

**AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 23RD DAY OF NOVEMBER, 2004, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.**

**A. ROLL CALL**

Bruce C. Goodson, Chairman, Roberts District  
Michael J. Brown, Vice Chairman, Powhatan District  
John J. McGlennon, Jamestown District  
M. Anderson Bradshaw, Stonehouse District  
Jay T. Harrison, Sr., Berkeley District

William C. Porter, Jr., Deputy Clerk  
Leo P. Rogers, County Attorney

**B. MOMENT OF SILENCE**

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

**C. PLEDGE OF ALLEGIANCE**

Sungmin Song, an eleventh-grade student at Jamestown High School, led the Board and citizens in the Pledge of Allegiance.

**D. HIGHWAY MATTERS**

Mr. David Steele, Acting Williamsburg Resident Engineer, Virginia Department of Transportation (VDOT), stated Section I of the Jamestown 2007 Corridor project has been completed ahead of schedule and all lanes of traffic are open on Route 199 between Route 60 East and the Parkway overpass.

Mr. Steele stated that Section III, the improvement of turn lanes at the Jamestown Road and Route 199 intersection, is underway and it is anticipated that segment will be completed six to eight weeks early. Mr. Steele stated that in consideration of the anticipated heavy traffic, the construction work will be suspended during the Thanksgiving holiday and the eastbound and westbound lanes of traffic will be open including the turning lanes.

The Board thanked VDOT and the contractors for the work, inquired about an overlay on the eastbound lanes of Route 199 from the Parkway overpass to Route 60 East, and the status of the left-turn lane onto Route 31 from Route 199.

Mr. Steele stated that the overlay is scheduled for next year and the turn lane will have to be repaved to bring the lane up to grade.

## **E. PRESENTATIONS**

### **1. Thomas Nelson Community College – Presentation to the Board of Supervisors**

Dr. Charles Taylor, President, Thomas Nelson Community College, introduced Joseph A. Guterrez, Jr., James City County College Board Representative, and William C. Monroe, Chair of the College Board.

Mr. Monroe and Mr. Guterrez presented a resolution of the Thomas Nelson Community College Local College Board to Mr. Goodson, who accepted on behalf of the Board of Supervisors, for the County's diligent efforts and commitment to the community and higher education.

### **2. Annual Financial Report – KPMG LLP**

Ms. Elizabeth P. Foster, Partner at KPMG LLP, provided the Board with an overview of KPMG's independent audit results of the County's financial statements for the year ended June 30, 2004, and stated that the results of the operations and cash flows of the County's proprietary fund types for the year ended in conformity with generally accepted accounting principals. Ms. Foster stated that this year's audit was a clean and unqualified audit, the highest you can get.

Ms. Foster stated that the Federal Emergency Management Agency Awards were audited and reported that there were no findings in that area and that of the audits that she was in charge of, James City County was the only locality that had no findings in this area.

The Board and Ms. Foster discussed the reported findings and the various reporting formats for land and easement assets.

Mr. Goodson thanked Ms. Foster for the report.

### **3. Annual Report of the Planning Commission**

Joe Poole, Chairman of the Planning Commission, presented the annual report of the Planning Commission, stated that Peggy Wildman has resigned from the Commission, and that he is resigning after ten years of service.

The Board expressed its appreciation to the Commission members for their service to the County, for the annual report, and to Mr. Poole for his service.

## **F. PUBLIC COMMENT**

1. Mr. Richard Bradshaw, Commissioner of the Revenue, reminded citizens that Personal Property Tax payments are due on December 6 and encouraged citizens to make payments early due to the limited number of walk-up windows at the temporary relocation site of the Commissioner of the Revenue and Treasurers' offices in Building A.

2. Mr. Bill Christensen, 117 Congressional, stated support for the proposed Regional Dog Park and requested the Board approve the resolution.

3. Mr. Ed Oyer, 139 Indian Circle, thanked Joe Poole for his service to the community as a member of the Planning Commission and commented on a recent newspaper article regarding the traffic flow in the Hampton Roads Bridge Tunnel.

**G. CONSENT CALENDAR**

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

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

1. Minutes – November 9, 2004, Regular Meeting
2. Dedication of a Street in Temple Hall Estates

**RESOLUTION**

**DEDICATION OF A STREET IN TEMPLE HALL ESTATES**

WHEREAS, the street described on the attached Additions Form SR-5(A), fully incorporated herein by reference, is shown on a plat recorded in the Clerk’s Office of the Circuit Court of James City County; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation advised the Board that the street meets the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation; and

WHEREAS, the County and the Virginia Department of Transportation entered into an agreement on November 1, 1993, for comprehensive stormwater detention which applies to this request for addition; and

WHEREAS, the County guarantees the necessary surety amount of \$3,750 to provide for all loss, cost, damage, or expense incurred to correct faulty workmanship or materials, associated with the construction of the street and/or related drainage facilities. The effective period of this surety obligation will last one calendar year from the day the street is added to the Secondary System of State Highways.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests the Virginia Department of Transportation to add the street described on the attached Additions Form SR-5(A) to the secondary system of State highways, pursuant to §33.1-229, of the Code of Virginia, and the Department’s Subdivision Street Requirements.

BE IT FURTHER RESOLVED, the Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills, and drainage.

BE IT FURTHER RESOLVED, this Board hereby rescinds the resolution adopted September 14, 2004, requesting dedication of this same street into the Secondary System of State Highways.

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

3. Award of Bid – Trunked Radio System - Furniture

**RESOLUTION**

**AWARD OF BID - TRUNKED RADIO SYSTEM - FURNITURE**

WHEREAS, James City County and York County are constructing a joint 800-MHz trunked radio system; and

WHEREAS, the radio system requires installation of radio/telephone console furniture in the 911 Center; and

WHEREAS, York County advertised for and awarded a contract to Watson Furniture Group with permission for James City County to purchase from the same contract; and

WHEREAS, James City County finds the furniture installed in York County acceptable for use with our operations and building design.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to enter into a contract with Watson Furniture Group to purchase the console furniture in the amount of \$123,352.

4. Award of Bid – Enhanced 911 Telephone Equipment

**RESOLUTION**

**AWARD OF BID - ENHANCED 911 TELEPHONE EQUIPMENT**

WHEREAS, James City County and York County are constructing a joint 800-MHz trunked radio system; and

WHEREAS, the radio system requires an upgrade in Customer Premise Equipment (CPE) to receive and process 911 calls; and

WHEREAS, York County and James City County jointly reviewed all proposals received; and

WHEREAS, York and James City County staff negotiated a lease/purchase agreement with Motorola for the procurement and installation of CPE to provide Enhanced 911.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to enter into a contract with York County and Motorola to lease/purchase the Customer Premise Equipment in the amount of \$922,453.65.

**H. BOARD CONSIDERATION**

1. Regional Dog Park

Mr. Needham S. Cheely, III, CLP, Director of Parks and Recreation, presented a resolution to the Board to endorse the concept of a regional dog park at Waller Mill Park and to authorize the County Administrator to execute a Letter of Agreement with the City of Williamsburg for the project.

The Board and staff briefly discussed the anticipated \$50,000 cost and six-month completion date for the proposal.

Mr. Harrison made a motion to adopt the resolution.

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

**RESOLUTION**

**REGIONAL DOG PARK**

WHEREAS, the citizens of James City County have expressed the need for a “dog park” in order to provide a safe and clean environment for dogs and other park users; and

WHEREAS, staff has met with interested citizens in order to determine the appropriate design requirements and operating procedures for such a local “dog park”; and

WHEREAS, the City of Williamsburg also has a need to develop a dog park; County and City Parks and Recreation staffs recommend a jointly funded “dog park” to be constructed at Waller Mill Park; and

WHEREAS, it is in the mutual best interest of James City County, the City of Williamsburg, and their citizens to jointly fund and construct this facility; and

WHEREAS, on November 12, 2004, the Williamsburg City Council did approve the attached Joint Recommendation and directed the City Manager of the City of Williamsburg to work with the County Administrator of James City County to execute a Letter of Agreement needed to implement the project.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby endorses the concept of a regional dog park at Waller Mill Park and authorizes the County Administrator of James City County to execute a Letter of Agreement with the City of Williamsburg needed to implement the project.

BE IT FURTHER RESOLVED that the Board authorizes the expenditure of \$25,000 from the Miscellaneous Grants account in the FY 05 General Fund budget.

## I. PUBLIC HEARING

### 1. Petition for Review of Zoning Administrator's Enforcement Action – Fernbrook Scenic Easement

Mr. Allen J. Murphy, Jr., Zoning Administrator, stated that Patrick and Josephine Garcia and Edward and Laura Lansford have petitioned to appeal the Zoning Administrator's enforcement action related to two properties located at 2784 and 2792 Jonas Profit Trail.

Mr. Murphy stated that the Fernbrook Homeowners Association (Association) brought to the attention of staff that several of the properties in the subdivision have fences built into the scenic easement along Greensprings Road and some of the natural vegetation has been cleared.

It is staff's opinion that the clearing of natural vegetation and/or placement of fences or other structures in the scenic easement that belongs to the County is a violation of the proffers associated with Fernbrook. The provision of the proffered scenic easement as a greenbelt buffer was an important factor in determining the consistency of the Fernbrook development with the Comprehensive Plan as part of the original rezoning. The County has attempted to protect the Greensprings Road Community Character Corridor as the natural tree canopy has great historical significance and aesthetic value for residents in the area and throughout the County.

In October 2004 staff cited the property owners Patrick and Josephine Garcia of 2792 Jonas Profit Trail and Edward and Laura Lansford of 2784 Jonas Profit Trail for a violation of the proffers and gave them a time frame within which to abate the violation. The two cited owners filed an appeal in accordance with Section 24-19 (a) of the James City County Code.

Staff recommends the enforcement of the proffers as written as the best and simplest way to ensure the perpetual integrity of the buffer in this corridor, and stated that allowing the fences or to reduce the depth of the easement will encourage the further conversion of lot space within the easement to actual yard space by these or future owners as well as create questions of maintenance in perpetuity, architectural style and color, and landscaping, etc.

Mr. Goodson opened the Public Hearing.

1. Ms. Josephine Garcia, 2792 Jonas Profit Trail, stated that they have complied with James City County and the Association by amending the floor plan of the home and by not clear cutting the property, by submitting an application for the fence to the Association which was then approved; referenced a letter containing signature of 30 neighbors who have no objection to the fences located at 2784 and 2792 Jonas Profit Trail; stated that they would be willing to provide additional landscaping to minimize the impact of the fence; stated concern that there is no tax break on the portion of land the County has an easement over; and requested the Board endorse a modification to the Zoning Administrator's decision.

2. Ms. Laura Lansford, 2784 Jonas Profit Trail, cited safety concerns for children and requested the proffers be amended to permit wooden fences in the easement.

3. Mr. Robert Gott, 2788 Jonas Profit Trail, stated that he does not object to the fences and inquired if there was a compromise to permit fences with landscaping to keep the area scenic.

4. Mr. Richard Foley, 2780 Jonas Profit Trail, requested specific justification for the preservation easement; inquired why it appears that only the Fernbrook portion of Greensprings Road has the easement and development limitations; stated objection limitations on land use/development when taxes

are being paid; and stated that the easement is not very effective and the homes can be seen clearly from the road.

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

Mr. Harrison inquired why staff did not include additional landscaping as part of an option for mitigation.

Mr. Murphy stated that the proffered easement offers the greatest protection, that fences naturally encourage clearing of land within its boundaries, and recommended enforcement of the proffers as written.

Mr. Bradshaw requested confirmation from the County Attorney that the proffers are properly recorded and indexed in the County so landowners have constructive notice of the easement.

Mr. Rogers stated that the easement and proffer is in the chain of title, the subdivision plat shows the easement, and it is recorded in the deeds of the property owners.

Mr. Harrison inquired if there is proposed legislation in Richmond for tax relief for easements over parcels of property.

Mr. Rogers stated that a similar issue has been raised in Richmond, however in this case the effect of the publicly owned easement over the property is reflected in the value or assessed value of the property for Property Taxes purposes.

Mr. Bradshaw made a motion to uphold the enforcement action of the Zoning Administrator in regard to 2784 and 2792 Jonas Profit Trail.

The Board held a brief discussion on the understanding of the property owners, however proper notification was given regarding the easement, and the easement is in place not just for the neighborhood but rather for the preservation of the integrity of the community character of this corridor.

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

**J. PUBLIC COMMENT**

1. Mr. Richard Foley, 2780 Jonas Profit Trail, inquired why the easement is applied only to this half-mile of Greensprings Road; suggested that if landowners cannot use it despite paying taxes on it the County should condemn it; stated the preservation efforts should apply to the length of the road; and stated objection to the easement based upon principle.

**K. REPORTS OF THE COUNTY ADMINISTRATOR**

Mr. Porter recommended that at the conclusion of the Board meeting, the Board of Supervisors adjourn to 7 p.m. on December 14, 2004.

**L. BOARD REQUESTS AND DIRECTIVES - None**

**M. ADJOURNMENT**

Mr. Harrison made a made a motion to adjourn.

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

At 8:10 p.m. Mr. Goodson adjourned the Board until 7 p.m. on December 14, 2004.

---

William C. Porter, Jr.  
Deputy Clerk

112304bs.min