

MINUTES  
BOARD OF SUPERVISORS  
COUNTY OF YORK

Regular Meeting  
July 16, 2013

6:00 p.m.

Meeting Convened. A Regular Meeting of the York County Board of Supervisors was called to order at 6:02 p.m., Tuesday, July 16, 2013, in the Board Room, York Hall, by Vice Chairman Donald E. Wiggins.

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

Walter C. Zaremba was absent.

Also in attendance were James O. McReynolds, County Administrator; J. Mark Carter, Assistant County Administrator; Vivian A. Calkins-McGettigan, Deputy 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. Vice Chairman Wiggins led the Pledge of Allegiance

**PRESENTATIONS**

**INTRODUCTION OF NEW MEMBERS TO YORK COUNTY BOARDS AND COMMISSIONS**

Vice Chairman Wiggins introduced and welcomed the following newly appointed members to Boards and Commissions and presented each with a Boards and Commissions Handbook and York County pin:

Christopher Eckols	Parks and Recreation Advisory Committee
Steve Bultman	Parks and Recreation Advisory Committee

**GREATER WILLIAMSBURG CHAMBER & TOURISM ALLIANCE**

Mr. Richard Schreiber, President & Chief Executive Officer, Greater Williamsburg Chamber & Tourism Alliance, briefed the Board of Supervisors on analysis that had been conducted by the Alliance regarding attracting individuals to the Historic Triangle area. He noted that most of the Alliance's money comes from York County, James City County, and the City of Williamsburg, and the Alliance wanted to be able to say that the money it was given was an investment in the region and that it was working. He stated the goal was to add value to Historic Triangle tourism marketing to attract visitors without being redundant with what was being done by Busch Gardens, Colonial Williamsburg, the Williamsburg Destination Marketing Committee, and the timeshare community. Mr. Schreiber stated the Alliance also wanted results that would be measurable. After being provided average weekly attendance numbers from Colonial Williamsburg and Busch Gardens, the two major tourist attractions in the Triangle area, it was concluded that there were existing opportunities to add to the marketing value. Three specific weak seasonal periods were identified where the Alliance could provide functions that were not being done by the other players. Mr. Schreiber then reviewed the results for the following programs the Alliance had implemented to add marketing value during the weak seasons of tourism:

- Christmas in Williamsburg: November/December
- Arts in Williamsburg: September/October

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- Springtime in Williamsburg: May
- Sports Williamsburg

Mr. Schreiber stated the Historic Triangle area has a collaboration that worked, and the program was growing. He then spoke of the National Softball Association – Girls Fast Pitch World Series that would be held in the Historic Triangle area July 22 – July 28 that would be bringing 150 teams of 20 players per team and their families to the area for five nights and the economics it will bring to the area. He stated the Alliance had contracted with WADMAC to develop and implement the marketing plans starting in 2014. Mr. Schreiber noted the Alliance wants WADMAC to add something to the matrix of activity that was already in place, and it wants it to be measurable so the good results could be felt by all.

The members of the Board thanked Mr. Schreiber for his report, and he was asked to forward a copy of it to Mr. McReynolds for distribution to the Board members.

### **CITIZENS COMMENT PERIOD**

Mr. Robert Frailey, 729 Charles Road, addressed the Board, stating he planned to be an advocate and stay in front of the Board because it seemed to have forgotten about the seniors of York County when it continued to make decisions for new development that would bring in more obligations than revenue. He stated the obligations always fall back onto the back of the individual taxpayer, and he asked the Board to keep that in mind when making decisions regarding new development that would ultimately bring more children into the school system.

Mr. Thomas Nelson, 220 Church Street, spoke of his concerns regarding historic preservation in the Comprehensive Plan, including the removal of references to the Certified Local Government Program from the Plan. He knew the Board had looked into the program and had all the elements that were needed other than a historic commission. He stated a historic commission would allow representatives of the district to meet together to look at the policy regarding historic preservation. The County has the Historical Committee, but it did not work on historic preservation, and he felt there should be a lower level committee of representatives from the public to work on those issues when they came up. Mr. Nelson then spoke of the recently acquired land between Martiau, Buckner, and Main Streets that contained remnants from Redoubt Number One. He noted he had sent an email suggesting that some of that land be turned into a park recognizing Nick and Mary Matthews who gave so much to the County during their lives. He recommended putting the Certified Local Government Program discussion back into the Comprehensive Plan.

### **COUNTY ATTORNEY REPORTS AND REQUESTS**

Mr. Barnett reminded the Board members that it was time to starting thinking about the 2014 session of the General Assembly and requested they provide he and Mr. McReynolds with any legislative items they would like to see included in the County's 2014 legislative program by the end of August.

### **COUNTY ADMINISTRATOR REPORTS AND REQUESTS**

Mr. McReynolds stated he was happy to report that the Fourth of July event was a very special day in Yorktown, and he thanked all the volunteers and County staff who had a hand in making it such a successful day. He then reminded the Board and the citizens of the Board's next two regular meetings to be held on August 6 and 20.

Mr. Wiggins reiterated it was a wonderful Fourth of July event. He spoke of the lack of public parking in the Village, indicating he and Mr. Zaremba were not allowed to park in a particular lot even though there were vacant spaces.

Mr. McReynolds explained there was an overall plan for parking for such an event, and specific lots were set aside for individuals with special needs and logistical support for other purposes. He stated he would get the specific reason why that lot had been restricted, and he would pass that information along to Mr. Wiggins.

Mrs. Noll stated she also enjoyed of the Fourth of July; but when she had returned to Yorktown around 6:00 p.m., she was told by the deputy that there was no parking in the parking garage. She stated she was surprised to see the lower parking lot half empty, and she felt something should be worked out so the lower level parking lot was not left half empty.

Mr. McReynolds stated he understood her concern and noted that with the crowds that were in town, mixing the vehicular traffic with pedestrian traffic, it was quite a challenge. He noted until last year staff had encouraged the restaurant to take reservations; but because of the parking situation, it would have empty tables. He stated staff was working with the new business owner to make sure the situation was worked out for next year. Mr. McReynolds stated if one had reservations at the restaurant, the deputies were supposed to allow those individuals into town; but if there was no reservation, those individuals were technically not allowed in.

Mr. Shepperd stated the parking situation was not just a Fourth of July issue, and the Board needed to have staff work with the business community to come up with some workable arrangements for the use of space at the parking garage. He noted he had come down to the restaurant several times for lunch and could not find a parking place. He spoke of the inconvenience of having to park at York Hall. He thought the parking issue was going to hurt the investment being made by the Riverwalk business community. On numerous occasions he had witnessed people with their beach gear park on the lower level and then head to the beach, so the three-hour parking sign was not working. He noted he had spoken with Mr. McReynolds several times regarding the situation and suggested that staff needed to explore options for a possible paid parking system along with other options. Mr. Shepperd stated he felt since Yorktown was being advertised for dining, shopping, the beach, and the historical parts of the village, there needed to be adequate parking to handle the crowds.

## **PUBLIC HEARINGS**

### **APPLICATION NO. PD-35-13, THE RESERVE AT WILLIAMSBURG, LLC**

Mr. Carter gave a presentation on Application No. PD-35-13, requesting the amendment of the conditions for a previously approved planned development (The Reserve at Williamsburg on Mooretown Road) to modify the front yard setback requirements. The Planning Commission considered the application and forwarded it to the Board of Supervisors with a recommendation of approval 6:0, and staff recommended approval of the application through the adoption of proposed Ordinance No. 13-10.

Discussion followed pertaining to covered entrances and sidewalk requirements.

Mr. Shepperd asked how critical the front porch issue had been when it was first considered by the Board of Supervisors and why it was such a big deal and now it is being shrunken down to a residual architectural feature.

Mr. Carter stated the Board came up with the concept of a “functional front porch” during its discussion about what the front setback should be. The applicant had been trying to make sure that the development requirements would accommodate a first floor master bedroom and were looking at the dimension of the buildable footprint. At that time the applicant felt that, given the topography and layout of the project, some of the lots were going to be tight in terms of providing the 30-foot setback, while also achieving the first floor master bedroom, so the applicant asked if the setback could be reduced. During the Board’s discussion, the idea of the porch and the interaction between neighbors walking on the sidewalk and sitting on their porch came up. The applicant actually asked for the application to be tabled so that they could go back and take a look at it. The applicant came back with the idea of a 90 square foot porch with a minimum depth of 6 feet, and the Board adopted that requirement. Now, in retrospect, as the applicant has started putting pencil to paper in a more detailed form and looking at potential housing units and designs, the applicant came to the conclusion that a 90 square foot porch was too large. Based on market research concerning buyer preferences and life-style, they now believe that a porch will do very little in terms of achieving that social interaction.

Mrs. Noll thought it was important that if the Board approved the application with the 20-foot setback that the entrance have a covered component.

Mr. Mike Milhaupt, 21400 Ridgetop Circle, Sterling, Virginia, Executive Vice President of First Centrum L.L.C., thanked Mr. Carter and Mr. Cross for their help in working through the solution for the porch dimensions. He stated in 2006 they originally had intended to build and sell these homes themselves just as they had built the Marina Apartments; yet difficulty in the overall market place happened, and financing became difficult. Last year they decided to sell the two rear parcels, parcels three and five, to Ryan Homes. He stated the townhomes at the Settlement of Powhatan were a good example of the type of townhomes Ryan will build. Ryan Homes had indicated the porch was a problem, and people now want space in the back with screened porches, patios, or balconies more than a front porch. Since the requirement was already in place for the larger porches, they had to find a way to provide Ryan Homes with the ability to do what they wanted or needed to do in order to meet the market. Mr. Milhaupt noted Mr. Rob Loftis from Ryan Homes was in the audience and would be happy to share his input regarding the solution they had reached and answer any questions regarding the covering on the entry way. He noted the townhouses built by Ryan Homes at the Settlement all had covers.

Mrs. Noll stated Mr. Milhaupt had raised the point that people wanted less lawn and more screened porches on the back. If the applicant was given the 20 feet, she asked if it was going to give them more space for the interior, or would it give them more yard area in the back.

Mr. Milhaupt stated there were rear setbacks as well that had to be honored; but the footprints were actually larger than the ones they had proposed, and that was what they believed needed to be done to meet the market. He indicated he could not state the number of rear screened porches or patios that were at the Settlement, but he believed it was the majority of them. He stated if the proposed amendments were approved, it would give them flexibility.

Vice Chairman Wiggins then called to order a public hearing on Application No. PD-35-13, which was duly advertised as required by law. Proposed Ordinance No. 13-10 is entitled:

AN ORDINANCE TO AMEND THE CONDITIONS OF APPROVAL  
FOR A PREVIOUSLY APPROVED PLANNED DEVELOPMENT (THE  
RESERVE AT WILLIAMSBURG ON MOORETOWN ROAD) TO  
MODIFY THE FRONT YARD SETBACK REQUIREMENTS

Mr. Robert Frailey, 729 Charles Road, stated if the Board kept allowing people to come in and tell it what was needed to make their project work, the Board would be constantly confused or, at a minimum, susceptible to being taken advantage of. He felt the County should keep the currently approved setbacks of this project, and he asked that the Board go back and reaffirm a 30-foot setback as a minimum, regardless of whether or not it was a townhome. He stated the Board needed to make sure there was enough access for the emergency vehicles that would probably be appearing in the neighborhood on a more regular basis than a typical neighborhood because it would be senior housing.

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

Mr. Shepperd stated the people who came up with the design knew the market, and it sounded pretty straightforward to him. He stated he did not have a problem with the application.

Mr. Hrichak stated the market changes and customers' taste change over the years, and he did not have a problem with the application.

Mr. Wiggins stated Ryan Homes builds nice homes, has a good reputation, and he felt this was going to be a good project.

Mrs. Noll moved the adoption of proposed Ordinance No. 13-10 that reads:

AN ORDINANCE TO AMEND THE CONDITIONS OF APPROVAL  
FOR A PREVIOUSLY APPROVED PLANNED DEVELOPMENT (THE  
RESERVE AT WILLIAMSBURG ON MOORETOWN ROAD) TO  
MODIFY THE FRONT YARD SETBACK REQUIREMENTS

WHEREAS, the York County Board of Supervisors on September 5, 2006 approved Application No. PD-17-06 to authorize the establishment of a Planned Development consisting of a 63-acre independent living senior housing development with a 7.7-acre commercial center on property located on the east side of Mooretown Road approximately 2,030 feet west of the intersection of Mooretown Road (Route 603) and Waller Mill Road (Route 713) and further identified as Assessor's Parcel Nos. 5-18-1 (GPIN D16c-0176-0313), 5-18-2 (GPIN D16c-0531-0677), 5-18-3 (GPIN D16c-1123-1278), and 5-18-5 (GPIN D16c-1552-0671); and

WHEREAS, The Reserve at Williamsburg LLC has submitted Application No. PD-35-13 to amend the conditions of approval for the above-referenced Planned Development, set forth in Ordinance No. 06-18(R) and revised by Ordinance No. 09-20, by eliminating the requirement for front porches as a condition of reducing the minimum front yard setback requirement from thirty feet (30') to twenty feet (20') for townhouses, duplexes, and single-family detached dwelling units; 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 with modifications; 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 16th day of July, 2013, that it does hereby amend the conditions of approval set forth in Ordinance No. 06-18(R), as amended by Ordinance Nos. 09-20 and 12-9, for The Reserve at Williamsburg Planned Development located on the east side of Mooretown Road (Route 603) approximately 2,030 feet west of its intersection with Waller Mill Road (Route 713) and further identified as Assessor's Parcel Nos. 5-18-1 (GPIN D16c-0176-0313), 5-18-2 (GPIN D16c-0531-0677), 5-18-3 (GPIN D16c-1123-1278), and 5-18-5 (GPIN D16c-1552-0671), as set forth below:

1. Age Restriction

The residential component of this Planned Development shall be developed and operated as age-restricted senior housing in accordance with the definitions of Senior Housing-Independent Living Facility and, as applicable, Senior Housing-Assisted Living Facility set forth in Section 24.1-104 of the York County Zoning Ordinance. Furthermore, no resident of any of the units in the development shall be under the age of nineteen (19).

2. General Layout, Design, and Density

a) A site plan, prepared in accordance with the provisions of Article V of the Zoning Ordinance, shall be submitted to and approved by the Department of Environmental and Development Services, Division of Development and Compliance prior to the commencement of any land clearing or construction activities on the site. Said site plan shall be in substantial conformance with the conceptual plans titled "Master Plan Amendment for The Reserve at Williamsburg," prepared by AES Consulting Engineers and dated April 2, 2012 and revised May 1, 2013, except as modified herein. Substantial deviation, as determined by the Zoning Administrator, from the general design and layout as depicted on the "Non-Binding Illustrative Plan" or amended herein shall require resubmission and approval in accordance with all applicable provisions as established by the York County Zoning Ordinance. Limited deviations from the "Non-Binding Illustrative Plan" as depicted on the plan titled "Master Plan Amendment" prepared by AES Consulting Engineers, dated April 2, 2012 and revised May 1, 2013, shall be permitted.

b) Architectural design of all residential structures, including the clubhouse, shall be in substantial conformance with the building elevations submitted by the ap-

plicant and titled "Architectural Renderings: The Reserve at Williamsburg," dated May 12, 2006, "BLDG, 'A'-Verena at Williamsburg," dated July 1, 2009, and "The Reserve at Williamsburg: Townhome Elevations," dated March 29, 2012, and the townhouse/duplex and single-family detached house elevations submitted by the applicant as part of the "Master Plan/Planned Development Amendment For The Reserve at Williamsburg" prepared by AES Consulting engineers and dated May 1, 2013, copies of which shall be kept on file in the York County Planning Division.

- c) The layout and design of the residential development shall be in conformance with the performance standards for senior housing set forth in Section 24.1-411 of the York County Zoning Ordinance, except as modified herein.
- d) The commercial center shall be developed in accordance with the standards for nonresidential uses within the PD district set forth in Section 24.1-361(h) of the Zoning Ordinance. Commercial uses in the development shall be consistent with the list of uses permitted in the EO-Economic Opportunity district, subject to the exclusions contained in the proffer statement submitted by the applicant and referenced herein. Furthermore, under no circumstance shall tattoo parlors, pawn shops or payday loan establishments be permitted on the property.
- e) The maximum number of residential units shall be 459.
- f) The maximum building height shall be 69 feet for rental apartment buildings and 72 feet for condominium apartment buildings.
- g) The minimum building separation for single-family detached, townhouse, and duplex units shall be twenty feet (20').
- h) In areas designated for single-family detached homes, the minimum distance between any principal building and any public or private street right-of-way shall be twenty feet (20'), provided that such single-family structure includes a covered front porch having a depth of at least four feet (4') and an area of at least fifty square feet (50 s.f.). In the event a front porch is not provided on the structure, the minimum setback shall be thirty feet (30').
- i) In areas designated for townhouses or duplexes, the minimum distance between any principal building and any public or private street right-of-way shall be twenty feet (20').
- j) Freestanding signage for the residential portion of the project shall be limited to a single monument-type community identification sign along Mooretown Road measuring no greater than 32 square feet in area and six feet (6') in height. Signage for the commercial parcel shall be in accordance with the provisions for LB-Limited Business districts, as established in Section 24.1-703 of the Zoning Ordinance.
- k) For any rental apartment building, a minimum of one (1) off-street parking space per residential unit shall be required and no additional spaces shall be required for visitor parking provided that, pursuant to Section 24.1-604(b) of the Zoning Ordinance, an area equal to one-half of the difference between the number of parking spaces provided and the number that would otherwise be required in accordance with the requirements set forth in the Zoning Ordinance shall be reserved for a period of five (5) years following the issuance of a Certificate of Occupancy for such building and shall be maintained as landscaped open space during that time.

### 3. Streets and Circulation

- a) In order to provide for safe, convenient, and continuous pedestrian circulation throughout the development, a four-foot (4') wide sidewalk shall be constructed on at least one side of all private residential streets within the development and

shall include pedestrian connections to off-road walkways and walking trails and to the commercial center.

- b) Street lighting shall be provided at each street intersection and at other such locations determined by the subdivision agent to maximize vehicle and pedestrian safety. The design of the street lighting shall be consistent with the design and character of the development.
- c) The developer shall install a 200-foot left-turn lane with a 200-foot taper and appropriate transitions on southbound Mooretown Road at the main road, as well as northbound right turn tapers on Mooretown Road at both the main road and the right-turn in/right-turn out driveway (150' tapers), if such additional driveway is determined to be acceptable in accordance with Zoning Ordinance requirements. The right-turn in/right-turn out driveway shall be constructed with an appropriate channelizing island.
- d) The main entrance shall include one dedicated left-turn lane and one dedicated right-turn lane for egress.
- e) The spacing from the edge of Mooretown Road to the first internal access point shall be 200 feet or greater, unless otherwise approved by the Virginia Department of Transportation.
- f) Pursuant to Section 24.1-255(b) of the Zoning Ordinance, the developer shall provide a transit bus shelter and pullout, the design and location of which shall be subject to the approval of the Williamsburg Area Transport.
- g) Pursuant to Section 24.1-252(b)(2) of the Zoning Ordinance, the right-turn in/right-turn out entrance to the commercial center depicted on the referenced plan shall be permitted only if the need for and safety of such is substantiated by a traffic impact analysis prepared in accordance with Section 24.1-251(b) of the Zoning Ordinance.

#### 4. Utilities and Drainage

- a) Public sanitary sewer service shall serve this development, the design of which shall be subject to approval by the County Administrator or his designated agent in consultation with the Department of Environmental and Development Services and in accordance with all applicable regulations and specifications. The applicant shall grant to the County all easements deemed necessary by the County for the maintenance of such sewer lines.
- b) A public water supply and fire protection system shall serve the development, the design of which shall be subject to approval by the County Administrator or his designated agent in consultation with the Department of Environmental and Development Services and the Department of Fire and Life Safety in accordance with all applicable regulations and specifications. The applicant shall grant to the County or the City of Williamsburg all easements deemed necessary by the County for maintenance of such water lines.
- c) The development shall be served by a stormwater collection and management system, the design of which shall be approved by the County Administrator or his designated agent in consultation with VDOT and in accordance with applicable regulations and specifications. Any easements deemed necessary by the County for maintenance of the stormwater system shall be dedicated to the County; however, the County shall bear no responsibility for such maintenance.
- d) The property owners' association(s) shall own and be responsible for the perpetual maintenance of all stormwater retention facilities serving the Planned Development.

#### 5. Open Space and Recreation

- a) The location and arrangement of open space shall be generally as depicted on the plan titled "Master Plan for The Reserve at Williamsburg," prepared by AES Consulting Engineers, dated February 28, 2006, and revised May 12, 2006 and April 2, 2012 and revised May 1, 2013.
- b) A minimum of 200 square feet of common active/passive outdoor recreation area per dwelling unit shall be provided. Said area(s) shall include, at a minimum, the following facilities and amenities:
  - Swimming pool (indoor or outdoor)
  - Covered pavilion
  - Barbecue/picnic area
  - Walking trails
  - Fountains (2)
  - Benches (10)
  - Trellises (3)
  - Yard game areas
  - Gazebos (2)
- c) Indoor recreational amenities shall consist of, at a minimum, a combined total of 8,250 square feet of indoor recreation space, including 2,775 square feet in the rental apartments and 2,475 square feet in the condominium apartments and a 3,000-square foot clubhouse/recreation center, each with an exercise room, multi-purpose community room, bistro-style (non-commercial) kitchen, fireplace, and other amenities as set forth in written materials supplied by the applicant and dated May 12, 2006.
- d) All common and public improvements within the development shall be subject to the standards governing timing, performance agreements, and surety requirements set forth in Sections 24.1-362(b)(3) and (4) of the Zoning Ordinance.
- e) The location and manner of development for the recreation area shall be fully disclosed in plain language to all home purchasers in this development prior to closing.
- f) All common open space and recreational facilities shall be protected and perpetual maintenance guaranteed by appropriate covenants as required in the York County Zoning Ordinance and submitted with development plans for the project.

6. Fire and Life Safety

- a) In conjunction with the site plan submittals for this project, the developer shall submit a detailed description of the proposed features of the project and building design related to protection and safety of the residents, as well as operational procedures to ensure and facilitate the safety of the residents in the event of fire or other emergencies.
- b) All rental and condominium apartment units shall be equipped with an approved (NFPA 13) fire suppression system throughout (including attic areas), underground vault(s), PIV(s), and FDC(s).

7. Proffered Conditions

The reclassification shall be subject to the conditions voluntarily proffered by the property owners in the proffer statement titled "Conditions Voluntarily Proffered for the Reclassification of Property Identified as a Portion of Tax Parcel 05-00-00-052, GPIN D16c-1780-1578," signed by Jackson C. Tuttle, Williamsburg City Manager, and dated May 25, 2006, except as modified herein.

8. Restrictive Covenants

Prior to final plan approval, the applicant shall submit restrictive covenants for review by the County Attorney for their consistency with the requirements of Section 24.1-497 of the Zoning Ordinance.

On roll call the vote was:

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

APPLICATION NO. ZM-141-13, BIERI FAMILY LIMITED PARTNERSHIP

Mr. Carter gave a presentation on Application No. ZM-141-13 requesting to reclassify an approximately 4.1 acre parcel of land located at 3301A Hampton Highway from Limited Business to Conditional General Business. The Planning Commission considered the application and forwarded it to the Board of Supervisors with a recommendation of approval 6:0, and staff recommended approval of the application through the adoption of proposed Ordinance No. 13-9.

Mr. Shepperd stated the Board of Supervisors had been concerned when the shopping center lighting had first gone in regarding any effects it might have on the neighborhood, but the developer had been very conscientious and had never received a complaint. He stated it was his belief that the Board had approached it somewhat cautiously with proffers regarding what types of business could go in the shopping center, and over time it had seen that it worked. With the shifting economy and general business just up the street, Mr. Shepperd thought the Board would be comfortable reclassifying this to conditional general business and with the types of business that would go into this type of development. He stated it was a lesson the Board had learned along the way.

Mr. Carter stated that a straight General Business district without proffers probably would not be appropriate because there were some uses in General Business that could be too intensive for the surrounding area, but the applicant had done a good job with the proffers. He thought any uses that could be problematic had been eliminated. He added that whether the center stayed there as it was or whether it was torn down and something else was developed in accordance with the proffered General Business, it was going to be okay in terms of the surrounding area.

Mrs. Noll stated with the landscaping behind it, the neighborhood was really protected from the center, and she felt there should be consistency with the General Business across the street. She noted Mr. Shepperd was right in that when the shopping center had first started out and because of the densely populated neighborhood behind it, the Board had been careful in starting out slowly; but she thought it was about time for the shopping center to grow up.

Vice Chairman Wiggins called to order a public hearing on Application No. PD-35-13, which was duly advertised as required by law. Proposed Ordinance No. 13-9 is entitled:

AN ORDINANCE TO APPROVE A REQUEST TO RECLASSIFY AN APPROXIMATELY 4.1-ACRE PARCEL OF LAND LOCATED AT 3301A HAMPTON HIGHWAY FROM LB (LIMITED BUSINESS) TO CONDITIONAL GB (GENERAL BUSINESS)

Mr. Tim Trant, 4801 Courthouse Street, Suite 300, Williamsburg, appeared before the Board representing the applicant. He thought the Limited Business designation had originally been established out of caution for what could happen with a relatively large property at the front entrance to an existing residential community, and the way the property had been developed had hopefully resolved a lot of concern. He stated Mr. Bieri, the applicant, had realized he was at a complete disadvantage when he had lost a prospective tenant who had inquired about leasing space in the shopping center to a shopping center right down the street where general business was permitted by right. He stated the applicant had met with the Yorkshire Downs Homeowners Association to work through what type of uses would be permitted, and the homeowners association had submitted to the County a letter of support for the proposal. Mr. Trant thanked staff for its technical help with the application to help improve clarity.

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

Mr. Shepperd moved the adoption of proposed Ordinance No. 13-9 that reads:

AN ORDINANCE TO APPROVE A REQUEST TO RECLASSIFY AN APPROXIMATELY 4.1-ACRE PARCEL OF LAND LOCATED AT 3301A HAMPTON HIGHWAY FROM LB (LIMITED BUSINESS) TO CONDITIONAL GB (GENERAL BUSINESS)

WHEREAS, Bieri Family Limited Partnership has submitted Application No. ZM-141-13 requesting amendment of the York County Zoning Map by reclassifying from LB (Limited Business) to conditional GB (General Business) an approximately 4.1-acre parcel of land located at 3301A Hampton Highway (Route 134) and further identified as Assessor's Parcel No. 38A32-9-1(GPIN V02c-1965-1959), subject to conditions voluntarily proffered by the property owner; 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 16th day of July, 2013, that Application No. ZM-141-13 be, and it is hereby, approved to amend the York County Zoning Map by reclassifying from LB (Limited Business) to conditional GB (General Business) an approximately 4.1-acre parcel of land located at 3301A Hampton Highway (Route 134) and further identified as Assessor's Parcel No. 38A32-9-1(GPIN V02c-1965-1959), subject to conditions voluntarily proffered by the property owner set forth in the proffer statement titled "Yorkshire Downs Proffered Conditions" and dated June 5, 2013, a copy of which shall remain on file in the office of the Planning Division.

BE IT FURTHER ORDAINED that in accordance with Section 24.1-114(e)(1) of the York County Zoning Ordinance, a certified copy of the Ordinance accepting the proffered conditions, together with a duly signed copy of the proffer statement, 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.

On roll call the vote was:

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

APPLICATION NO. ZT-142-13, YORK COUNTY BOARD OF SUPERVISORS: RESIDENTIAL ACCESSORY USES

Mr. Carter gave a presentation on Application No. ZT-142-13, requesting amendment of Section 24.1-271 of Chapter 24.1, York County Code, Zoning, pertaining to temporary family health care structures. The Planning Commission considered the application and forwarded it to the Board of Supervisors with a recommendation of approval 6:0, and staff recommended approval of the application through the adoption of proposed Ordinance No. 13-11.

Vice Chairman Wiggins then called to order a public hearing on Application No. ZT-142-13, which was duly advertised as required by law. Proposed Ordinance No. 13-11 is entitled:

AN ORDINANCE TO APPROVE APPLICATION NO. ZT-142-13 TO AMEND SECTION 24.1-271 OF THE YORK COUNTY ZONING

ORDINANCE (CHAPTER 24.1, YORK COUNTY CODE) PERTAINING TO TEMPORARY FAMILY HEALTH CARE STRUCTURES

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

Mr. Hrichak moved the adoption of proposed Ordinance No. 13-11 that reads:

AN ORDINANCE TO APPROVE APPLICATION NO. ZT-142-13 TO AMEND SECTION 24.1-271 OF THE YORK COUNTY ZONING ORDINANCE (CHAPTER 24.1, YORK COUNTY CODE) PERTAINING TO TEMPORARY FAMILY HEALTH CARE STRUCTURES

WHEREAS, Application No. ZT-142-13 has been sponsored by the Board of Supervisors to allow consideration of amendments to the accessory use provisions pertaining to temporary family health care structures, as required pursuant to legislation adopted by the 2013 General Assembly; and

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

WHEREAS, the Planning Commission has recommended approval of this application; and

WHEREAS, the Board has conducted a duly advertised public hearing, has carefully considered the public comments and Planning Commission's recommendation with respect to this application, and has determined that approval of the proposed amendments would be appropriate;

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this the 16th day of July, 2013, that Application No. ZT-142-13 be, and it is hereby, approved to amend the York County Zoning Ordinance (Chapter 24.1, York County Code) to incorporate the following amendments:

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**Sec. 24.1-271. Accessory uses permitted in conjunction with residential uses.**

The following accessory uses shall be permitted in conjunction with residential uses. No accessory use, activity or structure, except fences, shall be constructed or conducted until the principal use of the lot has commenced, or the construction of the principal building/structure has commenced and is thereafter diligently and continuously pursued to completion. Land uses not listed in this section and not deemed similar to a listed use pursuant to subsection (q) shall be deemed not allowed as residential accessory uses:

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(p) Temporary family health care structures for use by a caregiver in providing care for a mentally or physically impaired person on property that is zoned for single-family residential use and that owned or occupied by the caregiver as his residence, subject to the following performance standards.

- (1) occupancy of the structure shall be by a mentally or physically impaired person who, for the purposes of this section, shall be deemed to be a person who is a resident of Virginia and who requires assistance with two or more activities of daily living, as defined in Section 63.2-2200 of the Code of Virginia and as certified in writing by a physician licensed by the Commonwealth of Virginia;
- (2) a maximum of one (1) resident occupant, who shall be the mentally or physically impaired person, shall be permitted; or, in the case of a married couple, two (2) occupants, one of whom is a mentally or physically impaired person, and the other requires assistance with one or more activities of daily living as defined in

Section 63.2-2200 of the Code of Virginia, as certified by a physician licensed in the Commonwealth;

- (3) the structure shall not exceed 300 square feet in gross floor area;
- (4) the structure shall comply with all applicable provisions of the Industrialized Building Safety Law and the Uniform Statewide Building Code;
- (5) placement on a permanent foundation shall not be required or permitted;
- (6) only one such structure shall be permitted on a lot;
- (7) the structure shall comply with all setback requirements applicable to principal structures in the district in which located;
- (8) such structure shall be connected to all necessary public and/or private utilities and shall comply with all applicable requirements of the Virginia Department of Health;
- (9) no signage advertising or otherwise promoting the existence of the structure shall be permitted either on the exterior of the temporary family health care structure or elsewhere on the property;
- (10) prior to placement of such a structure on a residential property, the property owner shall obtain a permit, available from the office of the zoning administrator; the zoning administrator shall require submission of a sketch plan and such other documentation as deemed necessary to ensure compliance with the standards set forth herein;
- (11) any temporary family health care structure installed pursuant to this section shall be removed within 60 days of the date on which the temporary family health care structure was last occupied by a mentally or physically impaired person receiving services or in need of the assistance of a caregiver;
- (12) for the purposes of this section, the term caregiver means an adult who provides care for a mentally or physically impaired person within the Commonwealth and the caregiver shall be either related by blood, marriage, or adoption to, or shall be the legally appointed guardian of, the mentally or physically impaired person for who care is being provided; and,
- (13) on an annual basis, at least 30 days prior to the anniversary date of the initial permit issuance, the caregiver shall be required to provide evidence of compliance with the terms of this section and to grant zoning and code enforcement personnel the opportunity to conduct an inspection of the property and the structure at a time mutually acceptable to the caregiver and the inspection personnel.

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On roll call the vote was:

Yea: (4) Shepperd, Noll, Hrichak, Shepperd  
 Nay: (0)

APPLICATION NO. ZT-143-13, YORK COUNTY BOARD OF SUPERVISORS: STANDARDS FOR BED AND BREAKFAST ESTABLISHMENT

Mr. Carter gave a presentation on Application No. ZT-143-13, requesting amendment of Chapter 24.1, Zoning, York County Code, by adding provisions to allow authorization of wedding receptions conducted on the premises of operating bed and breakfast establishments. The Planning Commission considered the application and forwarded it to the Board of Supervisors

with a recommendation of approval 6:0, and staff recommended approval of the application through the adoption of proposed Ordinance No. 13-12.

Mr. Wiggins asked Mr. Carter if this would not apply to Yorktown proper because Yorktown proper already allowed this opportunity.

Mr. Carter stated there was an opportunity for a bed and breakfast operator in Yorktown to ask for permission, in addition to what they were already doing, to host wedding receptions. He noted the Yorktown district was much more flexible, and the amendment was written in such a way that the Board could craft conditions that were based on these or other considerations that it might have.

Mrs. Noll stated she saw that it was a special use permit opportunity for one year, and she asked if it would be on a case-by-case basis.

Mr. Carter explained the one year applied to the eligibility to even apply for a special use permit. He stated the thought was that the bed and breakfast should be in operation as a bed and breakfast for at least a year before one could come in and ask for this additional permission through a use permit. If approved, it would be a use permit that would cover multiple events.

Mrs. Noll asked if it would it be a use permit for one year or just a general use permit.

Mr. Carter stated the use permit would run with the property, although the Board could set a term on it if it chose to do so. He stated it was not written in as an absolute condition, but it would be an opportunity as with any use permit.

Mr. Hrichak asked if he was correct that as a property owner he could have a wedding at his house without any problem.

Mr. Carter stated that was correct, as long as he was not doing it for commercial purposes.

Mr. Hrichak asked if the wedding party had to be staying at the bed and breakfast.

Mr. Carter stated the interpretation at this point was that if a wedding was conducted at an existing bed and breakfast, the people who were in the wedding and the guests at the wedding needed to be staying at the bed and breakfast because there were no provisions that legally allowed a larger scale event for commercial purposes. The proposed amendments would provide an opportunity for that restriction to go away if the property owner got the use permit.

Vice Chairman Wiggins then called to order a public hearing on Application No. ZT-143-13, which was duly advertised as required by law. Proposed Ordinance No. 13-2 is entitled:

AN ORDINANCE TO APPROVE AN APPLICATION TO AMEND  
CHAPTER 24.1, ZONING, YORK COUNTY CODE, BY ADDING  
PROVISIONS TO ALLOW AUTHORIZATION OF WEDDING RE-  
CEPTIONS CONDUCTED ON THE PREMISES OF OPERATING  
BED AND BREAKFAST ESTABLISHMENTS

Mr. Thomas Nelson, 220 Church Street, addressed the Board in support of the application, stating as one of the owners of the Marl Inn Bed and Breakfast for the past four years, he had received many calls inquiring about weddings, and there was a great demand for weddings in the Yorktown Village. He noted the National Park Service had very limited availability with many restrictions. He stated he felt a special use permit was the right way to go about this for specific neighborhoods, as it would set the language and parameters and give neighbors a chance to come before the Planning Commission if they had any concerns with a permit being issued.

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

Discussion followed concerning the establishment of a term limit on the use permits.

Mrs. Noll moved the adoption of proposed Ordinance No. 13-12 that reads:

AN ORDINANCE TO APPROVE AN APPLICATION TO AMEND CHAPTER 24.1, ZONING, YORK COUNTY CODE, BY ADDING PROVISIONS TO ALLOW AUTHORIZATION OF WEDDING RECEPTIONS CONDUCTED ON THE PREMISES OF OPERATING BED AND BREAKFAST ESTABLISHMENTS

WHEREAS, in response to property owner inquiries, the Board of Supervisors has sponsored Application No. ZT-143-13 to allow consideration of amendments to the Zoning Ordinance to provide opportunities for the operators of bed and breakfast establishments to host wedding receptions on the same premises; and

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

WHEREAS, the Planning Commission has recommended approval of the proposed amendments; and

WHEREAS, the Board of Supervisors has conducted a duly advertised public hearing and considered the public comments and Commission's recommendation with respect to this application; and

WHEREAS, the Board has determined that adoption of the proposed amendments would provide appropriate land use opportunities;

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this the 16th day of July, 2013, that Application No. ZT-143-13 be, and it is hereby, approved to amend the York County Zoning Ordinance (Chapter 24.1, York County Code) to incorporate the following amendments:

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**Sec. 24.1-409. Standards for boarding house, tourist home and bed and breakfast establishments.**

- (a) When located in single-family residential zoning districts, boarding houses, tourist homes, and bed and breakfast establishments shall have the appearance of a single-family detached residence and normal residential accessory structures.
- (b) Other provisions of this chapter notwithstanding, one freestanding, non-illuminated sign, not exceeding four (4) square feet in area, may be permitted to identify such use.
- (c) In all residential districts, required off-street parking for the subject use shall be effectively screened by landscaping from view from adjacent residential properties and shall not be located in any required front yard area.
- (d) The board shall specify the maximum number of persons who may be accommodated in the proposed use. Such determination shall be based on a consideration of the density and character of the vicinity in which located and of the size and characteristics of the proposed site.
- (e) The owner/proprietor of an authorized and operating bed & breakfast (B&B) establishment or tourist home may apply for a supplementary Special Use Permit authorization to host private weddings and receptions for a fee as a business venture. In order to be eligible to apply for such supplementary Special Use Permit, the B&B or tourist home shall have been in continuous operation for at least one (1) year prior to the date of the submission of the application. The following performance standards and conditions shall be observed unless specifically modified or waived by the Board of Supervisors at the time of approval:
  - (1) *Frequency of events:* No more than one (1) event per day, or two (2) events in any 7-day period, shall be allowed. A wedding ceremony and its associated reception shall be considered to be a single event.

- (2) *Maximum number of guests:* The maximum number of guests shall be established as a condition of the Special Use Permit approval and shall be based on an assessment of the capacity and suitability of the site in consideration of the size of the property and facilities, the amount of parking available to accommodate guests, the capacity and condition of the highway network providing access to the site, the surrounding land uses and their proximity, and such other considerations as the Board of Supervisors deems to be relevant to prevent adverse effects upon neighboring properties.
- (3) *Facilities:* Any building or temporary tents used to accommodate ceremonies or receptions shall comply with all applicable Building and Fire Code requirements including, but not limited to: access; materials and fire ratings; emergency lighting; exit lights; fire detection and suppression; etc. Any tent(s) shall be positioned on the property in accordance with all applicable setback requirements for principal structures or such greater setbacks as may be established as a condition of the Special Use Permit approval. Tents shall be dismantled within 48 hours of the conclusion of each event, unless the Special Use Permit shall allow a greater time.
- (4) *Duration of event:* Events shall be limited to the time period between 10:00 am and 10:00 pm. Set-up and take-down activities may take place no earlier than 8:00 am and no later than 11:00 pm.
- (5) *Lighting:* Exterior lighting shall be limited to fixtures and illumination intensities that will not produce illumination intensities exceeding 0.1 footcandles at any property line.
- (6) *Noise:* The activities on the subject property shall be conducted in complete accordance with all requirements of the York County Noise Ordinance set forth in Section 16-19 of the York County Code.
- (7) *Parking:* Except as specified below and as documented in the Special Use Permit approval, all parking demand associated with the event shall be accommodated on the site on a suitable all-weather surface. The minimum number of spaces shall be calculated at a ratio of one (1) parking space per every two (2) persons based on the maximum allowable occupancy/attendance limit plus one (1) space for every regular or contract employee associated with the reception facility.

The Special Use Permit may allow:

- a. the use of an abutting property owned or controlled by the applicant and from which event attendees can walk without obstruction to reach the reception site. For the purposes of this section, the term abutting shall be construed to include property located on the opposite side of a street right-of-way, provided that event attendees will be able to cross perpendicularly and safely and will not be required to walk along a road or road shoulder;
- b. the use of any available and conveniently located public parking spaces from which attendees can walk safely.

Any parking areas constructed or established specifically for support of the reception use shall be located a minimum of 25 feet from any abutting property not owned by the proprietor, unless with the consent of the owner of the abutting property, and shall be screened from view from those abutting properties and public rights-of-way by evergreen landscaping, unless the abutting property owner consents to waiver of the screening requirement. All applicable storm-water management standards and requirements associated with the installation of the required parking spaces shall be observed.

- (8) *Fire and Emergency Vehicle Access:* Driveway access to the site shall comply

with all requirements as to weight capacity, base and surface material, width, configuration and alignment, and vertical and horizontal clearance as set forth in Section 24.1-261. Existing driveways shall be upgraded to meet these standards if they are deficient in any aspect.

- (9) *Sanitation:* Restrooms or toilet facilities shall be provided for event attendees based on the ratios/requirements set forth in the Virginia Uniform Statewide Building Code. Reception venues that would be dependent on the dwelling's on-site septic system will not be approved unless the applicant provides written authorization from the Health Department as to the adequacy of the system. In the event portable restroom or toilet facilities are proposed to be used, all shall be screened from view from adjacent public rights-of-way and abutting properties and all shall be serviced or removed within two working days of the conclusion of the event.
- (10) *Caterers / Vendors:* The proprietor shall ensure that any caterers or other vendors providing services for a reception are properly licensed and permitted, whether such caterer/vendor is hired by the proprietor or by the client contracting for the use of the facility. Likewise, the proprietor shall ensure that all applicable ABC permits have been obtained, either by the client or by the proprietor, and are kept valid.

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On roll call the vote was:

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

#### UTILITY EASEMENTS FOR MOORE'S CREEK SEWER PROJECT

Mr. Barnett gave a presentation on proposed Resolution R13-64 to authorize the taking of certain permanent utility easements in connection with the Moore's Creek Sewer Project on property owned by Jerry K. Patterson and Christina M. Patterson located at 1909 Yorktown Road and property owned by Sylvester Smith located at 105 Calthrop Neck Road. He stated there had been some ongoing negotiation with staff regarding the Patterson property, and he thought Mr. Shepperd might move to table that part of the application until a later day and time. He noted there had been questions about the location of the easement and its width, and Mr. Brian Woodward, Chief of Utilities, had indicated he thought negotiations with the owners were progressing. Mr. Woodward had also stated there was no plan to put the facilities in that particular easement immediately, so delaying that action would not keep the project from going forward.

Vice Chairman Wiggins then called to order a public hearing on proposed Resolution R13-64, which was duly advertised as required by law and is entitled:

A RESOLUTION DECLARING THE NECESSITY TO ENTER UPON AND TAKE CERTAIN PERMANENT UTILITY EASEMENTS IN CONNECTION WITH THE MOORE'S CREEK SEWER PROJECT ON PROPERTY OWNED BY JERRY K. PATTERSON AND CHRISTINA M. PATTERSON LOCATED AT 1909 YORKTOWN ROAD (GPIN U04D-2986-1580) AND PROPERTY OWNED BY SYLVESTER SMITH LOCATED AT 105 CALTHROP NECK ROAD (GPIN U04D-4027-0621), IN YORKTOWN, VIRGINIA

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

Mr. Shepperd then moved to table the public hearing with respect to 1909 Yorktown Road until 7:00 p.m. on August 20, 2013, and moved the adoption of proposed Resolution R13-64(R) that reads:

A RESOLUTION DECLARING THE NECESSITY TO ENTER UPON AND TAKE A CERTAIN PERMANENT UTILITY EASEMENT IN CONNECTION WITH THE MOORE'S CREEK SEWER PROJECT ON PROPERTY OWNED BY SYLVESTER SMITH LOCATED AT 105 CALTHROP NECK ROAD (GPIN U04D-4027-0621), IN YORK-TOWN, VIRGINIA

WHEREAS, it is necessary to obtain a certain easement in connection with the Moore's Creek sewer project; and

WHEREAS, for various reasons, the County is not able to obtain from the owner of such property clear title to the interests in real estate necessary, or no agreement has been reached as to the consideration to be paid for the said interest; and

WHEREAS, plats of the interest in real property to be acquired have been prepared by the York County Department of Environmental & Development Services and valuations of such interest has been prepared by County staff; and

WHEREAS, § 15.2-1905 (C), Code of Virginia, authorizes the Board to adopt a resolution following a public hearing on the matter declaring its intent to enter and take specified properties, rights-of-way or easements for such purposes as constructing, installing, expanding, maintaining, or repairing sewer facilities.

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 16th day of July, 2013, that the Board finds that it is necessary for the protection and preservation of the public health, safety and welfare, and for the timely completion of the Moore's Creek sewer project, for the County, its officers, employees and agents to enter upon and take the interest in real property described below prior to the initiation of condemnation proceedings.

BE IT FURTHER RESOLVED that the interests to be taken, and the compensation and damages, if any, offered by the County are the following, which interest is more particularly described on the plat attached to the memorandum of the County Administrator dated May 21, 2013, and incorporated herein by this reference:

GPIN: U04d-4027-0621

A permanent utility easement as shown on a plat entitled "PLAT OF EASEMENT, PROPERTY OF SYLVESTER SMITH, 105 CALTHROP NECK ROAD TO: COUNTY OF YORK, PROJECT: MOORE'S CREEK SEWER PROJECT," dated January 31, 2013, made by the York County Environmental & Development Services and designated as "Proposed 10' x 20' York County Utility Easement." Estimated Value: \$290.00.

BE IT STILL FURTHER RESOLVED that the Chairman of the Board of Supervisors and the County Treasurer are hereby authorized and directed, for and on behalf of the County, to execute a certificate of deposit to be recorded in the Office of the Clerk of the Circuit Court for York County, certifying the amount set forth above as the estimated fair value, and damages if any, of the interest to be taken, will be paid the owner in accordance with the provisions of State law and upon order of the Court.

BE IT STILL FURTHER RESOLVED that the County Attorney be, and he is hereby, authorized, if necessary and appropriate, at any time following the date of this Resolution, to institute condemnation proceedings in the name of the County of York to acquire title to the interest in the property described above, including, if necessary, any other easements or restrictions that may affect the easements sought to be acquired, and to do all things necessary as a prerequisite thereto.

On roll call the vote was:

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

**CONSENT CALENDAR**

Mrs. Noll addressed Item No. 8, asking if her understanding was correct that if the Board approved this item tonight it would go back to the Planning Commission for study. After the Commission voted on the item, it would then it would come back to the Board for action.

Mr. Carter stated that was correct. When the amendment came back before the Board, it would have the option at that time whether or not to adopt, but it would not obligated to adopt it.

Mrs. Noll moved that the Consent Calendar be approved as submitted, Item Nos. 6, 7, 8, 9, 10, and 11, respectively.

On roll call the vote was:

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

Thereupon, the following items were approved:

Item No. 6. APPROVAL OF MINUTES

The minutes of the following meetings of the York County Board of Supervisors were approved:

June 4, 2013, Regular Meeting  
June 18, 2013, Regular Meeting

Item No. 7. VIRGINIA COOPERATIVE EXTENSION: Resolution R13-70

A RESOLUTION TO AUTHORIZE THE EXECUTION OF AN AGREEMENT TO PROVIDE FOR THE OPERATION OF THE VIRGINIA COOPERATIVE EXTENSION OFFICE FOR FY2014

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 FY2014 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 16th day of July, 2013, 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.

Item No. 8. SPONSORSHIP OF ZONING TEXT AMENDMENT – SENIOR HOUSING OPPORTUNITIES IN THE ECONOMIC OPPORTUNITY DISTRICT: Resolution R13-61

A RESOLUTION TO SPONSOR AN APPLICATION TO AMEND SECTION 24.1-306 OF THE YORK COUNTY ZONING ORDINANCE (CHAPTER 24.1, YORK COUNTY CODE) TO ADD SENIOR HOUSING-INDEPENDENT LIVING – MULTI-UNIT STRUCTURES WITH

INTERNAL ENTRANCES AS A USE PERMITTED BY SPECIAL USE PERMIT IN THE EO-ECONOMIC OPPORTUNITY ZONING DISTRICT

WHEREAS, the York County Economic Development Authority has requested that consideration be given to a Zoning Ordinance text amendment that would add an opportunity for consideration and approval by Special Use Permit of proposals for Senior Housing – Independent Living – Multi-unit Structures with Internal Entrances in the EO-Economic Opportunity zoning district; and

WHEREAS, in the interest of good zoning and land use practice, the Board wishes to sponsor an application to allow review and consideration of this issue in accordance with applicable procedures for Zoning Ordinance amendments;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 16th day of July, 2013, that it does hereby sponsor an application to allow consideration of the draft amendments set forth below.

BE IT FURTHER RESOLVED that the proposed amendment and application be, and it hereby is, referred to the York County Planning Commission for review, public hearing, and recommendation in accordance with applicable procedures.

**Sec. 24.1-306. Table of land uses.**

USES	RESIDENTIAL DISTRICTS						COMMERCIAL AND INDUSTRIAL DISTRICTS						
	RC	RR	R20	R13	R7	RMF	NB	LB	GB	WCI	EO	IL	IG
	CATEGORY 1 - RESIDENTIAL USES												
1. Residential - Conventional	P	P	P	P		S							
a) Single-Family, Detached													
b) Single-Family, Attached													
• Duplex				S		P							
• Townhouse						P							
• Multiplex						P							
c) Multi-Family						P							
d) Manufactured Home (Permanent)					P								
2. Residential (Cluster Techniques Open Space Development)													
a) Single-Family, Detached	P	P	P	P									
b) Single-Family, Attached													
• Duplex	S	S	S	S									
3. Apartment Accessory to Single-Family Detached	(1)	(1)	(1)	(1)									
4. Manufactured Home Park					S								
5. Boarding House		S				S							
6. Tourist Home, Bed and Breakfast	S	S	S	S		S		P	P				
7. Group Home (for more than 8 occupants)		S	S	S		S							
8. Transitional Home		S	S	S		S							
9. Senior Housing – Independent Living Facility						S					S		
(a) detached or attached units w/individual outside entrances						S					S		
(b) multi-unit structures w/internal entrances						S		S	S				
(c) multi-unit structure w/internal or external entrances to individual units when established in an adapted structure formerly used as hotel or motel.								S	S		S		

(1) Refer to Section 24.1-407 for accessory apartment location and performance standards

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Item No. 9. PUBLIC SEWER EXTENSION AGREEMENT FOR YORKTOWN CRESCENT: Resolution R13-71

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

WHEREAS, Parrish Bay, LLC, 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 sixteen new 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 \$204,800.00;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 16th day of July, 2013, that the Board approves the extension of the County's public sewer system to serve the proposed development, Yorktown Crescent, and that the County Administrator be, and he hereby is, authorized to execute a public sewer extension agreement with Parrish Bay, LLC for the proposed extension; such agreement to be approved as to form by the County Attorney.

Item No. 10. VPPSA EMERGENCY DEBRIS PICKUP AGREEMENTS: Resolution R13-72

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR TO ENTER INTO AGREEMENTS WITH THE VIRGINIA PENINSULAS PUBLIC SERVICE AUTHORITY FOR THE REMOVAL, REDUCTION AND DISPOSAL OF DEBRIS FROM HURRICANES AND OTHER DISASTERS, AND MONITORING SERVICES FOR SAME

WHEREAS, York County is a member of the Virginia Peninsulas Public Service Authority (VPPSA), having joined the Authority for the purpose of dealing with solid waste issues on a regional basis; and

WHEREAS, since April 2003, VPPSA has maintained standby contracts for the removal, reduction and disposal of debris from hurricanes and other disasters; and

WHEREAS, since April 2003, York County has maintained Service Agreements with VPPSA to utilize those contracts if and when necessary; and

WHEREAS, the most recent contracts for this service expired in April, 2013; and

WHEREAS, the VPPSA Board has entered into agreements with four firms to provide removal, reduction, and disposal of debris from hurricanes and other disasters; and

WHEREAS, over the last ten years, FEMA has modified documentation requirements for reimbursement for the collection, processing and disposal of debris so that a third party monitor must be used to have reasonable assurance of receiving reimbursement; and

WHEREAS, a Request for Proposals for Monitoring Services for the Removal, Reduction and Disposal of Debris from Hurricanes and other Disasters was issued by VPPSA and five proposals were received and have been reviewed by a Committee consisting of staff from Hampton, James City County, York and VPPSA; and

WHEREAS, the VPPSA Board has directed VPPSA staff to finalize and execute agreements with the three firms that were recommended to provide monitoring services;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 16th day of July, 2013, that the County Administrator be, and he hereby is, authorized to execute agreements between York County and VPPSA for the Removal, Reduction and Disposal of Debris from Hurricanes and for Monitoring of the Removal, Reduction and Disposal of Debris from Hurricanes and Other Disasters.

Item No. 11. NON-PROFIT REVENUE BOND FOR COLONIAL COMMUNITY SERVICES BOND, INC.: Resolution R13-75

A RESOLUTION TO APPROVE THE ISSUANCE OF QUALIFIED NON-PROFIT REVENUE BONDS BY THE ECONOMIC DEVELOPMENT AUTHORITY IN AN AMOUNT NOT TO EXCEED \$2,750,000 TO COLONIAL COMMUNITY SERVICES, INC., A NON-PROFIT CORPORATION AND AFFILIATED ENTITY OF COLONIAL BEHAVIORIAL HEALTH, INC.

WHEREAS, the Economic Development Authority of York County, Virginia (the "Authority") has considered the application of Colonial Community Services, Inc., a non-profit corporation and affiliated entity of Colonial Behavioral Health, Inc., (the "Borrower") whose principal place of business is 473 McLaws Circle, Williamsburg, Virginia 23185; and

WHEREAS, the Borrower has requested that the Authority issue its qualified non-profit revenue bonds in an amount not to exceed \$2,750,000 (the "Bonds") pursuant to the Industrial Development and Revenue Bond Act, Title 15.2, Chapter 49 of the Code of Virginia of 1950, as amended (the "Act") the proceeds from which Bonds will be used to assist the Borrower in (1) financing construction of community residential facilities for intellectually disabled individuals to be located in the County of York, Virginia (the "County") at (i) 208 Spring Road, York County, Virginia; (ii) 212 Spring Road, York County, Virginia and (iii) 101 Sycamore Lane, York County, Virginia (together, the "New Facilities") each an approximately 2,600 square feet of building; (2) refinancing all or a portion of outstanding obligations of the Borrower secured by facilities located at 1651, 1657 and 1659 Merrimac Trail in York County, Virginia (the "Existing Facilities," and, together with the New Facilities, the "Facilities") and (3) to pay cost of issuance of the Bonds; and

WHEREAS, the Borrower has described the benefits to the County and the Commonwealth of Virginia to the Authority and, after a public hearing held on June 25, 2013, the Authority has recommended to the Board of Supervisors of the County (the "Board of Supervisors") its approval of the issuance of the Bonds by the Authority under the Act in such amounts as may be necessary to finance and refinance the costs of the Facilities and to designate the Bonds as "qualified tax-exempt obligations" under Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the "Code"); and

WHEREAS, Section 147(f) of the Code and Section 15.2-4906 of the Act require approval of the Bonds by the Board of Supervisors after a public hearing by the Authority;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF YORK, VIRGINIA, this 16th day of July, 2013:

1. The Board of Supervisors hereby approves the financing and refinancing of the Facilities

and the issuance of the Bonds by the Authority for the benefit of the Borrower, as required by said Section 147(f) of the Code and Section 15.2-4906 of the Act, to permit the Authority to assist in the financing and refinancing of the Facilities.

2. The approval of the issuance of the Bonds does not constitute an endorsement of the Bonds or the creditworthiness of the Borrower or constitute an approval of other applications or submissions before the County relating to the Project, including, but not limited to special use permits and other zoning approvals, or otherwise indicate that the Facilities possess any economic viability. As required by the Act, the issuance of the Bonds as requested by the Borrower will not constitute a debt or pledge of the faith and credit of the Commonwealth of Virginia, the County or the Authority. Neither the Commonwealth of Virginia nor any political subdivision thereof, including the Authority or the County shall be obligated to pay the Bonds, or the interest thereon, or other costs incident thereto, except from the revenues and monies pledged therefore, and neither the faith and credit nor the taxing power of the Commonwealth of Virginia nor any political subdivision thereof, including the Authority or the County will be pledged to payment of principal of such Bonds or the interest thereon or other costs incidental thereto.

3. The Board of Supervisors hereby designates the Bonds as "qualified tax-exempt obligations" for the purpose of Section 265(b)(3) of the Code. The Authority and the County do not reasonably anticipate issuing more than \$10,000,000 in qualified tax-exempt obligations during calendar year 2013 and neither the Authority nor the County will designate more than \$10,000,000 of qualified tax-exempt obligations pursuant to Section 265(b)(3) of the Code during such calendar year.

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

#### **MATTERS PRESENTED BY THE BOARD**

Mrs. Noll stated she had the opportunity last week to go to the classes that a Colonial Williamsburg educational group was holding for teachers this summer. The purpose behind the classes was to reenergize teachers and give them in-depth experience with what goes on in Colonial Williamsburg and how to approach the history of the area. She noted there were 39 teachers from 12 different states, and some of the teachers had never been to the East Coast. She stated it was a very good scholarship program. The County was fortunate to have two teachers from the York County School Division attending the classes for the first time. Mrs. Noll stated she has supported and followed this program for many years, but this was the first time she had the opportunity to attend the training.

Mr. Hrichak stated VDOT's contractor had finally gotten the go ahead to start work on the Lakeside Drive construction project. Phase One of the project will take about eight months to complete and would be starting this Saturday and Sunday between Caraway Terrace and Showalter Road. A detour would be in place that will close off Showalter Road for through traffic, and citizens would have to use Ella Taylor Road. The detour hours would be between 7:00 a.m. to 6:00 p.m. on Saturday and Sunday. The other two phases of the project will use flaggers, so they will not have to close Lakeside Drive, and that work will be done on weekdays. Mr. Hrichak informed the citizens that for the next eight months they could expect detours on Lakeside Drive on Saturdays and Sundays.

Mr. Shepperd spoke of the experience he had while touring and spending the night on the carrier USS George Bush. The level of professionalism of the crew, which he thought averaged around 18 years old, had really impressed him and the other guests. He noted a lot was being asked of these young military people, and they were delivering. Mr. Shepperd stated the York County Board of Supervisors' coin was now in the state room of the CNO and several of the members of the crew that had hosted and guided the guests around the passage ways of the carrier. He stated his roommate on the carrier was a teacher and coach from Virginia Beach, and it had been interesting to hear from him a lot of the same issues that were talked about in York County that were also being raised in Virginia Beach. His roommate had also noted the County's Sports Complex was a problem for Virginia Beach because it was having a hard time getting teams out of Richmond and that area to come all the way over to Virginia Beach because they wanted to play at the York County Sports Complex.

Mr. Hrichak stated that through his work he had the opportunity to look at the HRPDC regionalization plan for HRSD, and he asked if anything had come out on that.

Mr. Shepperd stated the HRPDC was looking at trying to consolidate all sewer management systems in the Hampton Roads Sanitation Sewer District if it would be economical to do so. The draft that came out of the state showed that about a billion dollars could be saved over a 10-year period if the plan were consolidated. Mr. Shepperd thought the final report had to be done by the end of August and delivered to the state. He stated if that was not met, then what was currently in place would stay in effect.

Mr. Hrichak asked if the HRPDC was waiting for input from the municipalities to do the final report.

Mr. Shepperd stated the HRPDC has an agency that was actually doing the study, and it needed to complete the report, and then the HRPDC would vote on the report and then it would go to the state.

Mr. Wiggins stated he read in the newspaper that York County was doing a very good job keeping up with cleaning the Chesapeake Bay, and he had also read in another newspaper that Newport News and Hampton were being fined because they had not been doing a good job. He thought that spoke well for York County.

Mr. Shepperd stated the newspaper article did tell a lot of things, and one was that the County was doing a great job. It also responded to the EPA and its agreement for the Chesapeake Bay cleanup. He noted it must be kept in mind that the cities have a couple of different issues because of their population size, and with the size of their systems they fall under slightly different permit issues. He stated the cities have been around a long time, and their infrastructure problems were very serious problems, and they were going back and retrofitting and taking care of those problems. He thought what Mr. Wiggins was referring to were violations of oversight. He stated York County has a lot to be proud of, and he noted that there were a lot of new neighborhoods that were building BMPs that would adapt to the new specifications.

**CLOSED MEETING.** At 8:24 p.m. Mrs. Noll 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, Shepperd, Wiggins  
Nay: (0)

Meeting Reconvened. At 8:30 p.m. the meeting was reconvened in open session by order of the Vice 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 16th day of July, 2013, hereby certifies that, to the best of each member's knowledge, (1)

July 16, 2013

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, Shepperd, Noll, Wiggins  
Nay: (0)

REAPPOINTMENT TO THE YORK COUNTY WETLANDS BOARD

Mr. Wiggins moved the adoption of proposed Resolution R13-73 that reads:

A RESOLUTION TO REAPPOINT A MEMBER TO THE YORK COUNTY WETLANDS BOARD

WHEREAS, the term of Eric Ancarrow on the York County Wetlands Board expires on June 30, 2013; and

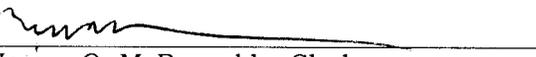
WHEREAS, Eric Ancarrow has indicated he wishes to be reappointed to the York County Wetlands Board;

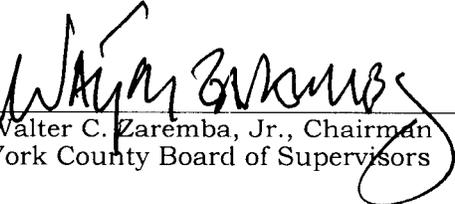
NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 16th day of July, 2013, that Eric Ancarrow be, and he is hereby, reappointed to the York County Wetlands Board for a term of five years, such term to begin on July 1, 2013 and expire on June 30, 2018.

On roll call the vote was:

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

Meeting Adjourned. At 8:35 p.m. Vice Chairman Wiggins declared the meeting adjourned sine die.

  
James O. McReynolds, Clerk  
York County Board of Supervisors

  
Walter C. Zaremba, Jr., Chairman  
York County Board of Supervisors