

MINUTES
BOARD OF SUPERVISORS
COUNTY OF YORK

Regular Meeting
February 21, 2023

6:00 p.m.

Meeting Convened. A Regular Meeting of the York County Board of Supervisors was called to order at 6:02 p.m., Tuesday, February 21, 2023, in the Board Room, York Hall, by Chairman Thomas G. Shepperd, Jr.

Attendance. The following members of the Board of Supervisors were present: Walter C. Zaremba, Sheila S. Noll, W. Chad Green, G. Stephen Roane, Jr., and Thomas G. Shepperd, Jr.

Also in attendance were Neil A. Morgan, County Administrator; Mark L. Bellamy, Jr., Deputy County Administrator; Brian Fuller, Assistant County Administrator; James E. Barnett, County Attorney; and Heather L. Schott, Assistant to the County Administrator/Deputy Clerk.

Invocation. Pastor Doug Echols, Bethel Baptist Church, gave the invocation.

Pledge of Allegiance to the Flag of the United States of America. Mr. Stephen Roane, Jr. led the Pledge of Allegiance.

PRESENTATIONS

COLONIAL SOIL AND WATER CONSERVATION DISTRICT

Mr. Tim Beale, York County Associate Director for the Colonial Soil and Water Conservation District (CSWCD), came forward and stated that the Colonial Soil and Water Conservation District has grown, and its primary emphasis has transitioned from an agricultural to an urban environment focus. He then introduced Ms. Robyn Woolsey, Urban Conservationist, who made a presentation highlighting the following information on the district:

- The district includes the Counties of Charles City, New Kent, James City, York County, and the City of Williamsburg.
- Our district, like those across the state, is non-regulatory and does not carry any enforcement authority to issue fines or violations. However, this has enabled staff to build relationships and trust with the landowners.
- The district has grown substantially over the past 10 years and most recently hired three new staff members. Currently, there are seven full-time members and two part-time employees as well.
- Our objective is to obtain as many technical and financial resources as possible and place them in the hands of those who need them.
- Our service area is bound by two major ridge river systems in Virginia, which are the York River and the James River.
- Although urban and suburban development has grown significantly, they still work with agricultural producers regarding nutrient management, no-till agriculture, and more.
- Dominion Envirothon is a state program that is essentially a conservation-themed competition for high school students of whom they are especially proud.

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- Another statewide program they offer is the Youth Conservation Camp at Virginia Tech, where they sponsor several students each summer.
- CSWCD has community partnerships with several nonprofit groups that include the Williamsburg Community Growers, which operate a teaching farm in James City County.
- In 2021, the Colonial District received a Farm to School Grant in the amount of just over \$90,000 to enable us to work with more students. At the teaching farm last year, over 3,000 pounds of freshly grown produce was grown and donated to communities in need.
- One of the largest urban programs offered is a statewide program entitled the Virginia Conservation Assistance Program. This program offers technical and financial assistance to eligible residents to install stormwater management practices on their property, such as living shorelines.
- Other urban programs include replacing solid driveway materials with permeable driveways and installing rain gardens.
- In the past year, CSWCD has secured over \$140,000 in state funding specifically to help York County residents address stormwater issues, create living shorelines, and resolve erosion issues.
- The Healthy Virginia Lawns Program, another statewide program hosted by the Virginia Cooperative Extension, teaches residents who are more environmentally minded how to maintain their lawns in a more environmentally responsible manner.

In conclusion, Ms. Woolsey stated that they continue to take advantage of available grant opportunities to fund their programs and seek additional partnerships and collaborations throughout the participating localities. She noted that they have two newly elected directors representing York County, George Clark, and Pam Mason, and also Megan Tierney, the York County Virginia Cooperative Extension (VCE) Agent, and Jim Wallace, the District Manager.

Mr. Wallace came forward and stated that he is excited to see environmental progress such as grasses starting to grow in the rivers again, feeder fish and crabs increasing in numbers, and bald eagles returning to this area. In closing, he stated that their organization does not force people to become more environmentally conscience but partners with them to improve the world in which we live.

In closing, Mr. Beale stated that all of the mentioned programs help reduce the nutrient load that goes into the Bay, reduce the sedimentation and runoff into our waterways, and improve the quality of life habitat for the Bay. He pointed out that one of their Envirothon teams in 2019 won the international competition and that he hoped York County schools would participate at a higher level in these programs as well. Lastly, he stated that they would be happy to answer any questions the Board might have.

Mr. Roane thanked the presenters for the excellent information they provided and asked if the increase in the cost of fertilizers, herbicides, and pesticides has produced greater interest and participation in the environmentally friendly programs.

In response, Mr. Beale stated that it has helped and that they have also received a Rise Grant that will help farmers to know more precisely how much nutrients they need to spray on their fields.

Mr. Roane asked, with spring close at hand, if they could provide any tips for homeowners regarding which fertilizers and pesticides they can use that are better for the environment.

Mr. Beale stated that his recommendation is to use slow-release products; however, he asked Ms. Woolsey to respond to this query as she handles the Turf Love Program.

Ms. Woolsey noted that today's cost is a big issue with such products. The program helps homeowners know how much of a product they need so that they are not wasting their time and money and we are not seeing an excess of nutrients flow into our waterways.

Chairman Shepperd thanked them for their excellent presentation.

WASTE MANAGEMENT

Ms. Laurel Halperin, Waste Service Manager, came forward and provided the following brief overview of the tasks that are performed by this division:

- There are seven full-time employees and two work-as-required employees.
- Waste Management oversees the curbside collections of garbage and recycling.
- Manage drop-off areas for garbage and recycling at the Waste Management Facility located at 145 Goodwin Neck Road.
- The Division's space is shared with VPPSA (Virginia Peninsulas Public Service Authority), where their composting operation is also located.
- Since the County no longer has a transfer station, trucks bring in the debris, and it is loaded into the back of 18-wheeler trucks which hauls it to a regional landfill in King and Queen County.
- A leaf collection program is run every year. This year the program just concluded with 819.32 tons of material being picked up and disposed of properly.
- Storm debris cleanups are also handled by the division with the help of Grounds Maintenance and other divisions. However, if a storm is excessive, the County has agreements with out-of-state contractors who will come to our assistance.
- Some of the programs fall under our division but the day-to-day oversight and management are run by Ms. Samantha McNeil, Outreach Coordinator, that include:
 - The Beautification Committee has taken its activities to a higher level, and the Committee has selected a new logo which is the Redbud Tree.
 - The Trex Recycling Challenge, whereby in any given six-month period, the County is awarded a bench for submitting a specific amount of recyclable plastic. Most of the awarded benches have been placed at the County schools, but once the schools have a sufficient number, the benches will be located at other public locations throughout the County.
 - The Environmental Calendar Program includes producing and distributing annual calendars through the libraries and other County buildings. The calendar, which can also be downloaded from the County's website, notes special events that will be occurring in the County and identifies the Board's meetings.
 - The Clean Business Forum is a program whereby businesses that are good environmental stewards are awarded special recognition.
- Household hazardous waste disposal and paper shredding events are held in conjunction at various times throughout the year.
- They participate with the Sheriff's Department in the Drug Takeback Days, which are held each year in April and October.
- Although the Virginia Department of Transportation (VDOT) is responsible for litter on our highways, the County and many volunteers help to keep our streets clean via programs such as the Great American Cleanup, Clean the Bay, and Adopt-A-Spot.
- The Grounds Maintenance personnel also work very hard collecting litter and recently held a major cleanup project.

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- A pollinator garden is located at the Waste Management Center, where staff works with the Beautification Committee, the Master Gardeners, and students from the York River Academy Greenhouse Team which has also become a Monarch Butterfly way station. This garden has recently been expanded to an area next to Goodwin Neck Road and is now a memorial to two of Virginia's greatest champions for the environment, which is Page Hutchinson, Virginia's Project Learning Tree Coordinator with the Department of Forestry, and Barbara Dunbar, long-time Beautification Committee member.

In conclusion, Ms. Halperin stated that she is pleased to answer any questions the Board might have.

In response and due to the extensive agenda before the Board, Chairman Shepperd asked that the members contact Ms. Halperin directly should they have any questions or comments for her.

CITIZENS' COMMENT PERIOD

Doug Holroyd, 103 Marina Point, Williamsburg stated that he represents several residents who reside on Springfield Road. He explained that the senior living facility, under construction in District 1, named Tranquility, has not lived up to the promises made by Mid-Atlantic Land Management, who sought and was granted a rezoning for the subject 80-acre parcel. Specifically, he stated that residents in the area were assured that only minimal traffic delays would occur with approximately 20 construction vehicles using the road daily. He stated that on two separate occasions, the construction traffic on Springfield Road was counted exceedingly above the 20 prescribed amount. He did not fault the Board but expressed frustration on why the County is not actively measuring the activity on this subject roadway and why the construction permit has not been pulled. He recommended that a vehicle limit be imposed on Springfield Road pursuant to the commitment made during the application approval process. He added that cameras could be installed so that oversight can be handled remotely. Secondly, he recommended providing the residents of Springfield Road a property tax rebate for the past year when they have suffered at the hands of the construction company building Tranquility.

Joshua T. Mullins, 1151 Springfield Road, Williamsburg stated that he moved onto Springfield Road in 2013 and it was a peaceful community until the construction of Tranquility began. He stated that ever since construction began, heavy vehicles and equipment utilize their roadway which they were told would only be used if an emergency occurred. Moreover, he noted that the heavy trucks block the roadway, which is extremely narrow making it impossible for EMS vehicles to assess people and property that live along this roadway if needed. He stated that he had spoken with the developer's attorney to no avail. He pointed out that the construction will continue for five more years and asked that the Board reconsider their approval of this development like they recently did on another issue. He asked the Board to mandate that the construction vehicles use the main entrance to the development or use the road behind their homes as a permanent access for construction vehicles.

Brianne Mullins, 1151 Springfield Road, Williamsburg stated that she will provide the Board with some insight as to what has and is occurring in her community along Springfield Road. First, for three months large trees were ground down with noisy equipment parked extremely close to two of the existing homes. She noted that the noise of excavators and a tamping machine took over and was continuous for eight to nine hours with little to no breaks six days a week. In addition, she pointed out that the 13-foot-wide Springfield Road has deteriorated rapidly over the last year with construction vehicles not abiding by the posted speed limit. Because of the oversized vehicles/equipment now using the roadway they frequently get stuck along the narrow shoulders. She explained that she no longer feels safe walking along the road and small children are not able to play safely outside. She asked the Board to make note of what is happening in her small community, to make needed changes, and to give greater thought when considering such developments in the future.

David Smith, 1141 Springfield Road, Williamsburg expressed concern over the speeding oversized construction vehicles using their roadway. His concern was for the elderly in the neighborhood and also about crime since with the addition of gravel on the roadway shoulders, now unknown vehicles are parking in these areas in the evening. Regarding streetlights, he noted that the developer of the adjacent property has only installed two; however, more is needed as the street is

extremely dark at night. He asked that the construction traffic be removed from Springfield Road especially since children get on and off the school bus on this road.

Deborah Wesley, 902 Dare Road, representing the York Education Association, came forward to thank the Board for increasing the local contribution to the York County School Budget this year. In addition, she reported that the York County School Board passed a resolution to proclaim March 2 as Read Across America Day. She then noted the School Division's four priorities are collective commitment, supportive culture, highly effective talent, and future-ready graduates. She called a representative from the Sheriff's Department to come forward to receive a set of books, donated by the York Education Association that the deputies could use when they read to our students. She also noted that she had brought a book for each Supervisor and encouraged everyone to call one of the elementary schools and schedule a time to read to the kids.

Montee Jons, 122 Drew Road, Williamsburg came forward and asked for the immediate cessation of construction traffic on Springfield Drive. He noted that prior to the new construction, this area had been very tranquil; however, now these residents have lost confidence in their local leaders. In closing, he asked the Board to consider ways in which they can alleviate the issues that these people are now facing.

Howard Wallace, 128 Springfield Drive, Williamsburg stated that he grew up on Springfield Road and it is now quite distressing when he visits his elderly parents on this road. He explained that the road is torn up and the houses and the vehicles are dirty and dusty. In addition, his elderly mother and father are unable to get outside to walk due to the dirt and traffic. In closing, he asked the Board to take appropriate action to restore tranquility back to this neighborhood.

Ron Struble, 205 Shady Bluff Point, Williamsburg, President of the Conserve York County Foundation, stated that two weeks earlier the Board did something that has never happened before, it voted to suspend the Rules of Procedure in order to right a previous wrong vote. He noted that a majority of the residents on Springfield Road are present this evening and asked them to raise their hands if they were advised of the Board's consideration of the development that was now occurring in their neighborhood. Since no one raised their hand, Mr. Struble noted that he knew of only two residents who were notified. He then asked the Board to delay construction of the 200-plus homes until a construction entrance is built off of Hawks Nest Road, which runs behind Springfield Road. If the Board is unable or unwilling to do this, he asked for strict adherence to the 20 trucks per day rule as promised by the developer. Mr. Struble asked for the immediate implementation of a system to ensure no trucks entering or departing meet on Springfield Road. He requested that the trucks stay on the road and stop using ditches for maneuvering and that the damaged pavement be restored or replaced.

K. Dana DeJager, 108 Horseshoe Drive, Williamsburg stated that she had lost confidence in the Board's judgment and its sincere concern for their constituents. She stressed how much their decisions can negatively impact their homes, communities, and lives. She expressed concern over the Board's lack of response to concerns expressed over Springfield Road and how its community has been decimated by the adjacent construction. In conclusion, she asked the Supervisors to think how each decision they make impact their constituents and to vote in such a way as to protect and assist them in living lives of peace, and security.

Joshua Stanfield, 208 Crestwood Court, expressed support for the development of a Code of Ethics for the Board similar to that of James City County. He stated that he has seen first-hand corruption in every level of state government. He also voiced concern over items that are discussed and determined behind closed doors that citizens know nothing about until a project commences. Lastly, he reiterated his support for drafting, signing, and enforcing a Board of Supervisors' Code of Ethics.

Greg Laughner, 1135 Springfield Road, Williamsburg stated that he was annoyed by the heavy equipment and flatbed trailers that go up and down Springfield Road spreading dust everywhere. In addition, he stated that these vehicles are destroying the road and the tranquility the neighborhood once enjoyed.

Steven F. Kennedy, 104 Penn Drive, Williamsburg stated, as Mr. Morgan once said himself, the County does not need to chase development to make payroll. He suggested that the County use some of its surpluses to contribute to conservation organizations and stated that he would match

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any contribution to either Conserve York County Foundation or the Historic Virginia Land Conservancy. He asked for more transparency in local government and more information for residents.

COUNTY ATTORNEY REPORTS AND REQUESTS

Mr. James Barnett, County Attorney, stated that the General Assembly is scheduled to adjourn this weekend and he plans to provide a report for the Board after this has occurred.

COUNTY ADMINISTRATOR REPORTS AND REQUESTS

Mr. Neil Morgan, County Administrator, stated that there are two significant construction projects that the Board is eager to see completed. First, the Yorktown Library will open someday in March, hopefully no later than mid-month. In addition, Fire Station No. 7 on Mooretown Road should open the last week of March or the first week in April.

Chairman Shepperd told Mr. Morgan that he and the Board would like to discuss the Springfield Road issue at greater length when they have their respective one-on-one meetings with him in the near future.

RECESS

Chairman Shepperd called a brief recess at 7:05 p.m.; the meeting reconvened at 7:18 p.m.

PUBLIC HEARINGS

APPLICATION NO. ZM-195-23, CURT AND PAMELA LANG DBA MILLS MARINE. Ordinance No. 23-4.

The matter was considered and **approved on a vote of 5:0.** A summary of the proceeding is below.

Mr. Timothy C. Cross, Deputy Director of Planning and Development Services, gave a presentation on Application No. ZM-195-23, Curt and Pamela Lang dba Mills Marine to amend the voluntarily proffered conditions of approval to a parcel of land located at 1737 Back Creek Road that was conditionally rezoned by the Board from Rural Residential to Water-oriented Commercial/Industrial in January 2022. In conclusion, Mr. Cross stated that the Planning Commission considered this application on January 11, 2023, and subsequent to conducting a public hearing at which three citizens spoke, the application was approved on a 7:0 vote.

Mr. Roane sought confirmation that the only item the applicant was requesting was to expand the services in the building that were previously approved to include interior watercraft repair work.

Mr. Cross stated that his understanding of the request was accurate.

Mr. Green asked if the parking issues that are associated with this property have been resolved. He noted that the 20-foot transitional buffer will eliminate even more parking spaces.

In response, Mr. Cross agreed that the transitional buffer would eliminate some parking, but he noted that currently, no parking is allowed on this property. However, he stated that parking will be allowed when the proposed building is constructed, and it has gone through the site plan approval process.

Mr. Green asked if the Board could eliminate the required 20-foot buffer on the property.

Mr. Cross stated that it cannot be eliminated since this is not a Special Use Permit but rather a rezoning.

Chairman Shepperd asked where parking could occur on this site.

Mr. Cross stated that the boats and trailers will be parked on the interior of the new building, but no outside parking will be allowed.

Mr. Curt Lang, the applicant, came forward to provide additional clarification relative to parking. He stated that when he purchased the property where the building is to be constructed, several boats were parked on the property. Since that time, he stated that the County's Codes and Compliance staff have visited the property numerous times and stressed that no parking is allowed on the site. He noted that he has learned that until the proposed building is constructed and the site plan approved that he cannot use the property at all. He asked for permission to use the property prior to all of this occurring.

Mr. Roane asked if the boats you want to park on this property are customers' boats or if they are boats being stored on the property. Also, he asked if the proposed structure to be built will be large enough to store the number of boats he expects.

In response, Mr. Lang stated that some are customer boats and some are parked there so that he may service them. He noted that in the winter months, there will be plenty of room in the structure, and during the summer months, he will likely shelter or repair no more than three boats in the structure at any given time, so there will be sufficient room.

Chairman Shepperd requested Mr. Cross to return to the podium and asked if the Code says that you cannot do any business on a WCI (Water, Commercial, Industrial) parcel until you have an approved site plan.

Mr. Cross stated that he and other members of County staff had informed Mr. Lang, prior to the rezoning, that if approved, the next step would be to acquire an approved site plan then boats could be parked inside of the new structure.

Chairman Shepperd then asked Mr. Lang why he had not submitted a site plan.

Mr. Lang stated that he had never done this before, and he thought the site plan was for the construction of the building and not the parking of boats on the property.

Chairman Shepperd then asked Mr. Cross if the Board could approve a temporary six-month parking pass resolution for Mr. Lang's subject property.

In response, Mr. Cross stated that this was a legal question.

Mr. Barnett stated that with any rezoning, typically, they are approved when the use suits the property, the neighborhood, and highway access. He noted that if something is good for only six months, it typically runs counter to what is approved in a rezoning. In addition, he stated that the Board has the authority to grant approvals and/or place restrictions; however, he has never seen it done before. Basically, the Board would be approving the addition of a proffer to allow parking on the lot for six months which has not been advertised.

Mr. Morgan stated that he did not believe that the Board could take action to ignore the Site Plan Ordinance. However, he noted that the Board could assist the applicant by approving this request and then see what Donald Davis and Associates come up with on the site plan. However, if we hit a brick wall, he stated that perhaps the staff will come back to the Board with an alternate suggestion.

Chairman Shepperd stated that he knows it will take quite some time before the site plan is completed by Mr. Davis and expressed concern that he did not want bureaucracy to prevent this business from succeeding. As such, he was seeking a solution to the situation whereby the applicant could be granted, on a temporary basis, the ability to park boats on this vacant lot to alleviate his desperate need for additional parking for his business. Since the WCI rezoning has already been applied to the subject site and the applicant is only seeking a change in the proffers, Chairman Shepperd asked if we could further amend the proffers to allow for the needed temporary parking on the site,

Mr. Cross explained that amending a proffer is a form of rezoning.

Mr. Roane asked if the no parking on the site is a codified legal requirement.

Mr. Barnett confirmed that it was indeed a legal requirement and also confirmed that any time you change the use of property, especially commercial property, you must have an approved site plan illustrating sufficient parking for the use.

Chairman Shepperd asked if the Board could grant a temporary parking waiver for this property.

Mr. Barnett stated that since the County ordinance lists this as a condition, he did not believe a resolution adopted by the Board could nullify this requirement.

Mr. Morgan suggested that a better approach is administrative discretion if the applicant's process to secure a site plan takes too long.

Mr. Cross stated that staff will scrutinize the ordinance to see if there is any room for flexibility in this situation.

Mr. Morgan stated that if the Board agrees, staff will ask Mr. Lang in good faith to obtain his proposal for the site plan, share it with staff, and we will work together to move it forward expeditiously. However, should we run into roadblocks, he stated that staff will work with the applicant to allow some limited use of the property.

Chairman Shepperd stated that the Board cannot approve his request relative to parking on the property prior to an approved site plan; however, staff will investigate to determine if there is any flexibility in the ordinance relative to parking. In closing, he recommended that Mr. Lang press forward to get the site plan completed.

Mr. Barnett added that the County has a practice of working with individuals to bring their property into compliance with the Zoning Ordinance and, as such, refrain from aggressive enforcement actions.

Chairman Shepperd then called to order a public hearing on proposed Ordinance No. 23-4 that was duly advertised as required by law and is entitled:

AN ORDINANCE TO APPROVE AN APPLICATION TO AMEND PROFFERED CONDITIONS OF APPROVAL APPLICABLE TO A 0.4-ACRE PARCEL LOCATED AT 1737 BACK CREEK ROAD (ROUTE 718)

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

Mr. Green then moved the adoption of Ordinance No. 23-4.

Chairman Shepperd opened the floor for Board discussion; however, no comments or questions were made.

On a roll call the vote was:

Yea: (5) Zaremba, Noll, Green, Roane, Shepperd
Nay: (0)

PROPOSED AMENDMENTS TO COUNTY CODE SECTIONS 21-41 THROUGH 21-45 PERTAINING TO REAL PROPERTY TAX RELIEF FOR CERTAIN ELDERLY AND DISABLED PERSONS.
Ordinance No. 23-1.

The matter was considered and **approved on a vote of 5:0**. A summary of the proceeding is below.

Mr. Morgan stated that last year as part of the budget process, the County did a one-time adjustment in the real estate abatement program for the elderly and disabled. At that time, we

assured the Board that we would develop an automatic adjustment to address this matter moving forward. He stated that Mr. Fuller, Assistant County Administrator, and his team worked with the Commissioner of the Revenue and the County Attorney's office to develop the ordinance presented this evening. Although originally it was thought we would address this issue with the budget, the Commissioner's suggestion to address this matter as soon as possible made better sense. He explained that included in the ordinance is an inflator so that every calendar year, it would grow based on a Department of Housing and Urban Development (HUD) calculation about the value of housing in a region which was also recommended by the County's Housing Manager. Rather than having a set deadline, he stated that the Commissioner suggested a rolling application process to prevent applicants from crowding the office at one time. When the new formula was applied to this group of individuals, Mr. Morgan stated that everyone's benefit increased except for six people. As such, he stated that those six persons will be grandfathered so that no one's benefit goes down, although the vast majority of applicants will see an increase. In addition, he pointed out that the ordinance would also allow the Commissioner's office to accept the determination of disability by the Social Security office as sufficient proof that someone is disabled and thereby eligible for the program.

Upon conclusion of Mr. Morgan's comments, Ann Thomas, Commissioner of the Revenue, stated that his explanation of the ordinance amendment is true and complete.

Mr. Zaremba asked Ms. Thomas what is the Virginia disability portion of the eligibility criteria for this program.

Ms. Thomas stated that the amendment simply adds the Social Security Administration to the Department of Veteran Affairs and the Railroad Board relative to eligibility for the program.

Mr. Roane asked if the annual inflator would be applied year after year.

Mr. Morgan stated that it would occur on an annual basis and would be adjusted every year pursuant to a new calculation. As such, he explained that unless the Board took some specific action, the inflator would automatically apply in future years.

Chairman Shepperd then called to order a public hearing on proposed Ordinance No. 23-1 that was duly advertised as required by law and is entitled:

AN ORDINANCE TO AMEND YORK COUNTY CODE SECTIONS 21-41 THROUGH 21-45, REAL PROPERTY TAX RELIEF FOR CERTAIN DISABLED PERSONS; DEFINITIONS OF INCOME LIMITS AND ASSESSED VALUE; MAXIMUM AMOUNTS OF RELIEF PROVIDED; GENERAL PREREQUISITES TO GRANT; ANNUAL APPLICATION TO BE REQUIRED; CLAIMANT'S AFFIDAVIT AND CERTIFICATE OF DISABILITY

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

Mrs. Noll then moved the adoption of Ordinance No. 23-1.

Chairman Shepperd then opened the floor for Board discussion of the application, but hearing none he called for a vote.

On a roll call the vote was:

Yea: (5) Noll, Green, Roane, Zaremba, Shepperd
Nay: (0)

AMENDMENT TO YORK COUNTY PURCHASING ORDINANCE. Ordinance No. 23-3.

The matter was considered and **approved on a vote of 5:0.** A summary of the proceeding is below.

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Mr. Neil Morgan asked Mr. Greg Smith, the County's current Purchasing Agent, and Christine Joyce, our prospective Purchasing Agent, to come forward to explain this ordinance amendment. However, before their arrival at the podium, Mr. Morgan explained that Mr. Smith has been a true asset to County staff since his arrival in 2018, and his expertise was invaluable as the County dealt with COVID and its financial impact. In addition, he stated that we will sadly lose him in the near future as he retires; however, we are most pleased to have Ms. Joyce join our staff, who brings with her 10 years of local government procurement experience.

Mr. Smith and Ms. Joyce gave a brief presentation highlighting the following information:

- Although the cost of goods is steadily increasing, as well as services, the dollar limit that the Board has to approve has not changed. However, there may be a time in the future when inflation goes up to the point that the limits may have to be amended.
- The current thresholds are: in CIP over \$100,000, Board approval is required; in CIP \$50,000 to \$100,000, we can proceed with the purchase with the County Administrator's approval; and in non-CIP over \$50,000, Board approval is required.
- The proposed amendment will allow a vendor who can provide recycled goods of the same quality as a new item and are the low bidder to participate in the bid process. This amendment is reflective of one of the Board's strategic priorities, Environmental Stewardship.
- The proposed amendment will allow the purchasing agent to donate items to non-profits. In doing so, the non-profit obtains beneficial items, which also help the County as selling surplus items is extremely time-consuming.
- The County currently operates under the Virginia Public Procurement Act (VPPA) so to avoid any confusion and to make for a smoother audit, the amendment reflects the VPPA wording relative to mandatory requirements.

Mr. Morgan clarified that the VPPA wording is only included in those sections of the ordinance that are affiliated with using federal money for procurement.

Mr. Smith concurred and added that most of our purchases are not related to federal funds; otherwise, we still operate under our current procedures.

At the conclusion of the presentation, Mr. Roane asked if those things that are excluded from the approval requirements are also excluded from the monetary approval notification guidelines as well.

In response, Mr. Smith stated that it is based on the type of purchase.

Mr. Roane also pointed out that there were two large sections of the proposed ordinance amendment where large amounts of text are crossed out and new text recommended. He then asked if the larger recommended changes were based on the federal language he referred to in his presentation.

Mr. Smith stated that one of these sections deals with Public Private Education (PPE), and as such, we are aligning ourselves with the state wording. The second large section recommended for change deals with aligning ourselves with the federal funding guidelines. There is no process change for these two, only language alignment.

Mrs. Noll asked about Article 2, which addresses the removal of solicitations in publications and newspapers.

Mr. Smith explained that the County, like the state, has created an electronic portal in Virginia's Electronic Procurement Portal (eVA) where all of the state agencies and most localities post their solicitations. He stated that vendors could subscribe to eVA for free, and subscribers receive electronic notifications, which is a much broader way of sharing information as opposed to the local newspaper. He continued by stating that the old ordinance required you to advertise by either newspaper or eVA; however, with the amended ordinance, all solicitations are sent to eVA, saving the County time and money. Lastly, Mr. Smith stated that he has enjoyed the last five years working for the County. He thanked Mr. Morgan, Mrs. Theresa Owens, the Finance Director; Mr. Bellamy, Deputy County Administrator; and the Board for their support of the

Finance Department, and he pointed out that Ms. Joyce is a great addition to the County's Finance Department.

Ms. Joyce thanked the Board for the opportunity to serve them and looked forward to working for the County.

Mr. Green stated that the proposed ordinance looks good to him because it streamlines regulations.

Chairman Shepperd then called to order a public hearing on proposed Ordinance No. 23-3 that was duly advertised as required by law and is entitled:

AN ORDINANCE REORGANIZING AND AMENDING THE YORK COUNTY PURCHASING ORDINANCE CURRENTLY NUMBERED AS 21-13, TO PROVIDE EDITS TO CLARIFY THAT THE POLICY APPLIES TO PROCUREMENTS FROM NON-GOVERNMENTAL SOURCES, CORRECT WORDING OF SOME DEFINITIONS, EDIT PROVISIONS OF THE APPROVAL PROCESS AND EXCLUSIONS, PROVIDE FOR EFFICIENCY IN ISSUING SOLICITATIONS, REQUIRE ALL PUBLIC POSTINGS OF COMPETITIVE SEALED BIDDING SOLICITATIONS BE DONE ON THE STATES PORTAL (EVA), REMOVING THE REQUIREMENT TO SOLELY ADVERTISE IN A NEWSPAPER, IDENTIFY ADDITIONAL PROCUREMENTS THAT SHALL NOT REQUIRE PRICE COMPETITION, ADJUST THE DOLLAR LIMIT AT WHICH THE CENTRAL PURCHASING BECOMES RESPONSIBLE FOR OBTAINING COMPETITIVE BIDS/OFFERS, ALIGN LIMITS IMPOSED ON TERM CONTACTING WITH ARCHITECTURAL AND PROFESSIONAL ENGINEERING TO BE SIMILAR WITH THE VIRGINIA PUBLIC PROCUREMENT ACT (VPPA), REMOVE RESTRICTIVE LANGUAGE FOR COOPERATIVE PROCUREMENT, ADDRESS PROCEDURES FOR THE WITHDRAWAL OF A BID OR PROPOSAL TO BE CONSISTENT WITH MANDATORY PROVISIONS OF THE VPPA, ADD A SECTION TO ADDRESS RECYCLED GOODS AND PRODUCTS CONSISTENT WITH THE COUNTY'S STRATEGIC PRIORITY OF ENVIRONMENTAL STEWARDSHIP, INCREASE THE THRESHOLD AT WHICH BONDS ARE REQUIRED FOR CONSTRUCTION PROJECTS, ALLOW FOR THE PURCHASING AGENT TO DONATE COUNTY SURPLUS TO NONPROFIT ORGANIZATIONS AS WAS PREVIOUSLY ALLOWED FOR THE SCHOOL DIVISION, UTILIZE LANGUAGE FROM THE CODE OF FEDERAL REGULATIONS (CFR) RELATIVE TO PROCUREMENT OF STATE AND FEDERALLY FUNDED PROCUREMENTS, AND TO MAKE OTHER MINOR CLERICAL EDITS TO THE POLICY

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

Mr. Zaremba then moved the adoption of Ordinance No. 23-3.

Chairman Shepperd then opened the floor for Board discussion of the application. Since there were no comments or questions, he called for the motion.

On a roll call the vote was:

Yea: (5) Green, Roane, Zaremba, Noll, Shepperd
Nay: (0)

AMENDMENT TO COX CABLE TELEVISION FRANCHISE AGREEMENT. Ordinance No. 23-2.

The matter was considered and **approved on a vote of 5:0**. A summary of the proceeding is below.

Mr. Neil Morgan stated that Mr. Tim Wyatt, Director of Information Technology, has been working with other employees to update the County's current agreement with Cox. He explained that since it is a franchise agreement update, a public hearing must be held. Under the current agreement,

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he stated that Cox was required to provide seven connections, five of which have never been utilized. He explained that under the proposed new agreement, we will leverage the fact that we are not interested in maintaining those five connections and instead want them to install some devices at Fire Station No. 3 and at Emergency Communications, which is our most comprehensive node of technology. He stated that Cox has agreed to this change in services and has also agreed to provide HDTV on our TV channels.

Mr. Roane thanked staff for their efforts to negotiate with Cox to obtain an agreement that will be more beneficial to the County.

Chairman Shepperd then called to order a public hearing on proposed Ordinance No. 23-2 that was duly advertised as required by law and is entitled:

AN ORDINANCE TO AUTHORIZE THE COUNTY ADMINISTRATOR TO EXECUTE AN AMENDMENT TO THE CABLE FRANCHISE AGREEMENT WITH COX COMMUNICATIONS HAMPTON ROADS, LLC

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

Mrs. Noll then moved the adoption of Ordinance No. 23-2.

Chairman Shepperd then opened the floor for Board discussion of the application, and after hearing none, he called for the vote.

On a roll call the vote was:

Yea: (5) Roane, Zaremba, Noll, Green, Shepperd
Nay: (0)

APPLICATION NO. SE-27-23, CHICK-FIL-A, INC. - GREENBELT BUFFER REQUEST. Resolution R23-35.

The matter was considered and **approved on a vote of 5:0**. A summary of the proceeding is below.

Mr. Timothy C. Cross, gave a presentation on Application No. SE-27-22, Chick-fil-A, - Greenbelt Buffer Request for a Special Exception to authorize land disturbance within the required 45' wide greenbelt buffer along the Mooretown Road frontage of the land located at 6732 Mooretown Road.

Chairman Shepperd stated that he understands that the adjacent business is allowing Chick-fil-A to install the required landscaping on their property.

Mr. Cross stated that Chick-fil-A has reached an agreement with the neighboring Dialysis Center to plant the shrubbery on their property, which will screen the view of the drive-through from the Dialysis Center.

Chairman Shepperd asked how such an arrangement fits into our regulations.

Mr. Cross explained that there are opportunities for mutually shared buffers between properties. He also explained that a couple of years ago, the Board of Zoning Appeals approved a variance to add a bypass lane encroaching into the normal side landscape yard, and more recently, they approved another variance to extend this bypass lane.

Mr. Roane stated that often conceptual plans do not translate into what is actually created on a lot. As such, he sought a commitment from the property/business owner to ensure that the conceptual plan will be faithfully followed.

Mr. Cross stated that pre-development and post-development renderings were included in the Board's agenda packet, which will be consistent with the end product. He reminded the Board that no trees will be removed; only the required shrubbery will be installed on the adjacent

property providing the necessary screening. Also, he noted that condition number three in the approval resolution requires that the rendering plan be strictly followed.

Mr. Green asked if all of this work is occurring on the Chick-fil-A property.

Mr. Cross stated that it was with some of the shrubbery occurring on the adjacent property.

Mr. Robert P. Beaman, 2022 Central Park Avenue, Suite 2000, Virginia Beach, attorney at the Troutman Pepper Law Firm, came forward to represent the applicant. First, he thanked Mr. Cross and all of the staff for their hard work on this application over the last couple of months. He noted that since COVID, this particular establishment now has two-thirds of its patrons use the drive-through window as opposed to dining in the facility. He stated that when the two drive-through lanes merge into one lane, it creates a pinch point which results in traffic backing up into the Home Depot drive-aisles and associated shopping center. The request to eliminate that pinch point area by providing two lanes all along the drive-through would eliminate the traffic backing up into adjacent commercial properties. He also pointed out that the application requires an encroachment into the 45-foot green buffer and offsetting that encroachment by installing a landscape buffer that would screen the drive-through from the Dialysis Center. Also, he noted that the applicant is bound by the site plan approval to install the shrubbery as seen on the plan. Lastly, he stated that they have had many discussions with the adjacent Dialysis Center, which is in agreement with the shrubbery plan that includes some of their property.

Mr. Roane asked if the creation of two lanes throughout the drive-through would eliminate the encroachment of Chick-fil-A guests onto neighboring businesses.

In response, Mr. Beaman, stated that the extended two-lane drive-through would provide space for an additional eight cars so that there should be no traffic encroachment into neighboring properties.

Chairman Shepperd then called to order a public hearing on proposed Resolution R23-35 that was duly advertised as required by law and is entitled:

A RESOLUTION TO APPROVE AN APPLICATION FOR A SPECIAL EXCEPTION TO
AUTHORIZE LAND DISTURBANCE WITHIN THE REQUIRED 45-FOOT GREENBELT
BUFFER ALONG THE FRONTAGE OF AN EXISTING 1.3-ACRE PARCEL LOCATED
AT 6732 MOORETOWN ROAD

Mr. Tom Chamberlain, 270 Barlow Road, Williamsburg stated that he strongly opposed this application because it allows encroachment into the required buffer. In addition, he noted that Chick-fil-A had already obtained two zoning appeal approvals without a public hearing. Also, he pointed out that trees and shrubs are required; should they die, there is no requirement that they be replaced. He also presented two photographs of the subject site, which showed that one tree had already been removed. He urged the Board not to allow encroachment into vegetated buffers and that the solution to Chick-fil-A's problem is not an expanded drive-through but rather speedier food preparation.

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

Chairman Shepperd asked Mr. Cross to explain why the tree, referenced by Mr. Chamberlain, was removed.

Mr. Cross stated that he had said earlier that no trees would be removed from the greenbelt buffer; however, one tree was removed to make room for the expanded drive-through. He also noted that the applicant will be required to maintain the vegetation.

Chairman Shepperd stated he, too, had noticed where vegetation on several business locations had died and not been replaced. He asked if the County requires them to replant in such situations.

Mr. Cross said that they are required to replant pursuant to the landscaping section of the Zoning Ordinance.

Mr. Zaremba then moved the adoption of Resolution R23-35.

On a roll call the vote was:

Yea: (5) Zaremba, Noll, Green, Roane, Shepperd
Nay: (0)

CONSENT CALENDAR

The Consent Calendar was considered and **approved on a vote of 5:0**. A summary of actions taken is below.

Chairman Shepperd asked if there was any discussion or questions regarding the Consent Calendar and after hearing none, he called for the vote.

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

On roll call the vote was:

Yea: (5) Noll, Green, Roane, Zaremba, Shepperd
Nay: (0)

Item No. 8. APPROVAL OF MINUTES

Thereupon, the following minutes were approved and resolutions adopted:

January 17, 2023

Item No. 9. REQUEST FOR REFUND OF PERSONAL PROPERTY TAXES – S & T COMMERCIAL CABINETS LLC: Resolution R23-17.

A RESOLUTION TO AUTHORIZE A TAX REFUND TO S & T COMMERCIAL CABINETS LLC, FOR TAX YEAR 2022

Item No. 10. REQUEST FOR REFUND OF PERSONAL PROPERTY TAXES – HVT INC AS TRUSTEE FOR HONDA LEASE: Resolution R23-16.

A RESOLUTION TO AUTHORIZE A TAX REFUND TO HVT INC, AS TRUSTEE FOR HONDA LEASE, FOR TAX YEAR 2022

Item No. 11. EMPLOYEE OF THE QUARTER: Resolution R23-25.

A RESOLUTION TO COMMEND LISA HANKS, RECREATION SUPERVISOR II, DIVISION OF PARKS AND RECREATION, DEPARTMENT OF COMMUNITY SERVICES AS THE EMPLOYEE OF THE QUARTER

NEW BUSINESS

New Business was considered and **approved on a vote of 5:0**. A summary of actions taken is below.

Item No. 12. APPLICATION NO. UP-1002-23, CHICK-FIL-A, INC. – MINOR EXPANSION: Resolution R23-34.

RESOLUTION TO APPROVE AN APPLICATION FOR A MINOR AMENDMENT OF A PREVIOUSLY APPROVED SPECIAL USE PERMIT FOR FAST-FOOD RESTAURANT WITH DRIVE-IN SERVICE AT 6732 MOORETOWN ROAD

Mr. Cross explained that the request of Chick-fil-A located on Mooretown Road was approved in 2005 by a Special Use Permit. Pursuant to the Code to expand such a use requires specific approvals dependent upon the size of the expansion. In this case, he stated that the structure is proposed to expand 9.2 percent and the lot coverage is proposed to expand 16.7 percent. In the Code it states if the expansion is between five and 25 percent, it can be approved by the Board with a public hearing and without Planning Commission review. Staff does not think the requested expansions will be detrimental and therefore recommend approval.

Mr. Roane asked for specifics regarding the proposed structure and lot expansion.

In response, Mr. Cross stated the lot expansion is to allow for the expanded two-lane drive-through and the structure expansion is to increase the footprint of the restaurant. He also pointed out that the Board had approved a minor building expansion in 2019, and the Board of Zoning Appeals had also authorized a minor lot increase, both of which occurred since it was originally approved by the Board. He pointed out that the percentages provided do not take into consideration these aforementioned additions but rather are based upon the original approved structure and lot.

Mrs. Noll then moved the adoption of Resolution R23-34.

On a roll call the vote was:

Yea: (5) Green, Roane, Zaremba, Noll, Shepperd
Nay: (0)

MATTERS PRESENTED BY THE BOARD

Mr. Green stated that with the recent horrific derailment in Ohio, he was seeking assurance that the County has an updated emergency action plan to address such an issue should it occur in our jurisdiction. He asked Mr. Morgan to touch base with the Fire Chief and report back to the Board on this matter in the near future.

Mr. Zaremba expressed concern that the federal and state governments are not fully prepared for major disasters and/or threats.

Mrs. Noll stated that there are plans in place through the Hampton Roads Planning District Commission.

Mr. Morgan stated that there are indeed such plans prepared on the regional level to address a variety of disaster scenarios such as radiological, biological, accidental and more. He stated due to important assets in our area; such emergency plans have been prepared. He added that the Board would be pleased to know that the chair of the Regional All Hazards Committee is the County's Fire Chief, and the Emergency Communications subcommittee is chaired by our Emergency Communications Director.

Chairman Shepperd stated that people and localities need to be focused not on the large threats that would annihilate the area but rather on the threats that would damage our infrastructure or huge storms that could flood our homes/properties. On a lighter note, he stated that he attended the ribbon cutting for a County business called "One Girl Bakery". He stated that it is located at 3630 George Washington Memorial Highway, Suite 1B, and that its bakery items are delicious. He recommended the establishment and welcomed them into the County. He also participated in a ribbon cutting at the Bay Haven restaurant, located adjacent to the Harley Davidson business, which just changed ownership. Again, he noted that the food was delicious and wished them much success.

Mr. Roane stated that the County is still looking for applicants for the next class of the York County Youth Commission, and he encouraged the youth to apply.

CLOSED MEETING – none.

February 21, 2023

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CLOSED MEETING - none.

Meeting Adjourned. At 8:43 p.m. Chairman Shepperd declared the meeting adjourned sine die.



Neil A. Morgan
County Administrator



Thomas G. Shepperd, Jr., Chairman
York County Board of Supervisors