MINUTES
BOARD OF SUPERVISORS
COUNTY OF YORK

Regular Meeting
July 19, 2005

6:00 p.m.

Meeting Convened. A Regular Meeting of the York County Board of Supervisors was called to order at 6:00 p.m., Tuesday, July 19, 2005, in the Board Room, York Hall, by Chairman James S. Burgett.

Attendance. The following members of the Board of Supervisors were present: Walter C. Zaremba, Sheila S. Noll, Kenneth L. Bowman, James S. Burgett, and Thomas G. Shepperd, Jr.

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

Invocation. Mr. McReynolds gave the invocation.

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

HIGHWAY MATTERS

Mr. Jim Brewer, Residency Administrator, Virginia Department of Transportation (VDOT), appeared to discuss highway matters with the Board of Supervisors. He noted the Interstate 64 maintenance contract would go into effect August 1 and would allow VDOT to bring more people back to the Secondary System and the area headquarters again. He stated the Mooretown Road light installation was almost complete, and the work on Cary's Chapel Road was more than half complete. He reported the plant mix schedule was moving along, but there was much work left to do.

Mr. Shepperd reported a large pothole off Victory Boulevard toward Hampton that needed repair, and he mentioned the difference in the timing of the lights on Route 17 that now allowed for a good flow of traffic.

Mr. Zaremba asked about the paving of Royal Grant Drive and when that might happen.

Mrs. Noll also commended the new synchronization of the stoplights on Route 17.

Mr. Bowman expressed his appreciation for the grass cutting efforts in his district and VDOT's repair work on Route 17 near the railroad tracks.

Chairman Burgett emphasized the need to have Vine Street paved, and he asked Mr. Brewer to try to have it done soon. He then referred to a newspaper article concerning a Williamsburg interchange named as being the second most congested interchange in the country.

Mr. Zaremba stated the article related to the entire stretch of I-64 as the second worst corridor across the nation's interstates to travel this time of year.

PRESENTATIONS

INTRODUCTION OF NEW MEMBERS TO YORK COUNTY BOARDS AND COMMISSIONS

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

Joe Shipes	Thomas Nelson Community College Board
Russell McHatton	Peninsula Alcohol Safety Action Program Policy Board

THOMAS NELSON COMMUNITY COLLEGE

Dr. Charles Taylor, President, Thomas Nelson Community College (TNCC), provided an overview of the College's current and future institution with a current enrollment of over 12,000 credit students and over 31,000 non-credit students. He reported that more than 10 percent of the population is from York. He emphasized that the school was the largest of the four institutions of higher education in the area, and over 76 percent of all students over the age of 25 who go on to higher education attend TNCC. He discussed the Peninsula Workforce Development Center, partnerships with K-12 institutions, dual enrollment, and the proposed historic triangle area institution. He shared drawings of the proposed new facility and thanked the County Administrator and Board for its partnership with TNCC.

REVIEW OF REAL ESTATE ASSESSMENT PROCESS

Mr. Ed Crapo, representative of the International Association of Assessment Officers, provided the Board with a report and summation of the services contracted by the County to review the 2004 assessments for accuracy and compliance with the statutes of the Commonwealth of Virginia, International Association of Assessing Officer standards, and Uniform Standards of Professional Appraisal Practice. He highlighted the criteria used to reach the determination of 100 percent of fair market value in all the tests administered to review the assessments. Mr. Crapo stated they found both an accurate reflection of fair market value and good uniformity in the County's assessments and determined County practices to be in compliance with Virginia statutes.

CITIZENS COMMENT PERIOD

No citizens appeared to speak at this time.

COUNTY ATTORNEY REPORTS AND REQUESTS

Mr. Barnett referenced the Supreme Court cases in the news concerning the separation of church and state, noting that no particular cases involved the County at this time. He went on to say he would take time to analyze those cases for future reference, noting that the School Division is usually more involved with these type cases. He reported that his office would also be analyzing the recent eminent domain cases currently in the news.

Mr. Shepperd asked for a copy of the results once the research was completed.

COUNTY ADMINISTRATOR REPORTS AND REQUESTS

Mr. McReynolds reminded the Board of its upcoming meetings in August, and thanked the volunteers and the staff who did a great job in planning and executing the Fourth of July event.

Mr. Shepperd asked how a citizen might address public bus transportation to the County, mentioning that several citizens have approached him about transportation in the southern area of the County.

Mr. McReynolds stated citizens could approach the Board with transportation concerns, or contact the staff in the Planning Division, or perhaps the Metropolitan Planning Organization.

MATTERS PRESENTED BY THE BOARD

Mrs. Noll pointed out that the County had a public transportation demonstration project several years ago, but received many complaints because only a few citizens used the buses. She recalled that the buses were given to the Relax and Ride program in Williamsburg because they were not used enough. She agreed that something should be done toward public transportation, and she referenced a panel on transportation issues that she would moderate at the VACo

Blueprint for Tomorrow Conference. She stated she would be very happy to include any written questions from the Board or citizens concerning transportation.

Mr. Zaremba suggested that those who are concerned with transportation first determine what bus service exists to serve the County and its neighbors. He cited the Williamsburg Area Transport System that services the surrounding localities including York, to eventually include the Mooretown and Lightfoot Road corridors. He mentioned that soon the new tax assessments would be mailed out in the biannual rotation. He suggested that the Board discuss alternatives for obliterating these tax increases for senior citizens. He emphasized that another appreciable increase in the tax assessments would be forthcoming, and he stated the Board should begin to take a look at the tax rate. He indicated the past reduction in the tax rate would hardly reduce the burden on citizens. He highlighted Money Magazine's article on the 100 best towns to live in, in which Yorktown rated 33.

Mr. Bowman echoed Mr. McReynolds comments concerning the wonderful Fourth of July Celebration and thanked everyone for their efforts in making it successful. As a representative to the Comprehensive Plan Steering Committee, he mentioned the committee had a draft with a number of changes that it would discuss at its upcoming meeting. He encouraged those interested in reviewing the draft to obtain information from the County's website.

Mr. Shepperd spoke about a meeting he attended with local hotel owners in Williamsburg where the owners asked for help with advertising from localities. He mentioned that the hotels need 58 percent occupancy to survive, and they asked what the County was doing to help. He discussed the revenues generated by tourism and emphasized that the state was doing a terrible job of promoting tourism. He referenced the Money Magazine article, stating it was good press for the area. He also referenced Travel Magazine that discussed parks in trouble, and the Yorktown Battlefield was listed as one of the parks. He went on to say that tourists were being driven away from this area because the area is selling itself short while Virginia Beach does a tremendous job of selling itself. Mr. Shepperd then stated he attended the Airport Task Force meeting and discussed the proposed new parking garage and extended runway to be built. He also noted he met with the York County Chamber of Commerce and discussed the community network website which had 500,000 hits this month.

Chairman Burgett mentioned that another locality in Virginia made it on the best town list and that was Vienna. He stated that York should be very proud of being named 33rd best place to live. He then referred to what he called trash signs, which are signs placed illegally alongside the highways advertising sales. He suggested that the Board look into having the Code Compliance staff working during the weekends to police the areas. Mr. Burgett reported he had received many great comments on the Riverwalk, that it is a terrific family area, and the Board must do everything necessary to ensure that it continues to be a safe place. He stated the County would be hosting the Peninsula Mayors & Chairs meeting at the Riverwalk Restaurant on July 25. He concluded by stating the July 4th celebration was a great event, and there would be more upcoming events to follow.

Meeting Recessed: At 6:56 p.m. Chairman Burgett declared a short recess.

Meeting Reconvened: At 7:06 p.m. the meeting was reconvened in open session by order of the Chair.

PUBLIC HEARINGS

VACATION AND SALE OF A PORTION OF MILL LANE

Mr. Barnett gave a presentation on proposed Ordinance No. 05-20 to vacate a portion of Mill Lane, an unimproved stub street; and proposed Resolution R05-124 to authorize the conveyance of County property located on Mill Lane lying to the West of Beechwood Drive in Harwood Mills Subdivision to Charter Hall Builders.

Mr. Robert Long, attorney representing the builder, appeared to answer any of the Board's questions.

Chairman Burgett called to order a public hearing on proposed Ordinance No. 05-20 and proposed Resolution R05-124 that were duly advertised as required by law and are entitled:

AN ORDINANCE VACATING A PORTION OF MILL LANE, AN UNIMPROVED STUB STREET PLATTED AS PART OF HARWOOD MILLS SUBDIVISION, BEING THAT PORTION OF PLATTED MILL LANE LYING TO THE WEST OF BEECHWOOD DRIVE AND LYING ADJACENT TO PROPERTY HAVING THE STREET ADDRESS OF 116 BEECHWOOD DRIVE

A RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR TO CONVEY APPROXIMATELY 8,800 SQ. FT. OF LAND OWNED BY THE COUNTY OF YORK, BEING THAT PORTION OF PLATTED MILL LANE LYING TO THE WEST OF BEECHWOOD DRIVE IN HARWOOD MILLS SUBDIVISION, SECTION B, TO CHARTER HALL BUILDERS, FOR THE SUM OF $30,000

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

Mrs. Noll then moved the adoption of proposed Ordinance No. 05-20 that reads:

AN ORDINANCE VACATING A PORTION OF MILL LANE, AN UNIMPROVED STUB STREET PLATTED AS PART OF HARWOOD MILLS SUBDIVISION, BEING THAT PORTION OF PLATTED MILL LANE LYING TO THE WEST OF BEECHWOOD DRIVE AND LYING ADJACENT TO PROPERTY HAVING THE STREET ADDRESS OF 116 BEECHWOOD DRIVE

WHEREAS, Mill Lane was created by the recordation of a plat for Harwood Mills subdivision, Section B on April 26, 1958 in Plat Book 6, page 13 among the land records of York County; and

WHEREAS, that portion of Mill Lane lying to the west of Beechwood Drive has remained a platted but unimproved street, originally created in contemplation of its extension to serve as a connection from Route 17 to Beechwood Drive, which no longer appears practical or advisable; and

WHEREAS, following the holding of a public hearing, the Board of Supervisors desires to vacate the unimproved portion of Mill Lane pursuant to Code of Virginia § 15.2-2272 (2);

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors, this 19th day of July, 2005, that Mill Lane is hereby vacated from its western terminus to the point of its intersection with the right-of-way for Beechwood Drive.

On roll call the vote was:

Yea: (5) Zaremba, Noll, Bowman, Shepperd, Burgett
Nay: (0)

Mrs. Noll then moved the adoption of proposed Resolution R05-124 that reads:

A RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR TO CONVEY APPROXIMATELY 8,800 SQ. FT. OF LAND OWNED BY THE COUNTY OF YORK, BEING THAT PORTION OF PLATTED MILL LANE LYING TO THE WEST OF BEECHWOOD DRIVE IN HARWOOD MILLS SUBDIVISION, SECTION B, TO CHARTER HALL BUILDERS, FOR THE SUM OF $30,000

WHEREAS, this Board, acting pursuant to Code of Virginia § 15.2-2272, and following a duly advertised public hearing, has vacated that portion of Mill Lane lying to the west of Beechwood Drive, consisting of a platted but unimproved stub street adjacent to property having the street address of 116 Beechwood Drive; and

WHEREAS, Charter Hall Builders, being the owner of property located at 116 Beechwood Drive and lying immediately adjacent to and north of Mill Lane has requested that the County convey the vacated portion of Mill Lane to it for the sum of $30,000; and

WHEREAS, following the holding of a duly advertised public hearing pursuant to Code of Virginia § 15.2-1800, this Board has determined that it is in the public's interest to convey the vacated portion of Mill Lane to Charter Hall Builders;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 19th day of July, 2005, that the County Administrator is authorized to execute an agreement with Charter Hall Builders for the conveyance of all of that property contained within vacated Mill Lane, for the sum of $30,000, and thereafter to execute such deeds and other documents as may be reasonably necessary to complete settlement on the conveyance, all such documents to be approved as to form by the County Attorney.

On roll call the vote was:

Yea: (5) Noll, Bowman, Shepperd, Zaremba, Burgett
Nay: (0)

REPAIR OR REMOVAL OF UNSAFE BUILDINGS

Mr. Barnett gave a presentation on proposed Ordinance No. 05-19 to amend the York County Code relative to the repair or removal of unsafe buildings, walls, or structures, and to provide that charges assessed relative to the abatement or removal of nuisances may constitute an automatic lien against the property.

Mrs. Noll asked Mr. Barnett for the definition of nuisances, and asked if abandoned gas stations could be considered a nuisance.

Mr. Barnett advised that he did not have an exact definition of a nuisance, but it could include unhealthy conditions, graffiti, or establishments where patrons become out of control. He stated he would have to research the abandoned gas station issue.

Mr. Zaremba questioned if the repair and removal of unsafe buildings, walls or structures, as mentioned in Mr. Barnett's memo, were synonymous with nuisance.

Mr. Barnett stated it was up to the Board to make the determination of what constitutes a nuisance.

Discussion then ensued concerning the definition of nuisance.

Mr. Bowman questioned the rate at which owners would be charged, and he asked how those charges were determined. He pointed out that many of the homes in his district were not occupied because of hurricane damage and perhaps were inhabited by animals. He stated he thought the ordinance would be helpful to the County.

Discussion followed concerning hurricane-damaged buildings being considered a nuisance.

Chairman Burgett referenced the many buildings that had been abandoned for several years, and he stated the Route 17 Revitalization Committee would provide some of the funds to tear buildings down.

Chairman Burgett called to order a public hearing on proposed Ordinance No. 05-19 that was duly advertised as required by law and is entitled:

AN ORDINANCE TO AMEND YORK COUNTY CODE SECTION 7.1-16 RELATIVE TO THE REPAIR OR REMOVAL OF UNSAFE BUILDINGS, WALLS OR STRUCTURES, TO PROVIDE THAT CHARGES ASSESSED RELATIVE TO THE ABATEMENT OR REMOVAL OF NUISANCES MAY CONSTITUTE AN AUTOMATIC LIEN

AGAINST THE PROPERTY ON A PARITY WITH LIENS FOR UNPAID LOCAL TAXES

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

Mr. Bowman then moved the adoption of proposed Ordinance R05-19 that reads:

AN ORDINANCE TO AMEND YORK COUNTY CODE SECTION 7.1-16 RELATIVE TO THE REPAIR OR REMOVAL OF UNSAFE BUILDINGS, WALLS OR STRUCTURES, TO PROVIDE THAT CHARGES ASSESSED RELATIVE TO THE ABATEMENT OR REMOVAL OF NUISANCES MAY CONSTITUTE AN AUTOMATIC LIEN AGAINST THE PROPERTY ON A PARITY WITH LIENS FOR UNPAID LOCAL TAXES

BE IT ORDAINED by the York County Board of Supervisors this 19th day of July, 2005, that section 7.1-16 of the York County Code, relative to unsafe buildings, walls or structures; repair and removal, be amended to read and provide as follows:

Sec. 7.1-16. Unsafe buildings, walls or structures; repair, removal.

(a) Pursuant to the terms of section 15.2-906, Code of Virginia, as it may be amended from time to time, the owners of property in the county shall, at such time or times as the building code official may prescribe, remove, repair or secure any building, wall or any other structure which might endanger the public health or safety of other residents of the county.

(b) The building code official through his own agents or employees may remove, repair or secure any building, wall or any other structure which may endanger the public health or safety of other residents of the county when the owner and lien holder of such property, after reasonable notice and a reasonable time to do so, has failed to remove, repair or secure said building, wall or other structure. For the purposes of this section, repair may include maintenance work to the exterior of a building to prevent deterioration of the building or adjacent buildings. For purposes of this section, reasonable notice shall include a written notice (i) mailed by certified or registered mail, return receipt requested, sent to the last known address of the property owner and (ii) published in a newspaper once a week for two successive weeks having general circulation in the county. No action shall be taken to remove, repair or secure any building, wall or other structure for at least thirty days following the later of the return of the receipt or newspaper publication.

(c) In the event the building code official, through his own agents or employees, removes, repairs or secures any building, wall or any other structure after complying with the notice provisions of this section, the cost or expenses thereof shall be chargeable to and paid by the owner of such property and may be collected by the county as taxes and levies are collected.

(d) Every charge authorized by this section or by Code of Virginia section 15.2-900 (regarding the abatement or removal of nuisances by localities) with which the owner of any such property shall have been assessed and which remains unpaid shall constitute a lien against such property, ranking on a parity with liens for unpaid local taxes and enforceable in the manner as provided in Articles 3 (§ 58.1-3940, et. seq.) and 4 (§ 58.1-3965, et seq.) of Chapter 39, of Title 58.1, Code of Virginia. The Board of Supervisors may waive such liens in order to facilitate the sale of the property. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed.

On roll call the vote was:

Yea: (5) Bowman, Shepperd, Zaremba, Noll, Burgett
Nay: (0)

APPLICATION NOS. ZM-05-05 and UP-672-05, MARCOTTE, INC.

Mr. Carter gave a presentation on Application No. ZM-05-05 to reclassify 1.89 acres of property from General Business and High Density Single-Family Residential to General Business, subject to voluntarily proffered conditions, located at 1939 George Washington Memorial Highway; and Application No. UP-672-05 to approve a use permit authorizing the establishment of an auto repair garage without auto body work and painting on the above-stated property. The Planning Commission considered the applications and forwarded them to the Board of Supervisors with a recommendation of approval, and staff recommended approval of the applications through the adoption of proposed Ordinance No. 05-21 and proposed Resolution R05-128.

Mr. Bowman asked if this property was considered in the Comprehensive Plan rezoning.

Mr. Carter stated the general depiction of the business area along Route 17 included a single residential property, and when the zoning map was drawn in 1995, this property was included in the commercial area.

Discussion ensued concerning the location of the proposed business.

Mr. Carter described the subject area as the most automobile service-oriented area of Route 17, and he compared other surrounding land uses with the proposed use.

Mrs. Noll stated she had concerns with the adjacent residents' properties.

Mr. Carter explained that with the proposal the residents would be better protected than they are now.

Mr. Raymond Suttle, Jr., attorney representing the applicant, provided some background on Mr. Marcotte's business and the improvements he was willing to make to the location. He then described some of the operations of the applicant's business and offered to answer any of the Board's questions.

Mr. Marcotte, the applicant, stated he welcomed the challenge the County had set to make the location a conforming use so the residents would not have a problem with his business. He stated he felt he could meet or exceed the County's requirements.

Chairman Burgett called to order a public hearing on Application Nos. ZM-05-05 and UP-672-05 that were duly advertised as required by law. Proposed Ordinance No. 05-21 and proposed Resolution R05-128 are entitled:

> AN ORDINANCE TO APPROVE A REQUEST TO REZONE 1.89 ACRES LOCATED AT 1939 GEORGE WASHINGTON MEMORIAL HIGHWAY (ROUTE 17), APPROXIMATELY 350 FEET NORTH ITS INTERSECTION WITH PRODUCTION DRIVE (ROUTE 799) FROM GB (GENERAL BUSINESS) AND R13 (HIGH DENSITY SINGLE-FAMILY RESIDENTIAL) TO GB (GENERAL BUSINESS) SUBJECT TO VOLUNTARILY PROFFERED CONDITIONS
>
> A RESOLUTION TO APPROVE A SPECIAL USE PERMIT TO AUTHORIZE THE ESTABLISHMENT AN AUTO REPAIR GARAGE AND AUTO SALES WITHOUT AUTO BODY WORK AND PAINTING LOCATED AT 1939 GEORGE WASHINGTON MEMORIAL HIGHWAY (ROUTE 17)

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

Mr. Zaremba then moved the adoption of proposed Ordinance 05-21 that reads:

> AN ORDINANCE TO APPROVE A REQUEST TO REZONE 1.89 ACRES LOCATED AT 1939 GEORGE WASHINGTON MEMORIAL HIGHWAY (ROUTE 17), APPROXIMATELY 350 FEET NORTH ITS INTERSECTION WITH PRODUCTION DRIVE (ROUTE 799) FROM

GB (GENERAL BUSINESS) AND R13 (HIGH DENSITY SINGLE-FAMILY RESIDENTIAL) TO GB (GENERAL BUSINESS) SUBJECT TO VOLUNTARILY PROFFERED CONDITIONS

WHEREAS, Marcotte, Inc., has submitted Application No. ZM-95-05, which requests to amend the York County Zoning Map by reclassifying from GB (General Business) and R13 (High Density Single-Family Residential) to GB (General Business) subject to voluntarily proffered conditions 1.89 acres of property located at 1939 George Washington Memorial Highway (Route 17), approximately 350 feet north its intersection with Production Drive (Route 799) and further identified as Assessor's Parcel Nos. 36B-3-4a (GPIN SO3D-3381-0764), 37-8c (GPIN SO3D-3583-0701), and 37-8b (GPIN SO3D-3632-0790); and

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

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

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

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

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 19th day of July, 2005, that Application No. ZM-95-05 be, and it is hereby, approved to amend the York County Zoning Map by reclassifying from GB (General Business) and R13 (High Density Single-Family Residential) to GB (General Business) 1.89 acres of property located at 1939 George Washington Memorial Highway (Route 17), approximately 350 feet north its intersection with Production Drive (Route 799) and further identified as Assessor's Parcel Nos. 36B-3-4a (GPIN SO3D-3381-0764), 37-8c (GPIN SO3D-3583-0701), and 37-8b (GPIN SO3D-3632-0790) subject to the voluntarily proffered conditions set forth in the applicant's proffer statement, titled "Proffer Statement for Change of Zoning" signed by the contract purchaser of the subject property Charles F. Marcotte, Jr., a copy of which shall remain on file in the Planning Division, and which shall be recorded in the office of the Clerk of the Circuit Court pursuant to the requirements of Section 24.1-114(e)(1) of the York County Zoning Ordinance.

On roll call the vote was:

Yea: (5) Shepperd, Zaremba, Noll, Bowman, Burgett
Nay: (0)

Mr. Zaremba then moved the adoption of proposed Resolution R05-128 that reads:

A RESOLUTION TO APPROVE A SPECIAL USE PERMIT TO AUTHORIZE THE ESTABLISHMENT AN AUTO REPAIR GARAGE AND AUTO SALES WITHOUT AUTO BODY WORK AND PAINTING LOCATED AT 1939 GEORGE WASHINGTON MEMORIAL HIGHWAY (ROUTE 17)

WHEREAS, Marcotte, Inc., has submitted Application No. UP-672-05, which requests a Special Use Permit, pursuant to Section 24.1-306 (Category 12, Nos. 3 & 5) of the York County Zoning Ordinance, to authorize the establishment of an auto repair garage and auto sales without auto body work and painting on 1.89 acres of land located at 1939 George Washington Memorial Highway (Route 17), approximately 350 feet north its intersection with Production Drive (Route 799), and further identified as Assessor's Parcel Nos. 36B-3-4a (GPIN SO3D-3381-0764), 37-8c (GPIN SO3D-3583-0701), and 37-8b (GPIN SO3D-3632-0790); and

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

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

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

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

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 19th day of July, 2005, that Application No. UP-672-05 be, and it is hereby, approved to authorize a Special Use Permit to establish an auto repair garage and auto sales without auto body work and painting on 1.89 acres of land located at 1939 George Washington Memorial Highway (Route 17), approximately 350 feet north its intersection with Production Drive (Route 799), and further identified as Assessor's Parcel Nos. 36B-3-4a (GPIN SO3D-3381-0764), 37-8c (GPIN SO3D-3583-0701), and 37-8b (GPIN SO3D-3632-0790) subject to the following conditions:

1. This Special Use Permit shall authorize the establishment of an auto repair garage and used car sales lot without auto body work and painting on 1.89-acres of land located at 1939 George Washington Memorial Highway (Route 17), approximately 350 feet north its intersection with Production Drive (Route 799) and further identified as Assessor's Parcel No. 36B-3-4a (GPIN SO3D-3381-0764), 37-8c (GPIN SO3D-3583-0701), and 37-8b (GPIN SO3D-3632-0790).

2. A site plan prepared in accordance with the provisions set forth in Article V of the Zoning Ordinance shall be submitted to and approved by the Department of Environmental and Development Services, Division of Development and Compliance, prior to the commencement of any activities on the site. Said site plan shall be in substantial conformance with the plan titled "Sketch of Proposed Use 1939 George Washington Mem Hwy". The plan must delineate the car display area on the site plan with the required parking spaces, pursuant to Section 24.1-606 of the Zoning Ordinance.

3. A subdivision plat prepared in accordance with the provisions set forth in 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 commencement of any activity on the site. Said subdivision plat shall vacate all interior property lines combining the three individual lots into one single lot.

4. The auto repair garage and used car sales lot without auto body work and painting shall comply with the performance standards set forth in Sections 24.1-475, *Standards for all motor vehicle and transportation related uses*, and 24.1-477, *Standards for auto fuel dispensing establishments, service station and auto repair garages*, of the Zoning Ordinance

5. The existing southernmost entrance located along George Washington Memorial Highway (Route 17) shall be closed and curbing placed along the interior side of the former entrance so as prevent the movement of traffic from the parcel onto George Washington Memorial Highway (Route 17) at this entrance. The existing southernmost driveway apron shall be removed and the area between the roadway shoulder and the on-site curbing shall be landscaped. The northernmost entrance shall conform to Virginia Department of Transportation standards.

6. The existing building shall be renovated to comply with the terms of the Route 17 Corridor Overlay District, as contained in Section 24.1-378 of the York County Zoning Ordinance.

7. The site shall be landscaped to comply with the proffered landscape plan and the landscape planting standards specified by Section 24.1-242 of the Zoning Ordinance. Side yard plantings shall meet minimum ratios for side yards as specified in Section 24.1-242(h) and shall consist of a minimum of 50% evergreen shrubs with remaining plantings to be a mix of evergreen and deciduous trees. These planting areas shall not be located within any vehicular access/egress easements.

8. Privacy fencing shall be installed as per the proffer for fencing and be constructed of materials approved by the Zoning Administrator to a minimum of six feet in height.

9. Freestanding and building lighting shall be full cut-off fixtures that are shielded and directed downward to prevent off-site illumination. Illumination levels shall not exceed

0.5 foot candle at any exterior property line. All lighting fixtures shall use full cut-off, shielded fixtures and shall be installed with flat lenses angled level to the ground. All lighting schemes and lighting fixtures shall be consistent with the lighting recommended by the Illumination Engineering Society of North America (IESNA). A lighting plan indicating manufacturer's specifications for all fixtures and illumination levels for the development site shall be submitted for review and approval at time of application for site plan approval.

10. 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 at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court prior to application for site plan approval or issuance of a Certificate of Occupancy, whichever occurs first.

On roll call the vote was:

Yea: (5) Zaremba, Noll, Bowman, Shepperd, Burgett
Nay: (0)

APPLICATION NO. UP-670-05, MARY PATTERSON

Mr. Carter gave a presentation on Application No. UP-670-05 to approve a use permit authorizing massage therapy as a home occupation within a single-family detached dwelling located at 203 Halles Run. He stated the Planning Commission considered the application and forwarded it to the Board of Supervisors with a recommendation of approval, and staff recommended approval of the application through the adoption of proposed Resolution R05-127.

Mrs. Mary Patterson, the applicant, appeared to answer any of the Board's questions, and gave a definition of therapeutic message, which is the manipulation of soft tissue and movement of muscles. She stated she was certified through the Virginia Board of Nursing, and she would offer her services to neighbors and friends.

Chairman Burgett called to order a public hearing on Application No. UP-670-05 that was duly advertised as required by law. Proposed Resolution R05-127 is entitled:

A RESOLUTION TO APPROVE A SPECIAL USE PERMIT TO AUTHORIZE MASSAGE THERAPY AS A HOME OCCUPATION AT 203 HALLES RUN

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

Mrs. Noll then moved the adoption of proposed Resolution R05-127 that reads:

A RESOLUTION TO APPROVE A SPECIAL USE PERMIT TO AUTHORIZE MASSAGE THERAPY AS A HOME OCCUPATION AT 203 HALLES RUN

WHEREAS, Mary L. Patterson has submitted Application No. UP-670-05 requesting a Special Use Permit, pursuant to Section 24.1-283(b) of the York County Zoning Ordinance, to authorize massage therapy as a home occupation within a single-family detached dwelling on a 0.31-acre parcel of land located at 203 Halles Run (Route 1465) and further identified as Assessor's Parcel No. 38-121A-6 (GPIN V03A-1784-4861); and

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

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

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

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

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 19th day of July, 2005, that Application No. UP-670-05 be, and it hereby is, approved subject to the following conditions:

1. This use permit shall authorize the establishment of massage therapy as a home occupation within a single-family detached dwelling on a 0.31-acre parcel of land located at 203 Halles Run (Route 1465) and further identified as Assessor's Parcel No. 38-121A-6 (GPIN V03A-1784-4861).

2. The conduct of such home occupation shall be limited to approximately 152 square feet, which is shown on the house floor plan filed with the application.

3. The home occupation shall be conducted in accordance with the provisions of Sections 24.1-281 and 24.1-283(b) of the York County Zoning Ordinance, except as modified herein, and Chapter 14.3 of the York County Code.

4. No person other than individuals residing on the premises shall be engaged on the premises in the home occupation.

5. The days and hours of operation shall be limited to Monday 9:00 AM to 8:00 PM, Tuesday, Wednesday, and Thursday 5:00 PM to 8:00 PM, and Friday and Saturday 9:00 AM to 12:00 PM by appointment only.

6. No more than one (1) customer at any one time shall be served within the applicant's home.

7. Retail sales on the premises shall be limited to incidental sales therapeutic and other bodywork products.

8. No signs or other forms of on-premises advertisement or business identification visible from outside the home shall be permitted.

9. In accordance with the terms of the Zoning Ordinance, a minimum of two (2) off-street parking spaces shall be provided on the premises to accommodate customers. These spaces shall be in addition to the two (2) spaces that are otherwise required for the single-family residence.

10. 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 at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court prior to application for site plan approval or issuance of a Certificate of Occupancy, whichever occurs first.

On roll call the vote was:

Yea: (5) Noll, Bowman, Shepperd, Zaremba, Burgett
Nay: (0)

BOUNDARY LINE ADJUSTMENT

Mr. Carter gave a presentation on proposed Resolution R05-130 to authorize the execution of a land exchange agreement, deed, and boundary line adjustment to convey approximately 5,540 square feet of the southerly portion of Assessor's Parcel No. 18A-1-70, located at 210 Bacon Street to Richard Elliott in exchange for approximately 5,540 square feet of the northerly portion of Assessor's Parcel No. 18A-1-70A.

Chairman Burgett called to order a public hearing on proposed Resolution R05-130 that was duly advertised as required by law and is entitled:

A RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE A LAND EXCHANGE AGREEMENT, DEED, AND BOUNDARY LINE ADJUSTMENT PLAT TO CONVEY APPROXIMATELY 5,540 SQUARE FEET OF THE SOUTHERLY PORTION OF PARCEL NO. 18A-1-70 TO RICHARD O. ELLIOTT IN EXCHANGE FOR APPROXIMATELY 5,540 SQUARE FEET OF THE NORTHERLY PORTION OF PARCEL NO. 18A-1-70A, THE EFFECT OF WHICH WILL BE TO ADJUST THE BOUNDARY BETWEEN THE TWO PARCELS SO THAT EACH LOT RUNS GENERALLY PERPENDICULAR TO BACON STREET

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

Mrs. Noll then moved the adoption of proposed Resolution R05-130 that reads:

A RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE A LAND EXCHANGE AGREEMENT, DEED, AND BOUNDARY LINE ADJUSTMENT PLAT TO CONVEY APPROXIMATELY 5,540 SQUARE FEET OF THE SOUTHERLY PORTION OF PARCEL NO. 18A-1-70 TO RICHARD O. ELLIOTT IN EXCHANGE FOR APPROXIMATELY 5,540 SQUARE FEET OF THE NORTHERLY PORTION OF PARCEL NO. 18A-1-70A, THE EFFECT OF WHICH WILL BE TO ADJUST THE BOUNDARY BETWEEN THE TWO PARCELS SO THAT EACH LOT RUNS GENERALLY PERPENDICULAR TO BACON STREET

WHEREAS, pursuant to the terms of the 2003 Land Exchange Agreement between the National Park Service and York County, the County acquired title to a .25-acre parcel of land located at 210 Bacon Street and identified as Assessor's Parcel No. 18A-1-70; and

WHEREAS, the Board has determined that the configuration of the parcel is not ideally suited for residential development; and

WHEREAS, in order to alleviate this deficiency, the owner of the abutting parcel to the west (Assessor's Parcel No. 18A-1-70A) has proposed that the boundary between the two parcels be adjusted so that each lot runs generally perpendicular to Bacon Street; and

WHEREAS, to accomplish this, it is proposed that approximately 5,540 square feet of the southerly portion of the County parcel (18A-1-70) be conveyed to Richard O. Elliott in exchange for approximately 5,540 square feet of the northerly portion of the Elliott parcel (18A-1-70A); and

WHEREAS, following the holding of a duly advertised public hearing pursuant to Code of Virginia § 15.2-1800, this Board has determined that it is in the public's interest to effect the proposed land exchange and property conveyance;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 19th day of July, 2005, that the County Administrator be, and he is hereby, is authorized to execute such boundary line adjustment plats, deeds and other documents as may be reasonably necessary to complete settlement with Richard O. Elliott to implement the above described land exchange, all such documents to be approved as to form by the County Attorney.

On roll call the vote was:

Yea: (5) Bowman, Shepperd, Zaremba, Noll, Burgett
Nay: (0)

CONSENT CALENDAR

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

On roll call the vote was:

Yea: (5) Shepperd, Zaremba, Noll, Bowman, Burgett
Nay: (0)

Thereupon, the following resolutions were adopted:

Item No. 6. VIRGINIA COOPERATIVE EXTENSION MEMORANDUM OF UNDERSTANDING: Resolution R05-126.

A RESOLUTION TO AUTHORIZE THE EXECUTION OF AN AGREEMENT TO PROVIDE FOR THE OPERATION OF THE VIRGINIA COOPERATIVE EXTENSION OFFICE FOR FY2006

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

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

WHEREAS, the Board of Supervisors authorized funding for this activity in the FY2006 approved budget sufficient to continue participation in this program and to provide an adequate level of service to the citizens of York County.

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 19th day of July, 2005, that the County Administrator be, and he is hereby, authorized to execute for and on behalf of the Board, a Memorandum of Understanding with Virginia Cooperative Extension, including any necessary amendments thereto, that has been approved as to form by the County Attorney and which is substantially in the same form as that which was transmitted to the Board by report of the County Administrator dated July 7, 2005 for the provision of Virginia Cooperative Extension within the County.

Item No. 7. EXTENSION OF NOTE FROM THE ECONOMIC DEVELOPMENT AUTHORITY: Resolution R05-119.

A RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE AN ALLONGE (OR AMENDMENT) TO A NOTE DATED DECEMBER 19, 2001, IN THE AMOUNT OF $1,000,000 FROM THE ECONOMIC DEVELOPMENT AUTHORITY TO THE COUNTY OF YORK, EXTENDING THE DUE DATE OF THE NOTE FROM DECEMBER 1, 2008 TO JULY 1, 2012

WHEREAS, pursuant to Resolution R01-200, the County in December 2001 entered into an agreement with the Industrial Development Authority for York County, Virginia, now renamed as the Economic Development Authority for York County, Virginia (EDA), for a loan in an amount up to $1,000,000 to be utilized for the renovation and rehabilitation of the building known as the Yorktown Freight Shed, such loan evidenced by a certain note dated December 19, 2001, bearing interest at the rate of 5.5% per annum, and due and payable on or before December 1, 2008; and

WHEREAS, it is the desire of this Board to extend the due date for the note until July 1, 2012;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 19th day of July, 2005, that the County Administrator is authorized on behalf of the County to execute an allonge or amendment to the note extending its maturity date until July 1, 2012, such allonge or amendment to be approved as to form by the County Attorney.

No. 8. APPROVAL FOR PROCUREMENT ACTION: Resolution R05-123.

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR TO EXECUTE A CONTRACT TO CONSTRUCT THE MARLBANK FARM SANITARY SEWER PROJECT AND THE BATTLE ROAD GRAVITY SEWER REPLACEMENT PROJECT

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

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

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 19th day of July, 2005, that the County Administrator be, and hereby is, authorized to execute procurement arrangements for the following:

	AMOUNT
Marlbank Farm Sanitary Sewer Project	$1,617,703
Battle Road Gravity Sewer Replacement Project	95,699

Item No. 9. NATIONAL INCIDENT MANAGEMENT SYSTEM: Resolution R05-131.

A RESOLUTION TO ADOPT THE NATIONAL INCIDENT MANAGEMENT SYSTEM IN YORK COUNTY

WHEREAS, the President of the United States, in Homeland Security Directive (HSPD)-5, directed the Secretary of the Department of Homeland Security to develop and administer a National Incident Management System (NIMS), which would provide a consistent nationwide approach for Federal, State, and local governments to work together more effectively and efficiently to prevent, prepare for, respond to and recover from domestic incidents, regardless of cause, size or complexity;

WHEREAS, the collective input and guidance from all Federal, State, and local homeland security partners has been, and will continue to be, vital to the development, effective implementation and utilization of a comprehensive NIMS;

WHEREAS, it is necessary and desirable that all Federal, State, and local emergency agencies and personnel coordinate their efforts to effectively and efficiently provide the highest levels of incident management;

WHEREAS, to facilitate the most efficient and effective incident management it is critical that Federal, State, and local organizations utilize standardized terminology, standardized organizational structures, interoperable communications, consolidated action plans, unified command structures, uniform personnel qualification standards, uniform standards for planning, training, and exercising, comprehensive resource management, and designated incident facilities during emergencies or disasters;

WHEREAS, the NIMS standardized procedures for managing personnel, communications, facilities and resources will improve the County's ability to utilize federal funding to enhance local agency readiness, maintain first responder safety, and streamline incident management processes;

WHEREAS, the Incident Command System components of NIMS are already an integral part of various county incident management activities, including current public safety and emergency management training programs; and

WHEREAS, the National Commission on Terrorist Attacks (9-11 Commission) recommended adoption of a standardized Incident Command System;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 19th day of July, 2005, that the National Incident Management System (NIMS) be, and hereby is, established as the County standard for incident management.

NEW BUSINESS

HERITAGE HUMANE SOCIETY

Mr. Carter explained proposed Resolution R05-129 to approve Heritage Humane Society's request for a two-year extension of the deadline for a previously approved expansion of a legally conforming special use. The Society was asking that the use permit be extended for another two-year period to allow sufficient time to complete the arrangements for the expansion.

Mrs. Noll then moved the adoption of proposed Resolution R05-129 that reads:

A RESOLUTION TO APPROVE A TWO-YEAR EXTENSION OF THE DEADLINE FOR A PREVIOUSLY APPROVED EXPANSION OF A LEGALLY CONFORMING SPECIAL USE

WHEREAS, the City of Williamsburg and the Heritage Humane Society submitted Application No. UP 620-03, pursuant to Section 24.1-115(d)(3) of the York County Zoning Ordinance, which requested authorization to expand a legally conforming special use by constructing a 14,000-square foot animal shelter building to replace an existing 2,720-square foot building on property located at 430 Waller Mill Road (Route 713) approximately 0.76-mile northeast of its intersection with Mooretown Road (Route 603) and further identified as Assessor's Parcel No. 6-4C and a portion of Assessor's Parcel No. 6-4 (GPIN# D16d-4258-0831 and GPIN# D17d-4411-0443); and

WHEREAS, on August 19, 2003, the York County Board of Supervisors approved said application through the adoption of Resolution No. R03-129; and

WHEREAS, pursuant to Section 24.1-115(c)(1) of the York County Zoning Ordinance, use permits automatically expire two years after adoption if the special use has not been established; and

WHEREAS, the City of Williamsburg and the Heritage Humane Society have submitted Application No. UP 669-05, which requests that the above-referenced Special Use Permit be amended, pursuant to Section 24.1-115(d)(2) of the York County Zoning Ordinance, to authorize a two-year extension of the deadline for establishing the special use;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 19th day of July, 2005, that Application No. UP 669-05, be, and it is hereby, approved to authorize a two-year extension of the August 19, 2005, deadline for constructing the new animal shelter.

BE IT FURTHER RESOLVED that failure to construct the animal shelter in accordance with the provisions set forth in Section 24.1-115(c)(1) of the Zoning Ordinance on or before August 19, 2007 shall cause the special use permit to terminate automatically.

On roll call the vote was:

Yea: (5) Zaremba, Noll, Bowman, Shepperd, Burgett
Nay: (0)

WATER COUNTY USA ROUTE 199 LIMITED ACCESS BREAK

Mr. Noel gave a presentation on proposed Resolution R05-133 to support a request of Busch Entertainment Corporation to obtain approval from the Commonwealth Transportation Board for a limited access break on Route 199 near the current Water Country entrance.

Mr. Zaremba moved the adoption of proposed Resolution R05-133 that reads:

A RESOLUTION TO SUPPORT THE REQUEST OF BUSCH ENTERTAINMENT CORPORATION TO OBTAIN APPROVAL FROM THE COMMONWEALTH TRANSPORTATION BOARD FOR A LIMITED ACCESS BREAK ON ROUTE 199 APPROXIMATELY 1,200 FEET NORTH OF THE CURRENT ENTRANCE TO WATER COUNTRY USA

WHEREAS, the Busch Entertainment Corporation has approached the York County Board of Supervisors to seek the Board's support for their request to the Commonwealth Transportation Board for authorization of a break in the limited access status of Route 199; and

WHEREAS, Busch Entertainment Corporation has represented to the Board of Supervisors that it has plans to relocate the entrance to Water Country USA 1,200 feet north of the current entrance and make improvements to the new entrance that will improve traffic flow due to an additional 3,000 feet of on-site parking staging and safety due to increased separation from Interstate 64; and

WHEREAS, Busch Entertainment Corporation has also represented that its intention is to sell approximately 240 acres adjacent to Water Country USA for commercial development and the current entrance to Water Country USA will be needed to support any future development of that property; and

WHEREAS, Busch Entertainment Corporation has represented to the Board of Supervisors that it would install, at its expense, a 400-foot deceleration right turn lane into Water Country USA, a new median break, and a new 200-foot left turn lane from the South; and

WHEREAS, the Board of Supervisors has carefully considered Busch Entertainment Corporation's request and found it to be worthy of support, as it will enhance traffic safety for patrons of Water Country USA and the motoring public utilizing Route199, as well as fostering a significant new commercial development;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 19th day of July, 2005, that it does hereby endorse the request of Busch Entertainment Corporation to obtain authorization from the Commonwealth Transportation Board for a limited access break of 150 feet on Route 199 that would allow the relocation of the entrance to Water Country USA, approximately 1,200 feet to the north midway between Water Country Parkway, Route 640 and Penniman Road, Route 641.

On roll call the vote was:

Yea: (5) Noll, Bowman, Shepperd, Zaremba, Burgett
Nay: (0)

Meeting Adjourned. At 8:06 p.m. Chairman Burgett moved that the meeting be adjourned sine die.

James O. McReynolds, Clerk
York County Board of Supervisors

James S. Burgett, Chairman
York County Board of Supervisors