL AID	INTOXICATED	DISORDERLY CONDUCT	NOISE ASSAULT	MISSING MINOR	DOMESTIC DISPUTE	DESTRUCTION OF/DAMAGE TO PERSONAL PROPERTY	UNRULY CHILD	MISSING MINOR	BURGLAR ALARM	ANIMAL NEGLECT	FOUL ODOR	MONTH TOTAL
1-Oct	1	1															2
Nov-08	2			1						1		1					5
Dec-08					1					2							4
Jan-09	2			1													4
Feb-09	1						1				1						3
Mar-09	1				1												3
Apr-09	4		1		1			1					1				8
May-09	1																1
Jun-09	1				2												3
Jul-09	3													1			5
Aug-09					1		1										4
Sep-09	1			2	1						1				2	1	6

BOARD OF SUPERVISORS  
COUNTY OF YORK  
YORKTOWN, VIRGINIA

Resolution

At a regular meeting of the York County Board of Supervisors held in York Hall, Yorktown, Virginia, on the \_\_\_\_ day of \_\_\_\_\_, 2010:

---

Present

Vote

Donald E. Wiggins, Chairman  
George S. Hrichak, Vice Chairman  
Walter C. Zaremba  
Sheila S. Noll  
Thomas G. Shepperd, Jr.

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On motion of \_\_\_\_\_, which carried \_\_\_\_, the following resolution was adopted:

A RESOLUTION TO CONCUR WITH THE PROPOSED CHANGE IN JURISDICTION OVER A PORTION OF HOUSING LOCATED AT THE YORKTOWN NAVAL WEAPONS STATION FROM EXCLUSIVE TO CONCURRENT JURISDICTION

WHEREAS, the Commanding Officer of the Yorktown Naval Weapons Station has requested that the Board concur in the proposed change in jurisdiction over a portion of housing located at the Naval Weapons Station from exclusive to concurrent jurisdiction; and

WHEREAS, the Board has considered the impact that the requested change in jurisdiction would have upon the County, and determined that this impact and the cost of providing County services in the subject area, are not such that they would adversely impact the County.

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this \_\_\_\_ day of \_\_\_\_\_, 2010, that the Board hereby concurs in the request of the Commanding Officer of the Yorktown Naval Weapons Station that the Board support the proposed change in federal jurisdiction over a portion of housing located at the Naval Weapons Station from exclusive to concurrent jurisdiction over the subject area.

# COUNTY OF YORK

## MEMORANDUM

**DATE:** July 7, 2010 (BOS Mtg. 7/20/10)

**TO:** York County Board of Supervisors

**FROM:** James E. Barnett, County Attorney 

**SUBJECT:** Amended and Restated Agreement for the Sale and Resale of Water in Carver Gardens with York Public Utilities Corporation

In 1986, the County entered into an agreement with York Public Utilities Corporation, a private water company formed for the purpose of supplying domestic drinking water to approximately one-half the homes in the Carver Gardens subdivision. Under the agreement, York Public Utilities disconnected from the wells which it was then utilizing as a source of water supply and thereafter began to purchase water from the County, which the County in turn purchases from the City of Newport News. The agreement provides for York Public Utilities to pay the County monthly for the County's cost of the water plus an additional 5 cents per 1,000 gallons. Also, the agreement requires York Public Utilities to maintain its water mains and other infrastructure in good condition. Until recently, the agreement has worked satisfactorily. However, approximately a year ago, York Public Utilities began falling behind in its payments to the County, and after repeated and unsuccessful attempts to convince York Public Utilities to bring itself current with its accounts, the County filed a lawsuit against the company to collect the delinquency and also asking the court to issue an injunction ordering York Public Utilities to take such actions with respect to its business practices as to enable it to remain current in its obligations to the County thereafter. The company's response has been to enter into a settlement agreement with the County whereby it will begin making monthly payments against its outstanding delinquency beginning July 15, 2010. As part of the settlement agreement, the company has executed an amendment of the 1986 agreement in order to clarify and resolve some of the issues not clearly addressed in the original agreement. While keeping the price structure in place, the revised agreement clarifies that interest and penalties can be charged against future delinquencies, and also provides that in the event of a failure to pay future billings the County may begin to bill the company's customers directly if the County secures a judgment against York Public Utilities which remains unpaid for a period of greater than 30 days. Lastly, York Public Utilities agrees to make an application to the State Corporation Commission to raise its rates, if necessary, to provide sufficient cash flow to be able to meet its obligations to the County.

Although the agreement has already been executed on behalf of the County by J. Mark Carter, as Acting County Administrator, I nonetheless present this to the Board of Supervisors for ratification and approval of the amended agreement to insure its enforceability should such need ever arise. The draft resolution attached hereto, if approved, will ratify and confirm the amended and restated agreement with York Public Utilities indicating the Board's approval. I recommend its adoption.

Barnett/3440:swh

Attachment

- Amended and Restated Agreement
- Proposed Resolution R10-109

AMENDED AND RESTATED AGREEMENT FOR THE SALE  
AND RESALE OF WATER IN CARVER GARDENS

THIS AGREEMENT, dated this 24<sup>th</sup> day of JUNE, 2010, by and between the COUNTY OF YORK, VIRGINIA, a political subdivision of the Commonwealth of Virginia ("York County"), and YORK PUBLIC UTILITIES CORPORATION, a Virginia corporation ("York Public Utilities").

STATEMENT OF FACTS

York Public Utilities provides water pursuant to private contract to owners in a part of the Carver Gardens subdivision in York County. Pursuant to an Agreement dated May 14, 1986, York County agreed to purchase water from the City of Newport News and sell it to York Public Utilities for resale to residential customers in Carver Gardens subdivision. The parties desire to modify, amend and restate the terms and conditions of the 1986 Agreement in order to better define the relationship between the parties.

NOW, THEREFORE, in consideration of the mutual covenants and promises set out herein, York County and York Public Utilities hereby modify and amend that agreement between them dated May 14, 1986, and restate the agreement in its entirety as follows:

1. (a) York County hereby agrees to sell to York Public Utilities and York Public Utilities hereby agrees to purchase from York County, upon the terms and conditions herein set forth, treated potable water for use by those persons whose property is connected to the York Public Utilities water distribution

system (the "Water System") within the part of Carver Gardens subdivision shown as outlined in red and identified with more particularity on Exhibit 1 (the "Service Area").

(b) York Public Utilities agrees to pay to York County in arrears per month, within 10 days after receipt of York County's invoice, for such water purchased by York Public Utilities on the basis of the rate structure in effect for retail customers in Newport News, plus 5 cents per 1,000 gallons. Payments received by York County later than the 10<sup>th</sup> day following receipt by York Public Utilities of York County's invoice shall be deemed delinquent, and York Public Utilities shall be assessed a penalty in the amount equal to ten percent (10%) of the amount due. Interest at the rate of ten percent (10%) per annum shall be charged on the aggregate of the payment and penalty due beginning with the date the penalty is applied. York Public Utilities agrees that any unpaid charge, together with penalty and interest, shall constitute a lien on any of York Public Utility's assets located in York County, and may at any time be docketed as a lien in the appropriate lien books in the records of the York County Circuit Court or the circuit court of any other locality in the Commonwealth wherein York Public Utilities may have assets. For purposes of this paragraph, York County's invoice shall conclusively be deemed to have been received no later than the third day following the deposit of the invoice with the United States Postal Service, properly addressed, first class postage prepaid.

(c) The quantity of water for which York Public Utilities shall pay York County as aforesaid shall be determined by the volume of water passing through the master meter(s) set for the Service Area. York County shall furnish treated potable water sufficient to supply the required amount of water for domestic and usual lawn purposes of York Public Utilities' customers in the Service Area in accordance with applicable contracts with the owners.

(d) In the event York County secures a judgment against York Public Utilities for nonpayment of amounts owed to the County pursuant to this paragraph 1, York Public Utilities consents that any such judgment shall order further that if the judgment remains unsatisfied for a period in excess of 30 days, York County may begin to bill York Public Utility's customers directly for amounts which may come due on or after the date of the judgment, and may continue to collect such amounts directly from customers until such time as the amount of the judgment, with penalties and accumulated interest as may be applicable, shall be paid in full.

2. York Public Utilities agrees to maintain and repair at its expense the present Water System (which does not include fire protection) in good condition and repair, and to provide a continuous supply of potable water for domestic use to each of the parcels contained within the Service Area. Nothing, however, shall prevent York Public Utilities from terminating service to any customer for non-payment of water service fees to York Public Utilities. York Public Utilities shall comply in all respects with applicable provisions of the Commonwealth of

Virginia Waterworks Regulations relative to the monitoring of the chemical quality of water provided to its customers, including the submission of appropriate water samples for analysis, as required by section 12 VAC 5-590-370 or any other applicable provision of the Virginia Administrative Code.

3. York Public Utilities shall so conduct its affairs as to be able to keep its payment obligations to York County current. York Public Utilities shall, as required, make application to the Virginia State Corporation Commission for approval to charge rates to its customers for water usage in an amount necessary to meet all of York Public Utilities' financial obligations in a timely manner, and shall charge its customers accordingly. York Public Utilities shall maintain in good repair, and or replace as necessary, water meters for each property within the Service Area, and regularly inspect or cause to be inspected and read the water meters as required to charge York Public Utilities' customers for actual water usage.

4. York County agrees to construct and maintain at its expense the mains, lines and master meters necessary to provide Newport News treated potable water to the Water System in the Service Area. York County shall obtain, at its expense, such easements as may be reasonably necessary for the construction and operation of such mains and lines for the connection of York County's water distribution system from the Newport News trunk lines to York Public Utilities' Water System. York County shall set master meters and install the lines in the locations set forth on Exhibit A, or as otherwise may be agreed by the parties.

5. During the terms of this Agreement, York Public Utilities shall not obtain or receive water from any other source without the prior written permission of York County.

6. York County agrees that in the event of a water shortage, the existence of which shall be subject to determination by Newport News, York County shall not place any restriction on the usage or consumption of water by York Public Utilities pursuant to this Agreement other than those restrictions imposed on York County and on other retail customers by Newport News. In such event, York Public Utilities shall implement a water conservation program which shall be no more or less restrictive and of no shorter duration than the water conservation program imposed by Newport News on York County and its other retain customers.

7. In the event that York County is not able to supply Newport News water to York Public Utilities pursuant to this Agreement by reason of an act of God or other cause beyond its reasonable control and the failure to supply water on account thereof lasts for more than 30 days, then this agreement may be terminated by either party effective upon delivery to the other of notice of termination by Certified Mail.

8. Should any owner or resident user object to the supply of treated potable water from Newport News as provided herein, York County and York Public Utilities agree to exercise their joint efforts to satisfy the concerns of such owner or resident user, including, if necessary, the release by York County of this

contract with respect to such objecting owner or resident user's water supply, and if necessary, York Public Utilities' undertaking at its expense to supply water from its existing private wells to such objecting owner or resident user as required by the applicable contract.

9. Subject to the provisions of paragraph 7 hereof, this contract shall remain in existence with respect to the Water System in the Service Area as long as York Public utilities or its successor is obligated to provide water to such system under presently existing contractual arrangements and shall terminate with respect to the Water System when York Pubic Utilities or its successor is no longer so obligated to supply water to the system. This provision shall not be construed to impair in any way the right or ability of York County or other governmental agency to acquire nay or all of the distribution system pursuant to applicable law.

10. York Public Utilities may wish to sell, convey or transfer to another its right to furnish water to the Service Area and York County wishes to assure that the residents of this area will continue to enjoy the availability of a municipal water supply. Accordingly, York Public Utilities shall include in any document transferring its rights to a third party the obligation to perform in accordance with this agreement and thereby bind any such third party to all of the obligations of this agreement as if an original party hereto.

11. If York Public Utilities or any successor shall ever cease to supply water to the lots in Carver Gardens, then upon demand by York County, York

Public Utilities shall turn over to York County, at no cost to York County, its distribution system and execute all such deeds and instruments of conveyance which shall in the opinion of the County Attorney be necessary to vest in York County good title to all easements and also all components of the water system owned by York Public Utilities.

12. Notices permitted or required hereunder shall be in writing and shall be delivered by hand or by deposit in the United States mail, postage prepaid, certified, return receipt requested, addressed:

If to the County:

County Administrator  
P. O. Box 532  
Yorktown, Virginia 23690

If to York Public Utilities:

P.O. Box 277  
STANARDSVILLE, VIRGINIA 28973

Either party may change the address specified above by directing the other accordingly in writing by certified mail.

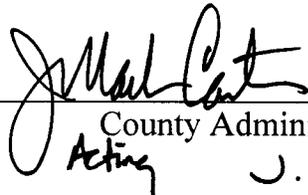
13. The laws of the Commonwealth of Virginia shall control the interpretation and effect of this agreement.

14. This is the entire agreement of the parties and no provision hereof shall be changed or modified except in writing and signed by both parties.

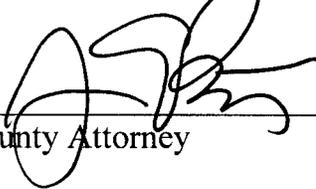
15. This agreement shall inure to the benefit of the respective parties and shall not be assigned by one party except with the written consent of the other party.

WITNESS the following signatures and seals on the day, month, and year first above written.

COUNTY OF YORK, VIRGINIA

By   
County Administrator  
Acting J. MARK CARTER

Approved as to form

  
County Attorney

YORK PUBLIC UTILITIES CORPORATION

By   
Title Pres.

BOARD OF SUPERVISORS  
COUNTY OF YORK  
YORKTOWN, VIRGINIA

Resolution

At a regular meeting of the York County Board of Supervisors held in York Hall, Yorktown, Virginia, on the \_\_\_\_ day of \_\_\_\_\_, 2010:

Present

Vote

Donald E. Wiggins, Chairman  
George S. Hrichak, Vice Chairman  
Walter C. Zaremba  
Sheila S. Noll  
Thomas G. Shepperd, Jr.

On motion of \_\_\_\_\_, which carried \_\_\_\_, the following resolution was adopted:

A RESOLUTION RATIFYING AND AUTHORIZING THE EXECUTION OF AN AMENDED AND RESTATED AGREEMENT FOR THE SALE AND RESALE OF WATER IN CARVER GARDENS BETWEEN THE COUNTY OF YORK, VIRGINIA AND YORK PUBLIC UTILITIES CORPORATION

WHEREAS, pursuant to an agreement dated May 14, 1986, York County agreed to purchase water from the City of Newport News and sell it to York Public Utilities Corporation (York Public Utilities) subject to such terms and conditions as are set out therein; and

WHEREAS, York Public Utilities has agreed to modify and amend the said agreement to clarify the terms and conditions relating to the payments of penalty and interest on delinquent billings for water, to clarify York Public Utilities' obligations with respect to the maintenance and upkeep of the system, and to clarify the County's rights with respect to the nonpayment of delinquent billings for water sales or other failures by York Public Utilities to perform its obligations; and

WHEREAS, York Public Utilities and J. Mark Carter, as Acting County Administrator, have executed an amended and restated agreement for the sale and resale of water in Carver Gardens dated June 24, 2010.

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this \_\_\_\_ day of \_\_\_\_\_, 2010, that this Board authorizes and approves the execution of such amended and restated agreement, and ratifies the County's signature to the

agreement through J. Mark Carter, Acting County Administrator.

# COUNTY OF YORK

## MEMORANDUM

DATE: July 13, 2010 (BOS Mtg. 7/20/10)

TO: York County Board of Supervisors

FROM: James O. McReynolds, County Administrator 

SUBJECT: Commendation Resolutions for Nicholas F. Barba and Alfred E. Ptasznik, Jr.

As the Board is aware, two long-time members of the Planning Commission, Nicholas F. Barba and Alfred E. Ptasznik, Jr., completed their service on June 30, 2010. Both gentlemen completed the maximum allowable length of service.

Proposed Resolutions R10-102 and R10-103 to commend Messrs. Barba and Ptasznik for their service are attached for your consideration.

Carter/3337.tcc

Attachments:

- Proposed Resolution No. R10-102
- Proposed Resolution No. R10-103

BOARD OF SUPERVISORS  
COUNTY OF YORK  
YORKTOWN, VIRGINIA

Resolution

At a regular meeting of the York County Board of Supervisors held in York Hall, Yorktown, Virginia, on the \_\_\_\_ day of \_\_\_\_\_, 2010:

Present

Vote

Donald E. Wiggins, Chairman  
George S. Hrichak, Vice Chairman  
Walter C. Zaremba  
Sheila S. Noll  
Thomas G. Shepperd, Jr.

On motion of \_\_\_\_\_, which carried \_\_\_\_, the following resolution was adopted:

**A RESOLUTION TO COMMEND NICHOLAS F. BARBA FOR HIS SERVICE ON THE YORK COUNTY PLANNING COMMISSION**

WHEREAS, Nicholas F. Barba served as the District 4 representative on the York County Planning Commission from July 1, 2002, through June 30, 2010, including a term as Chair and two terms as Vice Chair, and unselfishly devoted his time, talent, and energy in service to York County; and

WHEREAS, Mr. Barba successfully completed the Virginia Certified Planning Commissioners' Program, an intensive course of study providing the legal and technical background for making legally defensible planning and zoning decisions; and

WHEREAS, during his tenure on the Commission, Mr. Barba served on numerous committees, including the 2003 Route 17 Revitalization Committee and the 2004-05 Comprehensive Plan Review Steering Committee, which he chaired; and

WHEREAS, as a member of the Planning Commission, Mr. Barba consistently demonstrated wisdom, fairness, and a respect for both the property rights of the individual and the common good of the community; and

WHEREAS, Mr. Barba's service on the Planning Commission has had a significant positive impact on the lives of York County's citizens;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the \_\_\_\_ day of \_\_\_\_, 2010, that it does hereby honor, commend, and thank

Nicholas F. Barba for his distinguished service on the York County Planning Commission and extends to him its best wishes in all of his future endeavors.

BOARD OF SUPERVISORS  
COUNTY OF YORK  
YORKTOWN, VIRGINIA

Resolution

At a regular meeting of the York County Board of Supervisors held in York Hall, Yorktown, Virginia, on the \_\_\_\_ day of \_\_\_\_\_, 2010:

Present

Vote

Donald E. Wiggins, Chairman  
George S. Hrichak, Vice Chairman  
Walter C. Zaremba  
Sheila S. Noll  
Thomas G. Shepperd, Jr.

On motion of \_\_\_\_\_, which carried \_\_\_\_, the following resolution was adopted:

**A RESOLUTION TO COMMEND ALFRED E. PTASZNIK, JR. FOR HIS SERVICE ON THE YORK COUNTY PLANNING COMMISSION**

WHEREAS, Alfred E. Ptasznik, Jr., served as the District 5 representative on the York County Planning Commission from December 4, 2001, through June 30, 2010, including two terms as Chair and two terms as Vice Chair, and unselfishly devoted his time, talent, and energy in service to York County; and

WHEREAS, Mr. Ptasznik successfully completed the Virginia Certified Planning Commissioners' Program, an intensive course of study providing the legal and technical background for making legally defensible planning and zoning decisions; and

WHEREAS, during his tenure on the Planning Commission, Mr. Ptasznik served on numerous committees, including the Senior Housing Study Committee in 2003, the Comprehensive Plan Review Steering Committee in 2004-05, the Mixed Use Development Committee in 2006, and the Regional Issues Committee from 2005 through 2008; and

WHEREAS, as a member of the Planning Commission, Mr. Ptasznik consistently demonstrated wisdom, fairness, and a respect for both the property rights of the individual and the common good of the community; and

WHEREAS, Mr. Ptasznik's service on the Planning Commission has had a significant positive impact on the lives of York County's citizens;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the \_\_\_\_ day of \_\_\_\_, 2010, that it does hereby honor, commend, and thank Alfred E. Ptasznik, Jr., for his distinguished service on the York County Planning Commission and extends to him its best wishes in all of his future endeavors.