

MINUTES
BOARD OF SUPERVISORS
COUNTY OF YORK

Regular Meeting
August 19, 2008

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, August 19, 2008, in the Board Room, York Hall, by Chairman Thomas G. Shepperd, Jr.

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

George S. Hrichak was absent.

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

Invocation. Reverend Charles Thomas, Rising Sun Baptist Church, gave the invocation.

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

HIGHWAY MATTERS

Mr. Todd Halacy, Residency Administrator, Virginia Department of Transportation, appeared to discuss highway matters of interest to the Board. He reported that all the primary routes within York County would be mowed prior to the Labor Day weekend, and the contractors would then focus on the secondary routes within York County. He updated Mr. Zarembo on the status of the Airport Road/Mooretown Road intersection review, stating VDOT had performed field reviews and 12-hour turning movement counts at the intersection of Richmond Road/Airport Road and also the intersection of Airport Road/Mooretown Road. He reported it had been determined that the corridor from Route 60/Richmond Road to a point east of Mooretown Road, including Airport Road, needed to be reconstructed to increase the roadway capacity. He stated the Residency was working to determine the right-of-way currently owned by the State, the type of configuration necessary for the corridor, and an estimated cost. He noted a signal optimization plan was being developed for the intersections to see if it would alleviate some of the congestion. Mr. Halacy stated the department hoped to have this completed soon, and he would keep Mr. Zarembo updated on the status.

Mr. Wiggins reported that the infamous bollard that had been removed at Walgreen's at Goodwin Neck Road and Route 17 to allow the lady to exit her driveway had been put back again.

Mr. Halacy stated he would check into it and make sure it did not happen again.

Chairman Shepperd expressed his concerns with the traffic congestion and light synchronization on Route 17. He spoke of the closeness of the lights at the Lakeside Drive/Oriana Road intersection and at the entrance into Heritage Square, stating that during business hours the traffic on Route 17 backed up all the way to the Route 134 overpass. He said the congestion will only increase when the new sports complex on Oriana Road opens. He asked Mr. Halacy to look at the light sequencing, stating it was very important to the flow of traffic. He also asked him to check into a request he had made in April for a study of the deceleration lane on Hampton Highway that the residents of the Villas on Shady Bank use to access their neighborhood. He noted there are a lot of seniors who live in the area, and the complaint is that the deceleration lane was never adjusted for the subdivision.

Mr. Halacy stated he would check into both matters, noting that VDOT's traffic engineering section was currently reviewing the Route 17 corridor from the Newport News border to the Coleman Bridge regarding signal optimization.

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

Chairman Shepperd introduced and welcomed Sean Fisher as the newest appointee to the York County Planning Commission and presented him with a Boards and Commissions Handbook and York County pin.

COMMENDATION OF RETIRED EMPLOYEE

Chairman Shepperd congratulated Vivian Smoot upon the occasion of her retirement from County service, and presented her with a bound and sealed certified copy of Resolution R08-87 commending her for her past service to the County.

PENINSULA ALCOHOL SAFETY ACTION PROGRAM (ASAP)

Mrs. Kathryn Hall, Director, Peninsula Alcohol Safety Action Program (ASAP), introduced Mr. Dwight Dansby, the Policy Board Chairman, and the Honorable Merlin Renne, the York County appointee representative to the Peninsula ASAP. She stated this was the first time in their 33 years of existence they were making presentations to educate the local elected officials on the ASAP program, and she briefed the Board members on the services the program provides to York County. She indicated the program is totally supported by client fees that are set by the Code of Virginia, and the fees have not increased since 1985, which has resulted in larger caseloads for their caseload managers and the inability to perform some of the education mandates to try to impact young drivers. Mrs. Hall stated the ASAP hopes in the future to work with the County on its legislative package to come forward with legislation seeking an increase in program fees.

Mr. Renne gave an overview of the Peninsula ASAP statistics for York County for the year ended June 30, 2008, that included the number of service referrals, intake classifications, and demographics by gender and ethnicity. He spoke of the challenges experienced in dealing with language barriers.

Mrs. Noll asked how many employees administer program

Mrs. Hall stated the program has 8 full-time and 4 part-time employees for the seven localities they serve.

Discussion followed regarding the State's mandate to require all persons convicted of drunk driving to go through the ASAP as a part of their sentence.

Chairman Shepperd thanked the Peninsula ASAP representatives for the update.

YOUTH CAREER CAFÉ

Mr. Matthew James, President & CEO, Peninsula Council for Workforce Development, gave an informational presentation on the Youth Career Café stating it was established as an offshoot of the Peninsula Alliance for Economic Development, and its primary focus was to provide a trained workforce to meet the needs of employers. He reviewed their model saying it was a place where students could come into a youth-friendly environment that provided career counseling, GED training, skills testing, and job placements. He explained the program model was developed based on discussions with local governments, schools, and the employers his organization represents. Mr. James indicated he was present at the Board meeting because there was discussion about opening a third location in the Historic Triangle region, which would give them a network of three places to complement and better serve the youth and young people coming out of schools and colleges. He noted he had already met with the James City County Board of Supervisors, Williamsburg City Council, and the Williamsburg/James City County Superintendent of Schools, and he would meet with the York County School superintendent in the near future.

Mrs. Noll asked if there was a projected opening date or was there just discussion on the feasibility of an opening in the Historic Triangle area.

Mr. James stated there had been preliminary discussions primarily with the Williamsburg/James City County Chamber which had shown them some sites. He stated the timeline was to have the initial preliminary discussions; and if they received positive responses, then they would provide some specific sites for the localities' consideration. Based on historical performance, Mr. James stated they could probably have a third center open as early as the summer of next year.

Mrs. Noll asked if they thought they had enough demand with the one in Hampton and now the one at Patrick Henry to support a third one.

Mr. James stated they had already received calls from employers telling them to let them know when they have another site. He stated they had also been approached by Gloucester County to partner with the Boys and Girls Club.

Mr. Zaremba asked Mr. James if a site for the café had been identified.

Mr. James stated the first target was to provide information to the three localities to make sure of their interest, and they would then start to explore a location and return with a budget based on real locations.

Mr. Zaremba asked if he was on Dr. Williams' calendar.

Mr. James stated Dr. Williams had been briefed, but he had not had the opportunity to personally meet with him. He noted Dr. Matthews with James City County had a conversation with Dr. Williams on his behalf and they were scheduled to talk to him by phone this week.

Mr. Shepperd thanked Mr. James for his presentation and asked where interested citizens could obtain information about the program.

Mr. James stated the Youth Career Cafés are located at Patrick Henry Mall and the Net Center at the corner of Jefferson Avenue and Mercury Boulevard. He stated information was also available at www.youthcareercafe.com.

CITIZENS COMMENT PERIOD

Mr. Bartholomew Myles, 164 Spoon Court, spoke regarding the temporary suspension of enforcement for Ordinance No. 08-6, and he asked for an independent audit to review the proffers on the development of Kiln Creek.

Ms. Beth Wilson 416 Massie Lane, addressed the Board stating she was a member of the York County Waterway Alliance, and its members are contributing to the health of the Bay by actively participating in waterway quality measurements and by supporting sensible developments that safeguard the Bay. She voiced her concerns regarding water quality and e-coli counts. She noted that Chairman Shepperd had been given a written copy of their concerns and expectations.

Mr. Robert Holloway, 301 Ryans Way, spoke regarding the conditions of the waters of the Poquoson River and Moores Creek.

Mr. Zachariah Long, 311 Darby Road, stated that recently a York County deputy came to his home and informed him that he was in violation of the County noise ordinance by playing his bagpipes in his backyard as the instrument could be heard more than 50 feet from the property line. He stated he explained to the deputy that it was not musically viable to play in his home because of the low ceilings and ceiling fans, and he had been unable to obtain permission to play at alternate locations. Mr. Long stated he felt the noise ordinance was unconstitutional and very unfair to musicians, and he asked the Board to look at modifying the noise ordinance to exempt the playing of musical instruments.

Mr. Henry Long, 311 Darby Road, reiterated his son's previous comments, stating he thought the ordinance violates the constitution by outlawing the playing of music on private property.

August 19, 2008

He stated he had contacted his State representative, Brenda Pogge, and had given a copy of her response to Mr. Shepperd. He stated Mr. Shepperd had said he was not interested in reviewing the ordinance at this time because of time constraints. He asked the Board to give the same consideration to the noise ordinance that had been given to the lawn mowing ordinance.

Meeting Recessed. At 7:09 p.m. Chairman Shepperd declared a short recess.

Meeting Reconvened. At 7:17 p.m. the meeting was reconvened in open session by order of the Chair.

PUBLIC HEARINGS

APPLICATION NO. UP-744-08, COLONIAL X, INC.

Mr. Carter made a presentation on Application No. UP-744-08 requesting a use permit authorizing the conversion of an existing hotel to a time-share resort intended for college students on property located at 119 Bypass Road. The Planning Commission considered the application and forwarded it to the Board of Supervisors with a recommendation of denial, and staff also recommended denial of the application.

Mr. Wiggins asked how many of the current parking spaces were available for the current hotel and proposed timeshare.

Mr. Carter stated there would be 134 parking spaces available for the hotel and timeshare in addition to the spaces that are dedicated for the other facility on the site.

Discussion followed concerning the parking requirements for the timeshare.

Mr. Zaremba asked who would make the decision as to whether or not the bedrooms would house one or two students per bedroom and how it would be monitored.

Mr. Carter stated if the proposal were approved, staff recommends a use permit condition to set the limit at one person per bedroom, and it would be monitored, like any other use permit condition, by the Code Compliance Division.

Mr. Zaremba asked if public transportation was available in the area.

Mr. Carter stated that Bypass Road was on the Williamsburg Area Transport (WAT) line, but the line that serves Bypass Road does not connect immediately or does not go directly to the campus; so connections would have to be made with that line and some of the other routes WAT operates in order to get to the campus.

Mr. Shepperd asked if there were timeshare units at the Reception Center.

Mr. Carter stated it was a reception center for an offsite facility.

Mr. Shepperd asked if this would be a residential apartment type of development in an area zoned general business.

Mr. Carter stated the proposal technically meets the definition of timeshare because it involves selling intervals of ownership for less than a one-year period. He stated the concern is that it is basically permanent housing for nine months of the year. He indicated the County staff was currently surveying other localities to see how they deal with this type of situation and how they define transient occupancy and what is appropriate for defining how hotels should be occupied. He stated this application had prompted staff to look at how the ordinance was structured because it did appear to be problematic.

Discussion followed regarding definitions of timeshares, hotels, and apartments in the zoning ordinance.

Mr. Shepperd noted staff was making the recommendation that this application was out of character, and he asked what made it out of character.

Mr. Carter stated it was staff's opinion that it represents permanent housing as it is essentially an apartment unit—an apartment complex for students for nine months of the year—and that would make it a residential use, and residential uses are not permissible in the general business district.

Mr. Shepperd noted that what makes it an apartment then is based upon opinion and not on the way the County's zoning ordinance is designed. He asked if there were any timeshares in the surrounding area.

Mr. Carter stated the nearest timeshare was farther up Waller Mill Road beyond the K-Mart Shopping Center, the Kings Gate Green Timeshare project, and there was also one on the grounds of the 1776 Hotel which is on Bypass Road. He noted there was also a timeshare farther up Mooretown Road.

Discussion followed concerning the amount of tourism during the winter months and the use of timeshares.

Mr. Zaremba stated it would be a good idea for the applicant to address their definition of a timeshare because this application is not in the usual and customary sense of buying a week, two weeks, or three weeks. He indicated there might well be some exceptions, but this application is nothing akin to what the timeshare industry defines as timeshare. He questioned what happens to the other three months of the year.

Mr. Carter stated the applicant's intention was to turn the units into normal hotel room rental arrangements as the students vacate the units.

Mr. Shepperd asked if staff had talked to the City of Williamsburg and gotten any input.

Mr. Carter stated the City of Williamsburg had been notified as was normal practice, and to the best of his knowledge they did not submit any comments one way or the other. He added that staff did receive a letter from the College of William and Mary indicating the College was not taking a position on the application one way or the other.

Chairman Shepperd then called to order a public hearing on Application No. UP-744-08 that was duly advertised as required by law. Proposed Resolution R08-100 is entitled:

A RESOLUTION TO APPROVE A SPECIAL USE PERMIT TO AUTHORIZE THE CONVERSION OF AN EXISTING HOTEL TO A TIMESHARE RESORT ON APPROXIMATELY 2.84 ACRES OF LAND LOCATED AT 119 BYPASS ROAD (ROUTE 60)

Mr. Raymond Suttle, attorney for Jones, Blechman, Wolf & Kelly, representing the applicant introduced Mr. Dale Goodman with Goodman Management and Mr. Frank Eck, timeshare attorney. He stated Mr. Eck had helped to draft the timeshare laws and would be happy to answer any questions the Board might have regarding the timeshare concepts. Mr. Suttle then gave some background on the property which is currently a La Quinta Inn franchised hotel and stated they were requesting a special use permit for a timeshare. He explained that in October of this year they would no longer be a La Quinta franchise, which had created a problem for the applicant. He spoke of another problem with their fall, winter, and spring occupancy rates that drop to a 20-30 percent range, and the challenge the applicant has to try and maximize the summer occupancy rate but still have something to do in the nine months from fall to spring. He stated the timeshare concept was to market ownership of the timeshare units to the parents of college students for a nine-month period. He said a student's parents would own the unit until the student finished college, and then they could sell the timeshare unit to another parent, or they could remain an owner and investor and rent it to college students. Mr. Suttle noted the timeshare restrictions that had been drafted by Mr. Eck were extremely restrictive.

Mr. Dale Goodman, also speaking on behalf of the applicant, stated Colonial X was seeking approval to spend more than \$4.5 million in construction costs to remake what today is a midmarket hotel. He stated their goal was to produce a safe and secure fully furnished off campus student-only college community geared toward a life style of responsible young adults. He said the owners' vision is to totally rehabilitate and give new life to a property located in a corridor that is a major gateway to the historic Williamsburg area and a vital tourist attraction

August 19, 2008

the County seeks to protect. He stated they desire to preserve and improve York County as a pleasant and attractive place to live, work, and enjoy leisure time. He stated they believe this project will place few burdens on County infrastructure and will have a positive fiscal impact, and they asked that the Board allow them to execute our plan to sell deeded interest for the period during the school year to the parents of college students enrolled locally. He indicated the local ownership group will retain ownership of the units for the portion of the year during peak tourist season when the property will operate as a traditional hotel.

Mrs. Noll stated it was a very ambitious and interesting project, but she questioned what would happen if only 50 percent of the timeshares sold. She asked if the company would turn into a rental agent and take care of the units or if they would scrap the whole program.

Mr. Goodman explained that the units would be pre-marketed, with hopes of hitting a threshold of commitments in the 70-75 percent range by November. He stated they would like to open as a hotel in the summer of 2009 and then sell the units through the commitments that were made in the fall to the students who would be moving back to any campus in the fall of 2009.

Mr. Suttle stated they had imposed a 70 percent presale requirement because the nature of the renovations requires that they all be done at one time. He stated if the presale requirement was not met, they could not economically go forward with the development.

Mrs. Noll asked Mr. Carter what would happen if the Board approved the special use permit for the units and they did not sell.

Mr. Carter stated the use permit authorizes the use, but it does not require the use. He stated that as a matter of right they would be able to revert back to the use that was permitted in that zoning district.

Mrs. Noll asked if they could revert back to timeshare units again at a later date.

Mr. Carter explained the use permit provisions normally carry a two-year time period for establishment; and unless they were established within that two year period, under the normal course of events, the authorization would expire.

Discussion followed regarding the La Quinta franchise, the applicant's decision not to continue the franchise and the proposed development not being consistent with the County's Comprehensive Plan. Discussion also took place concerning the timeshares being used for student quarters.

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

Mr. Zaremba stated he believed for the reasons stated by the Planning Commission, the County Administrator, and answers to his questions, that this application was an attempt to try and set a precedent that amounts to a hotel for three months out of a year and a dormitory for the remaining nine months. He stated he felt the two uses were incompatible with one another, and for a three-month period it would be a no-name hotel. He noted the Historic Triangle through its hotel/motel association and the Williamsburg Area Destination Marketing Committee was spending a lot of effort and money trying to market the Historic Triangle, and it was his belief that the County did not want to have a dormitory in the middle of what is the premiere tourist corridor of York County, and he could not support the proposal.

Mrs. Noll stated that just because it was a new unproven concept, it did not make it wrong. She noted that there would be no advancement if the County always went with what was proven. She stated she felt there were enough parking spaces for the project. She spoke of the student concept, stating the parents would have to take responsibility as they would for any other place their children would reside as students. Mrs. Noll agreed that this corridor was a tourist destination but not so much in the winter time, which is why this proposal has come before the Board. She noted she did have problem with it being so far from a school, and whether or not the college may or may not support. Mrs. Noll indicated she felt the project would have a chance for success as long as the rules were stringent and there were managers on site to enforce the rules.

Mr. Wiggins stated the deciding factor for him was the fact that William and Mary had apparently not felt this was a proper place to have a dormitory, so he could not support the proposal.

Chairman Shepperd noted he had some serious trepidation that the clientele actually using the facility are juveniles; but he was looking at this as a business, and business has to succeed on its merits. He stated it would be fool hearty to let it destroy itself, so he was willing to take a chance on this and go along with application.

Mrs. Noll then moved the adoption of proposed Resolution R08-100 that reads:

A RESOLUTION TO APPROVE A SPECIAL USE PERMIT TO AUTHORIZE THE CONVERSION OF AN EXISTING HOTEL TO A TIMESHARE RESORT ON APPROXIMATELY 2.84 ACRES OF LAND LOCATED AT 119 BYPASS ROAD (ROUTE 60)

WHEREAS, Colonial X, Inc. has submitted Application No. UP-744-08, which requests a Special Use Permit, pursuant to Section 24.1-306 (Category 11, Number 11) of the York County Zoning Ordinance, to authorize the renovation of an existing hotel to a timeshare resort on approximately 2.84 acres of land located at 119 Bypass Road (Route 60), between Bypass Road and Mooretown Road (Route 603) at their intersection with Waller Mill Road (Route 713), and is further identified as Assessor's Parcel No. 9-7 (GPIN D15a-1415-2665); and

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

WHEREAS, the Planning Commission recommends denial 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 given careful consideration to the public comments and Planning Commission recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 19th day of August, 2008, that Application No. UP-744-08 be, and it is hereby, approved to authorize a Special Use Permit, pursuant to Section 24.1-306 (Category 11, Number 11) of the York County Zoning Ordinance, for the conversion of an existing hotel to a timeshare resort on approximately 2.84 acres of land located at 119 Bypass Road (Route 60), between Bypass Road and Mooretown Road (Route 603) at their intersection with Waller Mill Road (Route 713) and further identified as Assessor's Parcel No. 9-7 (GPIN D15a-1415-2665), subject to the following conditions:

1. This use permit shall authorize the conversion of an existing hotel into a timeshare resort with a maximum of 60 timeshare units on property located at 119 Bypass Road (Route 60), between Bypass Road and Mooretown Road (Route 603) at their intersections with Waller Mill Road (Route 713). A timeshare unit shall be defined as a single unit of one or more rooms that may be separated from other units by a locked door, providing complete, independent transient living facilities for one family, including permanent provisions for living, sleeping, cooking, and sanitation.
2. A site plan prepared in accordance with the provisions of Article V of the York County Zoning Ordinance shall be submitted to and approved by the County prior to the commencement of any re-development or other activities on the site. Such site plan shall be in general conformance with the plan titled "Architectural Site Plan, The Colonial Club, The Former La Quinta" prepared by Toano Design, Inc, dated 4/16/08, a copy of which shall remain on file in the Planning Division.
3. The development of the property shall be in accordance with the six-page letter submitted by Colonial X, dated April 30, 2008, Re: Special Use Permit, signed by Dale F. Goodman, Secretary and the two-page letter with six enclosures submitted by Raymond H. Suttle, Jr. for Colonial X, dated July 3, 2008, signed by Raymond H. Suttle, Jr., copies of which shall remain on file in the Planning Division.
4. The exterior siding, roofing, and brick shall generally conform with the architectural

August 19, 2008

rendering titled "Elevation Study" dated 9/28/07, "Proposed elevations", a copy of which will remain with the application file.

5. The existing landscaping yards along Mooretown Road (Route 603) and Bypass Road (Route 60) shall be supplemented with shrubs to create buffer screen of the parking area.
6. All entrances, drives, and parking areas in the development shall be constructed to VDOT standards.
7. Permanent year-round occupancy of any units by any individual or family other than that of a resident manager or caretaker and his or her family shall not be permitted.
8. The timeshare resort shall consist only of residential units for which the exclusive right of use, possession, or occupancy circulates among various owners or lessees thereof in accordance with a fixed time schedule, which may vary within certain specified time periods, on a periodically recurring basis. Only units sold to another party, other than the property owner, shall be occupied by students on the nine-month basis.
9. Proposed procedures and regulations for maintenance and upkeep of the facility shall be submitted to the Zoning Administrator for review and approval at the time of the initial site plan submission for the project.
10. The timeshare units shall be prohibited from having more than one person per bedroom.
11. All agreements and restrictions pertaining to ownership and maintenance of common areas on the site shall comply fully with Section 55-360 et seq., Code of Virginia, the Virginia Real Estate Time-Share Act. Certification by the developer's legal counsel that the referenced standards have been met shall be submitted with development plans.
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 a building permit.

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

On roll call the vote was:

Yea:	(2)	Noll, Shepperd
Nay:	(2)	Zaremba, Wiggins

APPLICATION NO. ST-13-08, YORK COUNTY BOARD OF SUPERVISORS

Mr. Carter made a presentation on Application No. ST-13-08 to amend the York County Subdivision Ordinance to revise the process for considering appeals of the Subdivision Agent's decision regarding waiver of the requirement for interconnection of subdivision streets. The Planning Commission considered the application and forwarded it to the Board of Supervisors with a recommendation to adopt a modified version of the proposed amendment that would allow the Commission to continue to decide street interconnection waiver requests, but also provide an opportunity for such decisions to be appealed to the Board of Supervisors. Staff recommended approval of the application as proposed by the adoption of proposed Ordinance No. 08-12.

Mr. Zaremba questioned why the General Assembly was getting involved in subdivision street connectivity issues which he believed to be local issues. He stated he did not quite understand it and questioned what was the rationale behind it.

Mr. Carter stated he did not know the answer, but in general theory if the streets are interconnected, then that at least provides the possibility for a service vehicle, a school bus, or neighbor-to-neighbor visitation to occur on local streets rather than people having to go out to

major arterials to drive to an adjacent area, and that helps preserve the capacity of the arterials.

Mr. Zaremba stated he felt interconnection of the subdivisions causes urban sprawl and takes away the unique character of counties like York or James City. He stated he found it ludicrous that with everything else on the General Assembly's plate they want to get into something that is a very local issue.

Discussion followed regarding the Planning Commission's role in approving interconnections and adding the Board of Supervisors as an appeal avenue.

Chairman Shepperd called to order a public hearing on Application No. ST-13-08 that was duly advertised as required by law. Proposed Ordinance No. 08-11 is entitled:

AN ORDINANCE TO AMEND SECTION 20.5-92, SUBDIVISIONS, YORK COUNTY CODE, TO REVISE THE PROCESS FOR APPEALS OF THE REQUIREMENT FOR INTERCONNECTION OF SUBDIVISION STREETS BY ALLOWING THE PLANNING COMMISSION'S DECISIONS ON SUCH APPEALS TO BE APPEALED TO THE BOARD OF SUPERVISORS

Mr. Richard Myer, 102 Wicomico Turn, Vice-President of the Running Man Community Association, spoke in support of proposed Ordinance No. 08-12. He stated the Running Man Community Association had appealed the interconnection requirements three times over the past 15 years. He noted that he personally appreciated the ability for a community association or an individual homeowner to have the right to appeal to an elected representative and have their argument heard. He asked to Board to approve proposed Ordinance No. 08-12.

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

Mr. Wiggins stated he felt that the people who elected the Board as their representatives deserved a chance to come before the Board when they have a problem as controversial as street interconnections, and the Board members would actually be shirking their responsibility as elected representatives if they did not have a hand in making these final decisions.

Mrs. Noll stated this was strictly a land use decision, and it needed to be applied objectively across the board. She noted the Board has to be careful as far as VDOT connectivity regulations are concerned to have the roads accepted into the highway system. She stated the Board certainly did not want to put itself in a position where it ended up having to take care of the roads. Mrs. Noll stated she would like to leave this as a land use issue in the hands of the Planning Commission.

Mr. Zaremba stated the Planning Commission's task is to address land use issues; but if there were issues that warranted an appeal to the Board, he was in favor of the individual's right to that appeal. He stated he thought the Board should be the appellate level and not be involved in everything that goes before the Planning Commission with respect to interconnectivity.

Chairman Shepperd spoke of the reasons the citizens are concerned about interconnectivity and wanting the Board of Supervisors as an appeal process. He stated their concerns are primarily for safety and for community identity. He stated the definition of safety as defined by VDOT seems to be totally out of kilter with the people who actually experience the problem. He stated that when a neighborhood is hooked to another neighborhood, it dilutes that neighborhood; and this also becomes a safety issue because a neighborhood and its residents are the first line of security and then it goes to law enforcement. He agreed that the people should be able to come to him as an elected representative and ask for an appeal.

Mr. Zaremba then moved the adoption of proposed Ordinance No. 08-12 that reads:

AN ORDINANCE TO AMEND SECTION 20.5-92, SUBDIVISIONS, YORK COUNTY CODE, TO REVISE THE PROCESS FOR APPEALS OF THE REQUIREMENT FOR INTERCONNECTION OF SUBDIVISION STREETS BY ALLOWING THE PLANNING COMMISSION'S

DECISIONS ON SUCH APPEALS TO BE APPEALED TO THE
BOARD OF SUPERVISORS

WHEREAS, Section 20.5-92 of the York County Subdivision Ordinance (Chapter 20.5, York County Code) requires that proposed subdivision streets be interconnected with those rights-of-way in adjoining subdivisions which have been platted to the common boundary line; and

WHEREAS, Section 20.5-92(c)(5) establishes a process under which the Subdivision Agent's requirement to interconnect streets can be appealed to the Planning Commission, but provides for no further appeals from the decision of the Commission; and

WHEREAS, the Board has sponsored Application No. ST-13-08 to consider an amendment to this section to provide that the Board of Supervisors would render the final decision on such appeals, subsequent to receipt of a recommendation on the matter from the Planning Commission; and

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

WHEREAS, the Planning Commission recommends adoption of a modified version of the sponsored text amendments that would allow decisions of the Commission on street interconnection waivers to be appealed to the Board of Supervisors; and

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

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

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors, this the 19th day of August, 2008, that it does hereby amend Section 20.5-92 of the York County Subdivision Ordinance to revise the procedures for appeals of street interconnection requirements as proposed in the language set forth below:

Sec. 20.5-92. Alignment and layout.

- (a) In accordance with section 15.2-2241-2, Code of Virginia, all proposed streets shall be designed to coordinate with other existing or planned streets contiguous to or within the general area of the subdivision or within existing or future adjacent subdivisions as to location, width, grades, and drainage. Connections with existing or platted streets shall be continuous without offset.
- (b) The agent shall require that adequate rights-of-way are platted and dedicated for public use to the boundary line(s) of the subdivision which will afford desirable and safe street access to adjoining properties when such properties are of a compatible land use designation. In such cases, the following requirements shall apply:
 - (1) These rights-of-way shall be clearly marked on the plats and labeled "Future Public Street" or "Future Public Street Extension" as appropriate. In addition, a sign shall be posted on the stub street right-of-way indicating that it is intended as a "Future Public Street Extension." Such sign shall be fabricated and installed by the County, with the costs of fabrication/installation to be paid by the subdivider.
 - (2) The following notation in, at a minimum, twelve (12) point lettering shall be incorporated into any plat showing a stub or future street:

THIS RIGHT-OF-WAY IS PLATTED WITH THE INTENT OF BEING
EXTENDED AND CONTINUED IN ORDER TO PROVIDE INGRESS
AND EGRESS TO AND FROM ADJOINING PROPERTIES.

- (3) The following statement shall be included on the conveyance documents for any lot on a stub or future street:

THE RIGHT-OF-WAY UPON WHICH THIS LOT FRONTS HAS BEEN PLATTED WITH THE INTENT OF IT BEING EXTENDED AND CONTINUED IN ORDER TO PROVIDE INGRESS AND EGRESS TO AND FROM ADJOINING PROPERTIES, AS SHOWN ON THE PLAT RECORDED IN PLAT BOOK _____, PAGE _____/INSTRUMENT NO. _____, CIRCUIT COURT FOR YORK COUNTY.

- (c) Where a street right-of-way in an existing subdivision or development has been platted to the boundary line of a proposed subdivision, it shall be extended and continued into such proposed subdivision unless the extension is specifically precluded by an approval by the board of an overall development master plan for the proposed subdivision as part of the establishment of a planned development district, or unless a waiver is granted by the agent after review by the department of transportation and upon the agent making one of the five findings enumerated in subparagraph (1) below:
- (1) *Findings:*
- a. Such an extension would cause or contribute to a safety deficiency which could not be corrected in a practical or economically efficient manner as determined by the agent. In such cases, the subdivider shall be responsible for providing sufficient right-of-way and constructing within said right-of-way a permanent turnaround acceptable to the department of transportation to end the existing street.
 - b. The street right-of-way in the existing subdivision, although platted, has not had a street constructed within it, is not contained in the comprehensive plan, and it is unlikely that, in the foreseeable future, such a street will be so constructed. In such cases, the subdivider shall not be responsible for providing a turnaround acceptable to the department of transportation.
 - c. The existence of significant environmental conditions such as tidal or upland wetlands or severe slopes that, in the opinion of the subdivision agent, were not known or adequately considered at the time the potential extension was platted. The need for the installation of a permanent turnaround by the subdivider shall be determined by the agent on a case-by-case basis based on local site conditions.
 - d. Projected traffic volumes on the street proposed to be extended or other existing streets resulting from the proposed extension would exceed the design capacity of such street(s) as determined by the *VDOT Road Design Manual, Appendix B – Subdivision Street Design Guide*.
 - e. The proposed street extension, because of its location, alignment, and design, would encourage through traffic on streets functionally classified as local by VDOT. For the purposes of this section, through traffic is considered to be that which has neither an origin nor a destination in the interconnected subdivisions or other adjacent or contiguous to adjacent subdivisions or residential areas.
- (2) A traffic operations and safety analysis of all connections shall be performed by a transportation planner or engineer or other professional qualified to perform such analyses. Such analyses shall be used by the agent in determining whether to require interconnection and, if so, whether traffic-calming measures should be included in the design, or whether to grant a waiver. The traffic operations and safety analysis shall be submitted by the developer with the preliminary subdivision plan.
- (3) Upon review of the proposed subdivision plan and relevant traffic operations and safety analyses, the agent shall render a decision concerning whether to require interconnection, to require interconnection with traffic-calming measures, or to grant a waiver from the interconnection requirement. If the agent decides to re-

quire interconnection and if the subdivision street(s) to which the connection would be made pre-dates the notice requirements specified in subsections (b)(1), (2) and (3) above, the agent shall, prior to approval of the Preliminary Plan, provide written notice of the decision to the developer and to the owners of record of parcels fronting on the road right-of-way to be extended and to any duly constituted property owners association representing adjacent lots or parcels. The notice shall state the location and times at which the plans and relevant traffic analyses may be examined. Inadvertent failure to provide such notice to one or more property owners shall not invalidate any aspect of the subdivision process.

- (4) No waiver may be granted if, by the granting of said waiver, any other provision of this chapter or the zoning ordinance would be violated, including specifically the requirement for two points of access required by section 20.5-92(e) of this chapter.
- (5) The decision of the Agent with respect to requiring interconnection and granting or not granting a waiver may be appealed by any person or persons individually or severally aggrieved to the planning commission within fifteen (15) days of notice of the decision having been mailed to the parties referenced above. The inadvertent failure to notify one or more property owners shall not extend the time frame for appeal. The appeal shall be in writing and shall be filed with the Planning Division prior to the expiration of the 15-day period.

Upon receipt by the Planning Division, the appeal shall be deemed referred to the planning commission and shall be scheduled for review and decision by the planning commission. The commission, after conducting a public hearing advertised in accordance with the terms of section 15.2-2204, Code of Virginia, and upon reaching one of the findings enumerated in subsection (1) above, may affirm or overturn the decision of the agent and may impose reasonable conditions as a part of its decision. The fifteen-day time limit notwithstanding, the developer of a subdivision may appeal the agent's interconnection requirement to the planning commission at any time during the course of development of the project. The application fee for an appeal of the agent's interconnection requirement to the planning commission shall be \$250.

- (6) Decisions of the planning commission with respect to requiring interconnection and granting or not granting a waiver may be appealed by any person or persons individually or severally aggrieved to the board of supervisors within fifteen (15) days of the commission's action. The appeal shall be in writing and shall be filed with the Planning Division prior to the expiration of the 15-day period. Upon receipt by the Planning Division, the appeal shall be deemed referred to the board of supervisors and shall be scheduled for review action. The board, after conducting a public hearing advertised in accordance with the terms of section 15.2-2204, Code of Virginia, and upon reaching one of the findings enumerated in subsection (1) above, may affirm or overturn the decision of the planning commission and may impose reasonable conditions as a part of its decision. The application fee for an appeal of the planning commission's interconnection requirement to the board of supervisors shall be \$200.
- (6) In situations where the agent or the planning commission or board of supervisors grants a waiver to the street interconnection requirement, an alternative means for bicycle and pedestrian access may be required to be provided in close proximity to the otherwise required street based on local site conditions. Such bicycle and pedestrian facilities shall be either within an existing right-of-way or in a separate right-of-way and shall be designed and constructed in accordance with Figure VI-B in appendix A or with the standards used by the Virginia Department of Transportation for such facilities. Where the facility is designed to include the 16-foot wide base depicted in that figure, it will be deemed to satisfy the two points of emergency access required by section 20.5-92(e).
- (d) Street intersections shall be spaced and designed in accordance with the standards set forth in the Virginia Department of Transportation Subdivision Street Design Guide, dated January 1, 2005, and as may be amended from time to time.

- (e) All subdivisions of twenty-five (25) or more lots shall have two (2) means of ingress and egress. A boulevard type of street design providing a minimum ten-foot (10') wide median between lanes or other design generally achieving the same purpose may be accepted by the Agent, with the concurrence of the Department of Fire and Life Safety, as satisfying this requirement when the provision of two (2) separate means of ingress and egress is determined to be difficult or undesirable. Such boulevard type streets shall extend as far into the subdivision as the first cross street which provides an alternate circulation route. Median breaks shall be provided at street intersections and at other appropriate locations to ensure good traffic circulation and delivery of emergency services. Street trees shall be planted in the medians of boulevard-type streets at a minimum interval of one (1) tree for each forty feet (40') of median length.

On roll call the vote was:

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

COUNTY ATTORNEY REPORTS AND REQUESTS

Mr. Barnett stated he had no report but would be happy to answer any questions the Board might have.

Mr. Zaremba reiterated Ms. Hall's comment regarding the ASAP initiative to bring their funding concerns before the localities so that they might consider it as an addition to their legislative package. He asked Mr. Barnett to make sure the proposal from ASAP was addressed by the Board.

COUNTY ADMINISTRATOR REPORTS AND REQUESTS

Mr. McReynolds reminded the Board of the public hearing to be held at its next regular meeting scheduled on September 2 which would be held in the Board Room at 6:00 p.m., as well as the Board's Regular Meeting other regular meeting to be held September 16.

MATTERS PRESENTED BY THE BOARD

Mr. Zaremba spoke of an article in the Daily Press titled addressing the Commonwealth of Virginia and the three percent decline of taxable sales which directly affect the localities. He stated the article also addressed Governor Kaine's comments with respect to the state's budget. Mr. Zaremba stated the County needs to be prepared because he suspects revenues will be off the mark, and the County was going to be under tremendous pressure from the Board, staff, and the citizens of York County to maintain a certain level of programs and services. He stated the County should not be looking to the citizens of the County who pay taxes to meet the short-falls created by a lack of normal revenue streams. Mr. Zaremba stated his goal was to have a zero percent real tax increase as the County goes into the next fiscal year, and the Board needed to be very frugal as it begins to plan for the next fiscal year.

Mr. Wiggins spoke of his concerns with the economy and real estate taxes. He stated the County was going to see a downturn in revenues, and he echoed Mr. Zaremba's sentiments with regard to the County having to tighten its belt this coming year.

Mr. Shepperd noted that Mr. Barry Henry of Yorktown and a former member of the School Board had passed away. He stated Mr. Henry had dedicated his life to education, and he would be missed as he left behind a legacy of success and caring for the community. He indicated Mr. Zaremba had asked that the Board meet with certain residents in their areas concerning the real estate assessment process, and he noted that he and Mr. Hrichak met with some residents who brought up several valid points. He stated he thought there should be a work session to discuss the Board's role in the process and how it can influence the process and still be fair and meet the State law, and it should take place prior to the next appraisal process. He then briefed the Board on a conference call with the Governor's office on Thursday regarding hurricane preparedness and evacuation. He stressed to the citizens the importance of staying in-

formed and being prepared for impending weather conditions. He urged citizens to get involved in the Community Emergency Response Team Training (CERT).

CONSENT CALENDAR

Mrs. Noll moved that the Consent Calendar be approved as submitted, Item Nos. 3, 4, 5, 6, 7, 8, and 9, respectively.

On roll call the vote was:

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

Thereupon, the following minutes were approved and resolutions adopted:

Item No. 3. APPROVAL OF MINUTES

The minutes of the July 15, 2008, Regular Meeting of the York County Board of Supervisors were approved.

Item No. 4. PURCHASE AUTHORIZATION: Resolution R08-104

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR TO SIGN A CONTRACT FOR THE DESIGN OF THE EDGEHILL SOUTH DRAINAGE IMPROVEMENTS

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

WHEREAS, the County Administrator has determined that the following procurement is necessary and desirable, that it involves the expenditure of \$30,000 or more, and that all applicable laws, ordinances, and regulations have been complied with;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 19th day of August, 2008, that the County Administrator be, and hereby is, authorized to execute procurement arrangements for the following:

Edgehill South Drainage Design	<u>AMOUNT</u> \$110,646
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Item No. 5. COLONIAL SERVICES BOARD PERFORMANCE CONTRACT: Resolution R08-92

A RESOLUTION TO AUTHORIZE EXECUTION OF A CONTRACT BETWEEN THE COUNTY OF YORK AND THE COLONIAL COMMUNITY SERVICES BOARD FOR THE DELIVERY OF SERVICES

WHEREAS, Section 37.2-501 of the Code of Virginia, 1950 as amended, re-quires each locality to establish, singly or in combination, a community services board for the provision of mental health, mental retardation, and substance abuse services to its residents; and

WHEREAS, pursuant to this statutory provision, the County of York has established the regional Colonial Community Services Board (CSB) in conjunction with James City County and the Cities of Williamsburg and Poquoson; and

WHEREAS, Section 37.2-504(A)(2) requires local governments to review and act on the Annual Performance Contract with the Community Services Board and to make appropriate appointments to that Board; and

WHEREAS, the Board of Supervisors has reviewed the proposed Performance Contract between the County of York and the Colonial Community Services Board and found it to be

acceptable provided that certain expectations and conditions will also be met during the terms of the agreement; and

WHEREAS, it is the expectation of the York County Board of Supervisors that the Community Services Boards are the appropriate system for delivery of publicly funded services for children and adolescents and further, that the Board opposes the creation of any duplicative mental health system through the Office of Comprehensive Services or other such entities; and

WHEREAS, it is the intent of the Board of Supervisors that children and adolescents will be included in the priority populations served by the Colonial CSB and that such service will not be at an additional cost to York, but will be within the allocation made by the County to the Colonial CSB for FY2009; and

WHEREAS, it is also the expectation of the Board of Supervisors that during the period of this contract, County staff and staff of the Colonial CSB will continue to work together to assure that the Board's intent regarding appropriate levels of services to children and adolescents are properly reflect in delivery and implementation of pro-grams;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Super-visors this 19th day of August, 2008, that the proposed FY2009 Annual Performance Contract between the County of York and the Colonial Community Services Board is approved and that the County Administrator be, and he is hereby, authorized to exe-cute the agreement and to take all actions necessary to assure that services are delivered to the citizens of York County and that the conditions and expectations of the Board of Supervisors are met.

Item No. 6. VIRGINIA PENINSULA ALCOHOL SAFETY ACTION PROGRAM: Resolution R08-103

A RESOLUTION TO REAFFIRM YORK COUNTY AS A PARTICIPATING LOCALITY IN THE PENINSULA ALCOHOL SAFETY ACTION PROGRAM

WHEREAS, the Commonwealth of Virginia in the interest of highway safety has enacted laws to create programs for probation, education and rehabilitation of persons convicted of driving motor vehicles while under the influence of alcoholic beverages or other drugs. These programs are known as Alcohol Safety Action Programs or ASAPs; and

WHEREAS, since 1975, the local program known as Peninsula ASAP has served the cities of Newport News, Hampton, Williamsburg, and Poquoson and the counties of York and James City, and later Charles City under the supervision of its Policy Board; and

NOW, THEREFORE BE IT RESOLVED by the York County Board of Supervisors this 19th day of August, 2008, that it does hereby reaffirm itself as a participating locality in the Peninsula ASAP, herein called Program, which has been established for the purpose of providing, as ordered by the courts, probation, education, public information, rehabilitation, and prevention services for those individuals convicted of operating a motor vehicle while under the influence of alcohol or other drugs, and to provide driver improvement instruction and other services to individuals convicted of other violations.

BE IT FURTHER RESOLVED that the York County Board of Supervisors hereby agrees as follows:

- (1) The Policy Board consists of at least seven (7) but not more than fifteen (15) members. The Policy Board shall oversee operation of the Program.
- (2) Each city and county governing body shall appoint one (1) member to serve as a representative to the Program for a term of three (3) years. Any additional Board members shall be elected according to the Policy Board by-laws. A Chair, Vice Chair and Secretary shall be elected in accordance with the by-laws. The Program Executive Director shall serve as an ex-officio member without voting power. Members elected by the Policy Board shall be selected from, but not limited to, the judiciary, the bar, law enforcement, education, treatment professionals, and other interested groups.

- (3) The Policy Board shall be responsible to oversee the Program and shall hire and supervise the Executive Director. The Executive Director shall be responsible to implement operational policies for the Program, hire and supervise staff for the Program, and control all revenues and expenditures. The Executive Director shall serve at the pleasure of the Board.
- (4) The Executive Director shall prepare the operating budget and submit it to the Policy Board annually. The budget shall include receipts from offender fees and other sources, as deemed appropriate by the Policy Board.
- (5) The Executive Director shall prepare the annual report describing the activities and financial status of the Program under the supervision of the Policy Board. The report shall be submitted to each governing body and the Commission on VASAP.
- (6) The Commission on VASAP conducts an annual fiscal audit of the Program.
- (7) The Policy Board shall approve fees as established by the legislature and other fees as needed to operate the Program within established state guidelines.
- (8) The Policy Board shall adopt written guidelines and by-laws, and establish the Program's policies and procedures in conjunction with the Commission on VASAP policies and procedures manual.
- (9) This updated resolution shall remain in effect beginning August 19, 2008 and shall continue thereafter from year to year unless the York County Board of Supervisors decides to withdraw from the agreement and withdraw its representative from the Policy Board. The York County Board of Supervisors shall provide at least ninety (90) days written notice of withdrawal to the Executive Director and the Policy Board Chair. The withdrawing locality shall no longer be entitled to representation on the Policy Board or to any other participation in the Program and its services, nor to any assets upon Program dissolution.
- (10) The Program is authorized to acquire and own real property and personal property as approved by the Policy Board for the Program operation. Title to such property shall be vested in the Program. Should the Program cease to operate all property shall be disposed pursuant to applicable provisions of the Virginia Code. The Policy Board may seek the advice of the Commission on VASAP and the Attorney General. It is the intent of this resolution that the program assets, upon either partial or complete dissolution of the program, shall be divided amongst the participating localities in the same proportion as the clients served from that locality.

Item No. 7. GO GREEN PROGRAM: Resolution R08-101

A RESOLUTION TO RECOGNIZE THE COUNTY'S PAST PERFORMANCE IN CONSERVING ENERGY AND PROTECTING THE ENVIRONMENT AND TO ENCOURAGE FURTHER ACHIEVEMENT IN THESE AREAS BY PROMOTING SUSTAINABILITY IN COUNTY FACILITIES AND OPERATIONS

WHEREAS, the County of York has demonstrated its commitment to energy efficiency by constructing new and retrofitting older facilities with cost-effective, energy-saving systems, such as geothermal heating and cooling, enhanced-efficiency lighting, and energy management and control systems; and

WHEREAS, the County has established policies and programs promoting environmental excellence through the use of energy-efficient vehicles, dark-sky compliant outdoor lighting, preservation of green space, solid waste recycling, and community awareness of environmental issues; and

WHEREAS, the County of York wishes to join other counties and municipalities throughout the nation, both large and small, that are implementing sustainable energy and

environmental policies that will further save taxpayer dollars, reduce petroleum use, and decrease carbon emissions and future adverse environmental impacts; and

WHEREAS, the County of York is committed to demonstrating environmental stewardship by continually improving its environmental management practices;

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of York County, Virginia commends the actions of the County staff for their previous environmental-protection and energy-reduction initiatives and directs the County Administrator to establish and implement policies, guidelines, goals and strategies to further reduce costs and promote sustainability in daily operations, including fleet and facility energy management.

BE IT FURTHER RESOLVED that the County Administrator may direct County staff to identify, develop and implement cost-effective, sustainable acquisition policies for vehicles, equipment, and supplies and similar sustainable building practices for future construction and renovation.

BE IT STILL FURTHER RESOLVED that the County Administrator may direct County staff to provide on-going training and educational opportunities and programs to further sustainable stewardship among the staff and within the community.

BE IT STILL FURTHER RESOLVED that each County employee is challenged and empowered to proactively promote environmental leadership through one or more of the following four environmental stewardship principles:

- Conservation – to actively explore, create, and communicate environmentally sound practices that emphasize the environmental management hierarchy of pollution prevention, reuse, recycling, treatment, and environmentally safe disposal to conserve and protect our region's natural resources.
- Co-operation – to build partnerships, inside and outside the County, to sustain and enhance our environment.
- Environmental Compliance and Risk Reduction – to ensure that technologies, facilities, processes, and operating procedures meet and, when possible, exceed environmental, health, and safety requirements that the County is committed to meet.
- Restoration – to promptly and responsibly correct conditions that hinder sustainable environments.

Item No. 8. STREET ACCEPTANCES: Resolution R08-102

A RESOLUTION REQUESTING THE VIRGINIA DEPARTMENT OF TRANSPORTATION TO INCLUDE A CERTAIN STREET IN THE QUARTERMARSH ESTATES, SECTION 3A SUBDIVISION INTO THE SECONDARY SYSTEM OF STATE HIGHWAYS

WHEREAS, the following street, which is shown on a plat recorded in the Clerk's Office of the Circuit Court of York County, has been constructed to standards equal to the Virginia Department of Transportation's Subdivision Street Requirements as a requisite for acceptance for maintenance as part of the Secondary System of State Highways; and

WHEREAS, the Residency Administrator for the Virginia Department of Transportation has inspected this street and found it to be acceptable for maintenance; and

WHEREAS, the York County Board of Supervisors does hereby guarantee unencumbered rights of way, as described on the following Form AM-4.3, plus the necessary easements for cuts, fills, and drainage for this street;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors, this the 19th day of August, 2008, that the Virginia Department of Transportation be, and it hereby is, requested to add and maintain the street described on the following Form AM-4.3 as part of

August 19, 2008

the Secondary System of State Highways, pursuant to Section 33.1-229, Code of Virginia, 1950 amended, and the regulatory requirements of VDOT.

BE IT FURTHER RESOLVED that copies of this resolution be forwarded to the developer of Quartermarsh Estates, Section 3A and to the Residency Administrator of the Virginia Department of Transportation.

In the County of York

By resolution of the governing body adopted August 19, 2008

The following VDOT Form AM-4.3 is hereby attached and incorporated as part of the governing body's resolution for changes in the secondary system of state highways.

Type Change to the Secondary System of State Highways: Addition

The following addition to the Secondary System of State Highways, pursuant to the statutory provision or provisions cited, are hereby requested; the right of way for which, including additional easements for cuts, fills and drainage, as required, is hereby guaranteed:

Project/Subdivision: Quartermarsh Estates, Section 3A

Reason for Change: New subdivision street
Pursuant to Code of Virginia Statute: §33.1-229

Street Name and/or Route Number

► **Stephanie Lane, State Route Number 1460**

Old Route Number: 0

- From: Route 620 (Lakeside Drive)
To: End of the cul-de-sac, a distance of: 0.08 mile.
Recordation Reference: Instrument # 030021585 recorded on 7/16/03
Right of Way width (feet) = 50 feet

Item No. 9. REIMBURSEMENT FROM BOND PROCEEDS: COUNTY CAPITAL PROJECTS AND PURCHASES: Resolution R08-105

A RESOLUTION OF THE BOARD OF SUPERVISORS OF YORK COUNTY DECLARING ITS INTENT TO REIMBURSE ITSELF FROM THE PROCEEDS OF ONE OR MORE TAX-EXEMPT FINANCINGS FOR CERTAIN EXPENDITURES MADE AND/OR TO BE MADE IN CONNECTION WITH THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF CERTAIN CAPITAL IMPROVEMENTS FOR SCHOOL PROJECTS

WHEREAS, the County of York, Virginia (the "County") is a political subdivision organized and existing under the laws of the Commonwealth of Virginia; and

WHEREAS, the Board of Supervisors of the County (the "Board") expects to pay or expects that the York County School Board will pay, after the date hereof, certain expenditures (the "Expenditures") in connection with the acquisition, construction, and/or equipping of capital improvements for school projects (the "Project"); and

WHEREAS, the Board has determined that any moneys previously advanced no more than sixty (60) days prior to the date hereof, and those moneys to be advanced on and after the date hereof to pay the Expenditures, are available only for a temporary period and it is necessary to reimburse the County or the York County School Board for the Expenditures from the proceeds of one or more issues of tax-exempt bonds ("Bonds");

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 19th day of August, 2008, as follows:

Section 1. The Board adopts this declaration of official intent under Treasury Regulation Section 1.150-2.

Section 2. The Board reasonably expects to reimburse advances made or to be made by the County or the York County School Board on and after that date which is no more than sixty (60) days prior to the date hereof to pay the Expenditures with respect to the Projects. The maximum principal amount of the Bonds expected to be issued for the Projects is \$8,000,000.

Section 3. The County will make a reimbursement allocation, which is a written allocation by the County that evidences the County's use of proceeds of the Bonds to reimburse an Expenditure, no later than eighteen (18) months after the later of the date on which the Expenditure is paid or the Project is placed in service or abandoned, but in no event more than three (3) years after the date on which the Expenditure itself is paid. The County recognizes that exceptions are available for certain "preliminary expenditures," costs of issuance, certain *de minimis* amounts, expenditures by "small issuers" (based on the year of issuance and not the year of expenditure) and expenditures for construction projects of at least five (5) years.

Section 4. This resolution shall take effect immediately upon its passage.

CLOSED MEETING. At 9:23 p.m. Mr. Zaremba 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 the acquisition of real property for a public purpose.

On roll call the vote was:

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

Meeting Reconvened. At 10:15 p.m. the meeting was reconvened in open session by order of the Chair.

Mr. Zaremba 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 19th day of August, 2008, 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: (4) Noll, Wiggins, Zaremba, Shepperd
Nay: (0)

APPOINTMENTS TO THE HISTORIC TRIANGLE BICYCLE ADVISORY COMMITTEE

Mrs. Noll moved the adoption of proposed Resolution R08-96 that reads:

August 19, 2008

A RESOLUTION TO APPOINT A MEMBER TO THE HISTORIC TRI-
ANGLE BICYCLE ADVISORY COMMITTEE

WHEREAS, James E. Wirkner's term on the Historic Triangle Bicycle Advisory Committee has expired; and

WHEREAS, the Board wishes to appoint a citizen to serve on this committee;

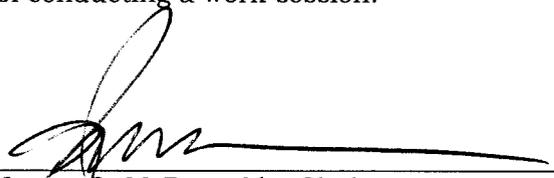
NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 19th day of August, 2008, that the following individual be, and hereby is, appointed to serve on the Historic Triangle Bicycle Advisory Committee for a term to begin September 1, 2008, and expire August 31, 2011:

James E. Wirkner

On roll call the vote was:

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

Meeting Adjourned. At 10:19 p.m. Chairman Shepperd declared the meeting adjourned sine die/to 6:00 p.m., Tuesday, September 2, 2008, in the Board Room, York Hall, for the purpose of conducting a work session.



James O. McReynolds, Clerk
York County Board of Supervisors



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