

MINUTES
BOARD OF SUPERVISORS
COUNTY OF YORK

Regular Meeting
November 19, 2013

6:00 p.m.

Meeting Convened. A Regular Meeting of the York County Board of Supervisors was called to order at 6:01 p.m., Tuesday, November 19, 2013, in the Board Room, York Hall, by Chairman Walter C. Zaremba.

Attendance. The following members of the Board of Supervisors were present: Walter C. Zaremba, 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; Vivian A. Calkins-McGettigan, Deputy County Administrator; and James E. Barnett, County Attorney.

Invocation. Mr. Keith Shaw, Peninsula Community Chapel, gave the invocation.

Pledge of Allegiance to the Flag of the United States of America. Mrs. Noll led the Pledge of Allegiance

PRESENTATIONS

INTRODUCTION OF NEW MEMBERS TO YORK COUNTY BOARDS AND COMMISSIONS

Chairman Zaremba introduced and welcomed Stephen Collier as the newest appointee to the Regional Issues Committee and presented him with a Boards and Commissions Handbook and York County pin.

CRISCUOLO FAMILY GIFT TO YORK COUNTY

Ms. Joanne Kelly, Trustee of the Mr. Peter C. Criscuolo Living Trust, presented the County with a gift of two checks for \$10,000 each. The first check was for General Services to be used for new park benches at Riverwalk Landing and the second check to the Division of Parks, Recreation, and Tourism.

FY2013 COMPREHENSIVE ANNUAL FINANCIAL REPORT

Ms. Krista Edoff, partner for the firm of Cherry Bekaert, LLP, presented the findings of the County's Fiscal Year 2013 audit. She stated the County received an unqualified opinion on all aspects of the audit, an unqualified opinion on the assessment of internal controls and compliance, an unmodified opinion on compliance with specifications for cities, counties, and towns, and an unmodified opinion on major federal programs of grants received. Ms. Edoff stated there were no significant audit adjustments noted during the audit. She noted that this year the County had implemented a couple of new standards; however, those standards did not have a significant impact and were only a slight classification change from Statement of Net Assets to Statement of New Position.

VIRGINIA DEPARTMENT OF TRANSPORTATION (VDOT) QUARTERLY TRANSPORTATION UPDATE

Mr. Rossie Carroll, Williamsburg Residency Administrator, provided the Board with the Residency's quarterly transportation report reviewing the maintenance accomplishments for the quarter, noting that 327 work orders were accomplished. He then updated the Board on the other accomplishments which included brush clearing on the Route 17 corridor, ditch regrading, slope mowing, pipe and ditch cleaning, and some roadway patching. He noted VDOT had completed the fourth mowing cycle on November 12. He then reviewed current and upcoming projects for the County. Mr. Carroll stated the snow response plans had been completed, and VDOT was prepared for pretreating and winter weather.

Mr. Shepperd stated he felt the Route 17 project was doing well, and he congratulated VDOT on the work that had been completed to this point. He asked Mr. Carroll if the schedule was available for the slurry seal.

Mr. Carroll stated he had submitted that schedule to the County.

Mr. Shepperd stated VDOT had done a great job with the median at Autumn Way on Hampton Highway but there are still a lot of little areas along the highway where water pools and never goes away. He stated he had spoken with Mr. Hudgins, and apparently there were some areas where the water was not flowing to the other side of the highway or not flowing correctly. He stated those areas were going to require VDOT to do some re-grading in the median or possibly cleaning out the pipes that flow back and forth. Mr. Shepperd noted he had given the list of problem areas to Mr. Carter, and hopefully VDOT would come up with a plan to fix those stormwater problems.

Mr. Carroll stated VDOT would evaluate the situation and come up with the best solution to handle the problems.

Mr. Hrichak stated that on Route 17 heading towards Newport News just past Victory Boulevard in the left hand lane at the next four cut-overs water puddles when it rains because the water was not draining off the roadway into the ditch.

Mr. Carroll stated there were some areas throughout the County where the shoulders have gotten higher and they had cut some of the shoulders in the median on Route 17. He stated the landscape medians had grown up over the years.

Mr. Hrichak asked if trenches could be dug to allow the water to drain.

Mr. Carroll stated VDOT did weep holes once in a while, but they clog up.

Mrs. Noll stated that even though there was a lot of construction on Route 17, the traffic seemed to be moving steadily even at a slower pace. She thought drivers were paying attention to the 35 MPH speed limit, and that was helping the flow of traffic. She noted she had attended a Transportation Committee meeting last week where a gentleman had shown a polymer-based composite for roadway construction. He had noted the product was less expensive than what VDOT had used. She asked Mr. Carroll if he knew anything about the product or any of the research that was going on regarding the product.

Mr. Carroll stated VDOT did a lot of research with the Virginia Research Council, and they looked at patching materials, asphalts to concretes, to try and determine the right product for the right situation.

Mrs. Noll stated on Victory Boulevard coming towards Route 17 from I-64 there was a new blue sign for Angelo's Restaurant. She noted that Angelo's was in Newport News, and York County had restaurants that were closer; and she wondered why the sign would be in York County.

Mr. Carroll explained that Virginia Logos was an operation through the State of Virginia where people could apply and get a permit and have approval for advertising on Virginia's highways, primary roads, and secondary roads.

Mrs. Noll asked if the locality had a say in what could be installed on County roads.

Mr. Carroll stated he did not think that Virginia Logos went through the localities on VDOT's right-of-ways. He stated the General Assembly had passed a law that all advertisements would go through Virginia Logos but he would check into the matter.

Discussion followed on the erection of Virginia Logos signs on County roads.

Mr. Wiggins stated the stop light at the intersection of Goodwin Neck Road and Route 17 coming from Seaford always had a backup, and only three cars could get through the intersection at one time. He asked Mr. Carroll to check into the problem to see what could be done.

Mr. Carroll stated he would check into the matter.

Chairman Zaremba stated in the last year and a half he had witnessed many assets spent on repaving roads. He felt all the major roads in the upper County had been paved, repaved, and were free of potholes and he congratulated VDOT for their fine work.

Mr. Carroll noted when he first came to the Williamsburg Residency, the County and VDOT had put a plan together to try and decrease the deficient pavements within the County, and tremendous strides had been made in the past three years. Mr. Carroll stated that 82 percent had been the target on the primary roads, and the target would be hit this year.

CITIZENS COMMENT PERIOD

Mr. Christopher James, 112 Worksop, Williamsburg, representing Community of Faith Mission (COFM), stated COFM was a faith-based, non-governmental emergency shelter ministry that provided emergency shelter and food on a weekly basis from November through March for people who were homeless in the Greater Williamsburg area. Mr. James stated that in 2012 COFM provided 12 weeks of services in James City County, the City of Williamsburg, and upper parts of York County to meet the needs of individuals and families who were homeless during the coldest months of the year. In 2013 COFM will provide 18 weeks of shelter with a maximum capacity of 25 guests per evening. He noted that approximately 30 congregations have volunteered to act as either a host or shelter partner for this year, and it has the full support of law enforcement, social service agencies, and the faith community. The feedback received from agencies indicates COFM is a great resource and saves the agencies' funding as they refer clients to the COFM shelter rather than paying for hotels. Mr. James stated St. John's Baptist Church on Penniman Road was charged a building inspection and fire inspection fee by York County for the required temporary occupancy permit. The City of Williamsburg agreed to waive the fees for the facilities in Williamsburg, and James City County has arranged to reimburse the facilities for any fees they incur. Mr. James requested that the Board waive all fees for any participating York County congregations.

Chairman Zaremba stated the Board would take Mr. James' request under advisement and get back to him with an answer.

Mr. Bill Meade, 101 Two Turkey Run, addressed the Board regarding his concerns with noise from the Grafton High School Band next door. He stated he had tried to contact the Grafton High School principal but had received no response. He indicated the noise level was so high it could be heard on Route 17 and across the community. Mr. Meade stated he felt a compromise might be possible as there was a section at the back of Grafton High School that could be used for the band's practice sessions. The area was surrounded by trees which would help block the noise. He noted the band plays until 9:00 p.m. at night, at 8:00 or 9:00 a.m. on Sunday mornings, as well as Saturday afternoons. He asked the Board to consider a compromise and move the band practices away from the Grafton Woods subdivision so residents could enjoy their homes.

Chairman Zaremba stated Grafton Woods was in Mr. Hrichak's district, and he would get in touch with the School Board to make sure Mr. Meade could have a meeting with the appropriate personnel.

COUNTY ATTORNEY REPORTS AND REQUESTS

Mr. Barnett reported that yesterday was the first day General Assembly members could begin to pre-file legislation. He stated when the bills were posted on the General Assembly's website by Legislative Services, he would start keeping the Board members informed regarding the bills. Mr. Barnett stated the General Assembly members have until December 6 to request Legislative Services help with a bill, and the first General Assembly session will begin January 8.

COUNTY ADMINISTRATOR REPORTS AND REQUESTS

Mr. McReynolds reminded the Board and the citizens of the December regular meetings to be held on December 3 and December 17. He announced that at the recent Virginia Association of Counties' conference the County was the recipient of two awards, the Virtual PSAP (Public Safety Answering Point) Award and the Go Green Award.

MATTERS PRESENTED BY THE BOARD

Mrs. Noll spoke of the interesting time she had at Grafton Bethel Elementary School watching the Lego team practice for a statewide competition, stating she had been fascinated with their ingenuity and what they were able to accomplish. She noted that today she and Ms. Kirschke, District 2 School Board Representative, had gone to Coventry Elementary to a fourth grade class for a demonstration done by the Jamestown-Yorktown Foundation Educational Outreach group that had spoken about Powhatan and the founding of Jamestown. Mrs. Noll then spoke of the program where Ferguson Enterprises and the Colonial Williamsburg Education Foundation have teamed together for all fourth graders in York County to go and learn more about local history. She also noted the Colonial Williamsburg Foundation Outreach Program provided a scholarship opportunity last summer for two York County teachers to attend a week-long, hands-on seminar so they could bring the information back to the classrooms and make history come alive for their students. Mrs. Noll then also congratulated the cheerleaders from Grafton High School who won the state competition.

Mr. Hrichak recalled that last year the Hampton Roads Community Foundation had commissioned a study to evaluate the various business supported boards in the region. The study had a threefold purpose: to gain understanding of the organization's mission and work; to compare the organizations to entities outside of Hampton Roads to see how they support the economic development of the region; and to offer recommendations on how the organizations could work together. As a part of this study, the Hampton Roads Partnership dissolved after serving the region for 15 years since it was decided that greater levels of collaboration and alignment in a coordinator were needed within all these organizations. He noted the Hampton Roads Regional Council, comprised of the Hampton Roads Chamber of Commerce, the Virginia Peninsula Chamber of Commerce, the Hampton Roads Economic Development Alliance, the Future of Hampton, HRMMFA, and the Hampton Roads Business Roundtable, was created to facilitate collaboration within all these organizations so everybody would know what the others were doing and to make things flow a little bit smoother. The Council would meet semi-annually with the Hampton Roads Mayors and Chairs and would be staffed by the board leader of these various organizations and the current managing staff executive. Mr. Hrichak thought every organization that had voted on this new council so far had approved it, so it looked like it was a go.

Chairman Zaremba asked if this would be coming before the Board of Supervisors for a vote.

Mr. Hrichak stated it would not come before the Board, but would go to each of the member organizations for approval.

Discussion followed on why two other Chambers of Commerce were not to be a part of the Council.

Mr. Shepperd stated he had attended the Virginia Association of Counties' conference at the Homestead last week, and he spoke of how interesting it was to meet and talk with other Supervisors from different regions of the state. He indicated he attended meetings regarding stormwater and the affordable home act, and another meeting had dealt with the transportation issue. After speaking with some other Supervisors, Mr. Shepperd quickly realized how beautiful York County was and how wonderful the quality of life was in the County. He stated he learned that the counties and the state were actually funding the under-medical cost of the affordable care act through the emergency system, and the amount of money that was being spent was amazing. Mr. Shepperd then spoke about stormwater and the implementation of the TMDLs, noting he still saw a gap between the state and what was being done on the County level. He stated the TMDL thing was not dead by any stretch of the imagination, and it would be coming back down on the County by 2016.

Meeting Recessed. At 6:58 p.m. Chairman Zaremba declared a short recess.

Meeting Reconvened. At 7:08 p.m. the meeting was reconvened in open session as ordered by the Chair.

PUBLIC HEARINGS

APPLICATION NO. UP-832-13, MARK A. AND J. PAIGE STEPHENS

Mr. Carter gave a presentation on Application No. UP-832-13 to approve a Special Use Permit to authorize private weddings and receptions for a fee as a business venture to be hosted on the premises of a bed and breakfast operation, previously authorized by Special Use Permit, on property located at 4201 Seaford Road. 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 Resolution R13-122.

Chairman Zaremba then called to order a public hearing on Application No. UP-832-13 which was duly advertised as required by law. Proposed Resolution R13-122 is entitled:

RESOLUTION TO APPROVE A SPECIAL USE PERMIT TO AUTHORIZE PRIVATE WEDDINGS AND RECEPTIONS FOR A FEE AS A BUSINESS VENTURE TO BE HOSTED ON THE PREMISES OF A BED AND BREAKFAST OPERATION, PREVIOUSLY AUTHORIZED BY SPECIAL USE PERMIT, ON PROPERTY LOCATED AT 4201 SEAFORD ROAD

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

Mrs. Noll moved the adoption of proposed Resolution R13-122 that reads:

RESOLUTION TO APPROVE A SPECIAL USE PERMIT TO AUTHORIZE PRIVATE WEDDINGS AND RECEPTIONS FOR A FEE AS A BUSINESS VENTURE TO BE HOSTED ON THE PREMISES OF A BED AND BREAKFAST OPERATION, PREVIOUSLY AUTHORIZED BY SPECIAL USE PERMIT, ON PROPERTY LOCATED AT 4201 SEAFORD ROAD

WHEREAS, on June 16, 2009, the York County Board of Supervisors approved Application No. UP-767-09, through the adoption of Resolution R09-86, to authorize a Special Use Permit for the establishment of a bed and breakfast operation in an existing single-family detached dwelling on a 9.45-acre parcel of land located at 4201 Seaford Road (Route 622) and further identified as Assessor's Parcel No. 26-75 (GPIN V08b-4893-4991); and

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WHEREAS, Mark A. and J. Paige Stephens have submitted Application No. UP-832-13 to request a Special Use Permit, pursuant to Section 24.1-409(e) of the York County Zoning Ordinance, to authorize private weddings and/or receptions for a fee as a business venture to be hosted on the premises of the operating bed and breakfast establishment located at 4201 Seaford Road (Route 622) and further identified as Assessor's Parcel No. 26-75 (GPIN V08b-4893-4991); 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 the 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 19th day of November, 2013 that Application No. UP-832-13 be, and it is hereby, approved to authorize a Special Use Permit, pursuant to Section 24.1-409(e) of the York County Zoning Ordinance, subject to the following conditions:

1. This use permit shall authorize private weddings and/or receptions (henceforth referred to as "events") for a fee as a business venture to be hosted on the premises of the operating bed and breakfast establishment located at 4201 Seaford Road and further identified as Assessor's Parcel No. 26-75 (GPIN V08b-4893-4991).
2. A site plan prepared in accordance with the provisions of Article V of the Zoning Ordinance shall be approved by the York County Department of Environmental and Development Services, Division of Development and Compliance, prior to the conducting of private weddings and/or receptions on the subject property. Said site plan shall be in substantial conformance with the sketch plan titled "Plan Showing Improvements to "Parcel A," Boundary Line Adjustment Between the Properties of C.W. Messner & Richard W. Teagle & Jack D. McComb, County of York, Virginia" prepared by Davis & Associates, P.C., dated April 1, 2009 and received by the Planning Division August 6, 2013, copies of which shall remain on file in the office of the Planning Division, except as modified herein.
3. Operation of events on the subject property shall be in compliance with the performance standards set forth in Section 24.1-409 of the Zoning Ordinance and applicable regulations of the Virginia Uniform Statewide Building Code, the Virginia Statewide Fire Prevention Code, and the International Fire Prevention Code.
4. The maximum number of guests permitted at any one event shall be one hundred sixty (160), not including caterers and other contract employees associated with individual events.
5. The applicants shall procure a new building permit and zoning approval for a temporary tent for use in accordance with the conditions herein prior to commencement of events. Location of the temporary tent shall be limited to the south side of the existing dwelling/bed and breakfast establishment as shown on the sketch plan referenced in Condition No. 2 above. The maximum number of consecutive days said tent can be installed on the premises shall not exceed the time limits established for temporary tents pursuant to the Virginia Statewide Fire Prevention Code and Section 2403 of the International Fire Prevention Code (i.e., not more than 180 days). In addition, the applicant shall consult with the Building Official to ensure compliance with all applicable Building Code requirements related to use of any building interior spaces for reception-related purposes.

- 6. The applicant shall insure that all stacking/queuing of vehicles entering or exiting the subject property in conjunction with events shall be accommodated on the property. Stacking/queuing of vehicles shall not be permitted in any public right-of-way.
- 7. Prior to commencement of events, signage reading "Do Not Block Driveway" shall be installed at the Seaford Road entrance to the driveway serving the property located at 4203 Seaford Road (Assessor's Map No. 26-6B, GPIN V09d-4500-0125).
- 8. The applicant shall be responsible for installation of a painted road surface stop bar across the westbound lane of Seaford Road at its intersection with Bay Tree Beach and York Point Roads. Said stop bar shall be installed in accordance with applicable Virginia Department of Transportation standards prior to the conducting of events.
- 9. In accordance with Section 24.1-115(b)(6) of the York County Zoning Ordinance, 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.

BE IT FURTHER RESOLVED that this Special Use Permit is not severable and invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

On roll call the vote was:

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

APPLICATION NO. UP-834-13, SWING KINGZ, LLC

Mr. Carter gave a presentation on Application No. UP-834-13 to approve a Special Use Permit to authorize miniature golf, batting cages, and a golf driving range on an 11.3-acre portion of an 87.8-acre parcel located at 301 Lightfoot Road (Route 646). 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 Resolution R13-124.

Chairman Zaremba then called to order a public hearing on Application No. UP-834-13 which was duly advertised as required by law. Proposed Resolution R13-124 is entitled:

RESOLUTION TO APPROVE A SPECIAL USE PERMIT TO AUTHORIZE THE ESTABLISHMENT OF A GOLF DRIVING RANGE, MINIATURE GOLF, AND BATTING CAGE FACILITY AT 301 LIGHTFOOT ROAD

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

Mrs. Noll moved the adoption of proposed Resolution R13-124 that reads:

RESOLUTION TO APPROVE A SPECIAL USE PERMIT TO AUTHORIZE THE ESTABLISHMENT OF A GOLF DRIVING RANGE, MINIATURE GOLF, AND BATTING CAGE FACILITY AT 301 LIGHTFOOT ROAD

WHEREAS, Swing Kingz, LLC, has submitted Application No. UP-834-13, which requests a Special Use Permit, pursuant to Section 24.1-306 (Category 9, Nos. 9 and 10) of the York County Zoning Ordinance, to authorize miniature golf, batting cages, and a golf driving range facility on an 11.3-acre portion of an 87.8-acre parcel located at 301 Lightfoot Road (Route 646) and further identified as Assessor's Parcel No. 2-17 (GPIN B19a-1390-4015); and

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

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WHEREAS, the Planning Commission recommends approval of the 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 19th day of November, 2013, that Application No. UP-834-13 be, and it is hereby, approved to authorize a Special Use Permit, pursuant to Section 24.1-306 (Category 9, Nos. 9 and 10) of the York County Zoning Ordinance, subject to the following conditions:

1. This use permit shall authorize the establishment of a miniature golf, batting cage, and golf driving range facility on an 11.3-acre portion of an 87.8-acre parcel located at 301 Lightfoot Road (Route 646) and further identified as Assessor's Parcel No. 2-17 (GPIN B19a-1390-4015).
2. The miniature golf, batting cage, and golf driving range facility shall be operated in substantial conformance with the plan titled "Conceptual Plan for Special Use Permit at The Swing King Facility, Existing Conditions" dated 8/29/2013 and prepared by Land Tech Resources, Inc., a copy of which shall remain on file in the office of the Planning Division.
3. The miniature golf, batting cages, and a golf driving range shall be operated in accordance with the standards set forth in Section 24.1-454, Standards for all recreation and amusement uses; Section 24.1-458, Standards for miniature golf, waterslide, skateboard rink, baseball hitting range, golf driving range, and other outdoor commercial amusements, of the Zoning Ordinance.
4. The one hundred-foot (100') separation buffer required under Section 24.1-458 may be reduced to a minimum of twenty-five feet (25'), provided, however, that buildings or parking areas developed in the future on any portion of the parent tract (i.e., the remainder of the parcel owned by the Williamsburg Pottery Factory, Inc.) shall be a minimum of fifty feet (50') from the driving range perimeter. The portion of the buffer adjoining the Laurel Spring Farm LLC parcel to the west shall be landscaped in accordance with the following standards. Landscaping of the remainder of the buffer may be deferred until the adjoining property is proposed for development and then shall be installed within ninety (90) days of the issuance of a building permit for construction on said adjoining property. Said buffer shall be landscaped to achieve the following ratios, at a minimum:
 - One large evergreen tree (ultimate height greater than or equal to 40') for every thirty (30) linear feet measured along the outside edge of the buffer, plus
 - One medium evergreen tree (ultimate height 20' to 40' for every twenty-five (25) linear feet measured along the outside edge of the buffer.
5. In accordance with the standards of the Virginia Department of Transportation (VDOT), the right shoulder area of westbound Lightfoot Road shall be restriped with skip marks.
6. In accordance with Section 24.1-115(b)(6) of the York County Zoning Ordinance, prior to site plan approval 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.

BE IT FURTHER RESOLVED that this Special Use Permit is not severable, and invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

On roll call the vote was:

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

APPLICATION NO. UP-833-13, MARQUIS WILLIAMSBURG RE HOLDING, LLC

Mr. Carter gave a presentation on Application No. UP-833-13 to amend the conditions of approval for a previously approved Special Use Permit by authorizing major modifications to the design and layout of an existing retail center (The Marquis) located on 127 acres of land at the intersection of Marquis Center Parkway (Route 199) and Marquis Parkway, and to authorize the establishment of an automobile fuel dispensing establishment on the above-referenced 82-acre parcel of land located at 300 Whittakers Trace. 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 Resolution R13-123.

Chairman Zaremba asked how a big box store and some lesser facilities could be added and traffic decrease during the peak hours.

Mr. Carter stated the current approvals were for 920,000 square feet of space, but the applicant's request was for 640,000 square feet, so there would be a reduction of 300,000 square feet in the floor area which was generating the reduction in the projected trip generation.

Mr. Greg Davis, 4801 Courthouse Street, representing the applicant Marquis Williamsburg RE Holding, LLC, stated his client Mr. Shawn Todd was in the audience along with Mr. Steve Romeo, the project engineer from VHB, and Ms. Debbie Lenceski, the project traffic engineer. He noted the state of the Marquis had been dismal in recent years with the Center having faced foreclosure, lawsuits concerning mechanics liens, and a number of other contractual matters facing the development. The tenants were angry as the Center had not developed the way they expected and had been told by earlier owners. The tenants were without leases and were not paying rent. The lifestyle center of small shops was meeting with no demand and the infrastructure was incomplete. After a great deal of work by Mr. Todd to address those concerns and after much work marketing the Center, a national club discount anchor tenant had now entered into a letter of intent to build a 136,000 square foot store at The Marquis. Mr. Davis noted an important element when looking at the fiscal impact was that a national retailer of this power and reputation would attract what was called "follow-on retail." He stated since the letter of intent was executed, Mr. Todd had fielded requests from restaurants which had before not been interested in locating in The Marquis Center. The fiscal impact of retail sales at The Marquis was expected to increase by more than \$137 million annually which would correlate into \$30 million in new revenue to the County over the ten-year study period. An additional 100,000 square feet of retail space that would follow the national discount anchor tenant was being projected. Mr. Davis noted there would be more discussion in the second part of the application about the plan for rooftops supporting the sustainability of the Center and the consistency of those plans with the MU overlay district. He stated the construction and new tenants would generate jobs and construction expenditures in the County. His client was confident that approval of this application would allow the Marquis to reach its potential as a destination shopping center. Mr. Davis stated the success of The Marquis would require this major anchor tenant, and it was a major coup to have attracted a powerful retailer who had said The Marquis was the right location for them. He also noted the plan required only modest changes to the special use permit and master plan.

Chairman Zaremba then called to order a public hearing on Application No. UP-833-13 which was duly advertised as required by law. Proposed Resolution R13-123 is entitled:

A RESOLUTION TO APPROVE AN APPLICATION FOR A SPECIAL USE PERMIT TO AUTHORIZE A MAJOR AMENDMENT TO A PREVIOUSLY APPROVED RETAIL CENTER OF MORE THAN 80,000 SQUARE FEET AT THE INTERSECTION OF ROUTE 199 AND MARQUIS PARKWAY, TO AUTHORIZE CONSTRUCTION OF AN AUTOMOBILE FUEL DISPENSING ESTABLISHMENT WITHIN

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THE RETAIL CENTER, AND TO RESTATE AND CONSOLIDATE
ALL APPLICABLE PROVISIONS FROM PREVIOUS USE PERMIT
APPROVALS FOR THIS PROPERTY

Ms. Shannon Hartig, 201 Water County Parkway, representing Days Hotel Williamsburg, addressed the Board regarding traffic at the intersection. She stated when the Marquis Center had been initially proposed, the hotel had not realized it would require moving the traffic light that used to be directly in front of the Days Hotel property. She stated the hotel had suffered because of the diminished access to get to Water Country USA. She asked that the Board not to be so enticed by what were obviously impressive tax revenues that would be generated and not inadvertently harm surrounding businesses. She stated she would like the long-term plan to include better access to the surrounding businesses.

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

Mr. Shepperd stated his understanding was that this application would require an annual traffic count be taken, and he asked if the traffic count would also be tied to the other Marquis application that would be before the Board later this evening.

Mr. Carter stated the traffic count would be tied to both applications.

Mr. Shepperd stated his impression was that the movement of traffic in that area was adequate. He asked why the light had been moved at the Days Hotel.

Mr. Carter stated when the project was initially proposed, VDOT and the Federal Highway Administration had been involved in reviewing the proposed entrance and how it could fit and work and be accommodated in the existing configuration of Route 199, and he explained that the entrance needed to be moved farther away from the end of the ramp as more space was needed to meet VDOT standards. Water Country had moved its entrance first, as there used to be traffic issues associated with people entering and exiting from Water Country that had required deputies to be there to direct traffic. Once Water County's entrance was moved farther to the north and they had provided additional stacking space on their property, those problems went away. Water Country and the Marquis could not share an entrance, so they had to be separated from one another, and The Marquis entrance had to be farther away from the interstate. Mr. Carter stated this three-legged intersection was eventually envisioned to be a four-legged intersection with Water Country Parkway being moved down or another road being constructed to connect into the current road. Mr. Carter stated the County had actually made application for a revenue sharing project hoping to get some preliminary design work under way for this intersection relocation, but was unsuccessful. He stated there have been some concept plans developed by Busch that show the connection being made at the intersection, and that would basically provide an easy way from the Days Hotel out to a signalized intersection.

Further discussion ensued regarding flow of traffic due to the development of additional homes in the area and the rebuilding of the intersection.

Mr. Wiggins stated he owned 10 acres of land he leases out to the trucking industries on Penniman Road, and it was almost impossible for those large tractor trailer trucks to come down Water Country Parkway and turn right or left at Penniman Road and Water Country Parkway. He stated he had talked with Busch representatives about the situation, and they led him to believe they were going to put a new road through from Penniman Road to Route 199 and it was going to happen soon fairly soon.

Mr. Carter stated a lot of people were thinking about the road, but nothing was known about the timing at this time.

Mr. Shepperd moved the adoption of proposed Resolution R13-123 that reads:

A RESOLUTION TO APPROVE AN APPLICATION FOR A SPECIAL
USE PERMIT TO AUTHORIZE A MAJOR AMENDMENT TO A
PREVIOUSLY APPROVED RETAIL CENTER OF MORE THAN

80,000 SQUARE FEET AT THE INTERSECTION OF ROUTE 199 AND MARQUIS PARKWAY, TO AUTHORIZE CONSTRUCTION OF AN AUTOMOBILE FUEL DISPENSING ESTABLISHMENT WITHIN THE RETAIL CENTER, AND TO RESTATE AND CONSOLIDATE ALL APPLICABLE PROVISIONS FROM PREVIOUS USE PERMIT APPROVALS FOR THIS PROPERTY

WHEREAS, on December 20, 2005, the York County Board of Supervisors approved Application No. UP-686-05 through the adoption of Resolution R05-201(R) to authorize a Special Use Permit for the establishment of a retail center of more than 80,000 square feet on property located on the south side of Route 199 in the southeast quadrant of the Interstate 64/Route 199 interchange; and

WHEREAS, pursuant to Section 24.1-115(d)(2) of the York County Zoning Ordinance, the Board amended the conditions of approval for the retail center set forth in Resolution R05-201(R) on May 16, 2006 and again on September 4, 2007 through the adoption of Resolutions R06-74(R) and R07-118, respectively; and

WHEREAS, Marquis Williamsburg RE Holding LLC has submitted Application No. UP-833-13, which requests to:

1. amend the conditions of approval set forth in the Resolution Nos. R05-201(R), R06-74(R), and R07-118, pursuant to Section 24.1-115(d)(3) of the York County Zoning Ordinance, by authorizing major modifications to the design and layout of the previously approved retail center located on 110 acres of land at the intersection of Marquis Center Parkway (Route 199) and Marquis Parkway (private) and further identified as Assessor's Parcel Nos. 11-4-3 (300 Whittakers Trace, GPIN H13d-4834-2062), 11-4-4 (100 Marquis Parkway, H13b-3833-3806), 11-4-6 (210 Whittakers Trace, GPIN H13b-3705-2673), 11-4-7 (500 Marquis Parkway, GPIN H13b-4652-2897), 11-4-10 (100 Terra Cotta Lane, GPIN H13b-4347-2639), and 11-4-11 (130 Marquis Parkway, GPIN H13b-3822-3722); and
2. authorize the construction of an automobile fuel dispensing establishment, pursuant to Section 24.1-306 of the York County Zoning Ordinance (Category 12, No. 2), on the above-referenced 82-acre parcel of land located at 300 Whittakers Trace and further identified as Assessor's Parcel No. 11-4-3 (GPIN H13d-4834-2062); and

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

WHEREAS, the Board of Supervisors has conducted a duly advertised public hearing on this application and has considered all comments and recommendations; and

WHEREAS, the Board of Supervisors desires to consolidate and restate in this resolution those provisions of Resolutions R05-201(R), R06-74(R), and R07-118 which remain applicable to the subject parcels; and

WHEREAS, such consolidation and restatement shall not supersede or void those resolutions with respect to their applicability to the properties named in each;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 19th day of November, 2013, that Application No. UP-833-13, be, and it is hereby, approved, pursuant to Section 24.1-115(d)(3) of the York County Zoning Ordinance, to amend the conditions of approval set forth in the Resolutions R05-201(R), R06-74(R), and R07-118 for a previously approved retail center located on 110 acres of land at the intersection of Marquis Center Parkway (Route 199) and Marquis Parkway (private) and further identified as Assessor's Parcel Nos. 11-4-3 (300 Whittakers Trace, GPIN H13d-4834-2062), 11-4-4 (100 Marquis Parkway, H13b-3833-3806), 11-4-6 (210 Whittakers Trace, GPIN H13b-3705-2673), 11-4-7 (500 Marquis Parkway, GPIN H13b-4652-2897), 11-4-10 (100 Terra Cotta Lane, GPIN H13b-4347-2639), and 11-4-11 (130 Marquis Parkway, GPIN H13b-3822-3722), and to consolidate all

applicable provisions from previous resolutions R05-201(R), R06-74(R), and R07-118 to read and provide as follows:

1. This Special Use Permit shall:
 - a. amend the conditions of approval set forth in the Resolutions R05-201(R) and R06-74(R) and R07-118, pursuant to Section 24.1-115(d)(3) of the York County Zoning Ordinance, by authorizing major modifications to the design and layout of a previously approved retail center of more than 80,000 square feet and known as the "North Pod" of the project identified as "The Marquis", located on 110 acres of land at the intersection of Marquis Center Parkway (Route 199) and Marquis Parkway (private) and further identified as Assessor's Parcel Nos. 11-4-3 (300 Whittakers Trace, GPIN H13d-4834-2062), 11-4-4 (100 Marquis Parkway, H13b-3833-3806), 11-4-6 (210 Whittakers Trace, GPIN H13b-3705-2673), 11-4-7 (500 Marquis Parkway, GPIN H13b-4652-2897), 11-4-10 (100 Terra Cotta Lane, GPIN H13b-4347-2639), and 11-4-11 (130 Marquis Parkway, GPIN H13b-3822-3722); and
 - b. authorize the construction of an automobile fuel dispensing establishment, pursuant to Section 24.1-306 of the York County Zoning Ordinance (Category 12, No. 2), on the above-referenced 82-acre parcel of land located at 300 Whittakers Trace and further identified as Assessor's Parcel No. 11-4-3 (GPIN H13d-4834-2062).
2. A site plan prepared in accordance with the provisions of Article V of the York County Zoning Ordinance shall be submitted to and approved by the York County Department of Environmental and Development Services, Division of Development and Compliance prior to the commencement of any construction or land clearing activities on the site. Said site plan shall be in substantial conformance with the sketch plan titled "North Pod Master Plan," prepared by VHB and dated August 29, 2013, except as modified herein.
3. The maximum allowable size of the retail center shall be 640,000 square feet of building area.
4. Parking lot layout and design shall comply with all applicable requirements of Section Nos. 24.1-606 and 607 of the Zoning Ordinance including, specifically, the provisions requiring:
 - a. Twenty (20) additional Landscape Credit Units (LCUs) to be earned for every ten (10) parking spaces in excess of the minimum number required by the Zoning Ordinance;
 - b. A maximum of fifteen (15) parking spaces in a row without an intervening landscaped island; and
 - c. The provision of landscaped islands and dividers to provide clear delineation of circulation patterns, guide vehicular traffic, prevent unsafe diagonal movements through the parking lot, break large expanses of pavement into sub-areas, minimize glare and noise, and delineate safe pedestrian routes
5. The automobile fuel dispensing establishment shall have a maximum of twelve (12) fueling positions.
6. Pursuant to previous approvals and the requirements of the Commonwealth Transportation Board and the Virginia Department of Transportation (VDOT), the Route 199/Marquis Parkway intersection is designed and intended to operate in accordance with an overall intersection Level of Service (LOS) C standard. Until such time as the currently undeveloped North Pod commercial parcels are developed, the applicant shall be required to submit detailed traffic count information for the Route 199/Marquis Parkway intersection to the County on an annual basis, commencing one year from the date of issuance of the next commercial Certificate of Occupancy within the North Pod, to

verify to the satisfaction of the County and VDOT, that the intersection is functioning at a LOS C or better.

BE IT FURTHER RESOLVED that all other conditions set forth in Resolutions R05-201(R), R06-74(R), and R07-118 shall remain in full force and effect and, for the purposes of consolidating the currently applicable provisions into a single resolution, are restated as follows:

1. Prior to site plan approval, the applicant shall secure wetlands permits required under Chapter 23.1 of the County Code, and any permits or approvals required from the Army Corps of Engineers for development impacting wetlands.
2. All signage on the property shall be in conformance with Article VII of the Zoning Ordinance. Freestanding identification signage for the overall project shall be limited to a single monument sign for each individual public street frontage bordering the property (Interstate 64, including the exit ramp and Route 199, extended) and shall be in substantial conformance with the monument sign elevation titled "Freestanding/Monument, The Marquis," Sheet 3, prepared by JPRA Architects, dated September 30, 2005 and received by the Planning Division on October 3, 2005. Freestanding identification signs for any separate outparcels shall be permitted in accordance with the terms of Article VII. Internal freestanding directional signage shall conform to Zoning Ordinance Section 24.1-707(r).
3. Pedestrian access and parking lot landscape dividers within the currently developed portions of the project shall remain in place. The ultimate site design shall also include any additional pedestrian ways and/or landscape dividers as may be deemed required in the course of final site plan review. "Major pedestrian access ways" shall be designed as a minimum 15-foot wide landscape island containing a minimum 5-foot wide sidewalk adjacent to a minimum 10-foot wide landscaped area. All other delineated pedestrian access ways shall be designed as minimum 10-foot wide islands containing minimum 4-foot wide sidewalks adjacent to minimum 6-foot wide landscaped areas.
4. All building and signage plans shall be subject to review and approval in accordance with the Design Guidelines and Design Review Committee Structure dated November 2, 2005, and referenced in paragraph numbered 6 of Resolution R05-201(R) and made a part of this resolution by reference. Building elevations shall be in general conformance with elevations titled "Williamsburg Row," sheet numbers 4 through 15, prepared by JPRA Architects, dated August 31, 2005 and received by the Planning Division September 23, 2003, and shall be subject to the design review and approval process set forth herein.
5. Prior to site plan approval, the applicant shall demonstrate to the satisfaction of the Virginia Department of Transportation (VDOT) and the County that the Route 199/Marquis Parkway intersection is capable of accommodating the additional traffic in accordance with the overall intersection Level of Service (LOS) C standard established by the Commonwealth Transportation Board.
6. The improvements necessary to accommodate the traffic impacts of the proposed development shall be the responsibility of the applicant. In the event transportation system improvements cannot be designed to accommodate the proposed amount of retail development and achieve the LOS standard, then the size (floor area) of the proposed commercial space shall be reduced accordingly from that depicted on the plan titled "North Pod Master Plan," prepared by VHB and dated August 29, 2013.

The project access road, Marquis Parkway, shall be designed as a limited access facility with no breaks on its north side other than a possible service/employee access connection to Water Country USA, and a possible pull-off/parking area to provide access to any interpretive area established in conjunction with the historic/archaeological resources to be preserved. Access breaks (entrances into the proposed development) on the south side shall be as generally depicted on the plan titled "North Pod Master Plan" prepared by VHB and dated August 29, 2013, provided further that the access drive

serving the loading docks for JC Penney shall be signed/restricted to "Delivery/Service Vehicles Only."

7. The main access road, Marquis Parkway, shall be considered a private road/commercial access and all future maintenance responsibility shall rest with the applicant/developer. In the event future development plans for The Marquis dictate a public road status for Marquis Parkway, the Marquis developer (or its successors) will be solely responsible for any necessary design and construction modifications.
8. Except as noted herein, preservation of historic resources on the property shall be fulfilled in accordance with the applicant's historical resources summary received by the Planning Division on October 3, 2005, which is included in this resolution by reference.

Prior to any clearing or grading activities in the area of historical resources site nos. 394, 396 or 1026 as identified in the report "Phase II Archaeological Significance Evaluation of Sites 44YO0394, 44YO0395, 44YO0396, and 44YO1026 at the Whittaker's Mill Tract in York County, Virginia," prepared by James River Institute for Archaeology, Inc., dated August 2005 and received by the Planning Division on September 1, 2005, and as noted as "area to undergo Phase III investigation" on Sheet C1.2 of the plans prepared by Landform, dated September 30, 2005 and received by the Planning Division October 3, 2005, a Phase III archaeology study shall be conducted in accordance with Virginia Department of Historical Resources (VDHR) guidelines. This shall include full recovery, documentation and archiving of all found historical artifacts on the site. Artifacts shall be archived at an antiquities repository facility constructed in accordance with applicable VDHR curation guidelines (36CFR, part 79), and shall be available to the public for educational and research purposes. In coordination with the County and VDHR, the applicant shall initiate application to the VDHR for nomination of preserved eligible sites to the National Register of Historic Places.

There shall be no disturbance of the gun emplacement/redoubt located within site No. 394 as identified in the above-referenced Phase II archaeological report, and a 50-foot undisturbed buffer shall be maintained surrounding the feature. Said buffer shall be delineated on approved site and grading plans, and shall be clearly demarcated on-site prior to clearing or grading activities in its vicinity. The Zoning Administrator may approve a decrease in the buffer provided engineered site plans adequately demonstrate that the feature will be completely protected from grading, soil erosion, or other land disturbing activities. In no case shall the buffer be decreased to less than 30 feet.

The applicant shall be responsible for the construction of a wayside vehicular pull-off area which shall include a parking area, pedestrian path, and interpretive signage in the area of site Nos. 394/395, as identified in the above-referenced Phase II archaeological report, for the purpose of displaying educational information, including, but not limited to, photographs and text describing the artifacts and the associated history of the site. Similar signage shall be placed on or near the buildings to be built over site No. 396 providing interpretive information about that site. The County, in coordination and cooperation with VDHR shall approve the proposed number, size, location, design, and materials of the signs, parking area, and pedestrian path.

9. Free standing and building lighting shall be full cut-off fixtures that are shielded and directed downward and level to the ground to prevent off-site illumination. The maximum height for on-site light fixture poles shall be as follows:

Pedestrian Walks and Plazas:	18 feet
Internal Streets and Drives:	25 feet
Parking Areas:	30 feet

Freestanding signage shall be internally lit, except where exterior lighting is directed downward and fully shielded. Illumination levels shall not exceed 0.5-foot candle at any exterior property line. Neon lighting exposed or contained within non-opaque fixtures shall not be permitted for signage or for building or other structure accents. All lighting schemes and lighting fixtures shall be consistent with the lighting recommended by the Illumination Engineering Society of North America (IESNA). Acceptable light

sources shall include incandescent and metal halide lamps, and should produce a color temperature close to daylight. Other sources may be approved by the Design Review Committee; however, mercury vapor sources are not permitted.

10. A 45-foot wide Greenbelt buffer shall be maintained abutting the western border of the property adjacent to the Route 199 and I-64 rights-of-way, including the interstate exit ramp.
11. Outdoor storage of retail goods or other materials shall not be permitted.
12. Rooftop HVAC, electrical and similar utilities shall be screened from view of any street right-of-way, circulation drive, parking area or pedestrian way.
13. Calculation of minimum required parking spaces shall be exclusive of spaces utilized for cart storage uses. Parking areas that are located along public right-of-way frontages shall be appropriately screened/buffered from view using fencing, walls (maximum 42 inches in height), or hedges.

BE IT STILL FURTHER RESOLVED that in accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this special use permit shall be recorded prior to application for site plan approval 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.

BE IT STILL FURTHER RESOLVED that this Special Use Permit is not severable, and invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

On roll call the vote was:

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

APPLICATION NO. PD-37-13, MARQUIS WILLIAMSBURG RE HOLDING, LLC

Mr. Carter gave a presentation on Application No. PD-37-13 to amend the York County Zoning Map, pursuant to Section 24.1-362 of the York County Zoning Ordinance, by reclassifying 100.7 acres of an approximately 113-acre parcel of land located at 900 Marquis Parkway on the east side of Interstate 64 south of the Route 199 (Marquis Center Parkway) interchange. The Planning Commission considered the application and forwarded it to the Board of Supervisors with a recommendation of denial 4:1. Staff recommended approval of the application through the adoption of proposed Ordinance No. 13-15. Mr. Carter noted staff had received a revised proffer this evening that increases the proffered school site from six and half acres to seven acres in area.

Discussion followed regarding the concerns of the Naval Weapon Station about the close proximity of the proposed housing and the noise associated with the Station's existing firing range and the potential for another.

Chairman Zaremba asked what the rationale was for the adjustment to the dimensional standards.

Mr. Carter stated some of it related to development yield, and accommodating 161 lots on the proposed area necessitated a narrower lot size. The applicant's request for the 35 feet was related to the lots that would be located on cul-de-sacs or other areas where the lots might need to be configured in more of a pie shape than a standard rectangular lot and so therefore needed some leeway on the lot width. The minimum front yard setback was a matter of the size of the lots that are proposed and their ability to accommodate a reasonably sized footprint for a building on that site. The building height request was related entirely to the apartments and their ability to achieve the yield the applicant desires on that site.

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Mr. Shepperd noted that in the past the Fire Chief had talked about needing a minimum of 18 feet to get between houses, and he asked how the 15 feet would work.

Mr. Carter stated there were some developments in the County that had 15 foot spacing between single family residences, and the Building Code allows even less.

Mr. Hrichak asked if there was fire apparatus in that part of the County to handle the 75 foot height.

Mr. Carter stated there was a ladder truck in the upper part of the County. The 75 feet was actually the building height allowed in the EO zone, so the applicant was not proposing anything higher than could be accommodated in the EO zone as a matter of right.

Discussion followed on the size of the lots and the number of bedrooms for the apartment units, as well as the demographics of the potential residents.

Chairman Zaremba stated there had been an article in this morning's Daily Press regarding the need for another school.

Mr. Carter stated the School Division was aware of this proposal, and Mr. McReynolds had some discussion with the School Superintendent regarding it. Mr. Cross works on an annual basis with the School Division to help develop the projections for future years' enrollment, taking into account ongoing and future development, so he felt the School Board was relying on that information in terms of what developments might be out there that could occur in the future and how that might impact elementary level capacity issues, particularly in the upper end of the lower County where there are a number of developments that are matter of right type developments that could occur in the fairly near future. Mr. Carter stated if this application were approved, the developer's proffer would provide options to be considered as to how to deal with the school capacity issue.

Further discussion ensued regarding this development's potential impact on school capacity, as well as current by-right developments that could occur. The Board and staff also talked about the possible sites for a new elementary school and the applicant's proffer of land for a school site.

Mr. Carter concluded stating if the Board chose to approve this ordinance, it would become Ordinance No. 13-15(R) to adjust it for the requirements that deal with the tennis courts and the recreational amenities and to make sure the date of the proffer statement was correctly inserted.

Mr. Wiggins asked Mr. McReynolds to relay to the rest of the Board what they had talked about today regarding the residential housing element of the project.

Mr. McReynolds stated this property was initially part of the CDA, and the revenues generated from the property that was being proposed to be rezoned residential would have gone to retire the bonds that were initially issued for the project. Negotiations have taken place with the bond holders, the developer, and others to have the requirement for all the taxes that are generated by the residential portion of the south pod to come to County as any other tax revenues would. Mr. McReynolds stated the fiscal impact study indicated it should be sufficient to cover the operating costs associated with the services that would be demanded by the project.

Chairman Zaremba asked if it would include the construction of schools.

Mr. McReynolds stated it did not include the capital component, which was why the proffer had been suggested.

Mr. Carter stated he did not recall the specific numbers, but the applicant's projections indicated there would be quite a significant excess of revenues over expenditures, and the applicant had included the estimated incremental costs of teachers and other services that would be associated with the project.

Mr. Davis, 4801 Courthouse Street, Williamsburg, representing the applicant, gave a slide presentation of examples of the type of architecture that HH Hunt was proposing for the residential development on the South Pod. He noted the target buyer for the homes in this section of the Marquis would be younger people with no children. He then reviewed the amenities package, stating they had also increased their commitment to recreational amenities through the proffers. The developer had listened carefully to the Planning Commission and had increased the separation between the houses in the single family section from 15 to 20 feet with the exception of the 10 percent or so of the lots that would accommodate curves in the road and other development constraints. Mr. Davis spoke of the school site proffer which had been increased from 6.5 to 7 acres, and it allowed other public uses for the site other than a school or could also be sold by the County. He stated the revenue from the residential development was projected at \$1.9 million per year with total operating costs to the County, including schools, of \$900,000. He indicated the North and South Pods were interdependent, and the national club retailer anchor tenant for the North Pod required 650 residential units because of the need for rooftops to support the Marquis. He stated they now have an anchor tenant that has the 650 rooftops in their letter of intent, and the South Pod has proven unattractive to retail development. He stated the fiscal impacts of the North Pod could not be ignored when evaluating the South Pod as the two were a true mix of uses. Mr. Davis concluded by stating this was not the ordinary residential zoning proposal because of the huge economic power of the Marquis Center.

Mrs. Noll asked if it was correct that the big box tenant could still walk after the housing was approved even though there was a letter of intent.

Mr. Davis stated they could still walk, but they feel very comfortable about the anchor tenant who had already submitted architectural renderings to County staff, and they were already at work on a fast track to submit plans in January. He stated infrastructure necessary to build residential was critical, and about \$4 million of road work and infrastructure was required to access to the South Pod. Mr. Davis stated no residential developer would invest \$4 million to be able to build 650 units, and the bond holders had agreed to purchase additional bonds to fund the extension of the Marquis Parkway to provide access. Without the bondholder's funding for that stretch of roadway, there would be no residential component. Mr. Davis stated the bondholders have stated in writing if the national club retail tenant does not locate in the Marquis, they will not fund the \$4 million of infrastructure needed to access the South Pod.

Chairman Zaremba asked Mr. McReynolds to read the correspondence from the bondholders into the record.

Mr. McReynolds stated the pertinent part of the message received from the bondholders stated "new bonds will not be issued and funded until written proof of an executed lease with the subject retailer is provided. All contingencies of the letter of intent are waived, the due diligence period is complete, acquisition of all necessary entitlements, and the premises is delivered to the business. All necessary construction permits/approvals are obtained and construction of the store has commenced."

Further discussion ensued regarding the possibility of another lender providing funding for infrastructure improvement.

Mr. Shepperd spoke of the proposal for the pool, stating the Zoning Ordinance included a range of pool sizes with the minimum being 3,500 square feet. He stated he thought what he had seen in the proposal was a minimum of 4,500 square feet, and he asked if the square footage was fixed.

Mr. Davis stated the pool size proposed for the apartments was under 4,500 square feet, and he thought it was proposed at 3,000 and was specified as either a lap or resort pool.

Discussion followed on the pool size requirements.

Mr. Shawn Todd, 400 North Ervay, Dallas, Texas, stated the focus on amenities was geared toward the unique nomenclature of the project site and what HH Hunt had stated the demographic study produced. He stated the reality of the study showed that people wanted smaller lots with more amenities in the house with less homeowner association (HOA) responsibilities

for improvements that the demographic types did not use. He stated HH Hunt was a custom builder that was focused on the community. Staff had worked on an extremely quick timeline which was served up by a retailer who had moved step in step with everything they had said they were going to do from the beginning. Mr. Todd stated he fully anticipated that this retailer will move forward on the project. He stated things had happened with the Marquis in 2008, and the landscape changed in the real estate development community. He stated this national retailer had gotten all its committee approvals and had been given an option to buy. Many of the current tenants were talking with their legal staffs about changing the initial configuration that was within their leases. He stated there was still a lot of work to be done, but the retailers were all cooperating with them.

Chairman Zaremba asked if the residential development would proceed absent the necessary funding from the big box to get the crossing in place.

Mr. Todd stated the residential development would not proceed absent the necessary funding for the crossing. He stated he could not finance the crossing; and for 650 lots, this deal did not work for him absent the subsidy and absent what they were projecting would happen on the other piece of the project.

Mr. Shepperd asked Mr. Todd what subsidy he had referred to earlier.

Mr. Todd stated the subsidy was the bondholders as they have a vested interest to see this project move forward.

Mr. Shepperd stated there was a lot of interest in communities for pools for sporting events and for the families. He stated he wanted to understand the rationale behind not having a pool for the residential homes.

Mr. Todd stated the builder had looked at all the dynamics, and the study showed the buyers want small lots and to put their money into the house. The builders were focused on the payment for the clientele base; and when amenities start being added, it increases the overall HOA payment.

Mrs. Noll asked about the noise from the freeway.

Mr. Todd stated the freeway was several feet below the property, and because of the gas line easement that runs parallel to I-64 and the other easements, their side would be several hundred feet back and higher. With regard to the Navy, he stated they were aware of what was occurring there presently which did not present a nuisance to them, any of their shoppers, the water park, or the nice timeshares next to the water park. He stated the Navy had expressed to him they are thinking about something in the future, and if and when that might come about they would obviously have an obligation to share that with the homebuilder. Mr. Todd stated the Navy had no funding at present and they had not gone through any of their environmental studies or noise studies.

Chairman Zaremba then called to order a public hearing on Application No. PD-37-13 which was duly advertised as required by law. Proposed Ordinance No. 13-15(R) is entitled:

AN ORDINANCE TO APPROVE AN APPLICATION TO REZONE APPROXIMATELY 100.7 ACRES LOCATED AT 900 MARQUIS PARKWAY FROM ECONOMIC OPPORTUNITY TO PLANNED DEVELOPMENT RESIDENTIAL

Ms. Shannon Hartig, 201 Water County Parkway, representing Days Hotel Williamsburg, stated as she listened to the presentation and the school situation that had been brought up it had brought up another concern in terms of the traffic because where schools are involved there is almost always the stacking of buses. She noted while a school does not necessarily add to a traffic count over a 24 hour period, at the arrival and dismissal times there would be a lot of traffic. She stated if the stacking of buses were to occur on Route 199, it would come with a lot of safety concerns that could cause them to lose their left turn entrance onto Water Country Parkway.

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

Mr. Hrichak moved the adoption of proposed Ordinance No. 13-15(R) that reads:

AN ORDINANCE TO APPROVE AN APPLICATION TO REZONE APPROXIMATELY 100.7 ACRES LOCATED AT 900 MARQUIS PARKWAY FROM ECONOMIC OPPORTUNITY TO PLANNED DEVELOPMENT RESIDENTIAL

WHEREAS, Marquis Williamsburg RE Holding LLC has submitted Application No. PD-37-13, which is a request to amend the York County Zoning Map by reclassifying approximately 100.7 acres of an approximately 112.6-acre parcel of land located on the east side of Interstate 64 south of the Route 199 (Marquis Center Parkway) interchange, further identified as Assessor's Parcel No. 11-4-12 (GPIN I13c-0012-1173), from EO (Economic Opportunity) to PDR (Planned Development Residential); and

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

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application and has forwarded a recommendation of denial to the Board; and

WHEREAS, the Board has conducted a duly advertised public hearing and has carefully considered the recommendations of the Planning Commission and staff and public comments with respect to this application;

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this the 19th day of November, 2013, that Application No. PD-37-13 be, and it is hereby, approved to amend the York County Zoning Map by reclassifying from EO (Economic Opportunity) to PDR (Planned Development Residential) approximately 100.7 acres of an approximately 112.6-acre parcel of land located on the east side of Interstate 64 south of the Route 199 (Marquis Center Parkway) interchange, further identified as Assessor's Parcel No. 11-4-12 (GPIN I13c-0012-1173) and more fully described below:

Beginning at the common corner with Parcel 3 and Interstate 64 Interchange 243 Entrance Ramp, having coordinates of North: 3620563.0097, East: 12023893.9367' Virginia State Plane South Zone (NAD 83); Thence departing the common corner with Parcel 3 and Interstate 64 Interchange 243 Entrance Ramp and running along the common line with Parcel 3 N57° 09' 09"E A distance of 539.15' feet to a point; Thence N32° 50' 51"W a distance of 300.00' feet to a point; Thence N51° 19' 44"E a distance of 199.24' feet to a point; Thence N82° 00' 13"E a distance of 343.27' feet to a point; Thence N71° 32' 57"E a distance of 300.00' feet to a point; Thence S42° 25' 44"E a distance of 697.76' feet to a point; Thence N42° 54' 54"E a distance of 327.09' feet to a point; Thence N33° 32' 35"E a distance of 338.00' feet to a point; Thence N78° 31' 22"E a distance of 351.65' feet to a point; Thence N63° 47' 04"E a distance of 82.53' feet to a point on the centerline of stream and survey tie line being the common corner of Parcel 3 and U.S. Naval Mine Depot; Thence following the centerline of stream being the common line with U.S. Naval Mine Depot along survey tie line S5° 56' 49"E a distance of 190.13' feet to a point; Thence S60° 39' 47"W a distance of 123.56' feet to a point; Thence S11° 28' 33"W a distance of 393.76' feet to a point; Thence S51° 11' 08"E a distance of 305.20' feet to a point; Thence S2° 04' 54"E a distance of 2285.71' feet to a point on the center line of stream; Thence departing the centerline of stream and survey tie line and continuing along the common line with U.S. Naval Mine Depot S19° 37' 36"W a distance of 287.97' feet to a point; Thence S14° 13' 15"W a distance of 102.41' feet to a point; Thence S4° 00' 16"W a distance of 157.77' feet to a point; Thence S22° 49' 56"W a distance of 146.17' feet to a point; Thence S25° 47' 20"W a distance of 375.73' feet to a point being the common corner of U.S. Naval Mine Depot and Interstate 64 Interchange 243 Entrance Ramp; Thence departing common corner with U.S. Naval Mine Depot and Interstate 64 Interchange 243 Entrance Ramp and running along the common line with Interstate 64 Interchange 243 Entrance Ramp N1° 43' 14"E a distance of 935.34' feet to a point; Thence N15° 46' 21"W A distance of 145.60' feet to a point; Thence N0° 10' 22"E a distance of 290.00' feet to a point; Thence N18° 21' 00"E A distance of 144.24' feet to a point; Thence N22° 22' 05"W a distance of 273.95' feet to a point; Thence along a curve to the left hav-

ing a Radius of 608.00', an arc length of 791.2', Delta 74° 33' 41", cord bearing of N65° 28' 40"W, and cord distance of 736.56' feet to a point; Thence S65° 22' 19"W A distance of 281.09' feet to a point; Thence S65° 44' 20"W a distance of 88.77' feet to a point; Thence N80° 20' 46.36"W a distance of 196.42' feet to a point; Thence N44° 40' 08"W A distance of 108.89' feet to a point; Thence S85° 12' 18"W a distance of 87.22' feet to a point; Thence N31° 25' 31"W a distance of 452.53' feet to a point; Thence N39° 00' 24"W A distance of 151.33' feet to a point being the common corner of Interstate 64 Interchange 243 Entrance Ramp and Interstate 64 Interchange 242-B Exit Ramp; Thence departing the common corner of Interstate 64 Interchange 243 Entrance Ramp and Interstate 64 Interchange 242-B Exit Ramp and running along the common line with Interstate 64 Interchange 242-B Exit Ramp N31° 22' 34"W a distance of 491.32' feet to a point; Thence N29° 36' 06"W a distance of 199.87' feet to a point; Thence N32° 50' 51"W a distance of 95.40' feet to point of beginning.

BE IT FURTHER ORDAINED that the planned development shall be subject to the following conditions:

1. General Layout, Design, and Density
 - a) The development shall be designed and constructed in accordance with the provisions of 24.1-361, Planned Development Residential district, except as modified herein.
 - b) A site plan or subdivision plan, prepared in accordance with the provisions of Article V of the Zoning Ordinance or Chapter 20.5, Subdivision 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 for each phase of the development. Except as modified herein, said site plan or subdivision plan shall be in substantial conformance with the overall development master plan titled "South Pod Concept Plan," prepared by VHB and dated November 12, 2013.
 - c) The maximum number of residential units shall be 650, including approximately 300 apartments, 189 townhouses, and not more than 161 single-family detached units.
2. Residential Area Design Parameters
 - a) The minimum lot width for single-family detached homes shall be 45 feet, provided, however, that a minimum lot width of 35 feet shall be permitted for up to 5% of the lots.
 - b) The minimum front yard setback for single-family detached and single-family attached homes shall be twenty feet (20').
 - c) The minimum rear yard setback for single-family detached homes shall be ten feet (10'). Attached decks or porches shall be subject to the 10-foot setback requirement
 - d) The minimum building separation between any two principal buildings, including attached decks or porches, shall be fifteen feet (15') for single-family attached homes. The minimum side yard for single family detached dwellings shall be 10 feet (10'), provided, however, that not more than 10% of the lots may have side yards of 7.5 feet. Where two adjacent structures are separated by less than twenty feet (20'), the following conditions shall be met:
 1. Structures shall be constructed with an approved NFPA 13R Sprinkler System, and/or
 2. All adjacent facing walls shall be constructed with an approved fire-resistive exterior finish (or other approved alternatives) and said fire-resistive construction shall include associated projections (cornices,

eaves, overhangs, fireplaces, etc). This shall include the projections for the fireplaces extending into the fifteen-foot (15') separation. Furthermore, in order to accommodate design features, a limited percentage (exact percentage to be determined by the Department of Fire and Life Safety) of the fire-resistive section of the structure could be allowed to have unprotected openings.

- e) The maximum building height for multi-family residential structures shall be 75 feet.

3. Streets and Roads

Shoulder bike lanes with a minimum width of four feet (4') shall be provided along both sides of Marquis Parkway between the northern parcel boundary and the single-family detached section of the development.

4. Fire and Life Safety

All roads and parking lots shall be designed to accommodate the turning radius of large fire and rescue apparatus.

5. Open Space and Recreation

- a) Common open space shall be provided as generally depicted on the reference Concept Plan and in accordance with the provisions set forth in Section 24.1-361.1(e) of the Zoning Ordinance. In no event shall the amount of common open space be less than 25% of the total gross area of the planned development.

- b) Recreational facilities shall be in accordance with the provisions set forth in Section 24.1-361(e)(3), with the following exceptions:

- i) A swimming pool shall be provided specifically for the proposed apartment units shall be a resort-style or lap pool. Nothing herein shall preclude the developer or developers from voluntarily making arrangements and agreements that would enable residents of other portions of the development to have access to the apartment project pool.
- ii) In lieu of the otherwise required playgrounds, a minimum of two (2) outdoor activity facility areas designed for activities such as community picnic shelters, barbecue grilling areas, horseshoe pits, etc. shall be provided. Such facilities shall be located so as to be visible for security and safety purposes, easily accessible for residents and for maintenance, and located or buffered so as not to create the potential for adverse impacts (e.g., noise, lack of privacy, security, etc.) on any adjoining residential properties.
- iii) Notwithstanding the provisions of Section 24.1-361(e)(3)d of the Zoning Ordinance, portions of recreation areas may be located in areas containing fuel, power, or other transmission lines and rights-of-way provided that those utility features do not interfere with or create hazards for use of the recreational facilities.

6. Environment

- a) Prior to the approval of any site plans for this development, the developer shall submit a Natural Resources Inventory of the property prepared in accordance with Section 23.2-6 of the York County Code and evidence of all environmental permits.
- b) Any proposed disturbance of wetlands on the property shall require a permit from the U.S. Army Corps of Engineers and/or Virginia Department of Environmental Quality. Chesapeake Bay Preservation Area (CBPA) buffers shall be

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measured from the limits shown on the latest ACOE-approved wetlands delineation.

7. Proffered Conditions

The reclassification shall be subject to the conditions listed in the proffer statement titled "THE MARQUIS – SOUTH PARCEL (GPIN: 113c-0012-1173) PDR REZONING PROFFERS" dated November 19, 2013 and signed by Patrick S. Todd, Managing Member, Marquis Williamsburg RE Holding, LLC.

BE IT STILL FURTHER ORDAINED that in accordance with Section 24.1-114(e)(1) of the York County Zoning Ordinance, a certified copy of the ordinance approving this application, 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 prior to application for site plan approval

On roll call the vote was:

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

APPLICATION NO. ZT-145-13, YORK COUNTY BOARD OF SUPERVISORS

Mr. Carter gave a presentation on Application No. ZT-145-13 to consider an amendment to Section 24.1-306 – Category 1, No. 9 (Table of Land Uses) of the York County Zoning Ordinance to add an opportunity for approval by Special Use Permit of senior housing-independent living facility-multi-unit structures with internal entrances in the EO-Economic Opportunity District. 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. 13-16.

Chairman Zaremba then called to order a public hearing on Application No. ZT-145-13 which was duly advertised as required by law. Proposed Ordinance No. 13-16 is entitled:

AN ORDINANCE TO APPROVE APPLICATION NO. ZT-145-13 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

There being no one present to speak regarding the subject application, Chairman Zaremba closed the public hearing.

Mr. Hrichak moved the adoption of proposed Ordinance No. 13-16 that reads:

AN ORDINANCE TO APPROVE APPLICATION NO. ZT-145-13 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, this application has been sponsored by the York County Board of Supervisors to allow consideration of an amendment to Section 24.1-306 (Table of Land Uses) of the York County Zoning Ordinance to add Senior Housing-Independent Living – Multi-unit Structures with Internal Entrances as a Special Use Permit use in the EO-Economic Opportunity zoning district; and

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

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application and has recommended approval; and

WHEREAS, the Board has conducted a duly advertised public hearing and has carefully considered the comments and recommendations with respect to this application;

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this the 19th day of November, 2013, that Application No. ZT-145-13 be, and it is hereby, approved to amend Section 24.1-306, Table of Land Uses, Category 1- Residential Uses, of the York County Zoning Ordinance, as follows:

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				S		P							
• Duplex						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													
(a) detached or attached units w/ individual outside entrances						S							
(b) multi-unit structures w/internal entrances						S	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

On roll call the vote was:

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

DEED OF EXCHANGE

Mr. Barnett gave a presentation on proposed Resolution R13-120 authorizing the County Administrator to execute a deed of exchange with the County School Board of York County, Vir-

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ginia, conveying a piece of land located at 619 Cook Road to the School Board in exchange for the School Board conveying a piece of land located at 9300 George Washington Memorial Highway to the County.

Chairman Zaremba then called to order a public hearing on proposed Resolution R13-120 which was duly advertised as required by law and is entitled:

A RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE A DEED OF EXCHANGE WITH THE COUNTY SCHOOL BOARD OF YORK COUNTY, VIRGINIA, CONVEYING A PIECE OF LAND LOCATED AT 619 COOK ROAD CONSISTING OF 3,711 S.F.± TO THE SCHOOL BOARD IN EXCHANGE FOR THE SCHOOL BOARD CONVEYING A PIECE OF LAND CONSISTING OF 85,107 S.F.± LOCATED AT 9300 GEORGE WASHINGTON MEMORIAL HIGHWAY TO THE COUNTY

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

Mr. Hrichak moved the adoption of proposed Resolution R13-120 that reads:

A RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE A DEED OF EXCHANGE WITH THE COUNTY SCHOOL BOARD OF YORK COUNTY, VIRGINIA, CONVEYING A PIECE OF LAND LOCATED AT 619 COOK ROAD CONSISTING OF 3,711 S.F.± TO THE SCHOOL BOARD IN EXCHANGE FOR THE SCHOOL BOARD CONVEYING A PIECE OF LAND CONSISTING OF 85,107 S.F.± LOCATED AT 9300 GEORGE WASHINGTON MEMORIAL HIGHWAY TO THE COUNTY

WHEREAS, the County owns property located at 619 Cook Road; and

WHEREAS, the York County School Board owns property located at 9300 George Washington Memorial Highway located immediately adjacent to the County's parcel; and

WHEREAS, the County and the School Board have agreed to a mutual exchange of property whereby the County will convey to the School Board a portion of 619 Cook Road consisting of approximately 3,711 sq. ft. shown as Area B on a certain plat entitled "Boundary Line Adjustment of Properties Standing in the Name of the County of York and the York County School Board" made by AES Consulting Engineers, dated May 14, 2013, in exchange for conveyance by the School Board to the County of a portion of 9300 George Washington Memorial Highway containing approximately 85,107 sq. ft. and shown as Area A on the referenced plat; and

WHEREAS, following a public hearing duly advertised pursuant to Code of Virginia § 15.2-1800, this Board has determined that the proposed exchange of property is in the public interest;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 19th day of November, 2013, that the County Administrator is authorized to execute such deeds, plats, and other documents as may be required to convey to the County School Board that portion of property shown as Area B on the referenced plat, in exchange for that portion of property shown as Area A on the referenced plat, such documents to be approved as to form by the County Attorney.

On roll call the vote was:

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

AMENDMENT TO THE YORK COUNTY CODE: NOISE ORDINANCE

Mr. Barnett gave a presentation on proposed Ordinance No. 13-14 to amend Sections 16-19.2 (A) and (B) of the York County Code relating to prohibited plainly audible noise.

Chairman Zaremba then called to order a public hearing on proposed Resolution R13-120 which was duly advertised as required by law and is entitled:

A RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE A DEED OF EXCHANGE WITH THE COUNTY SCHOOL BOARD OF YORK COUNTY, VIRGINIA, CONVEYING A PIECE OF LAND LOCATED AT 619 COOK ROAD CONSISTING OF 3,711 S.F.± TO THE SCHOOL BOARD IN EXCHANGE FOR THE SCHOOL BOARD CONVEYING A PIECE OF LAND CONSISTING OF 85,107 S.F.± LOCATED AT 9300 GEORGE WASHINGTON MEMORIAL HIGHWAY TO THE COUNTY

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

Mr. Shepperd moved the adoption of proposed Ordinance No. 13-14 that reads:

A RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE A DEED OF EXCHANGE WITH THE COUNTY SCHOOL BOARD OF YORK COUNTY, VIRGINIA, CONVEYING A PIECE OF LAND LOCATED AT 619 COOK ROAD CONSISTING OF 3,711 S.F.± TO THE SCHOOL BOARD IN EXCHANGE FOR THE SCHOOL BOARD CONVEYING A PIECE OF LAND CONSISTING OF 85,107 S.F.± LOCATED AT 9300 GEORGE WASHINGTON MEMORIAL HIGHWAY TO THE COUNTY

WHEREAS, the County owns property located at 619 Cook Road; and

WHEREAS, the York County School Board owns property located at 9300 George Washington Memorial Highway located immediately adjacent to the County's parcel; and

WHEREAS, the County and the School Board have agreed to a mutual exchange of property whereby the County will convey to the School Board a portion of 619 Cook Road consisting of approximately 3,711 sq. ft. shown as Area B on a certain plat entitled "Boundary Line Adjustment of Properties Standing in the Name of the County of York and the York County School Board" made by AES Consulting Engineers, dated May 14, 2013, in exchange for conveyance by the School Board to the County of a portion of 9300 George Washington Memorial Highway containing approximately 85,107 sq. ft. and shown as Area A on the referenced plat; and

WHEREAS, following a public hearing duly advertised pursuant to Code of Virginia § 15.2-1800, this Board has determined that the proposed exchange of property is in the public interest;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 19th day of November, 2013, that the County Administrator is authorized to execute such deeds, plats, and other documents as may be required to convey to the County School Board that portion of property shown as Area B on the referenced plat, in exchange for that portion of property shown as Area A on the referenced plat, such documents to be approved as to form by the County Attorney.

On roll call the vote was:

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

CONSENT CALENDAR

Mrs. Noll moved that the Consent Calendar be approved as submitted, Item Nos. 8, 9, 10, 11, 12, 13, 14, and 15, respectively.

On roll call the vote was:

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

Thereupon, the following minutes were approved and resolutions adopted:

Item No. 8. APPROVAL OF MINUTES

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

October 1, 2013, Regular Meeting

October 15, 2013, Regular Meeting

Item No. 9. HEAD START PROGRAM GOVERNANCE: Resolution R13-115

A RESOLUTION TO ESTABLISH AND MAINTAIN A FORMAL STRUCTURE FOR PROGRAM GOVERNANCE FOR THE OVER-SIGHT OF QUALITY SERVICES FOR THE YORK COUNTY HEAD START CHILDREN AND FAMILIES AND MAKING DECISIONS RELATED TO PROGRAM DESIGN AND IMPLEMENTATION

WHEREAS, the County of York values and has a long-standing commitment to early childhood developmental programs, which includes the operations of a federally funded Head Start Program; and

WHEREAS, the Board of Supervisors, as the governing body for the Head Start Program has legal and fiscal responsibilities for administering and overseeing the York County Head Start Program to include the safeguarding of Federal funds; and

WHEREAS, the Board of Supervisors assumes and delegates responsibilities of administering and overseeing the Head Start Program ensuring compliance with local, State, and Federal laws and regulations; adopting practices that assure active, independent and informed governance of the Head Start agency, including fully participating in the development, planning, and evaluation of the Head Start Programs as implemented by the Children and Family Services Division of Community Services; and

WHEREAS, the Board of Supervisors has legal responsibility for reviewing all applications for funding and amendments to application for funding;

NOW, THEREFORE, BE IT RESOLVED, by the York County Board of Supervisors this the 19th day of November, 2013, that it has reviewed and approved as implemented by the Children and Family Services Division of Community Services criteria for the recruitment, selection, and enrollment of children; reviewing all applications for funding and amendments to applications; all major policies to include the annual self-assessment and financial audit; and procedures for how members of the Policy Council are selected, as set out in the York County Head Start Policies and Procedures originally effective May 1, 2008, and most recently revised as of June 2013.

BE IT FURTHER RESOLVED that the Board of Supervisors has approved financial management, accounting and reporting policies, and compliance with laws and regulations related to financial statements to include all major financial expenditures of the Head Start Program and the annual operating budget.

BE IT STILL FURTHER RESOLVED that the Board of Supervisors hereby delegates the responsibilities of administering and overseeing the Head Start Program to the Children and Family Services Division of the Department of Community Services.

Item No. 10. PUBLIC SEWER EXTENSION AGREEMENT-PLEASANTVILLE: Resolution R13-125

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

WHEREAS, Hampton Roads Development, 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 seven 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 \$22,400.00;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 19th day of November, 2013, that the Board approves the extension of the County's public sewer system to serve the proposed development, Pleasantville, and that the County Administrator be, and he hereby is, authorized to execute a public sewer extension agreement with Hampton Roads Development, LLC, for the proposed extension; such agreement to be approved as to form by the County Attorney.

Item No. 11. REFINANCING OF VARIOUS COUNTY CAPITAL PROJECTS: Resolution R13-128

A RESOLUTION OF THE BOARD OF SUPERVISORS OF YORK COUNTY, VIRGINIA APPROVING THE ISSUANCE BY THE ECONOMIC DEVELOPMENT AUTHORITY OF YORK COUNTY, VIRGINIA OF ITS LEASE REVENUE REFUNDING BONDS TO REFINANCE VARIOUS COUNTY CAPITAL PROJECTS

WHEREAS, the Board of Supervisors of the County of York, Virginia ("County") has determined that it is advisable to refund all or a portion of the Industrial Development Authority of York County, Virginia Lease Revenue Bonds (County of York, Virginia Capital Projects), Series 2003 (the "Series 2003 Bonds") originally issued to finance the acquisition, construction, improvement, renovation and equipping of certain capital projects for the County (the "Projects"), and to obtain financing for the refunding through lease revenue bonds ("Bonds") to be issued by the Economic Development Authority of York County, Virginia (formerly the Industrial Development Authority of York County, Virginia) ("Authority"). The County has leased certain of the Projects to the Authority pursuant to a Lease and Lease Amendment, dated as of December 1, 2003 ("Lease") and has leased those Projects back from the Authority pursuant to a Financing Lease, dated as of December 1, 2003 (the "Financing Lease"). The Bonds will be payable solely from the revenues derived from the Financing Lease, as modified as described in this Resolution, pursuant to which the County agreed to make

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rental payments, subject to annual appropriation, sufficient to pay the principal of and interest on the Bonds; and

WHEREAS, the Bonds will be issued as Additional Bonds under the Indenture of Trust dated as of December 1, 2003 (the "Indenture") between the Authority and Wells Fargo Bank Minnesota, N.A., as trustee (the "Trustee"); and

WHEREAS, the Bonds will be issued and sold pursuant to the following documents: (i) the First Supplemental Indenture of Trust (the "First Supplemental Indenture"), supplementing the Indenture between the Authority and the Trustee, with the form of the Bonds attached thereto; (ii) a Modification Agreement (the "Modification Agreement") among the Board of Supervisors of the County, the Authority, the Trustee, and certain deed of trust trustees, modifying the Financing Lease, the Lease, the Assignment of Rents and Leases dated December 1, 2003, between the Authority and the Trustee, and the Leasehold Deed of Trust and Security Agreement dated as of December 1, 2003 between the Authority and certain deed of trust trustees; (iii) a Preliminary Official Statement (the "Preliminary Official Statement") and an Official Statement (the "Official Statement") with respect to the issuance and sale of the Bonds; and (iv) a Bond Purchase Agreement ("Bond Purchase Agreement") among the County, the Authority and the underwriter for the Bonds ("Underwriter"). The First Supplemental Indenture, the Modification Agreement and the Bond Purchase Agreement are referred to in this Resolution as the "Basic Documents;"

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 19th day of November, 2013, as follows:

Issuance of Bonds. The County approves the issuance by the Authority of its Bonds in one or more series to (a) be paid from revenues derived from payments made by the County pursuant to the Financing Lease, as amended by the Modification Agreement and (b) apply the proceeds of the Bonds to undertake the refunding of all or a portion of the Series 2003 Bonds in accordance with the Basic Documents.

Authorization of Basic Documents. The County Administrator and the Chairman of the Board of Supervisors, or either of them, are authorized to approve the Bonds and the Basic Documents, which approval shall be evidenced conclusively by the execution and delivery of the Basic Documents. The execution and delivery of and performance by the County under the Basic Documents are authorized.

Execution of Documents. The Chairman and Vice Chairman of the Board of Supervisors and the County Administrator, or any of them, are authorized to execute on behalf of the County the Basic Documents and, if required, the County Administrator is authorized and directed to affix or to cause to be affixed the seal of the County to the Basic Documents and to attest such seal. Such officers or their designees are authorized to execute and deliver on behalf of the County such instruments, documents or certificates, and to do and perform such things and acts, as they shall deem necessary or appropriate to carry out the transactions authorized by this Resolution or contemplated by the Basic Documents; and all of the foregoing, previously done or performed by such officers or agents of the County, are in all respects approved, ratified and confirmed.

Sale of Bonds. The County Administrator, the Deputy County Administrator and the Chairman of the Board of Supervisors or any of them, is authorized and directed to consent to the terms of the sale of the Bonds by the Authority to the Underwriter and to determine the maturities of the Series 2003 Bonds to be refunded, provided that (i) the refunding will result in debt service savings equal to at least 2.5% of the refunded principal amount of the Series 2003 Bonds on a net present value basis, (ii) the sale price of the Bonds to the Underwriter will not be less than 97% of the aggregate principal amount thereof (not taking into account any original issue discount or premium) and (iii) the final maturity of the Bonds will not be later than approximately 10 years from their date. The approval of such officers shall be evidenced conclusively by the execution and delivery of the Bond Purchase Agreement.

Escrow Agreement. If required by bond counsel, the County Administrator and the Chairman and Vice Chairman of the Board of Supervisors, or any of them, is authorized to enter into an escrow agreement with an escrow agent to be selected by the Chairman of the Au-

thority, in consultation with the County Administrator, the Deputy County Administrator, or the Controller (the "County Administration") providing for the deposit and investment of a portion of the proceeds of the Bonds to be applied to the redemption or payment of the portion of the Series 2003 Bonds to be refunded on the earliest practicable date.

Disclosure Documents. The County Administration and such officers and agents of the County as any of them may designate are hereby authorized and directed to prepare, execute, if required, and deliver an appropriate preliminary official statement and official statement or such other offering or disclosure documents as may be necessary to expedite the sale of the Bonds. The preliminary official statement, official statement or other documents shall be published in such publications and distributed in such manner, including by electronic distribution, and at such times as the County Administration shall determine. The County Administration is authorized to deem the preliminary official statement "final" for purposes of Securities and Exchange Commission Rule 15c2-12.

Nature of Obligations. Nothing in this Resolution, the Bonds or the Basic Documents shall constitute a debt of the County and the Authority shall not be obligated to make any payments under the Bonds or the Basic Documents except from payments made by or on behalf of the County under the Financing Lease, as amended by the Modification Agreement. The County Administrator is directed to submit for each fiscal year a request to the Board of Supervisors for an appropriation to the Authority for an amount equal to the rental payments coming due under the Financing Lease, as amended by the Modification Agreement for the next fiscal year. The County's obligations to make payments to the Authority pursuant to this Resolution shall be subject to and dependent upon annual appropriations being made from time to time by the Board of Supervisors for such purpose. Nothing in this Resolution, the Bonds or the Financing Lease, or the Basic Documents shall constitute a pledge of the full faith and credit of the County.

Effective Date. This Resolution shall take effect immediately.

Item No. 12. EMPLOYEE OF THE QUARTER: Resolution R13-126

A RESOLUTION TO COMMEND DEPUTY STEVEN A. LEWIS, LAW ENFORCEMENT DIVISION, OFFICE OF THE SHERIFF, AS EMPLOYEE OF THE QUARTER

WHEREAS, Deputy Steven A. Lewis has been employed with the County since November of 2006; and

WHEREAS, Deputy Lewis exercised extreme care when he responded to an attempted suicide in the Tabb Area of the County in August of 2013, using his experience, training, and knowledge to assess the situation upon arrival on scene; and

WHEREAS, while en route, Deputy Lewis was notified that the suspect had fired a round into the air; and

WHEREAS, Deputy Lewis observed the suspect outside of her home waving a pistol around and threatening to kill herself; and

WHEREAS, when Deputy Lewis arrived on scene, the suspect was sitting on the front step of her home with a pistol pointed at her head, and Deputy Lewis used his training and experience to gain a position of cover and begin talking to the suspect; and

WHEREAS, when other deputies arrived on scene to provide additional cover for Deputy Lewis and contain the scene, he continued to talk with the suspect; and

WHEREAS, while talking with the suspect, Deputy Lewis was able to notice that the semi-automatic pistol she was holding was out of battery and incapable of firing unless the malfunction was fixed; and

WHEREAS, Deputy Lewis' ability to see that the weapon had malfunctioned and was not

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operable was key to the responding deputies, which allowed them to put less lethal alternatives in place to end the situation; and

WHEREAS, Deputy Lewis was able to convince her to surrender the weapon and the suspect was taken into custody without injury; and

WHEREAS, if Deputy Lewis had not taken the extra time to talk with the suspect, listen to what she had to say, and observe her actions, the situation could have ended very differently; and

WHEREAS, Deputy Lewis has always performed his duties with the safety and well-being of the County's citizens being the ultimate goal;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors, this 19th day of November, 2013, that Deputy Steven A. Lewis be, and he is hereby congratulated upon his selection as Employee of the Quarter for the quarter ending September 30, 2013.

Item No. 13. REVENUE SHARING AUTHORIZATION: Resolution R13-127

A RESOLUTION TO APPROVE AND ENDORSE YORK COUNTY'S
REQUEST FOR FUNDING UNDER THE FY2015 REVENUE SHARING
PROGRAM ADMINISTERED BY THE VIRGINIA DEPARTMENT
OF TRANSPORTATION

WHEREAS, the Virginia Department of Transportation has established guidelines for the FY 2015 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; and

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 19th day of November, 2013, that it does hereby approve the submission of a request to the Virginia Department of Transportation for an allocation of up to \$400,000 in funds through the FY 2015 Revenue Sharing Program for the following project:

- Cannon Road/Wormley Creek Outfall Drainage Improvements: Roadside ditch reconstruction along Cannon Road (Route 1227) and roadside drainage outfall reconstruction (VDOT easement area) at the Wormley Creek Headwaters intersection with Old York Hampton Highway (\$400,000 VDOT/\$400,000 County)

BE IT FURTHER RESOLVED that York County does hereby pledge and commit funding in the amount of \$400,000 to match the \$400,000 in state Revenue Sharing Program funds requested.

BE IT STILL FURTHER RESOLVED that the Board hereby grants authority for the County Administrator to execute such project administration agreements and other documents as may be required in the event this request is approved by the Virginia Department of Transportation.

Item No. 14. DRUG ENFORCEMENT ADMINISTRATION GRANT: Resolution R13-129

A RESOLUTION TO ACCEPT AND APPROPRIATE \$61,931 IN
UNITED STATES DEPARTMENT OF JUSTICE, DRUG ENFORCE-
MENT ADMINISTRATION (DEA) FUNDS TO BE USED FOR OVER-
TIME PAYMENTS AND ONE ADMINISTRATIVE ASSISTANT FOR
THE NORFOLK RESIDENT OFFICE TASK FORCE

WHEREAS, the DEA has determined that trafficking in narcotics and dangerous drugs exists in the Tidewater area and that such illegal activity has a substantial and detrimental effect on the health and general welfare of the citizens; and

WHEREAS, the DEA has established a Norfolk Resident Office Task Force to disrupt illicit drug activities and provides up to \$17,202 in funding to support the overtime payments of the York Poquoson Sheriff's Officer assigned to the task force; and

WHEREAS, the DEA is desirous for the York County Sheriff's Office to provide administrative support to the task force, and will provide up to \$44,729, to reimburse York County for the employee's salary and benefits; and

WHEREAS, there is no local match or funding required to support the Administrative Assistant position; and

WHEREAS, it is the policy of the Board of Supervisors that all funding exceeding \$50,000 be submitted to the Board for its review and approval;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 19th day of November, 2013, that the County Administrator be, and he is hereby, authorized to accept and appropriate \$61,931 in the General Fund for overtime and clerical expenses relating to York County employees working with the Norfolk Resident Office Task Force.

Item No. 15. SPONSORSHIP OF AMENDMENT TO THE YORK COUNTY ZONING ORDINANCE-HORSEKEEPING: Resolution R13-130

A RESOLUTION TO SPONSOR AN APPLICATION TO AMEND SECTION 24.1-414 OF THE YORK COUNTY ZONING ORDINANCE (CHAPTER 24.1, YORK COUNTY CODE) TO DELETE CERTAIN PROVISIONS THAT DUPLICATE REQUIREMENTS CONTAINED IN CHAPTER 4, ARTICLE II, LIVESTOCK, YORK COUNTY CODE, AND TO ALLOW QUALIFIED PROFESSIONALS TO PREPARE REQUIRED NUTRIENT MANAGEMENT PLANS

WHEREAS, the York County Board of Supervisors has determined that amendments to certain requirements set forth in Chapter 4, Article II of the York County Code; and

WHEREAS, those provisions are unnecessarily repeated in Section 24.1-414 of the York County Zoning Ordinance (Chapter 24.1, York County Code); and

WHEREAS, in the interest of good zoning and land use practice, and to eliminate redundancy and minimize the potential for conflicting provisions, the Board wishes to sponsor an application to delete the duplicative provisions from Section 24.1-414 of the Zoning Ordinance and to provide additional options for preparation of required nutrient management plans;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 19th day of November, 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. 24.1-414. Standards for horsekeeping and commercial stables.

- (a) The minimum area of any parcel proposed for the keeping of horses, whether accessory to a residential use or as a commercial stable, shall be two (2) usable acres. In determining usable acreage, the area occupied by any residential structures, the area of required front or side yards, and any areas unsuitable for keeping of horses by reason of topography, drainage conditions, or the extent of tree or other vegetation cover shall not be included in the computation.

(b) The maximum number of horses permitted as an accessory and incidental use on a residential property shall be one (1) per each usable acre of land as defined in subsection (a) above. In the case of commercial stables, the maximum number of horses permitted shall be two (2) per usable acre of land or such fewer number as the zoning administrator may deem appropriate given the characteristics of the subject property and the surrounding area.

~~(c) Stables or housing for horses shall not be constructed or located within one hundred feet (100') of an abutting property owned or occupied by a person other than the owner or occupant of the property on which such stable or housing is located, nor within one hundred feet (100') of a public right-of-way.~~

~~(d) Stables, pastures, or animal yards shall not be utilized for the keeping of horses in any manner that is detrimental to the use of adjacent property or that, because of odor, noise or attraction of flies or other pests, reduces or otherwise unreasonably restricts the rights of adjacent property owners to enjoy the use of their property.~~

(ce) Horses shall not be stabled, pastured, or otherwise kept within one thousand feet (1,000') of a drinking water reservoir unless it can be proven to the satisfaction of the health department and the zoning administrator that any runoff will be away from the reservoir and that public health will not be negatively impacted. In such cases, a two hundred foot (200') buffer must be maintained. This shall not be interpreted to preclude the riding of horses or establishment of bridle trails closer than the specified distance provided that the health department and owner of the reservoir approve.

~~(f) Horses shall not be stabled, pastured or otherwise kept within one hundred feet (100') of an active well nor shall they be stabled, pastured or kept in any manner whatsoever that causes drainage or water runoff from the stable, pasture or animal yard to flow within one hundred feet (100') of an active well.~~

~~(g) Manure or animal wastes shall not be stored, stockpiled, or permitted to accumulate in any manner whatsoever that attracts flies or other pests, or for any other reason diminishes the rights of adjacent property owners to enjoy reasonable use of their property. Drainage associated with the storage or stockpiling of animal manure shall not be permitted to contaminate or pollute any stream, well, watercourse, or drainageway, natural or manmade. The owner shall provide the county with a soil conservation and management plan prepared by a qualified professional the Colonial Soil and Water Conservation District which shall include:~~

- ~~(1) a nutrient management plan for the proper storage and application of animal waste;~~
- ~~(2) an erosion control plan to ensure the integrity of the slopes; and~~
- ~~(3) a best management practices program for controlling and treating surface runoff.~~

~~In determining consistency with this condition, the zoning administrator may require that the above plans be reviewed and approved by the Virginia Cooperative Extension Service and the U.S. Department of Agriculture - Soil Conservation Service.~~

~~(dh) The keeping of horses as an accessory use on residential property shall be solely for the recreational purposes of the family living on the premises. Boarding of horses owned by others is prohibited.~~

~~(ei) All horses shall be kept in pens or other enclosures designed and maintained for secure confinement.~~

~~(fj) The zoning administrator shall find, prior to approval, that such use will not be detrimental to the character of the neighborhood and may impose such additional conditions, including special requirements for setbacks of pastures and requirements for drainage control, as deemed necessary to promote the public interest and welfare.~~

- (gk) Such uses shall comply in all respects with the standards and requirements established in chapter 4, article II, Livestock, York County Code.

CLOSED MEETING. At 9:52 p.m. Mr. Wiggins 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; and Section 2.2-3711(a)(7) pertaining to Legal Matters to consult with legal counsel, consultants, and/or staff on a matter of actual litigation in which the County is involved.

On roll call the vote was:

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

Meeting Reconvened. At 10:09 p.m. the meeting was reconvened in open session by order of the Chair.

Mrs. Noll moved the adoption of proposed Resolution SR-1 that reads:

A RESOLUTION TO CERTIFY COMPLIANCE WITH THE FREE-
DOM 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 19th day of November, 2013, 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: (5) Wiggins, Hrichak, Shepperd, Noll, Zaremba
Nay: (0)

APPOINTMENT OF COUNTY ASSESSOR

Mr. Hrichak moved the adoption of proposed Resolution R13-121 that reads:

A RESOLUTION TO APPOINT A COUNTY ASSESSOR FOR THE
COUNTY OF YORK, VIRGINIA

BE IT RESOLVED by the York County Board of Supervisors this the 19th day of November, 2013, that Anita M. Taylor be, and she is hereby, appointed to the position of County Assessor for York County, such appointment to be retroactively effective to October 28, 2013.

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BE IT FURTHER RESOLVED that before entering upon the duties of County Assessor, Ms. Taylor shall take the oath of office as set forth in Section 49-1 of the Code of Virginia (1950, as amended).

On roll call the vote was:

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

APPOINTMENTS TO THE YORK COUNTY HEAD START POLICY COUNCIL

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

A RESOLUTION TO APPOINT PARENTS TO THE YORK COUNTY
HEAD START POLICY COUNCIL

WHEREAS, Head Start federal regulations require a Head Start Policy Council; and

WHEREAS, the Grantee seeks to formalize and enhance the shared governance between the Policy Council and the Grantee;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 19th day of November, 2013, that the following individuals be, and they are hereby, appointed to the York County Head Start Policy Council for a term of one year, such term to begin October 1, 2013, and end September 30, 2014.

Laura Arroyo	Head Start Parent
Eartha Ash	Head Start Parent
Mary Barton	Head Start Parent
Christina Beale	Head Start Parent
Lauren Clawson	Head Start Parent
Lisa Freeman	Head Start Parent
Amanda Joe	Head Start Parent
Amber Freeman	Head Start Parent
Monica Morales	Head Start Parent
Amanda Navarro	Head Start Parent
Brittany Parrott	Head Start Parent
Shelonda Smith	Head Start Parent
Beatrice Williams	Head Start Parent
Sharon Cooke	Community Representative
Andrew Council	Community Representative
Juanita Griffin	Community Representative

Ronald Hayden	Community Representative
Dr. Lisa Pennycuff	Community Representative
Morris Randall	Community Representative
Alcidine Rousseau	Community Representative
Karla Sprouse	Community Representative
Leigh Carol Stump	Community Representative
Clara Turner	Community Representative
Valerie Wilson	Community Representative

BE IT FURTHER RESOLVED that the Board of Supervisors does hereby compliment, thank, and congratulate the appointees for their willingness to serve and for their meaningful involvement in their children's early childhood developmental programs.

On roll call the vote was:

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

APPOINTMENT TO THE WILLIAMSBURG REGIONAL LIBRARY

Mr. Zaremba moved the adoption of proposed Resolution R13-98 that reads:

A RESOLUTION TO APPOINT A YORK COUNTY REPRESENTATIVE TO THE WILLIAMSBURG REGIONAL LIBRARY BOARD OF TRUSTEES

WHEREAS, the County has entered into an agreement between the City of Williamsburg and James City County to provide library services to the citizens of the upper County and to set forth a funding mechanism for the Williamsburg Regional Library and to have a role in the governance of the Library; and

WHEREAS, the approved agreement provides that one Trustee shall be appointed by York County to serve for a four-year term;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 19th day of November, 2013, that the following individual be, and hereby is, appointed to serve as the York County representative on the Williamsburg Regional Library Board of Trustees, such term to begin immediately and expire June 30, 2017:

Pamela Franz

On roll call the vote was:

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

WESTERN REFINING YORKTOWN, INC., V. COUNTY OF YORK, VIRGINIA

Mr. Hrichak moved the adoption of proposed Resolution R13-135 that reads:

A RESOLUTION AUTHORIZING SETTLEMENT IN CIVIL ACTION

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NOS. CL10-003232 AND CL11-004422, YORK COUNTY CIRCUIT COURT, WESTERN REFINING YORKTOWN, INC., ET AL V. COUNTY OF YORK, VIRGINIA

WHEREAS, Western Refining Yorktown, Inc. has sought refunds of local real estate taxes through lawsuits filed in the York County Circuit Court as Civil Actions Nos. CL10-003232 and CL11-004422; and

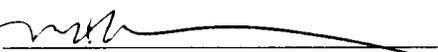
WHEREAS, this Board deems it to be in the public interest to accept a settlement offer to fully resolve the matters raised in the referenced litigation.

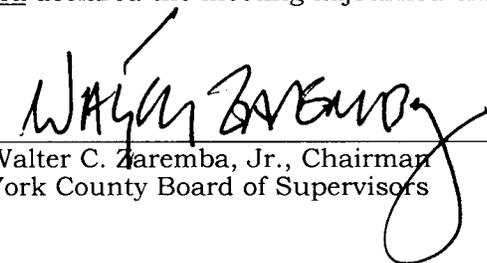
NOW, THEREFORE, BE IT RESOLVED, by the York County Board of Supervisors this the 19th day of November, 2013, that it accepts and ratifies, and authorizes its counsel to execute, a Final Order in the referenced cases consistent with the draft Final Order attached to the Memorandum from the County Attorney dated November 19, 2013, and further authorizes the refund of taxes in the amount referenced in the draft Final Order.

On roll call the vote was:

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

Meeting Adjourned. At 10:10 p.m. Chairman Zaremba 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