

MINUTES  
BOARD OF SUPERVISORS  
COUNTY OF YORK

Regular Meeting  
July 18, 2006

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 18, 2006, in the Board Room, York Hall, by Chairman Walter C. Zaremba.

Attendance. The following members of the Board of Supervisors were present: Walter C. Zaremba, Sheila S. Noll, 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. Pastor Joe E. Parrish, Seaford Church of Christ, gave the Invocation.

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

**HIGHWAY MATTERS**

Mr. Jim Brewer, Residency Administrator, Virginia Department of Transportation (VDOT), appeared to discuss highway matters with the Board of Supervisors. He updated the Board on the Fort Eustis Boulevard project, stating it was 70 percent complete and ahead of schedule. He said the Big Bethel Project went to bid on June 28 and came in under bid with two bids. He indicated the award process should be completed in 30 to 60 days. He also updated the Board on the Route 17 project, stating that construction funding would not be available until 2012. He said a decision had been made to go ahead and do the necessary right-of-way purchases, the utilities and things of that nature, but that the final design of the plan would not be done until some time later as changes could occur before 2012.

Mrs. Noll asked how the work taking place at Harwood Mill would impact the bridge that goes over Route 17 when the work was completed. She also asked if Mr. Brewer had been involved with the coordination of this project

Mr. Brewer said he had not.

Mrs. Noll asked him to check as she thought there would be an added capacity of water that could come over the spillway, and the bridge might not be adequate.

Mr. Shepperd asked if construction would be starting on Big Bethel road in 60 days.

Mr. Brewer said the 60-day timeframe was only for awarding the contract if the bids were approved by the Commonwealth Transportation Board at its next meeting.

Mr. Shepperd asked if he was correct that construction would start in around three months.

Mr. Brewer said that would be the worst-case scenario.

Mr. Shepperd asked how long it would take to complete the project.

Mr. Brewer said he would check and provide Mr. Shepperd with a date.

Mr. Shepperd said many citizens travel Big Bethel Road on their way to work, and some alternative ways of getting to Langley and Hampton would need to be investigated.

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Mr. Burgett thanked Mr. Brewer for the letter from VDOT regarding the stoplight at Dare Road/Lakeside Drive. He added that although the study did not approve a stoplight at the intersection, he appreciated having the study completed. He asked when Vine Drive would be paved.

Mr. Brewer said it was on the schedule, but he did not have a date.

Mr. Burgett asked that Mr. Brewer let him know as soon as he had a date. He also asked about the lanes on Victory Boulevard heading to Poquoson at Route 17. He stated the lanes that make a left turn onto northbound Route 17 come out too far, and he asked if this had been studied and was there any resolution to the problem.

Mr. Brewer said he did not know of a study being done but he would check into the matter.

Mr. Bowman asked about the new barrier gates that are being installed along I-64.

Mr. Brewer said the barrier gates are on the eastbound side and were put in place in the event of a hurricane evacuation. If an evacuation was declared, the gates would be lowered to keep people from getting on or getting off at particular points.

Mr. Bowman indicated that the pavers at the entrances to the landfill off Goodwin Neck and Wolf Trap Roads were starting to break up in both of the areas and may be attributed to the weight of the trucks entering the landfill as well as the heat. He asked that VDOT take a look at the pavers as the asphaltting is crumbling in those two areas. He also asked for a copy of the mowing schedule for the Harris Grove, Dandy, and the Seaford areas, and he asked for a status report on the Fort Eustis Boulevard widening.

Mr. Brewer said he would check and get back to Mr. Bowman on the Fort Eustis Boulevard widening.

Mr. Shepperd asked about an email he had sent regarding sweepers at the intersections of Victory Boulevard and Route 17 and Victory Boulevard and Hampton Highway. He stated there are screws, bolts, and nails on the road, and he asked that the sweepers be sent to those intersections to pick them up.

Mrs. Noll asked that when they swept the area to also get rid of the cigarette butts along that area.

Chairman Zaremba asked who would be responsible for finishing Bulifants Boulevard in Michael Commons as the commercial development is ultimately completed.

Mr. Brewer said it would be the developer's responsibility.

Mr. Zaremba asked if VDOT had any oversight to ensure that the road was completed according to the state's statutes and standards.

Mr. Brewer said the developer was required to do whatever the County required him to do until such time as the developer wanted to incorporate the road into the VDOT system of highways when it would then have to meet state standards.

## **PRESENTATIONS**

### **INTRODUCTION OF NEW MEMBERS TO YORK COUNTY BOARD AND COMMISSIONS**

Chairman Zaremba 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:

Barbara A. Hambrook  
M. Sean Fisher  
James M. Obernesser  
Richard D. Weigel

Stormwater Advisory Committee  
Stormwater Advisory Committee  
York County Arts Commission  
Economic Development Authority

EMPLOYEE RECOGNITION PROGRAM

Chairman Zaremba congratulated the following employees for their years of service with the County, and presented them each with service pins and certificates:

Mark A. Medford	Sheriff's Office	20 years
Samuel F. Tyler	General Services	30 years
Shari L. Crockett	Financial & Management Services	25 years

YEAR OF THE REGIONAL CITIZEN

Mr. E. Dana Dickens, III, President and CEO of the Hampton Roads Partnership, made a presentation on the Year of the Regional Citizen. He thanked the Board for its support of the Hampton Roads Partnership, and informed the Board that Mr. McReynolds has just been made chair of the Chief Administrative Officers for Hampton Roads. He explained the composition of the Partnership, stating its mission is to make Hampton Roads more economically competitive. He said the things that happen in the region are not just local, but they are regional; and if that is recognized, and all the localities work towards regionalism, the region will be stronger. When one city or county wins because of the interdependence, all jurisdictions in the region win. Mr. Dickens stated one of the Partnership's major objectives this year is to bring that interdependence message to the 1.6 million people in Hampton Roads. This effort was kicked off on April 26 at Cape Henry, which is where the English settlers first landed in 1607. Mr. Dickens noted that a representative from all 17 localities signed a proclamation for the Year of Regional Citizenship, and he read the proclamation declaring April 26, 2006, through April 26, 2007, to be the year of Regional Citizenship. He then presented the Board with a bound proclamation and picture of all of the signers and asked that it be hung in a prominent place so that all the citizens of York County can see, read, and participate as the Year of Regional Citizenship unfolds. Mr. Dickens stated another Partnership mission for this year is to bring members of councils together to talk about opportunities, to form alliances, and look for ways to become more efficient so that they can provide better value for the taxpayers. He asked Mr. Zaremba to select or have one of the Board members volunteer to participate in this initiative.

CITIZENS COMMENT PERIOD

Mr. Richard Hixson, 800 Dandy Loop Road, stated that since 1972 he has had the occasion to drive up and down the Route 17 corridor no less than three to four times a week, and at this point in time Route 17's corridor looks better than it has ever looked, notwithstanding the junk yards that are still there. He stated that property owners along Route 17 cannot be ordered by the Board of Supervisors to do anything to make their properties look better, but some businessmen, with the help of the Board's incentive program, have taken steps to improve the appearance of their businesses. Mr. Hixson stated the program is important, and he urged the Board to keep it in place since the efforts by the County are paying off so well.

Mr. Mark Meeter, 107 Sharps Lane, Magruder Woods subdivision, stated he and other residents of the area were present to address issues and concerns they have with the proposed new subdivision, High Grove, that will be built adjacent to their area. He said they are not against the development, they want to see the development, but they want to see it done correctly. He stated they received a letter from the County back on May 25 saying the developer was going to take the road from their subdivision and make it the primary access into the new subdivision, which gives them great concern. Mr. Meeter stated they have questioned the planning office for the last couple of months, and they have not gotten an answer either from the County or the developer. He stated that some of the areas of concern are access, and they understand the County code requires that a subdivision over 58 houses have a primary and a secondary access. He stated their subdivision has only 21 homes, and adding a 70-home subdivision onto a road that was designed to originally support 10 homes is going to cause access issues and problems. He indicated the infrastructure needs to be looked at to insure it will support this additional development. Mr. Meeter also stated they have drainage issues, including some existing issues that need to be addressed.

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Mr. Jim Rice, 100 Sharps Lane, also addressed the Board on the issue of access to the proposed High Grove development. He stated the original plat of Magruder Woods provides for the extension of Creedmoor Drive for the continued development of the Magruder Woods subdivision and not for a new 70-home, 210-vehicle subdivision that could be expanded to even more homes and vehicles. He questioned if this was only phase one of High Grove or if the expansion will continue as there are still several acres of land available for development. He asked if the new subdivision would be subject to helping pay for the maintenance of the entrance from Government Road that the homeowners in Magruder Woods have to maintain and pay for since the proposed access to the new subdivision would be through Magruder Woods on Creedmoor. He also asked if the Magruder Woods residents would be allowed access to the proposed common area playgrounds of the new subdivision. Mr. Rice then discussed a proposal for an access to the development from Penniman Road, and he asked if a traffic study had been completed.

Meeting Recessed. At 6:55 p.m., Chairman Zaremba declared a short recess.

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

### **PUBLIC HEARINGS**

#### **APPLICATION NO. PD-17-06, FOURTH CENTRUM OF VIRGINIA, INC.**

Mr. Carter gave a presentation on Application No. PD-17-06 requesting a reclassification from Economic Opportunity to Planned Development, subject to voluntarily proffered conditions, of approximately 70 acres of a 133-acre parcel located at 4300 Mooretown Road. 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 Ordinance O06-18.

Mrs. Noll stated there was a covered portico on the duplexes and not a porch, and asked if that justified changing the setback from 30 to 20 feet.

Mr. Carter said that given the character of the community, staff felt that 20 feet would be adequate and would provide sufficient room for one car to be parked in front of the garage without imposing on the sidewalk system, and it would also provide a sufficient amount of open space in front of the units. He added that the streets would be very low volume residential streets, and there would not be pass-through traffic from any other location.

Mrs. Noll asked if each unit would have a two-car garage.

Mr. Cater said the duplexes and the detached units would have a two-car garage. He added that some of the garages would be front-loaded and some would be side-loaded.

Mr. Shepperd asked if there would be elevators for the units with four stories.

Mr. Carter said the multi-story buildings would be elevator-served.

Mr. Burgett asked what the timeline would be for the commercial development.

Mr. Carter said there was no absolute timeline. He stated the developer would prepare the commercial site for development, but he did not have any absolute plans for the commercial space.

Mr. Burgett stated the commercial development is a critical element of the development, and a timeline is critical. He indicated he was concerned because this 70 acres of economic opportunity was going to be turned into residential needed for seniors, but at the same time he did not want to set a precedent for rezoning commercial property to residential. Mr. Burgett also asked if a partner less than 62 years of age will be required to leave if the other partner who is 62 or older dies.

Mr. Carter indicated they would have to leave. He stated staff will be bringing the Board some newly developed language concerning qualifying elements for senior housing developments. He stated the developer is prepared to abide by whatever age restriction remains a part of the requirements.

Mr. Burgett spoke of the proposed 15-foot separation between the buildings. He indicated the Board had earlier increased the separation required to 20 feet because of the needs of the fire service to get equipment between the buildings.

Mr. Carter stated that because of fire safety, building size, and community appearance issues, the standard was increased from 15 to 20 feet a couple of years ago for cluster subdivisions. In this case, he indicated the units are single story on relatively small lots, and the Fire Department is comfortable they would have access to all sides of the buildings. He stated non-combustible materials will be used, and the units will be sprinkled.

Mr. Burgett expressed his concern that the County should be applying its regulations consistently on all developments.

Mr. Bowman indicated that Williamsburg recently discussed exterior materials to be used, and City Council was split on the subject. He stated he liked the renderings, but he did not see any reference to vinyl siding.

Mr. Carter stated all of the exterior finishes will be hardy plank, and staff has received the developer's commitment to use it on all single and duplex units.

Mr. Bowman addressed the types of businesses that could locate in the commercial sites, and he noted he did not feel that tattoo parlors or check-cashing facilities would be acceptable for this location.

Mr. Carter indicated those businesses were not proffered out because they were not allowed in the economic opportunity district.

Mr. Bowman stated that even though they are not considered in economic opportunity, he would like to know they were in the list of businesses proffered out.

Mr. Carter noted that a condition could be added to the ordinance indicating there would be no pawn shops, payday check cashing facilities, or tattoo parlors allowed.

Discussion followed concerning the roads and access to the proposed development as well as the County being able to provide adequate fire suppression services.

Chairman Zaremba asked if the Board was being asked to approve all three of the site alternatives.

Mr. Carter stated the request is to allow the development to proceed in accordance with either of the A, B, or C alternatives. He stated staff had initially expressed concern about Alternative C, and the Planning Commission has indicated any of the three alternatives would be acceptable.

Chairman Zaremba asked if there was a preference by the developer.

Mr. Carter stated he did not know if the developer was willing to state a preference.

Further discussion ensued concerning the age restrictions and enforcement of the non-qualifying residents having to vacate the unit if the qualifying resident died.

Mr. Carter explained that staff would be proposing some adjustments to the age definitions, and the applicant has agreed to comply with the definitions as set by the County. He noted the applicant is more experienced in senior housing development than anyone the staff has dealt with in the past and will have eligibility screening measures in place.

Chairman Zaremba indicated his concern regarding the commercial side of the development, as he did not see any renderings for the commercial buildings. He stated the County needs to

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make sure that whatever evolves is totally consistent with the architectural design of the facilities in the area.

Mr. Carter explained that Exhibit B talks about the building materials for the commercial development, and that they must be approved by the County.

Discussion followed concerning the building heights of the proposed development.

Chairman Zaremba expressed his agreement with Mr. Bowman regarding the need to add tattoo parlors, payday loan companies, and pawn shops to the list of prohibited commercial businesses for the commercial development. He asked Mr. Carter if there would be sidewalks running through the development.

Mr. Carter indicated there would be a pedestrian system throughout the project.

Mr. Vernon Geddy, representing the applicant, stated that Fourth Centrum of Virginia has developed 200 projects with 12,000 residential units and has developed over 100 senior housing communities. Their vision is to create a high quality, independent living community for seniors with a mix of housing types and prices, extensive recreational amenities, and a small commercial center. He stated the mix of single family detached homes, duplexes, condominiums, and apartments are all age-restricted in accordance with federal law and York County's ordinances. He stated it had been the understanding all along that there would be no residents younger than 19 in the project. He spoke of the experience of the applicant in the building of senior residential housing and their vision for the property in question. He then displayed an illustrative plan for Alternative C which showed the apartment units clustered around the central open space, the condominiums units clustered around the central courtyard, the central recreational facilities, the commercial area, and fire station site. He stated that with each of the housing types there is a different age range, with the youngest people being 62 in the detached and single units, people around 70 in the condominiums, and the 75 and older people in the apartments. Mr. Geddy stated the project is a low traffic generator compared to either commercial or non-age restricted residential. The apartment section with the oldest residents would have van transportation, and a bus shelter would be provided for public transportation. He added there would be no school children. He then reviewed the proffers offered by the applicant, and he spoke of the commercial area, stating it was difficult to prepare renderings when there was no way of knowing what the businesses would be at this time. Mr. Geddy stated the applicant thinks this is the right use for the site and that it is compatible and consistent with surrounding uses and zoning. He added it meets the needs in the market for quality senior housing, and he asked the Board to approve the project.

Mr. Shepperd asked what kind of input the City of Williamsburg was giving the applicant concerning the development.

Mr. Geddy said Williamsburg was looking very closely at the stormwater management system but is very comfortable with the proposal. He stated the applicant has not had any negative comments on the project.

Mr. Shepperd asked what would be the starting and completion dates if the plan was approved tonight.

Mr. Chuck Bradberry, representing Fourth Centrum of Virginia, said they would probably submit for site plan approval in the next 90 days and would probably break ground 12 months after that date.

Discussion followed concerning construction traffic, the possible need for a traffic light, and the privately-owned streets.

Mrs. Noll said she had a problem with changing the setback from 30 to 20 feet. She questioned why the Planning Commission approved all three alternative plans, stating she felt Alternatives A or B would be the proper choice.

Mr. Burgett expressed his concern about the cost the County would incur regarding medical care with this concentration of senior housing. He stated that staffing and equipping a fire

station would have an impact on the resources of the County, and the County should be a part of the process.

Mr. Bradberry said he did not know if the consultant who did that part of the project had conversations with the fire department.

Mr. Bowman asked if there was a figure for the average cost per unit.

Mr. Bradberry indicated the pricing was still being worked on, but the patio homes and duplexes would be in the neighborhood of \$300,000 to \$325,000; the condominiums would probably be \$240,000 to \$275,000; and the apartments would rent for \$1,200 for a one bedroom apartment, and two bedrooms would be in the range of \$1,650 per month.

Chairman Zaremba asked the applicant to address the commercial site and what they would envision occurring there.

Mr. Geddy stated a small-scale center with retail and service type uses that are compatible with the adjacent residential development is envisioned. He said they do not have an exact time-frame in which the commercial development will be built.

Chairman Zaremba said the County would be involved not only in approving the site plan but also in the facades and the character of the project. He asked Mr. Carter if there were any apartment complexes in District 1.

Mr. Carter said there was an older apartment complex near County Club Acres.

Chairman Zaremba expressed his concern about young people being able to live in the apartment units.

Mr. Geddy stated there would be rules and regulations governing conduct, and the management would have the ability to get rid of the tenant.

Chairman Zaremba then called to order a public hearing on Application No. PD-17-06 that was duly advertised as required by law. Proposed Ordinance No. 06-18 is entitled:

AN ORDINANCE TO APPROVE AN APPLICATION TO ESTABLISH  
A PLANNED DEVELOPMENT AT 4300 MOORETOWN ROAD CON-  
SISTING OF A 63-ACRE SENIOR HOUSING-INDEPENDENT LIV-  
ING DEVELOPMENT AND A 7.7-ACRE COMMERCIAL CENTER

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

Mr. Burgett said he liked project and that senior housing was a priority to the Board. He shared his concerns about the commercial timeframe and said when 65 percent of the residential units were completed, the commercial building should be started so that the commercial element would be a part of the plan. He said he did not like the idea of narrowing down the fire lanes for this specific project, as he did not want to compromise the safety of the citizens. Mr. Burgett noted he did not feel this project provided very much economic impact for the County.

Mr. Shepperd spoke regarding the issue of the setbacks, stating he felt the Board needed flexibility to do what it feels is appropriate for more efficient operation of government. He expressed his concern about rezoning commercial property to residential and the loss of tax revenue from the commercial side since one of the Board's goals has been to reduce taxation pressure on County citizens, and the only way to do that is with business. He added that another goal was to provide housing to seniors, and the Board knows that there will be continued demand to produce more senior housing. Mr. Shepperd stated he thinks the project fits with the community in the upper part of the County, and it produces the flavor of that community. He stated that overall the project is a balance and will meet the needs of York County and the citizens of the County.

Mrs. Noll expressed her agreement with Mr. Shepperd that balance and timing is everything, and this project has come at the right time. She said she understood the need for flexibility,

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but she was hesitant about changing the setback from 30 to 20 feet. She said she would like to see more green space and would like to have the ordinance amended back to a 30-foot setback. Mrs. Noll also stated she preferred Alternative A or B.

Mr. Bowman said he thought the project had lot of benefit aesthetically, and he thought it would blend in well with what was in the upper County. He said he agreed with Mr. Burgett on the commercial aspect, that the Board needed to see a timeline for it once the residential project got off the ground. He said he agreed that the project would not generate a lot of revenue, but he thought the need was there for the senior housing. Mr. Bowman then commented on the guidelines that were put in place for this type of proposal, and he felt that only under extreme conditions should the Board go in and start modifying those guidelines to suit a specific purpose.

Chairman Zaremba asked if the Board members wanted to amend the ordinance at this time or make a motion to table the application so that staff and the applicant could address the concerns of the Board.

Discussion followed.

Mr. Geddy said the applicant would prefer to have the proposal tabled.

Mr. Burgett moved to table Application No. PD-17-06.

On roll call the vote was:

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

APPLICATION NO. UP-701-06, RICHMOND 20MHZ, LLD, D.B.A. NTELOS

Mr. Carter gave a presentation on Application No. UP-701-06 to authorize a use permit for the establishment of a telecommunications tower up to 172 feet in height on the Magruder Elementary School campus located at 700 Penniman Road. 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 R06-98.

Mr. Shepperd said he noticed the tower would only have three customers, and he asked if that was driven by the pole itself.

Mr. Carter noted it was driven by the height of the pole. He stated nTelos would be at the top of the pole, and there would be two additional opportunities below nTelos. He added that the County requests all applicants to provide at least two additional co-location opportunities on each tower that is proposed. He said no potential users for the other sites had been identified at this time, but it is a good location within the residential areas in the upper County.

Discussion followed concerning the different types of poles being used, their visibility, height, coverage area, and potential for being converted to the newer type of pole.

Mr. Vernon Geddy, representing nTelos, stated that the applicant agreed with the staff report and its conditions, and this tower would close the gap for nTelos coverage. He stated the newer slick stick pole was much less intrusive than the other types. He said the tower would be 165 feet tall, with a lightning rod atop the tower, and it would be gray from top to bottom and would melt into the background. Mr. Geddy noted there had been a real change in the industry as people are canceling their landlines and relying entirely on their cell phones for service. He stated that these individuals want their cell phones to work in their homes and offices which was a part of the driving force behind the need for better coverage.

Chairman Zaremba then called to order a public hearing on proposed Application No. UP-701-06 that was duly advertised as required by law. Proposed Resolution R06-98 is entitled:

A RESOLUTION TO APPROVE A SPECIAL USE PERMIT TO AU-

THORIZE A 172-FOOT SELF-SUPPORTING MONOPOLE COMMUNICATIONS TOWER WITH ASSOCIATED GROUND-MOUNTED EQUIPMENT AT 700 PENNIMAN ROAD

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

Mrs. Noll then moved the adoption of proposed Resolution R06-98 that reads:

A RESOLUTION TO APPROVE A SPECIAL USE PERMIT TO AUTHORIZE A 172-FOOT SELF-SUPPORTING MONOPOLE COMMUNICATIONS TOWER WITH ASSOCIATED GROUND-MOUNTED EQUIPMENT AT 700 PENNIMAN ROAD

WHEREAS, Richmond 20MHz has submitted Application No. UP-701-06, which requests a Special Use Permit, pursuant to Section 24.1-306 of the York County Zoning Ordinance (Category 17, No. 7), to authorize the establishment of a telecommunications tower up to 172' in height on the Magruder Elementary School campus located at 700 Penniman Road (Route 641) in the northeast quadrant of the intersection of Penniman Road and Merrimac Trail (Route 143) and further identified as Assessor's Parcel No. 10-14-A (GPIN# F14d-4249-0904); 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; and

WHEREAS, the Board has determined, pursuant to Section 15.2-2232 of the Code of Virginia, that the proposed communication tower location is substantially in accord with Charting the Course to 2025: The County of York Comprehensive Plan;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 18th day of July, 2006, that Application No. UP-701-06 be, and it is hereby, approved to authorize a Special Use Permit, pursuant to Section 24.1-306 of the York County Zoning Ordinance (Category 17, No. 7), for the establishment of a telecommunications tower up to 172' in height on the Magruder Elementary School campus located at 700 Penniman Road (Route 641) in the northeast quadrant of the intersection of Penniman Road and Merrimac Trail (Route 143) and further identified as Assessor's Parcel No. 10-14-A (GPIN# F14d-4249-0904), subject to the following conditions:

1. This use permit shall authorize the construction of a freestanding monopole communications tower with associated equipment on the parcel of land located at 700 Penniman Road (Route 641) and further identified as Assessor's Parcel No. 10-14-A.
2. The height of the tower, including the lightning rod, shall not exceed 172 feet.
3. A site plan prepared in accordance with the provisions of Article V of the York County Zoning Ordinance shall be submitted to and approved by the County prior to commencement of land clearing or any construction activity on the subject property. Except as modified herein, said plan shall be substantially in conformance with the sketch plan submitted by the applicant titled "Telecommunications Facility: Magruder School (RMB-5421)", dated 3/23/06 and prepared by JMT Engineering. As part of the site plan submittal, the applicant shall prepare a frequency intermodulation study to determine the impact on current communication transmissions for the York County Departments of Fire and Life Safety and General Services, Sheriff's Office, School Division, and the Intrac Sewer Telemetry System. Should any equipment associated with this facility at any time during the operation of the tower be found by the County to cause interference

with County communications, the applicant shall be responsible for the elimination of said interference within twenty-four (24) hours of receipt of notice from the County.

4. The tower shall be designed and constructed with antennas located inside the monopole only as depicted on Sheet C3 of the above-referenced sketch plan. No external antenna arrays shall be permitted.
5. Construction and operation of the tower shall be in conformance with the performance standards set forth in Sections 24.1-493 and 24.1-494 of the Zoning Ordinance.
6. The applicant shall submit to the County a statement from a registered engineer certifying that NIER (nonionizing electromagnetic radiation) emitted from the tower does not result in a ground level exposure at any point outside such facility that exceeds the maximum applicable exposure standards established by any regulatory agency of the U.S. Government or the American National Standards Institute.
7. A report from a registered structural or civil engineer shall be submitted indicating tower height and design, structure installation, and total anticipated capacity of the structure (including number and types of users that the structure can accommodate). These data shall satisfactorily demonstrate that the proposed tower conforms to all structural requirements of the Uniform Statewide Building Code and shall set out whether the tower will meet the structural requirement of EIA-222E, "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures."
8. The access easement shown on the above referenced sketch plan shall be established for the benefit of tower users for purposes of ingress, egress, and installation and maintenance of utilities associated with the proposed telecommunications facility prior to site plan approval.
9. Advertising and signage on the tower shall be expressly prohibited, except for warning signs associated with the operation of the tower or its equipment.
10. Prior to site plan approval, the applicant shall submit written statements from the Federal Aviation Administration, Federal Communications Commission, and any other review authority with jurisdiction over the tower, stating that the proposed tower complies with regulations administered by that agency or that the tower is exempt from those regulations.
11. If at any time use of the communications tower ceases, the owner of the subject property on which the tower is located shall dismantle and remove it within six (6) months after ceasing to use it, unless:
  - (1) A binding lease agreement or letter of intent with another wireless communications provider has been executed in which case an additional six (6) months shall be granted. If a letter of intent is provided, the execution date for a binding lease agreement shall not extend more than (12) months beyond the time the use of the tower ceases, or
  - (2) The County requests, in writing, that the tower be reserved for County use.
12. Accessory facilities shall not include offices, vehicle storage, or outdoor storage unless permitted by the district regulations.
13. Evidence shall be provided prior to receipt of a building permit that the Virginia State Corporation Commission has been notified that a communication facility is to be constructed.
14. The proposed 8-foot chain link fence surrounding the facility shall be outfitted with opaque material deemed acceptable for screening purposes by the Zoning Administrator.
15. The compound shall be covered with netting designed to prevent recreational equipment (baseballs, softballs, etc.) from entering the compound.

16. The communication tower shall be gray in color. Should Federal Aviation Administration requirements dictate special markings, tower lighting shall be used in lieu of multi-color painting. If painting is required, a tower maintenance plan shall be submitted to and approved by the County.
17. No microwave dishes, conical shaped antennae, or other dish shall be permitted on the tower.
18. The communications tower shall be structurally designed to accommodate no fewer than three (3) wireless users capable of supporting either PCS or cellular antenna arrays. If space is available, the County shall have the right of first refusal for leasing a space on the tower to place an antenna in support of operations consistent with the County's Department of Fire and Life Safety.
19. 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.

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

On roll call the vote was:

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

APPLICATION NO. UP-702-06, JOHN M. ENGBERSEN

Mr. Carter gave a presentation on Application No. UP-702-06 to authorize a use permit for a 620-square foot detached accessory apartment on a 1.22-acre parcel of land located at 213 Parchment Boulevard. 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 R06-99.

Mr. Shepperd asked if the lot could have been divided in half and another lot created.

Mr. Carter stated he believed this property was subdivided after the Chesapeake Bay provisions came into effect. He indicated half of the lot area would be off limits for subdivision, so effectively there would not be room for a second buildable lot that would meet the frontage requirements.

Mr. Shepperd asked if this was being considered because it was in R13 or because it was 3 percent over the floor space.

Mr. Carter indicated it was being considered because it would be a detached accessory apartment. He stated the Planning Commission had sponsored some amendments to the accessory apartment regulations that the Board would be receiving in the near future, and the Commission had looked at the trends of approval over the past couple of years for accessory apartments and have recommended a system to the Board that would cut down on the number of cases that would have to come to the Board for use permit approval. He noted that this particular application would fit the criteria that the Planning Commission had recommended that would not require a use permit, but those amendments are not in place yet.

Mr. John Engbersen, the applicant, appeared to answer any questions the Board might have. He stated the reason he had gone this route was that he had wanted to know the concerns of his neighbors publicly, and he had those in writing. He said that most of their concerns were that it was going to be considered a multiple family unit that could be rented. He stated the apartment would be used as a guest home or used by one of his children or possibly by his or his wife's parents as they got older if they needed a place. He said it would have an elevator for their use.

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Mr. Burgett asked if the garage that he converted into living space would be heated and cooled.

Mr. Engbersen said yes, and he planned to match the left side of the home with the right, so it would not look like a garage. He said he would be taking the driveway out and putting in a horseshoe drive in the front and have a leg going off to the left to the two-car garage.

Chairman Zarembo then called to order a public hearing on proposed Application No. UP-702-06 that was duly advertised as required by law. Proposed Resolution R06-99 is entitled:

A RESOLUTION TO APPROVE A SPECIAL USE PERMIT TO AUTHORIZE A DETACHED ACCESSORY APARTMENT AT 213 PARCHMENT BOULEVARD

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

Mrs. Noll then moved the adoption of proposed Resolution No. 06-99 that reads:

A RESOLUTION TO APPROVE A SPECIAL USE PERMIT TO AUTHORIZE A DETACHED ACCESSORY APARTMENT AT 213 PARCHMENT BOULEVARD

WHEREAS, John M. Engbersen has submitted Application No. UP-702-06 to request a Special Use Permit, pursuant to Section 24.1-407(b)(2) of the York County Zoning Ordinance, to authorize a detached accessory apartment in conjunction with a single-family detached dwelling on a 1.22-acre parcel of land located at 213 Parchment Boulevard (Route 1142) and further identified as Assessor's Parcel No. 15-11-29B (GPIN #H12a-0380-4137); 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 18th day of July, 2006, that Application No. UP-702-06 be, and it is hereby, approved to authorize a Special Use Permit, pursuant to Section 24.1-407(b)(2) of the York County Zoning Ordinance, for a detached accessory apartment in conjunction with a single-family detached dwelling on a 1.22-acre parcel of land located at 213 Parchment Boulevard (Route 1142) and further identified as Assessor's Parcel No. 15-11-29B (GPIN #H12a-0380-4137) subject to the following conditions:

1. This use permit shall authorize the establishment of a detached accessory apartment in conjunction with a single-family detached dwelling on a 1.22-acre parcel of land located at 213 Parchment Boulevard (Route 1142) and further identified as Assessor's Parcel No. 15-11-29B (GPIN #H12a-0380-4137).
2. The apartment shall be contained within a proposed structure to be located on the southeastern side of the subject property as indicated on the sketch plan submitted by the applicant titled "Resubdivision Lot 29 Callahan Village Duplexes" prepared by Davis & Associates, P.C. dated January 29, 1997. The accessory apartment floor plan shall be in conformance with the floor plans and elevations submitted by the applicant titled "Engbersen Residence, 213 Parchment Road, Garage Addition, Sheets 1 through 4", except as modified herein.
3. Construction and occupancy of the accessory apartment shall be in compliance with the performance standards set forth in Section 24.1-407 of the Zoning Ordinance.

4. Not more than one (1) accessory apartment shall be permitted in conjunction with the principal dwelling unit.
5. The habitable floor area of the accessory apartment unit shall not exceed 620 square feet.
6. The accessory apartment unit shall contain no more than one (1) bedroom and no tub or shower facilities shall be installed in the proposed ground floor bathroom depicted on the plans.
7. Adequate provisions shall be made for off-street parking of motor vehicles in such a fashion as to be compatible with the character of the single-family residence and adjacent properties.
8. The accessory apartment shall not be rented separate from the principal dwelling and shall be occupied only by family members or guests of the occupant of the single-family dwelling.
9. Before obtaining a building permit for the proposed detached accessory apartment, the applicant must submit a site specific Natural Resources Inventory, performed in accordance with Section 23.2-6 of the County Code, field locating the 100-foot Resource Protection Area (RPA) buffer. No encroachment into the RPA buffer, for the apartment or a driveway serving it, is permitted.
10. Before the issuance of a certificate of occupancy for the accessory apartment unit, the existing principal structure's garage shall be converted to living space or the size of the proposed accessory apartment shall be reduced to comply with the 35 percent of principal building floor area requirement.
11. In accordance with Section 24.1-407(k) of the County Zoning Ordinance, prior to issuance of a building permit for the accessory apartment, the applicant shall be responsible for recording a deed restriction document with the Clerk of the Circuit Court stipulating that the subject accessory apartment will be used, occupied and maintained in accordance with standards and restrictions set forth in Section 24.1-407 of said Ordinance. A Court-certified copy of the document shall be submitted to the County at the time of building permit application.
12. 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.

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

On roll call the vote was:

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

APPLICATION NO. ZT-102-06, YORK COUNTY BOARD OF SUPERVISORS

Mr. Carter gave a presentation on Application No. ZT-102-06 to amend the York County Zoning Ordinance pertaining to requirements for single-story and multi-story mini-storage warehouses, screening requirements for dumpsters, and to establish provisions prohibiting private vehicles parked on a public right-of-way from being advertised for sale or rent. 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 Ordinance No. 06-19.

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Mr. Shepperd asked if this ordinance means a person cannot have two vehicles for sale at the same time.

Mr. Carter stated there could not be a sign in or on both vehicles, but both cars could be parked on the site, and one could be unadvertised.

Mr. Shepperd stated he read the ordinance to mean that if a person had five acres and a long gravel driveway, he could not park the car along the frontage.

Mr. Carter said that was correct.

Mr. Shepperd asked if he was correct in that a citizen would only be allowed to sell two cars from a residential property during a one-year period. He asked if he was correct that a business person could sell five cars from their commercial property.

Mr. Carter said that was correct.

Mr. Bowman then asked who would enforce these new regulations.

Mr. Carter stated the Board had provided funding for extra enforcement staff in the zoning and code enforcement areas in Mr. Hudgins' department. He added that part-time staff members were working almost every weekend dealing with signs that appear in rights-of way and other violations that typically occur on weekends.

Mr. Bowman asked if this would be an added duty for the staff.

Mr. Carter indicated the ordinance was really a compilation of the County's existing policies put in a clear fashion so that everyone can understand them. He added that the staff are enforcing much the same currently by tracking down vehicles that are parked on vacant properties or on rights-of-way.

Mr. Bowman asked how the enforcement would be monitored.

Mr. Carter said that procedures would have to be developed, and he envisioned that when a vehicle is observed for sale, there will probably be some type of a record keeping system set up to track that information. He noted that a lot of enforcement is initiated because of calls from neighbors that prompt some additional, more detailed investigation by staff.

Mr. Bowman asked what the ramifications would be for violators.

Mr. Carter stated it would be a standard zoning ordinance violation.

Discussion followed regarding violations and enforcement.

Chairman Zaremba then called to order a public hearing on Application No. ZT-102-06 that was duly advertised as required by law and is entitled:

AN ORDINANCE TO APPROVE APPLICATION NO. ZT102-06 TO AMEND SECTION 24.1-104, DEFINITIONS, SECTION 24.1-306, TABLE OF LAND USES, SECTIONS 24.1-483 AND 484, AND SECTION 24.1-606(n) OF CHAPTER 24.1, ZONING (YORK COUNTY CODE): TO REVISE THE DEFINITION OF THE TERM "MINI-WAREHOUSE"; TO REVISE THE DISTRICTS IN WHICH SUCH USES MAY BE PERMITTED AND THE PERFORMANCE STANDARDS APPLICABLE THERETO AND, TO REVISE THE PARKING STANDARDS FOR SUCH USES; TO AMEND SECTION 24.1-261(a) TO REVISE THE SCREENING STANDARDS FOR DUMPSTERS TO REQUIRE SCREENING ON ALL FOUR SIDES; AND, FURTHERMORE, TO ESTABLISH A NEW SECTION 24.1-608 TO DEFINE CONDITIONS AND REQUIREMENTS APPLICABLE TO DISPLAY AND SALE OF PRIVATE VEHICLES FROM OCCUPIED AND UNOCCUPIED PROPERTIES

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

Discussion followed concerning the Board's issues with the residential parking portion of the ordinance.

Mr. Carter indicated he understood that the Board wished to remove the residential parking part of the ordinance, and that could be accomplished by striking all of subparagraph B of Section 24.1-608 as proposed.

Mr. Shepperd then moved the adoption of proposed Ordinance No. 06-19(R) that reads:

AN ORDINANCE TO APPROVE APPLICATION NO. ZT102-06 TO AMEND SECTION 24.1-104, DEFINITIONS, SECTION 24.1-306, TABLE OF LAND USES, SECTIONS 24.1-483 AND 484, AND SECTION 24.1-606(n) OF CHAPTER 24.1, ZONING (YORK COUNTY CODE); TO REVISE THE DEFINITION OF THE TERM "MINI-WAREHOUSE"; TO REVISE THE DISTRICTS IN WHICH SUCH USES MAY BE PERMITTED AND THE PERFORMANCE STANDARDS APPLICABLE THERETO AND, TO REVISE THE PARKING STANDARDS FOR SUCH USES; TO AMEND SECTION 24.1-261(a) TO REVISE THE SCREENING STANDARDS FOR DUMPSTERS TO REQUIRE SCREENING ON ALL FOUR SIDES; AND, FURTHERMORE, TO ESTABLISH A NEW SECTION 24.1-608 TO DEFINE CONDITIONS AND REQUIREMENTS APPLICABLE TO DISPLAY AND SALE OF PRIVATE VEHICLES FROM OCCUPIED AND UNOCCUPIED PROPERTIES

WHEREAS, Application No. ZT102-06 has been sponsored by the Board of Supervisors to allow consideration of amendments concerning mini-storage warehouse facilities, design standards for dumpster enclosures, and provisions relating to the parking and display "for sale" of privately owned vehicles; and

WHEREAS, the application has been forwarded to the Planning Commission for review, public hearing and recommendation in accordance with applicable procedures; and

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

WHEREAS, the Board has conducted a duly advertised public hearing and has carefully considered the recommendations of the Planning Commission and the comments and recommendation received from citizens and the staff; and

WHEREAS, the Board has determined that the proposed amendments would be consistent with good zoning practice;

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors, this the 18th day of July, 2006, that it does hereby approve Application No. ZT102-06 to amend Sections 24.1-104, 261, 306, 483, 484 and 606(n) of the Zoning Ordinance, and to establish a new Section 24.1-608, all to read as set forth below:

**Regarding Mini-Warehouses:**

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**Section 24.1-104. Definitions**

*Mini-storage warehouse.* A type of warehousing consisting of individual, small, self-contained storage spaces which may be owned, leased, or rented to individuals. Such facilities may also be known as self-storage warehouses. For the purposes of this chapter, the two types of mini-storage warehouse/self-storage facilities are:

- *Single-story:* Facilities in which the storage units/cubicles typically are arranged in long, narrow single-story buildings with the majority of the individual units accessed through doors that open directly to the outside.
- *Multi-story:* Facilities in which the storage units are arranged in a multi-story structure with all of the individual storage units/cubicles accessed through doors that open to interior corridors.

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**Section 24.1-306. Table of Land Uses**

P=PERMITTED USE S=PERMITTED BY SPECIAL USE PERMIT	RESIDENTIAL DISTRICTS						COMMERCIAL AND INDUSTRIAL DISTRICTS						
	RC	RR	R20	R13	R7	RMF	NB	LB	GB	WCI	EO	IL	IG
<b>USES</b>	<b>CATEGORY 14 - WHOLESALING / WAREHOUSING</b>												
1. Wholesale Auction Establishment a) without outdoor storage/activity									P			P	P
b) with outdoor storage									S			P	P
2. Warehousing, Including Moving and Storage Establishment									S		S	P	P
3. Wholesale Trade Establishment (May Include accessory retail sales) a) without outdoor storage									P		P	P	P
b) with outdoor storage									S		S	P	P
4. Seafood Receiving, Packing, Storage										P		S	P
5. Petroleum Products Bulk Storage/Retail Distribution												S	P
6. Mini-Storage Warehouses a. Single-story												P	P
b. Multi-story									S			P	P

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**Sec. 24.1-483. Standards for all wholesaling and warehouse uses.**

- (a) Warehouses and similar structures of thirty thousand (30,000) square feet or greater shall have fire lanes surrounding the structure(s) unless approved otherwise by the director of public safety.
- (b) Outdoor storage shall be screened from view from adjacent residential properties.
- (c) Outdoor storage shall not be located closer than twenty-five feet (25') to any property line.
- (d) Bay doors shall be oriented away from streets and residential properties or screened from direct view by landscaping means.
- (e) Such uses shall be designed to minimize the noise impact of trucks, forklifts, and other heavy equipment on adjacent properties and to prevent such noise from being audible on adjacent or nearby residential properties at any greater level than typical for residential areas.

**Sec. 24.1-484. Standards for mini-storage warehouses.**

- (a) All storage for mini-storage warehouses shall be within a completely enclosed building, provided, however, that the outdoor accessory storage of recreational vehicles on the same site is acceptable if such storage is screened from view from adjacent streets and residential properties. However, no outdoor RV storage or parking shall be permitted in conjunction with any mini-warehouse facility located in a GB-General Business zoning district.

- (b) Loading docks shall not be permitted as part of the storage buildings. At least two exterior service doors shall be provided for any multi-story mini-warehouse facility. Such doors shall be at ground/sidewalk level. Exterior service doors for any multi-story mini-warehouse facility in a GB District shall not be located on any building exposure facing a public street and shall be limited to a maximum of one (1) each for other facades.
- (c) Except for purposes of loading and unloading, there shall be no parking or storage of trucks, trailers, and moving vans.
- (d) The minimum distance between warehouse buildings shall be twenty feet (20'). Where vehicular circulation lanes and parking and loading spaces are to be provided between structures, the minimum separation distance shall be increased accordingly in order to ensure vehicular and pedestrian safety and adequate emergency access.
- (e) No activities such as sales or servicing of goods or materials shall be conducted from such storage units. The operation of such a facility shall in no way be deemed to include a transfer and storage business where the use of vehicles is a part of such business.
- (f) Storage of hazardous and flammable materials shall not be permitted.
- (g) The maximum length of any single single-story mini-storage building shall be two hundred (200') feet.
- (h) If proposed in the GB-General Business district, multi-story mini-storage warehouse structures shall be designed to include retail or office space occupying at least 80 percent of the total floor area on the ground floor of the structure and not related to the mini-warehouse operation. Such retail and or office space shall be designed to occupy the entire first floor width of any building façade facing a public street. The remaining 20 percent of the first level floor area may include the entrance corridors, service elevator(s), manager's office and other non-storage components associated with the self-storage units located on the upper levels of the structure.

In the GB District, all building facades of multi-story mini-storage warehouse structures shall be designed and constructed to meet the architectural design standards specified for the Route 17 Corridor Overlay District (section 24.1-378), whether or not said structure is located in the Route 17 overlay area. Consideration should be given to incorporating faux windows in the street-facing facades of the upper level storage areas to give the appearance of office space provided, however, that other appropriate design techniques may also be proposed and considered.

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**Section 24.1-606(n) Category 14 – Wholesaling/Warehousing**

USE	OFF-STREET PARKING SPACES	OFF-STREET LOADING SPACES
(1) Seafood receiving, packing, storage	One (1) space for every 500 square feet of processing or office area	One space; plus One space per loading bay or dock
(2) Mini-storage warehouses	One (1) space for each twenty (20) cubicles; plus Two (2) spaces for the manager's quarters; plus Two (2) spaces for the office.	None
(3) Warehousing, distributing, or wholesale trade establishment and all other Category 14 uses	One (1) space for each 10,000 square feet of floor area; plus One (1) space for each 350 square feet of office, sales or similar space; or, subject to appropriate documentation and approval of the	One space; plus One (1) space per loading bay or dock

	zoning administrator, one and one-third (1.3) spaces for every employee on the largest shift.	
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**Regarding Dumpster Screening Requirements, amend Section 24.1-261 as follows:**

**Sec. 24.1-261. Public service facility standards.**

- (a) *Refuse and recyclables collection.* Dumpsters, or an alternate method of collection for recyclables and for nonrecyclable refuse approved by the zoning administrator, shall be required for mobile home parks and for multi-family, commercial and industrial developments. The following standards shall apply:
- (1) Dumpsters or other approved collection receptacles shall be located on a site so that service vehicles will have convenient and unobstructed access to them. The location shall be such that encroachment by service vehicles upon bicycle and pedestrian ways, parking spaces, or vehicular circulation drives will be minimized. Dumpsters shall not be located closer than fifty feet (50') to any residential structure.
  - (2) Dumpsters or other approved collection receptacles shall be screened from both on-site and off-site views by wooden or masonry fencing, supplemented by landscaping. Building walls may serve as part of the required screening. The enclosure shall be gated or otherwise configured to ensure that the dumpster is not visible from any adjoining public rights-of-way, adjoining properties or from any areas on the site which are normally accessible by residents, customers or the general public.
  - (3) Where dumpsters are to be utilized, dumpster pads, constructed in accordance with all applicable health department standards for construction and drainage, shall be provided.

**Regarding private motor vehicle sales from various types of property, create a new Section 24.1-608 as follows:**

**24.1-608. Parking for certain purposes permitted and prohibited.**

The following provisions shall apply to the parking or placement of automobiles, trucks, trailers, recreational vehicles, motorcycles, boats, tractors, heavy construction equipment or other types of motorized vehicle or equipment with the intent to offer such vehicles or equipment for sale or rent. For the purposes of this section, the presence of signs, lettering, papers, and flyers or other visible advertisement or information on or within the vehicle indicating it to be for sale or rent shall be deemed evidence of such intent.

- (a) It shall be unlawful for any person to park or place any such vehicle for sale or rent upon or in any street or street right-of-way.
- (b) The owner or occupant of a parcel on which an occupied commercial or industrial structure is located may park an automobile, light-duty truck, recreational vehicle or trailer, boat or cargo trailer on the property for the purpose of selling or offering the vehicle for sale, provided that:
  - (1) The vehicle is owned by the owner or occupant of the property, or a member of the owner/occupant's immediate family. For the purposes of this section, the term "immediate family" shall be deemed to include natural or legally defined offspring or parents or grandparents of the owner or occupant of the premises.
  - (2) The vehicle is parked on a paved or graveled parking space on the property, and shall not be parked on grassed or landscaped portions of the property.

- (3) Any signs or lettering advertising the vehicle to be "for sale" shall be attached to or applied to the vehicle and shall not exceed six (6) square feet in area.
  - (4) Not more than two (2) vehicles shall be parked or displayed "for sale" at any time and not more than five (5) vehicles may be parked or displayed "for sale" on any premises within the same calendar year.
  - (5) In the event the commercial or industrial use occupying the property is authorized to include the on-premises parking or storage of heavy construction equipment, large trucks, and similar vehicles/equipment, the above-noted limitation to "light-duty trucks" shall be waived.
- (c) Parking of vehicles or equipment for sale or rent on undeveloped or vacant property, or on property on which the principal structure(s) are unoccupied, shall be prohibited.
  - (d) Violations of the terms of this section shall be enforceable against the owner of the property and the owner of the vehicle.
  - (e) The provisions of this section shall not be deemed to prohibit the sale or rental of vehicles or equipment when conducted from a site which has been authorized, pursuant to the terms of this chapter, for the conduct of vehicle or equipment sales/rental as a principal use of the property.

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On roll call the vote was:

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

#### VACATION OF A PORTION OF BOUNDARY ROAD

Mr. Barnett gave a presentation on proposed Ordinance No. 06-16 to vacate an unimproved portion of Boundary Road between 407 and 414 Boundary Road. He stated the Board was aware of the issue of stub streets scattered throughout the County, and this property was subdivided prior to the time that the County had a subdivision ordinance. He noted that Boundary Road was mostly in the State's system except at the very end where it made a dogleg, and there is a segment that goes between two parcels that are owned by the same individual. The owner has asked that the County vacate that segment and allow him to purchase it.

Mr. Burgett asked Mr. McReynolds how the price of \$7,000 was ascertained.

Mr. McReynolds said the per square foot amount for the adjoining properties was looked at, and it was then applied on a per square foot basis to the parcel. He said his recollection was that the land was about \$40,000 per acre.

Chairman Zaremba then called to order a public hearing on proposed Ordinance No. 06-19 that was duly advertised as required by law and is entitled:

AN ORDINANCE VACATING AN UNIMPROVED PORTION OF  
 BOUNDARY ROAD, SUCH PORTION LYING BETWEEN PARCELS  
 HAVING THE STREET ADDRESSES OF 407 BOUNDARY ROAD  
 AND 414 BOUNDARY ROAD

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

Mrs. Noll then moved the adoption of proposed Ordinance No. 06-16 that reads:

AN ORDINANCE VACATING AN UNIMPROVED PORTION OF  
 BOUNDARY ROAD, SUCH PORTION LYING BETWEEN PARCELS

July 18, 2006

HAVING THE STREET ADDRESSES OF 407 BOUNDARY ROAD  
AND 414 BOUNDARY ROAD

WHEREAS, by a plat recorded on December 14, 1950, in Plat Book in 4, page 192, certain property was subdivided and a roadway dedicated to public use, said roadway now known as Boundary Road in York County, said road being improved to a point adjacent to the southeastern corner of a parcel having the address of 407 Boundary Road; and

WHEREAS, that portion of the dedicated roadway lying between 407 Boundary Road and 414 Boundary Road has never been improved or accepted into the State Secondary System of Highways; and

WHEREAS, Mr. Raymond Selby, being the owner of 407 Boundary Road and 414 Boundary Road, has petitioned the County for the vacation of that portion of Boundary Road as is unimproved and lying between the two above-described parcels; and

WHEREAS, it appearing that it is in the public interest that the referenced section of Boundary Road be vacated; and

WHEREAS, this matter having been duly advertised for a public hearing pursuant to § 15.2-2006;

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors, this 18th day of July, 2006, that that portion of Boundary Road lying between 407 Boundary Road (GPIN n11d-3876-1349) and 414 Boundary Road (GPIN n11d-4078-1326), and being that portion lying between the northernmost boundary of 407 Boundary Road extended in an eastern direction and a line formed by the extension of the southernmost boundary of 407 Boundary Road in an easterly direction, is hereby vacated pursuant to § 15.2-2006 of the Code of Virginia, subject, however, to the following condition: That Mr. Raymond Selby, owner of both of the abutting parcels, shall pay to the County of York the sum of \$7,000.00, plus costs that may have been incurred by the County in advertising this matter for public hearing. The County Administrator is authorized to execute a quitclaim deed to Mr. Selby and to execute any other instruments and documents as may reasonably be required in order to convey any interest the County may have in and to the vacated roadway, all such deeds and documents to be approved as to form by the County Attorney.

On roll call the vote was:

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

Meeting Recessed. At 9:50 p.m., Chairman Zaremba declared a short recess.

Meeting Reconvened. At 10:00 p.m. the meeting was reconvened in open session by order of the Chair

STORMWATER ORDINANCE

Mr. John Hudgins, Director of Environmental and Development Services, gave a presentation on proposed Ordinance No. 06-17 to create Chapter 23.3, Stormwater Management, of the York County Code in order to establish minimum stormwater management requirements and controls to protect properties, safeguard the general health, safety, and welfare of the public residing in watersheds within the county and to protect aquatic resources. He stated that the ordinance was being proposed at this time due to a State requirement to address illicit discharge.

Mr. Burgett asked if this would eliminate the problem of water sheeting off one subdivision and going across the street to another.

Mr. Hudgins indicated it would, but not necessarily for the single lot owner building a house.

Mr. Burgett expressed his concern that no new problems were created for the existing homes.

Chairman Zaremba then called to order a public hearing on proposed Ordinance No. 06-17 that was duly advertised as required by law and is entitled:

AN ORDINANCE TO CREATE CHAPTER 23.3, STORMWATER MANAGEMENT, OF THE YORK COUNTY CODE IN ORDER TO ESTABLISH MINIMUM STORMWATER MANAGEMENT REQUIREMENTS AND CONTROLS TO PROTECT PROPERTIES, SAFEGUARD THE GENERAL HEALTH, SAFETY, AND WELFARE OF THE PUBLIC RESIDING IN WATERSHEDS WITHIN THE COUNTY AND TO PROTECT AQUATIC RESOURCES AS AUTHORIZED BY TITLE 10.1, CHAPTER 6, ARTICLE 1.1 (SECTIONS 10.1-603 ET SEQ) OF THE CODE OF VIRGINIA. ADDITIONALLY, THE ORDINANCE SHALL FULFILL THE REQUIREMENT OF THE COUNTY'S VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM (VPDES) PERMIT WHICH MANDATES THE COUNTY ADOPT REGULATIONS TO PROHIBIT ILLICIT DISCHARGES INTO THE STORM SEWER SYSTEM.

Mr. Robert Duckett, 302 Sommerville Way, Director of Public Affairs for the Peninsula Housing and Builders Association, stated the Association's members did not have any objections to the ordinance going forward with the Board's approval, but they did have a concern about BMPs in subdivisions and retention ponds that handle the stormwater drainage and would like to work with the County to amend that portion of the ordinance. He said the County had placed the ownership and maintenance responsibilities for the BMPs with local homeowners associations, and they were seeing some difficulties arise where the BMPs are designed to serve drainage areas that are larger than the subdivision that has the responsibility for maintaining it. He noted the County takes the position that the permission of the private party maintaining the BMP is required for the stormwater to be conveyed through County easements or facilities that drain into the privately maintained BMPs if the water originates from property other than the private party maintaining the BMP. Mr. Duckett stated public drainage easements are a part of the public system, so when a BMP is designed to have the capacity to adequately handle drainage from properties outside the subdivision, then requiring permission gives local homeowners associations a veto power over the best and most efficient conveyance of stormwater and could prevent such systems from operating to their designed capacity. He stated the Association recommends that the County require that any property owner benefiting from a drainage system that includes public facilities' easements pay a prorated maintenance cost of the system.

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

Mr. Shepperd stated he felt Mr. Duckett had made a good point. Development could possibly be inhibited by neighborhoods or homeowners' that own the lakes by not allowing any drainage into them.

Mrs. Noll asked if the homeowners' associations had the right to prohibit upstream drainage from flowing into their lakes/retention facilities.

Mr. Barnett said that anytime anybody develops property that involves impervious surfaces it is going to increase the amount of water that flows off of that property in a storm event, so the County cannot tell the developer to maintain the same volume of flow. He stated the County can tell them that they have to maintain the same rate of flow. He noted the issue comes up when developers come forward stating they do not want to develop a BMP on their own property sufficient to do what the County requires, and they want to use their neighbor's BMP to take some of their burden so that they can undersize their retention pond. Mr. Barnett stated he would think that some type of compensation would be due to the downstream user who would be receiving siltation from his upstream neighbors that he had not anticipated.

Discussion followed on the development of BMPs.

Mr. Hudgins stated that there are two categories of BMPs. He said sometimes you have a BMP that has a through easement with the flow going through the BMP. There is also the BMP owned by another development/owner that the developer may want to use to decrease the

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amount of BMP that he needs on his development. He stated that in both cases the County asks the developer to coordinate with the owner of the BMP. Mr. Hudgins said most of the developers do this in the course of doing business even before they submit the development to the County. He added he did not sense this being a problem.

Mr. Zaremba asked if this issue was covered in the ordinance.

Mr. Hudgins said this issue needs to be studied, and it is not in the ordinance at this time. He indicated this ordinance is a skeletal ordinance at this point and time, and additional requirements, some mandated from the State, will be needed in the future.

Mr. Zaremba asked why the ordinance was before the Board at this time if it is incomplete.

Mr. Hudgins said the ordinance was complete as to the requirements that have been mandated by the State with regard to illicit discharge.

Mr. Burgett agreed it is something the County needs to look at. He stated the Board can adopt the ordinance with the agreement that the County will look further at the drainage issue.

Mr. Shepperd indicated he was concerned that the Board was about to pass something that would put an unclear restriction on a development that could negatively affect the BMP.

Mr. Barnett explained that the State had given localities a date by which to adopt a local stormwater management ordinance, but there was a decision made by the State agency that it needed to significantly overhaul the regulations as they would pertain to local governments; thus the old regulations were repealed, and the new regulations are not yet in place. He stated new legislation was adopted by the General Assembly extending the timeframe for localities by 12 to 18 months to adopt an ordinance addressing those things that the State deemed significant. Mr. Barnett indicated that the County was being required by the Army Corps of Engineers to adopt a discharge ordinance. He noted that right now the issues with regard to regulating post-development storm flow so that they equal the predevelopment is a current requirement, and this ordinance does not do anything to change that. He added that the principal ideas are all the same with some added requirements as to things they want to see on a development plan or plat that are not necessarily in the current ordinance.

Mrs. Noll then moved the adoption of proposed Ordinance No. 06-17 that reads:

AN ORDINANCE TO CREATE CHAPTER 23.3, STORMWATER MANAGEMENT, OF THE YORK COUNTY CODE IN ORDER TO ESTABLISH MINIMUM STORMWATER MANAGEMENT REQUIREMENTS AND CONTROLS TO PROTECT PROPERTIES, SAFEGUARD THE GENERAL HEALTH, SAFETY, AND WELFARE OF THE PUBLIC RESIDING IN WATERSHEDS WITHIN THE COUNTY AND TO PROTECT AQUATIC RESOURCES AS AUTHORIZED BY TITLE 10.1, CHAPTER 6, ARTICLE 1.1 (SECTIONS 10.1-603 ET SEQ) OF THE CODE OF VIRGINIA. ADDITIONALLY, THE ORDINANCE SHALL FULFILL THE REQUIREMENT OF THE COUNTY'S VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM (VPDES) PERMIT WHICH MANDATES THE COUNTY ADOPT REGULATIONS TO PROHIBIT ILLICIT DISCHARGES INTO THE STORM SEWER SYSTEM.

BE IT ORDAINED by the York County Board of Supervisors this the 18th day of July, 2006, that Chapter 23.3, Stormwater Management, be and it is hereby established to read and provide as follows:

#### **ARTICLE I. IN GENERAL**

##### **Sec. 23.3-1. Purpose of chapter.**

It is the purpose of this chapter to establish minimum stormwater management requirements and controls to protect properties, safeguard the general health, safety, and welfare of the

public residing in watersheds within the county and to protect aquatic resources, as authorized by Title 10.1, Chapter 6, Article 1.1 (sections 10.1-603 et seq) of the Code of Virginia.

Additionally, amendments to the Federal Water Pollution Control Act, commonly known as the Clean Water Act, in 1987 required the Environmental Protection Agency to establish National Pollutant Discharge Elimination System permit regulations and the Virginia Department of Environmental Quality to establish the Virginia Pollutant Discharge Elimination System (VPDES) permit regulations for municipal separate storm sewer systems. These regulations require the county to adopt an ordinance to prohibit illicit discharges into the storm sewer system. It is also the purpose of this chapter to meet the requirements of prohibiting illicit discharges.

This chapter seeks to meet these purposes through the following objectives:

1. Require that land development and land conversion activities maintain the post-development runoff characteristics, as nearly as practicable, to the pre-development runoff characteristics in order to reduce flooding, siltation, stream bank erosion, and property damage;
2. Establish minimum design criteria for the protection of properties and aquatic resources downstream from land development and land conversion activities from damages due to increases in volume, velocity, frequency, duration, and peak flow rate of stormwater runoff;
3. Establish minimum design criteria for measures to minimize nonpoint source pollution from stormwater runoff which would otherwise degrade water quality;
4. Establish provisions for the long-term responsibility for and maintenance of stormwater management control devices and other techniques specified to manage the quality and quantity of runoff;
5. Establish certain administrative procedures for the submission, review, approval and disapproval of stormwater plans and the inspection of approved projects; and
6. Establish controls to reduce pollutants to the storm sewer system from illicit discharges to the maximum extent practicable, as required by the county's small municipal separate storm sewer system VPDES discharge permit.

#### **Sec. 23.3-2. Definitions.**

For the purpose of this chapter, the following words and terms shall have the meanings stated in this section unless the context clearly indicates otherwise:

*Act.* Means Article 1.1 (10.1-603 et seq) of Chapter 6 of Title 10.1 of the Code of Virginia, also sometimes referred to herein as the Virginia Stormwater Management Law.

*Applicant.* Any person submitting a stormwater management plan for approval.

*Approved or Approval.* Means approval by the plan-approving authority unless another authority is specifically named.

*Average Land Cover Condition.* A measure of the average amount of impervious surfaces within a watershed, assumed to be 16 percent.

*Best Management Practice (BMP).* A structural or nonstructural practice that is designed to minimize the impacts of development on surface and groundwater systems.

*Code of Virginia.* All references herein to the Code of Virginia are to the Code of Virginia (1950), as it may be amended from time to time.

*Code.* The Code of the County of York, Virginia.

*County.* The County of York.

*County Administrator.* The county administrator for York County, or his designee.

*Developer.* A person who undertakes land disturbance activities.

*Development.* Land development or a land development project.

*Discharge.* To dispose, deposit, spill, pour, inject, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, dumped, leaked, or placed by any means.

*Drainage Easement.* A legal right granted by an owner to a grantee allowing the use of private land for stormwater management purposes.

*Flooding.* A volume of water that is too great to be confined within the banks or walls of the stream, water body or conveyance system and that overflows onto adjacent lands, causing or threatening damage.

*Groundwater.* All subsurface water, including, but not limited to, that part within the zone of saturation.

*Impervious Cover.* A surface composed of any material that significantly impedes or prevents natural infiltration of water into soil. Impervious surfaces include, but are not limited to, roofs, buildings, streets, parking areas, and any concrete, asphalt, or compacted gravel surface.

*Illicit discharge.* Any discharge to the storm sewer system that is not composed entirely of stormwater except the term shall not include the following discharges unless such discharges are identified by the county administrator to cause sewage, industrial wastes or other wastes to be discharged into the storm sewer system:

- (1) Water line flushing;
- (2) Landscape irrigation;
- (3) Diverted stream flows or rising groundwater;
- (4) Infiltration of uncontaminated groundwater;
- (5) Public safety activities;
- (6) Pumping of uncontaminated groundwater from potable water sources, foundation drains, irrigation waters, springs or water from crawl spaces or footing drains;
- (7) Air conditioning condensation;
- (8) Lawn watering;
- (9) Individual residential car washing;
- (10) Flows from riparian habitats or wetlands;
- (11) Dechlorinated swimming pool discharges;
- (12) Street washing;
- (13) Any activity authorized by a valid Virginia Pollutant Discharge Elimination System (VPDES) permit, a Virginia Stormwater Management permit (VSMP) or Virginia Pollution Abatement (VPA) permit; or

- (14) Any other water sources not containing sewage, industrial wastes or other wastes.

*Industrial Wastes.* Liquid or other wastes resulting from any process of industry, manufacture, trade or business or from the development of any natural resources.

*Land Development or Land Development Project.* A manmade change to the land surface that potentially changes its runoff characteristics.

*Linear Development Project.* A land development project that is linear in nature such as, but not limited to, (i) the construction of electric and telephone utility lines, and natural gas pipelines; (ii) construction of tracks, rights-of-way, bridges, communication facilities and other related structures of a railroad company; and (iii) highway construction projects.

*Local Stormwater Management Program or Local Program.* A statement of the various methods adopted pursuant to the Act and implemented by the county to manage the runoff from land development projects and shall include an ordinance with provisions to require the control of post-development stormwater runoff rate of flow, water quality, the proper maintenance of stormwater management facilities, and minimum administrative procedures consistent with this chapter.

*Maintenance Agreement.* A legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of storm water management practices.

*Minimum Standards.* Those Minimum Standards contained within the Erosion and Sediment Control Regulations promulgated by the Virginia Soil and Water Conservation Board, as set out in 4 VAC 50-30-40 of the Virginia Administrative Code as they may be extended from time to time.

*Nonpoint Source (NPS) Pollution.* Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

*Nonpoint Source Pollutant Runoff Load or Pollutant Discharge.* The average amount of a particular pollutant measured in pounds per year, delivered in a diffuse manner by stormwater runoff.

*Other Wastes.* Materials that can adversely affect waters of the United States should they be discharged into same including, but not limited to: decayed wood; sawdust; chips; shavings; bark; leaves; lawn clippings; lawn chemicals, except those applied in accordance with manufacturer's recommendations; animal or vegetable matter; pet waste; construction debris; garbage; refuse; ashes; offal; tar; paint; solvents; petroleum products; gasoline; oil waste; antifreeze or other automotive, motor or equipment fluids.

*Owner.* The owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a property.

*Person.* Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town or other political subdivision of the Commonwealth, any interstate body or any other legal entity.

*Plan-approving Authority.* The county administrator or his designee who is responsible for determining the adequacy of a submitted stormwater management plan.

*Post-development.* Conditions that reasonably may be expected or anticipated to exist after completion of the land development activity on a specific site or tract of land.

*Pre-development.* Conditions that exist at the time that plans for the land development of a tract of land are approved by the plan approving authority. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the

time prior to the first item being approved or permitted shall establish pre-development conditions.

*Record Drawing.* A drawing of the completed facilities showing actual constructed elevations, dimensions and locations.

*Regulations.* All regulations promulgated by any local, state, or federal governmental agency having oversight and authority over the control and management of stormwater, including (without limitation) the Virginia Stormwater Management Law and Regulations and the Virginia Stormwater Management Handbook promulgated by the Virginia Board of Conservation and Recreation, as they may be amended from time to time.

*Runoff or Stormwater Runoff.* That portion of precipitation that is discharged across the land surface or through conveyances to one or more waterways.

*Sanitary Sewer.* A system of conduits that collect and deliver sanitary wastewater to a wastewater treatment or pumping facility.

*Sewage.* The water-carried human wastes from residences, buildings, industrial establishments or other places, together with such industrial wastes, stormwater or other water as may be present.

*Sheet flow.* Shallow, unconcentrated and irregular flow down a slope.

*Site.* The parcel of land being developed, or a designated planning area in which the land development project is located.

*State Waters.* All waters on the surface and under the ground wholly or partially within or bordering the Commonwealth or within its jurisdiction.

*Stop Work Order.* An order issued which requires that construction activity on a site be stopped.

*Storm Sewer System.* See Stormwater System.

*Stormwater or Stormwater Runoff.* Flow from rain, snow or other forms of precipitation and the resulting surface runoff and drainage.

*Stormwater Management.* The use of structural or non-structural practices that are designed to reduce storm water runoff pollutant loads, discharge volumes, and/or peak flow discharge rates.

*Stormwater Management Plan or Plan.* A document containing material for describing how existing runoff characteristics will be affected by a land development project and methods for complying with the requirements of the local program or this chapter.

*Stormwater System or Storm Sewer System.* A system of roads, streets, catch basins, curbs, gutters, ditches, pipes, lakes, ponds, channels, storm drains and other facilities located within the county that are designed or used for collecting, storing, or conveying stormwater or through which stormwater is collected, stored, or conveyed.

*Watershed.* A defined land area drained by a river, stream, drainage ways or system of connecting rivers, streams, or drainage ways such that all surface water within the area flows through a single outlet.

### **Sec. 23.3-3. Local stormwater management program.**

- (a) Pursuant to the Virginia Stormwater Management Law, Title 10.1, Chapter 6, Article 1.1 of the Code of Virginia, the county hereby adopts the regulations, references, guidelines, standards and specifications (hereinafter "the Virginia Stormwater Management Law and Regulations") and the Virginia Stormwater Management Handbook ("the Hand-

book”) promulgated by the Virginia Board of Conservation and Recreation, as such may be amended from time to time, for the effective management of stormwater to prevent the unreasonable degradation of properties and other natural resources in the form of water pollution, stream channel erosion, depletion of ground water resources and more frequent localized flooding. The Virginia Stormwater Management Law and Regulations and the Handbook are sometimes referred to hereinafter collectively as “the state program”.

- (b) Before adopting regulations that are more stringent than the state program, the county shall give due notice and conduct a public hearing on the proposed or revised regulations. No public hearing shall be required when the county is amending the local program to conform to revisions in the state program.
- (c) The county administrator is hereby designated as the county's agent for the purpose of administering and enforcing the terms of this chapter. The agent is authorized to make such inspections as may be necessary to ensure compliance with the terms of this chapter, and any conditions of approval for specific projects and is authorized to take such steps as are provided by this chapter, and as may be necessary, to ensure compliance with its terms. The county administrator shall prepare such standards and regulations not inconsistent with this chapter as may be necessary to regulate the design, construction, and maintenance of stormwater systems. The standards and regulations shall be subject to the approval of the governing body and shall be amended from time to time as conditions warrant.
- (d) The program and regulations provided for in this ordinance shall be made available for public inspection at the office of the county's Department of Environmental and Development Services.

**Sec. 23.3-4. Conflicting requirements.**

- (a) The terms, conditions and provisions of this chapter shall in no way alter, diminish, abrogate, annul, or change the terms, conditions or provisions of any other ordinance of the county or of any other rule or regulation, statute or other provision of law.
- (b) In the case of any conflict between any term, condition or provision of this chapter with any term, condition or provision of any other ordinance, regulation, or statute the more restrictive term, condition or provision shall prevail.
- (c) In the case of any conflict between any term, condition or provision of this chapter with any other term, condition or provision contained elsewhere in this Code, the more restrictive term, condition or provision shall prevail.

**Sec. 23.3-5. Applicability.**

- (a) Without limitation, this chapter shall be applicable to all subdivision, site plan, building permit or land disturbing activity applications. This chapter also applies to land development activities that are smaller than the minimum applicability criteria if such activities are part of a larger common plan of development that meets the applicability criteria, even though multiple separate and distinct land development activities may take place at different times on different schedules. In addition, all plans must also be reviewed by the county to ensure that established water quality standards will be maintained during and after development of the site and that post construction runoff levels are consistent with any local and regional watershed plans. No subdivision or site plan, or application for a building permit or land disturbing activity permit, or plan or permit relating to any land development activity to which this Chapter applies, shall be approved unless such plan or application is in full compliance with this Chapter.
- (b) To prevent the adverse impacts of stormwater runoff, the county has developed a set of performance standards that must be met at development sites. These standards apply to any land development or land use conversion activity disturbing 2500 square feet or more of land.

- (c) In addition to the foregoing, the provisions of this chapter shall apply, as applicable, to all modifications to existing stormwater systems and to all illicit discharges.
- (d) The following activities are exempt from the stormwater performance standards:
  - (1) Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted under the provisions of Title 45.1 of the Code of Virginia;
  - (2) Tilling, planting or harvesting of agricultural, horticultural, or forest crops;
  - (3) Construction of single-family residences separately built and not part of a subdivision, including additions or modifications to existing single-family detached residential structures;
  - (4) Land development projects that disturb less than 2500 square feet of land area; and
  - (5) Linear development projects, provided that (i) less than one acre of land will be disturbed per outfall or watershed, (ii) there will be insignificant increases in peak flow rates, and (iii) there are no existing or anticipated flooding or erosion problems downstream of the discharge point.

**Secs. 23.3-6 —23.3-10. Reserved.**

**ARTICLE II. STORMWATER MANAGEMENT PROGRAM PROCEDURES AND REQUIREMENTS**

**Sec. 23.3-11. Stormwater management performance standards.**

- (a) Water quality performance standards: The post-development non-point source pollution runoff load shall not exceed the calculated pre-development load based upon the average land cover condition or the existing site condition. Compliance with the water quality performance standards shall be achieved by applying Performance-based water quality criteria in accordance with the Handbook.
- (b) Water quantity performance standards: The post-development runoff rate shall not exceed the calculated pre-development runoff rate. When complying with subdivision 19 of 4 VAC 50-30-40, also known as "Minimum Standard 19", to protect properties and receiving waterways downstream of land development projects, the twenty-four hour extended-detention of the runoff from the one-year frequency storm shall be used in lieu of the two-year storm.

**Sec. 23.3-12. Stormwater management plans.**

- (a) A stormwater management plan (plan) shall be submitted to the county Department of Environmental and Development Services for review and approval concurrent with the submission of applications of site plans, subdivision plans or land disturbing activity permits. Land disturbing activity permits shall not be issued for the activity until the plan, as required by this chapter, detailing how runoff and associated water quality impacts resulting from the activity will be controlled and managed is approved.
- (b) The standards contained within the Virginia Stormwater Management Law and Regulations and the Handbook are to be used by the applicant when making a submittal under the provisions of this ordinance and in the preparation of stormwater management plans. The plan-approving authority, in considering the adequacy of a submitted plan, shall be guided by these same standards, regulations and guidelines. When the stan-

dards vary between the publications, the Virginia Stormwater Management Regulations shall take precedence.

- (c) It is the responsibility of an applicant to include in the plan sufficient information for the plan-approving authority to evaluate the environmental characteristics of the affected areas, the potential and predicted impacts of the development and the effectiveness and acceptability of the proposed measures detailed in the plan.
- (d) All stormwater management plans shall be appropriately sealed and signed by a professional engineer licensed to practice in Virginia certifying that the plan meets all submittal requirements outlined in this ordinance and is consistent with good engineering practice.
- (e) Stormwater management plans shall be approved or disapproved according to the following:
  - (1) A maximum of 60 calendar days from the day a complete stormwater management plan is accepted for review will be allowed for the review of the plan. During the 60-day review period, the plan approving authority shall either approve or disapprove the plan and communicate its decision to the applicant in writing. Approval or denial shall be based on the plan's compliance with the requirements of this chapter.
  - (2) A disapproval of a plan shall contain the reasons for disapproval.
- (f) An approved plan may be changed by the plan approving authority when:
  - (1) An inspection reveals that the plan is inadequate to satisfy applicable requirements; or
  - (2) The person responsible for carrying out the plan finds that because of changed circumstances or for other reasons the approved plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of this ordinance are agreed to by the plan approving authority and the person responsible for carrying out the plans.
- (g) In addition to the above standards, the following requirements shall be met for plan submissions:
  - (1) The size, number, format, etc. of the plan shall meet the applicable requirements for site plan submission in accordance with chapter 24.1 of this code or for subdivision plan submission in accordance with Chapter 20.5, depending upon whether the stormwater management plan is being submitted as part of a site plan or subdivision plan application.
  - (2) Plans shall be prepared to an appropriate engineer's scale and the scale shall be shown on the plan.
  - (3) The location and extent of any transitional buffers, infiltration yards, Chesapeake Bay preservation areas, floodplain management areas, wetlands, historic resources management areas, tourist corridor management areas and/or watershed management and protection areas that may be required by the application of chapters 24.1 (zoning ordinance), 23.2 (Chesapeake Bay preservation areas) or 23.1 (wetlands) of this code shall be shown on the plan.
  - (4) The location, type, extent, owner's name and recordation information of any existing or proposed landscape, conservation, preservation, drainage, impoundment, utility, ingress/egress or similar easements on the subject property or adjoining the property shall be shown on the plan.
  - (5) Hydrologic and hydraulic design calculations for the pre-development and post-development conditions shall be prepared and submitted along with the plan. Such calculations shall include (i) description of the design storm frequency, in-

- tensity and duration, (ii) time of concentration, (iii) soil curve numbers or runoff coefficients, (iv) peak runoff rates and total runoff volumes for each watershed area, (v) stormwater routing, (vi) infiltration rates, where applicable, (vii) culvert capacities, (viii) flow velocities, (ix) data on the increase in rate and volume of runoff for the specified design storms, (x) hydraulic grade lines, (xi) inlet sizing, (xii) and documentation of sources for all computation methods and field test results.
- (6) Pre-development and post-development drainage area maps with topography (minimum scale to be one-inch equals 200-feet) which extends a minimum of 500-feet beyond the limits of the proposed development detailing (i) the various drainage basins, (ii) the direction and flow rate of runoff, and (iii) the flow routing for the controlling time of concentration shall be prepared and submitted along with the plan.
  - (7) A topographic base plan (minimum scale to be one-inch equals 50 feet) demonstrating positive drainage from each lot or structure shall be prepared and submitted along with the plan. Such plan shall include (i) direction of flow arrows, (ii) elevations of lot corners, center, high points, low points, finished floor, curbing, and other drainage features (iii) locations where proposed grades meet existing grades, (iv) sizing, slope and elevation of culverts and pipes, (v) depth, size, shape and slope of ditches (vi) size, inverts and elevations of receiving channels or systems, and (vii) location, access to, and details of any BMPs. The one-hundred year flood boundary as depicted on the Flood Insurance Rate Map shall be shown on the plan and all proposed development within the floodplain shall meet the requirements of the Floodplain Management Area Overlay District section of chapter 24.1 of this code.
  - (8) BMPs for subdivisions shall be sized based upon total impervious cover which is the summation of the actual impervious cover of the streets and other improvements being proposed as part of the subdivision and the expected average percent impervious cover per lot. The expected average percent impervious cover per lot shall be determined by the applicant based upon such factors as: the size and style of homes; length, width and configuration of the driveways; number and size of decks, pools, sheds and other accessory structures; and other development that can reasonably be expected to occur on the lots. In no case shall the expected average impervious cover per lot be less than is defined by the curve containing the following data points in the form of (average lot size in square feet: minimum expected percent impervious cover): (87120:12), (43560:20), (21780:25), (14505:30), (10890:38) and (5445:65).
  - (9) Retention or detention facilities shall be shown on the plan with the following details where applicable (i) a minimum of two cross-sectional views at 90 degrees to each other (one through the outfall) for each basin showing: adequate free-board, ground water elevation, bottom elevation, normal water surface elevation, water surface elevations for two, ten and 100-year storm, side slopes and top of bank elevations (ii) spillway, (iii) emergency spillway, (iv) outfall structure, (v) forebay, (vi) plantings (vii) impoundment easement, (viii) access for maintenance, and (ix) stock pile areas for future dredging spoils. All details should be drawn to scale and slopes shown as horizontal distance in feet required for one foot change in vertical distance (H:V).
  - (10) Geotechnical properties for the hydrologic and structural properties of soils for all stormwater retention and detention facilities shall be described in a soils report and submitted as part of the plan. The submitted report shall follow the criteria in the Handbook and shall include (i) boring depth, (ii) ground water elevation, (iii) sampling frequency, (iv) sample type, and (v) associated laboratory testing with results and conclusions. Soil properties for infiltration facilities shall also conform to the guidance and specification outlined in the Handbook.
  - (11) The maintenance requirements for all BMPs proposed on the plans shall be identified on the plans in the form of a maintenance plan. The purpose of the maintenance plan is to ensure the BMPs will continue to function as designed. The

maintenance requirements are to be classified as routine or long term. The required frequency of the maintenance is to be given along with any details necessary to explain each requirement, how it is to be performed, expected cost, level of expertise required to perform, etc. The maintenance plan shall identify the owner of the BMPs and the responsible party for carrying out the maintenance plan. For each facility requiring the removal of accumulated sediments, the point at which the removal of sediment must be performed shall be identified in a quantifiable manner. Access for inspections and maintenance activities must be ensured and permanent easements provided as necessary.

- (12) The following standards shall apply to the design and construction of stormwater systems and shall be incorporated into the plans:
- a. The maximum depth of open channels should not exceed three feet measured from the invert of the ditch to the adjacent proposed ground elevation.
  - b. The minimum longitudinal slope for open channels shall be 0.0050 foot per foot for channels with unpaved bottoms and 0.0025 foot per foot for channels with paved bottoms.
  - c. The minimum longitudinal slope for curb and gutter shall be 0.0030 foot per foot.
  - d. Stormwater systems that utilize a pump or pumps shall not be approved unless the pumping system will be owned and operated by the county.
  - e. Permanent drainage easements are required where the stormwater system is located on private property owned by other than the owner of the stormwater system.
  - f. Permanent impoundment easements are to be provided where the stormwater system is expected to impound waters during a 100-year storm on private property owned by other than the owner of the stormwater system.
  - g. All stormwater runoff shall be conveyed to a stormwater system and shall not be permitted to sheet flow offsite unless otherwise approved.
  - h. Existing drainage patterns must be preserved to the maximum extent practicable. Requests to alter drainage patterns must be made in writing and submitted for approval as part of the drainage plan.
  - i. Wet ponds shall have a minimum depth of water of six-feet.
- (h) Each plan approved shall be subject to the following conditions:
- (1) The applicant shall comply with all applicable requirements of the approved plan, and shall certify that all land clearing, construction, land development and drainage will be done according to the approved plan.
  - (2) The land development project shall be conducted only within the area specified in the approved plan.
  - (3) The county administrator shall be allowed, after giving notice to the owner, occupier, or operator of the land development project to conduct periodic inspections of the project.
  - (4) The person responsible for implementing the approved plan shall conduct monitoring and submit reports as the county may require to ensure compliance with the approved plan to determine whether the plan provides effective stormwater management.

- (5) No changes may be made to an approved plan without review and written approval of the county.

**Sec. 23.3-13. Exceptions.**

- (a) A request for an exception shall be submitted in writing. An exception from any requirement of this chapter may be granted, provided that: (i) exceptions are minimum necessary to afford relief and (ii) reasonable and appropriate conditions shall be imposed as necessary upon any exception granted so that the intent of the Act and this chapter are preserved.
- (b) Economic hardship shall not be the basis for an exception from the requirements of this chapter.
- (c) The exception request shall include the specific section or sections of this chapter the applicant is requesting to be waived or modified, the reason the exception is being requested, and any other data that explains or supports the exception request, including but not limited to alternative stormwater management methods designed to attain the standards set out in this Chapter to the greatest extent practicable.

**Sec. 23.3-14. Illicit discharges.**

- (a) It shall be a violation of this ordinance to:
  - (1) Discharge, or cause or allow to be discharged, sewage, industrial wastes or other wastes into the storm sewer system, or any component thereof, or onto drive-ways, sidewalks parking lots or other areas draining to the storm sewer system; or
  - (2) Connect, or cause or allow to be connected, any sanitary sewer connected to the storm sewer system as of the date of adoption of this article; or
  - (3) Throw, place or deposit or cause to be thrown, placed or deposited into the storm sewer system anything that impedes or interferes with the free flow of stormwater therein.

**Sec. 23.3-15. Modifications to existing stormwater systems.**

- (a) Existing stormwater systems or any part thereof that convey offsite or a combination of onsite and offsite stormwater runoff shall not be altered or relocated except upon the presentation of data, certified by a licensed engineer that the stormwater carrying capacity of such a modified system is equal to or exceeds the existing capacity. It is not the intent of this section to prevent normal maintenance activities from being performed.

**Sec. 23.3-16. Sequence of construction and record drawings.**

- (a) Unless otherwise approved, in any land development or land development project, any required stormwater system shall be constructed prior to the construction of any required sanitary sewer system.
- (b) Record Drawings are required for all components of the stormwater system. The record drawings shall be appropriately sealed and signed by a licensed professional in adherence to all minimum standards and requirements pertaining to the practice of that profession. The record drawings shall:
  - (1) Be of the same sheet size; format, scale, etc. as the approved stormwater management plans;

- (2) Show the as-built condition of the stormwater system calling attention to any changes from the approved drawings;
  - (3) Give the actual dimensions of components such as length of pipe, ditch, etc.;
  - (4) Provide elevations for all rims, inverts, channel bottoms, outfalls, pond cross-sections, structures and all other elevation sensitive components of the system; and
  - (5) Contain a certification stating that the stormwater system has been constructed in accordance with the plan and that the system is functioning as designed.
- (c) Prior to the issuance of building permits for above ground structures, preliminary record drawings of the completed stormwater system must be submitted for approval.
- (d) Prior to the completion of the project and prior to the issuance of the "Certificate of Occupancy" for any structure, final record drawings shall be submitted and approved.

**Sec. 23.3-17. BMP maintenance agreement.**

- (a) The operation and maintenance of all stormwater facilities identified on the plan shall be guaranteed via a stormwater management/BMP maintenance agreement between the developer and the county. The agreement shall be executed prior to the issuance of the land disturbing activity permit.
- (b) The stormwater management/BMP maintenance agreement shall at a minimum:
- (1) Be in a form approved by the county attorney;
  - (2) Reference the approved stormwater management plan;
  - (3) Insure the stormwater management/BMP facilities are constructed in accordance with the approved plans;
  - (4) Insure the developer, its successors and assigns maintain the stormwater management/BMP facilities in good working condition, acceptable to the county, so that they are performing their design functions;
  - (5) Establish permission for the county to enter upon the property to inspect the stormwater management/BMP facilities in order to assure they are functioning properly;
  - (6) Provide a procedure that in the event the developer, its successors and assigns fail to properly maintain the stormwater management/BMP facilities in good working order allows the county to perform any corrective actions necessary and recover the costs of taking such actions from the developer, its successors and assigns, and;
  - (7) Be recorded with the land records of the county.

**Sec. 23.3-18. Monitoring, reports, inspections, and stop work orders.**

- (a) The county administrator shall have authority to make such lawful inspections and conduct monitoring of stormwater outfalls or other components of the storm sewer system as may be necessary or appropriate in the administration and enforcement of this chapter.
- (b) The county may require the person responsible for implementing the approved plan to monitor and submit reports as the county may require to ensure compliance with the approved plan and to determine whether the plan provides effective stormwater management. The person responsible for implementing the plan will maintain records of all

inspections and maintenance, to ensure compliance with the approved plan and to determine whether the measures required in the plan are providing effective stormwater management.

- (c) If the county administrator determines that there is a failure to comply with the plan, notice shall be served upon the applicant, owner or person responsible for carrying out the plan by registered or certified mail to the address specified in the plan application or in the plan certification, or by delivery at the site of the development activities to the agent or employee supervising such activities. The notice shall specify the measures needed to comply with the plan and shall specify the time within which such measures shall be completed. Upon failure to comply within the specified time, the applicant, owner or person responsible for carrying out the plan shall be deemed to be in violation of this ordinance and shall be subject to the penalties provided by this ordinance.
- (d) Upon determination of a violation of this ordinance, the county administrator may, in conjunction with or subsequent to a notice to comply as specified in this ordinance, issue an order requiring that all or part of the development activities on the site be stopped until the specified corrective measures have been taken. The stop work order shall be served in the same manner set out in subsection (c), above, for a notice to comply.

**Secs. 23.3-19—23.3-25. Reserved.**

### ARTICLE III. VIOLATIONS

**Sec. 23.3-26. Violations of chapter—Generally.**

- (a) Any person who engages in or causes any regulated land-disturbing activity, without first submitting a stormwater management plan to the county and obtaining approval of the plan as prescribed by this chapter, shall be in violation of this chapter.
- (b) Any person who violates any condition of any approved stormwater management plan or exceeds the scope of approval of any authorized activity or who fails to comply with any other provision of this chapter shall be in violation of this chapter.
- (c) Violations of section 14 of this chapter shall result in the following penalties:
  - (1) A willful violation shall constitute a Class 1 misdemeanor. Each day that a continuing violation is maintained or permitted to remain shall constitute a separate offense.
  - (2) Any person who, intentionally or otherwise, commits any of the acts prohibited by section 14 of this chapter shall be liable to the county for all costs of monitoring, containment, cleanup, abatement, removal and disposal of any substance unlawfully discharged into the storm sewer system.
  - (3) Any person who, intentionally or otherwise, commits any of the acts prohibited by section 14 of this chapter shall be subject to a civil penalty in an amount not to exceed \$1,000 for each day that a violation of this chapter continues. The court assessing such penalties may, at its discretion, order such penalties be paid into the treasury of the county for the purpose of abating, preventing, monitoring, or mitigating environmental pollution.
  - (4) The county may bring legal action to enjoin a continuing violation and the existence of any other remedy, at law or in equity, shall be no defense to any such action.
  - (5) The remedies set forth in this section shall be cumulative, not exclusive; and it shall not be a defense to any action, civil or criminal, that one or more remedies set forth herein has been sought or granted.

On roll call the vote was:

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

#### **CITIZENS COMMENT PERIOD**

Mr. Pavel Degtiarenko, 101 Sharps Lane, Magruder Woods subdivision, stated he would like to continue for the record the presentation of concerns by the Magruder Woods Homeowners Association with respect to the new High Grove development. He addressed the traffic issues saying he had asked the County planners for a copy of the traffic study for the new development, and he had not received a copy and was not sure if a study existed. He said the traffic issues and concerns were not limited to the internal traffic from Magruder Woods and the proposed new subdivision but for the entire surrounding area. Mr. Degtiarenko said Government Road had become the primary route to access Routes 199, 143, and I-64, and the road needed to be widened to add curbs, gutters, sidewalks, and drainage improvements. He stated the intersection of Government Road and Route 143 needs to be improved to include a stoplight and a right-turn lane. He said that over the past several months with the traffic increases, it had become difficult during peak traffic hours to make a left turn onto Government Road from the Magruder Woods subdivision, and he spoke of what could happen if the traffic flow was increased by 300 percent.

Mr. Alexander Zestos, 111 Creedmoor Court, discussed the drainage problems in the Magruder Woods area that the County had been aware of for some time, and indicated the new development would contain three times as many houses that would feed into the same drainage area. He noted there was an open drainage ditch over five feet deep at the intersection of Creedmoor Court and Sharps Lane, and on several visits the County staff had stated it would be upgraded but to date there had been no upgrades. The drainage ditch along Government Road has not been cleaned in years, and the drainpipes under the driveway are over 75 percent plugged up forcing the stormwater and trash from the roads through the yards within the neighborhood. Mr. Zestos stated there are also some safety concerns with Creedmoor Court because it is not a very wide road, and residents have very steep driveways. On average, he stated that each household has three cars which forces individuals to park on the side of the road. He stated that increasing the traffic through Creedmoor Court would cause disastrous effects.

Mr. George K. Zestos, 111 Creedmoor Court, asked that another cul-de-sac be created to have another access within the new area that would be developed, and he suggested that the Board of Supervisors provide five feet of County property to get the road widened.

Mrs. Addie Jeanette Best, 819 Baptist Road, appeared to ask the Board for help with her Medicaid problems.

Chairman Zaremba asked Mr. McReynolds to make sure Mrs. Best was referred to the appropriate individual for help with her problems.

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

Mr. Barnett reported he would attend a meeting on Thursday with several jurisdictions involved with the Mattaponi Indian Tribes lawsuit against Newport News.

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

Mr. McReynolds thanked the volunteers, the 4th of July Committee, County Staff, and the National Park Service staff for all the efforts that were put into making the 4<sup>th</sup> of July a great day for the County. He reminded the Board of its Regular Meetings scheduled for August 1 and August 15.

**MATTERS PRESENTED BY THE BOARD**

Mrs. Noll reported that Mr. James O'Hara of Yorktown had passed away. She stated he had been very passionate in his beliefs about Yorktown and the history of Yorktown, and the Board appreciated his efforts. She said that the 4<sup>th</sup> of July had been a wonderful day, and it would not have been possible without the staff to work it and the volunteers who gave their time.

Mr. Shepperd added that Mr. O'Hara had a lot of knowledge and a lot of spirit, and he would be missed. He said he and Mrs. Noll, along with Mr. McReynolds, had attended a celebration for the Watermen's Museum, and it was nice to see the gathering and people involved and the heritage aspects. He commented on the brochure that was created by the Stormwater Committee and commended the committee for its work.

Mr. Burgett commented that Greg Davy played a prominent part in the creation of the brochure and its format and thanked him for doing such a good job. He said he had seen the 12 new cameras that had been installed at Riverwalk that are monitored at the 911 Center, stating it made Riverwalk a safe and secure family place.

Mr. Bowman echoed the sentiments of the Board on Mr. O'Hara's passing. He said he had been an activist for York County who truly believed in keeping the environment just like it was. Mr. Bowman informed citizens about the sales tax holiday from August 4 through August 6 on school supplies and clothing. He told the citizens that they could go on the website for more information about items exempt from the 5 percent sales tax. He then gave an update on the Williamsburg Area Destination and Marketing meeting that he had attended on Monday. He showed a Discover the Arts flyer that he had picked up in Williamsburg that had a great map which outlined all the places in the Williamsburg/Jamestown/Yorktown area that contribute to the arts. He also showed a 225<sup>th</sup> Anniversary of Yorktown brochure that outlined all the day-by-day events. Mr. Bowman then noted that last Wednesday the Planning Commission had a public hearing on some rezoning issues at which time there was a lot of activity and discussion and a lot of public input about some rezoning proposals that would implement the Comprehensive Plan. He stated the Planning Commission had tabled the proposal to go back and revisit some of the proposals which would delay bringing it before the Board.

Chairman Zarembo echoed Mr. Burgett's comments with regard to the security at Rivewalk. He added that in addition to the technological upgrades, the Sheriff's Department had also increased its physical presence. He also spoke about the passing of Mr. O'Hara, stating there was an article in the Daily Press that considered Mr. O'Hara to be an icon in York County. Mr. Zarembo said that no matter what subject he had been involved in, Mr. O'Hara always had wonderful thoughts and ideas; he was a civic activist, and Yorktown had been a significant part of his life. He asked Mr. McReynolds to send a special note from the Chairman to the family expressing the Board's condolences and sympathies. He reminded the Board that there was a hearing at the James City County Board of Supervisors building regarding the reservoir and the 10-year permit that Newport News had been granted that would run its course within the next couple of years. He stated that Newport News is requesting an extension on the period of time to proceed with the reservoir, and he and Mr. McReynolds would attend the meeting in full support of going forward with the extension.

**CONSENT CALENDAR**

Mrs. Noll moved that the Consent Calendar be approved as submitted, Item No. 7, respectively.

On roll call the vote was:

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

Thereupon, the following minutes were approved:

Item No. 7. APPROVAL OF MINUTES

The minutes of the June 6, 2006, meeting of the York County Board of Supervisors were approved.

**CLOSED MEETING.** At 10:57 p.m. Mr. Bowman moved that the meeting be convened in Closed Meeting pursuant to Section 2.2-3711(a)(1) of the Code of Virginia pertaining to appointments to Boards and Commissions; Section 2.2-3711(a)(3) pertaining to real property used for a public purpose specifically pertaining to the acquisition of real property for public purpose. On roll call the vote was:

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

Meeting Reconvened. At 11:15 p.m. the meeting was reconvened in open session by order of the Chair.

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

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

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

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

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 27th day of June, 2006, hereby certifies that, to the best of each member's knowledge, (1) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (2) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed, or considered by the York County Board of Supervisors.

On roll call the vote was:

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

APPOINTMENT TO THE COMMUNITY CRIMINAL JUSTICE BOARD

Mr. Bowman moved the adoption of proposed Resolution R06-97 that reads:

A RESOLUTION TO REAPPOINT A YORK COUNTY REPRESENTATIVE TO THE COMMUNITY CRIMINAL JUSTICE BOARD

BE IT RESOLVED by the York County Board of Supervisors this 18th day of July, that The Honorable Merlin Renne be, and he is hereby, reappointed as a York County representative to the Community Criminal Justice Board for a term of three years, such term to begin August 1, 2006, and end July 31, 2009.

On roll call the vote was:

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

July 18, 2006

APPOINTMENT TO THE MIDDLE PENINSULA JUVENILE DETENTION COMMISSION

Mr. Shepperd moved the adoption of proposed Resolution R06-100 that reads:

A RESOLUTION TO REAPPOINT A YORK COUNTY REPRESENTATIVE TO THE MIDDLE PENINSULA JUVENILE DETENTION COMMISSION

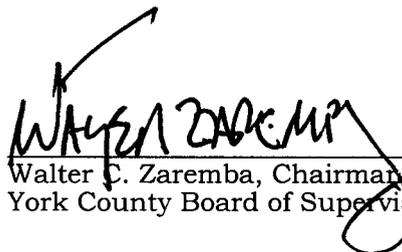
BE IT RESOLVED by the York County Board of Supervisors this 18th day of July, 2006, that Anne B. Smith be, and she is hereby, reappointed as a York County representative on the Middle Peninsula Juvenile Detention Commission for a term of four years, such term to begin July 3, 2006, and end June 30, 2010.

On roll call the vote was:

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

Meeting Adjourned. At 11:20 p.m. Chairman Zaremba moved that the meeting be adjourned sine die.

  
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James O. McReynolds, Clerk  
York County Board of Supervisors

  
\_\_\_\_\_  
Walter C. Zaremba, Chairman  
York County Board of Supervisors