

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 23RD DAY OF JULY, 2002, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

James G. Kennedy, Chairman, Stonehouse District
Jay T. Harrison, Sr., Vice Chairman, Berkeley District

John J. McGlennon, Jamestown District
Michael J. Brown, Powhatan District
Bruce C. Goodson, Roberts District

Sanford B. Wanner, County Administrator
Frank M. Morton, III, County Attorney

B. MOMENT OF SILENCE

Mr. Kennedy requested the Board and citizens observe a moment of silence.

C. PLEDGE OF ALLEGIANCE

Ms. Cassandra Da-Costa, a student at D. J. Montague School, led the Board and citizens in the Pledge of Allegiance.

D. PRESENTATIONS

1. Volunteer Recognition – Donald Greenhow

Mr. Kennedy recognized Donald Greenhow for his extraordinary voluntary service to the County as a member of the James City County Fire Department Auxiliary for more than 20 years.

2. 2001 Historic Preservation Awards

Mr. Brown and Mr. John Labanish, Chairman of the Historical Commission, recognized members of the Historical Commission and presented three Historic Preservation Awards to individuals that have made a significant contribution to the preservation of historic resources in the County.

The recipients were: Dr. Marley R. Brown, for his direction in the preparation of the first archaeological preservation plan on the Peninsula and his continued advocacy for archaeological ordinances and policies for local government; Mr. Paul B. Tubach, Jr., for his Williamsburg Historic Necklace concept linking 13 historical and interpretive sites between the James City County District Park and Yorktown, his creation of the Greensprings Greenway Interpretive History Trail, and his interest in the preservation effort

to save 217-acres of Mainland Farm; and Ms. Doris Benson Wildenberger, for her life-long devotion to the assimilation and preservation of local history as the primary historian of Our Saviour's Lutheran Church in Norge, Virginia, for which she has accumulated a comprehensive written and pictorial history comprising a 100th anniversary history book.

3. Resolution of Appreciation – Marie E. Sheppard

Mr. McGlennon presented a posthumous Resolution of Appreciation for Marie E. Sheppard for her contributions as a charter member of the Historical Commission and her contributions to the community in the awareness of historical information available about the African-American experience in James City County during the Colonial period.

Mr. Arthur Mallory and Ms. Marie E. Reed accepted the award on behalf of the family.

Mr. John Labanish, Chairman of the Historical Commission, stated that a special exhibit honoring Ms. Sheppard will be displayed in February.

4. 2002 National Association of Counties Achievement Awards

Mr. Harrison presented a 2002 National Association of Counties Achievement (NACo) Award for the program entitled, *Youth Sports Expo Program* and a 2002 NACo Achievement Award for the program entitled, *District Park Sports Complex* to Mr. Ned Cheely, Director of Parks and Recreation.

5. Williamsburg Land Conservancy Award for Commitment to Conservation

Mr. Kennedy stated that the County was the first recipient of the *Commitment to Conservation Award* from the Williamsburg Land Conservancy.

E. PUBLIC COMMENT

1. Mr. Michael Hipple, P. O. Box 85, Lightfoot, provided the Board with an overview of the James City-Bruton Fire Department and Fire Station No. 1, provided the Board with an update on renovations to the fire station and estimates of savings in renovation costs through volunteer work, and invited citizens to visit the station.

2. Mr. Ed Oyer, 139 Indian Circle, inquired about the current level of the Chickahominy Piney-Point Aquifer, stated that the revenue stream from the State is weaker each day and encouraged the Board to put on hold all Capital Projects not already committed, and requested the second shell building be put on hold until the John Deere issue is resolved.

3. Mr. Arthur C. Hilstrom, 3724 Brick Bat Road, requested assistance with the replacement cost for a new pump and deeper well, stated concern about water restrictions without controlling growth and development, stated concern about the County allocating water resources to the Primary Service Area (PSA) customers and not considering the impacts upon those outside the PSA, and requested the County stop new development.

F. HIGHWAY MATTERS

Mr. Jim Brewer, Acting Resident Engineer for the Virginia Department of Transportation (VDOT), was available to answer questions from the Board.

Mr. Harrison requested that VDOT continue to maintain the causeways of Route 31 (Jamestown Road) and monitor the causeways of Route 5 (John Tyler Highway).

Mr. Goodson inquired about the process for the renaming a road.

Mr. Brewer stated that renaming of a road begins at a local government level and the Board forwards a recommended name to the Virginia Department of Transportation.

Mr. McGlennon requested that the missing stop sign be replaced at the intersection of Route 1330 (Rolling Woods Drive) and Route 617 (Lake Powell Road).

Mr. McGlennon requested the intersection of Route 612 (Longhill Road) and Route 614 (Centerville Road) be reviewed for traffic pattern concerns.

Mr. Brewer stated that a meeting has been scheduled with County staff and designer to review the intersection.

Mr. McGlennon requested that VDOT alert motorists of that intersection.

G. CONSENT CALENDAR

Mr. Kennedy asked if a member wished to pull an item from the Consent Calendar.

Mr. Wanner withdrew the item pertaining to the Lease Agreement with the James City-Bruton Volunteer Fire Department from the agenda.

Mr. Brown made a motion to adopt the remaining items on the Consent Calendar.

On a roll call, the vote was: AYE: McGlennon, Brown, Goodson, Harrison, Kennedy (5). NAY: (0).

1. Minutes

a. June 25, 2002, Work Session

b. July 9, 2002, Regular Meeting

2. Chesapeake Bay Restoration Fund Grant

RESOLUTION

CHESAPEAKE BAY RESTORATION FUND GRANT

WHEREAS, the Chesapeake Bay Restoration Fund, which is funded through the sale of Chesapeake Bay license plates, has made funds available for the restoration and education of the Bay; and

WHEREAS, funds are needed to provide an enriching and SOL based environmental component to the Division’s Total Rec Camp Program.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, accepts the \$4,340 grant awarded by the Chesapeake Bay Restoration Fund to help with the additions to the summer camp program.

BE IT FURTHER RESOLVED that this resolution hereby authorizes the following appropriation:

Revenues:

From the Commonwealth	<u>\$4,340</u>
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Expenditures:

Contractual Services (001-161-0335)	\$3,840
Supplies (001-161-0318)	<u>500</u>
Total	<u>\$4,340</u>

3. Resolution of Appreciation – Marie E. Sheppard

RESOLUTION

MARIE E. SHEPPARD

WHEREAS, Marie E. Sheppard was a charter member of the James City County Historical Commission appointed by the Board of Supervisors on August 26, 1985, and passed away on June 27, 2002; and

WHEREAS, Ms. Sheppard was a lifelong member of the First Baptist Church, where she served as Chairperson of the Church History Committee, and also served as Chairperson of the Friends of African-American History; and

WHEREAS, Ms. Sheppard’s tireless efforts have resulted in the awareness of historical information available about the African-American experience in James City County during the colonial period; and

WHEREAS, the Board of Supervisors and the Historical Commission express their deepest sympathy to Ms. Sheppard’s family.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that Marie E. Sheppard is hereby recognized as an exemplary member of the James City County community and honors her for her contribution in preserving the history of James City County.

BE IT FURTHER RESOLVED that this resolution be recorded in the minutes of the Historical Commission to be preserved in perpetuity and that a copy of this resolution be presented to the descendants of Marie E. Sheppard.

4. Agreement to Maintain Dam for Warhill Trail Road

RESOLUTION

AGREEMENT TO MAINTAIN DAM FOR WARHILL TRAIL ROAD

WHEREAS, the County built Warhill Trail Road as the entrance to the District Sports Park; and

WHEREAS, the County will receive certain grant funds to reimburse the cost for building Warhill Trail Road once it is accepted in the Virginia Department of Transportation (VDOT) Secondary Roads System; and

WHEREAS, prior to acceptance of Warhill Trail Road into the Secondary Roads System, VDOT requires the County to assume certain responsibilities to maintain the dam over which Warhill Trail Road is situated.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the County Administrator is hereby authorized and directed to execute a Dam Maintenance Agreement with VDOT to insure maintenance of a dam for Warhill Trail Road.

5. Microsoft Desktop Licensing Expenditure

RESOLUTION

MICROSOFT DESKTOP LICENSE ENTERPRISE AGREEMENT

WHEREAS, funds are available in Operating Expense Accounts for the purchase of Microsoft desktop software licenses; and

WHEREAS, the purchase of these licenses is necessary for continued cost-effective operation and the licenses are only available and must be purchased from Microsoft Corporation; and

WHEREAS, Commonwealth of Virginia Enterprise-wide contract licensing is available to the County only through July 31, 2002, and based on the number of County computers to be included under the license the cost will not exceed \$140,000.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute a contract with Microsoft Corporation not to exceed the amount of \$140,000.

H. PUBLIC HEARINGS

1. An Ordinance to Amend Chapter 11, Section 11-65, Restrictions on Outdoor Watering and Section 11-66, Violation of Article

Mr. Larry Foster, General Manager of the James City Service Authority, stated that in follow up to the adopted Emergency Ordinance on June 11, 2002, staff has prepared the Ordinance for the Board's consideration with modifications including an effective period from May 1 through September 30 of each year, that violations constitute a Class I misdemeanor; and stated that through the Ordinance, staff will try to manage water demands to reduce water system pressure losses during peak demand periods.

The Board and staff discussed the seasonal limitations for the restrictions, new turf establishment exemptions, water restrictions for public safety concerns vs. conservation of water due to drought, benchmarks under which water restrictions are implemented, shallow wells drying up, and the Well Mitigation Program.

Mr. Kennedy opened the Public Hearing.

1. Mr. John Streeter, 4709 Yarrow Court, stated that reseeded lawns need only one inch of water, which is about five to ten minutes of irrigation per day - once weekly; stated support for the irrigation restrictions as mentioned in the Ordinance and requested that other outdoor watering activities be permitted within the Ordinance.

2. Mr. Tony Dion, 102 Fairmont Drive, stated concern about the unrestricted residential development with water limits, and requested the Board implement a parallel ban limiting new residential building in the County with the limitations on outdoor water use.

3. Mr. Garrett E. Duncan, 104 Windstar, stated concern that only a limited number of residents of the County will be impacted by the Ordinance not those commercial portions of the County or residential well users, stated concern about the enforcement of the Ordinance, and requested a moratorium on new housing developments until 2003 at which time the County can review the water situation and issue another moratorium if warranted.

4. Mr. Jay Everson, 103 Branscome Boulevard, stated support for the Ordinance, concern regarding the enforcement, and stated concern that with no outdoor watering on Mondays, that the Monday water demand levels have not dropped to levels experienced in February.

5. Mr. Arthur C. Hilstrom, 3724 Brick Bat Road, recommended the Board poll the residents of the County for a consensus on continued development, and stated that continued development negatively impacts the growing water issues.

6. Mr. Richard Costello, 10026 Sycamore Landing Drive, recommended the Board review the Ordinance's impact on the water levels in October and adjust the Ordinance as warranted.

As no one else wished to speak, Mr. Kennedy closed the Public Hearing.

Mr. Kennedy requested Mr. Morton explain the County's ability to implement a moratorium on development.

Mr. Morton stated that localities are not permitted by the Attorney General and the General Assembly to enact moratoriums, however, if staff and the County Administrator felt that there is an emergency of such consequence that water is inadequate to meet public safety and sanitation needs, then move forward to take whatever actions are necessary to protect the citizens.

The Board and staff held a discussion concerning water demands, benchmarks for water restrictions, and ability of the system to keep up with seasonal demands.

Mr. Kennedy requested water demand readings in February for the past few years to gauge growth impacts on the demands.

The Board and staff held a discussion regarding growth impacting the increasing demands for water, weather conditions impacting water demands, development demands on water, citizen concerns about well levels dropping, and the enforcement of the Ordinance.

Mr. Wanner stated that Police has been directed to be more diligent in enforcing the Ordinance in areas where known warnings have been issued; and if citizens observe a violation and wish to report the violation, they are encouraged to contact the Service Authority.

Mr. McGlennon proposed the Board consider changing the morning cutoff watering time from 8:00 a.m. to 9:00 a.m. and that he could support reducing the evening watering hours by an hour to compensate.

Mr. Goodson made a motion to adopt the resolution with the proposed amendment by Mr. McGlennon to change the morning watering cutoff time to 9 a.m.

Mr. Goodson then made a motion to further amend the Ordinance by permitting outdoor watering by hose with an automatic turnoff nozzle that is continuously attended.

Mr. Goodson then made a second motion to amend the Ordinance to have a sunset date of September 30, 2002, at which time the Board could reevaluate the Ordinance and water issue.

Mr. Goodson requested independent votes on each amendment.

The Board held a discussion concerning the proposed amendments and concentrated most of the discussion on the issue of water demand's correlation to the County's development.

Mr. Morton asked that if the Board would like to authorize hand watering, then eliminate the odd/even aspect of the Ordinance.

The Board continued discussion concerning non-irrigation outdoor watering uses and came to a consensus on the modified watering times.

Mr. Goodson removed his motion to amend the resolution concerning a sunset clause of September 30, 2002.

Mr. Kennedy requested a roll call vote on the motion to adopt the Ordinance with a 9:00 a.m. cutoff watering time and permissibility for utilizing a hose with an automatic shutoff nozzle that is continuously attended.

On a roll call vote, the vote was: AYE: McGlennon, Brown, Goodson, Harrison, Kennedy (5) NAY: (0).

2. An Ordinance to Amend Chapter 20, of the James City County Code to Provide a Tax on Local Telecommunication Service

Mr. John E. McDonald, Manager of Financial and Management Services, stated that Section 20-25 of the Code of James City County, Virginia, as authorized by the Code of Virginia, would establish a

Consumer Utility Tax, per month, not to exceed \$1.20 on telecommunications services and that the amendment to Sections 20-70 and 20-71 of the Code of James City County, Virginia, would reduce the current E-911 tax from \$2.20 per month to \$.75 per month to compensate for the establishment of the Consumer Utility Tax.

Mr. Harrison inquired about the revenue neutral aspect of the proposed amendment.

Mr. McDonald stated that gathering information regarding the number of cell phones in the County has been difficult, therefore, the estimation on revenue generated from the proposal may not be accurate, and if the Ordinance needs to be adjusted after implementation of the Consumer Utility Tax to remain revenue neutral, staff will bring an amendment before the Board.

Mr. Kennedy requested information regarding an estimate number of cell phones in the County.

Mr. McDonald stated that there appears to be about 10,000 cell phones in the County and about 47,000 land-line phones, both residential and commercial.

Mr. Goodson inquired if the tax is a percentage of the customer's service so those with less expensive phone services would pay less.

Mr. McDonald stated that the tax will be a percentage of the customer's service, but not based on long distance charges.

Mr. McGlennon inquired if the E-911 tax to assist localities in recovering costs for providing 911 service would be met with this proposal.

Mr. McDonald stated that to provide emergency communication system costs about \$1.4 million, and with the old E-911 tax about \$960,000 would have been recovered.

Mr. McGlennon stated that since this proposal is intended to be revenue neutral, the entire cost for providing the emergency communication system would not be covered.

Mr. McDonald stated that with State requirements for utilities to notify its customer of the change, the Ordinance is to take effect on January 1, 2003.

Mr. Kennedy opened the Public Hearing.

1. Mr. Ed Oyer, 139 Indian Circle, requested clarification on the phrasing within the Ordinance, and inquired about the County increasing the tax after this adoption.

Mr. McDonald stated that the wording of the Ordinance comes from the State Code and that the County has the latitude to increase the tax up to the State ceiling after the Board follows the public hearing process.

As no one else wished to speak to this matter, Mr. Kennedy closed the Public Hearing.

Mr. Harrison made a motion to adopt the Ordinance.

On a roll call vote, the vote was: AYE: McGlennon, Brown, Goodson, Harrison, Kennedy (5) NAY: (0).

3. An Ordinance to Amend Section 16-7, Use of Public Park and Recreational Facilities by Children, of the James City County Code

Mr. Needham S. Cheely, III, Director of the Division of Parks and Recreation, stated that there has been increase usage of County parks and facilities and the Department has been working to develop a park users guide to educate the public about the laws and regulation that govern the use of the parks for the safety and enjoyment of the patrons and the public facilities. Mr. Cheely stated that during the development of the guide, staff discovered an inconsistency related to the age of children being left unsupervised in the parks and recommends the Ordinance be amended to be consistent with policies and practices of the Division of Social Services and the Commonwealth's Attorney's Office.

The Board and staff held a discussion regarding the age of 12 as a benchmark, the role of a lifeguard at park facilities, the need to be consistent with the Division of Social Services and the Commonwealth's Attorney's Office, and the children's safety.

Mr. Kennedy opened the Public Hearing.

As no one wished to speak, Mr. Kennedy closed the Public Hearing.

Mr. Harrison made a motion to adopt the Ordinance.

On a roll call vote, the vote was: AYE: McGlennon, Brown, Goodson, Harrison, Kennedy (5) NAY: (0).

I. BOARD CONSIDERATION

1. FY 03 Annual Grounds Maintenance Agreement for Williamsburg-James City County School Division

Mr. Wanner stated that an agreement has been developed that the School Board unanimously approved on July 16, 2002. The agreement has been developed with the School Superintendent and upon entering into the agreement with the Schools, the County can transfer the funds in the County's Contingency for Schools Ground to the Williamsburg-James City County School Board Local Contribution by resolution.

Mr. Wanner recommended the Board approve the two resolutions.

The Board and staff discussed the ownership and purchase of grounds equipment, and desire to recover the County's costs to maintain grounds.

Mr. McGlennon made a motion to adopt the resolution to enter into the FY 03 Annual Grounds Maintenance Agreement for Williamsburg-James City County School Division, and to adopt the resolution to transfer funds from the County's Contingency for School Grounds account to the Local Contribution to the School Board account.

On a roll call vote, the vote was: AYE: McGlennon, Brown, Goodson, Harrison, Kennedy (5) NAY: (0).

The Board held a brief discussion commending staff for working towards this Agreement, and other opportunities for consolidated services.

RESOLUTION

FY 03 ANNUAL GROUNDS MAINTENANCE AGREEMENT FOR

WILLIAMSBURG-JAMES CITY COUNTY SCHOOL DIVISION

WHEREAS, the Board of Supervisors of James City County, Virginia, and the School Board of the Williamsburg-James City County School Division desire to formalize the arrangement for maintaining school grounds.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to execute the FY 03 Annual Grounds Maintenance Agreement for Williamsburg-James City County School Division, by and between the County of James City and the Williamsburg-James City County School Division.

RESOLUTION

CONTINGENCY TRANSFER-SCHOOLS GROUNDS MAINTENANCE

WHEREAS, the Board of Supervisors has entered into an agreement with the James City County-Williamsburg School Board to provide grounds maintenance services; and

WHEREAS, funds were budgeted in the FY 2003 budget to provide for this function.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby transfers \$326,221 from the Contingency for School Grounds account to the Local Contribution to the School Board account.

J. PUBLIC COMMENT

1. Mr. Arthur C. Hilstrom, 3724 Brick Bat Road, stated concern for a neighbor who is without running water due to a well failure, concern for another neighbor who is experiencing difficulty replacing a burnt-out dwelling, and concern regarding his dried-up well, requested assistance with the cost to replace the pump and to dig a deeper well, and inquired if the well dried up as a result of the County providing water to residents with in the Primary Service Area.

Mr. Wanner stated that he will direct staff to look into assistance for the neighbor with the fire-damaged structure, assistance for the elderly woman without water, and requested Mr. Hilstrom submit his bill for the replacement of the pump and digging a deeper well to the James City Service Authority for consideration in the Well Mitigation Program.

2. Mr. Garrett E. Duncan, 104 Windstar, requested the County develop ground rules for next year in anticipation of further water concerns associated with continued growth in the County.

K. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner recommended that at the conclusion of the agenda, the Board recess until 1 p.m. on July 29, 2002, for a County-hosted tour of James City County for the *Daily Press* Editorial Team.

Mr. Wanner reminded citizens that the only August Board meeting will be held on August 13, 2002.

Mr. Wanner recapped the appointments made during the Board's Work Session earlier:

Alan Bennett and Kathleen Lindsay were reappointed to three-year terms on the Clean County Commission; Tammy Baber, Mary Bates, Dwight Beamon, Andy Bradshaw, Richard Bradshaw, Jim Bradsher, David Daigneault, Norman Danuser, Lois Danuser, Ann Davis, Loretta Garrett, Sylvia Hazelwood, Doris Heath, Ken Jacovelli, Katie Jones, Lynn Miller, Richard Miller, Margaret Mondul, Ed Overton, Diana Perkins, Bill Porter, Ellen Powell, Brad Rinehimer, Charlie Rupe, Angie Sims, Sandy Wanner, Shirley Webster, and Allen E. Wolverton were appointed to the 2002 James City County Fair Committee; Sterling Nichols and Skip Campana were reappointed to four-year terms on the Industrial Development Authority; Dwight Dansby was reappointed to a three-year term on the Peninsula Alcohol Safety Action Program; and Bonnie Winston was reappointed to a four-year term on the Williamsburg Regional Library System Board.

L. BOARD REQUESTS AND DIRECTIVES

Mr. Harrison requested the Board and staff look at benchmarks for limiting new growth in the County.

Mr. Brown requested information regarding the County's ability to enact moratoriums on growth.

Mr. Morton stated that a memorandum will be provided to the Board on moratoriums after the Board meeting.

Mr. McGlennon congratulated the local baseball team of 11-year-olds that are playing in the playoffs for entry into the championship playoffs.

M. ADJOURNMENT

Mr. Kennedy recessed the Board until 1 p.m. on July 29, 2002, for a tour of the County for the *Daily Press* Editorial Board.

On a roll call vote, the vote was: AYE: McGlennon, Brown, Goodson, Harrison, Kennedy (5). NAY: (0).

Mr. Kennedy recessed the Board at 9:30 p.m.

Sanford B. Wanner
Clerk to the Board