

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 25TH DAY OF JULY 2006, 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
John J. McGlennon, Vice Chairman, Jamestown District
Jay T. Harrison, Sr., Berkeley District, Absent
James O. Icenhour, Jr., Powhatan District
M. Anderson Bradshaw, Stonehouse District

Sanford B. Wanner, County Administrator
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 - Quayshawn Walker, a rising tenth-grade student at Lafayette High School led the Board and citizens in the Pledge of Allegiance.

D. PRESENTATION

1. Resolution of Appreciation - Cole Joyner and Brandon Lapetina

Mr. Goodson presented resolutions of appreciation and Chief Tal Luton presented awards to Messrs. Joyner and Lapetina for their courageous lifesaving actions.

Mr. Goodson recognized Williamsburg City Councilman Bobby Braxton in the audience.

E. HIGHWAY MATTERS

Mr. Jim Brewer, Williamsburg Administrator, Virginia Department of Transportation (VDOT), stated one bike trail was on schedule and the other was on a revised schedule but should be completed on time. Mr. Brewer stated Richmond Road improvements in the City of Williamsburg were ahead of schedule. He commented on studies on Route 645 and Route 60.

Mr. Bradshaw asked Mr. Brewer about improvements to curve and brush gratings along the shoulder of Church Lane and requested investigation into improvements to allow for safe crossing of Route 60W for elderly citizens residing in Burnt Ordinary.

Mr. Goodson stated his appreciation for road improvements and posting a speed limit sign on Plantation Road.

F. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, commented on recent military action in Lebanon.

G. CONSENT CALENDAR

Mr. McGlennon made a motion to adopt the items on the consent calendar as amended.

On a roll call vote, the vote was AYE: Icenhour, McGlennon, Bradshaw, Goodson (4). NAY: (0).

1. Minutes - July 11, 2006, Regular Meeting
2. Resolution of Appreciation - Cole Joyner and Brandon Lapetina

RESOLUTION OF APPRECIATION

COLE JOYNER AND BRANDON LAPETINA

WHEREAS, Cole Joyner and Brandon Lapetina are local residents and 2004 graduates of Lafayette High School; and

WHEREAS, Messrs. Joyner and Lapetina were present at the beach at College Creek in James City County on June 18, 2006; and

WHEREAS, Messrs. Joyner and Lapetina came to the aid of Miguel Avilla who was having difficulties in the water; and

WHEREAS, Messrs. Joyner and Lapetina rendered life-saving aid to Mr. Avilla; and

WHEREAS, this quick response and treatment directly resulted in the survival of Mr. Avilla.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby expresses its deep gratitude and honors Cole Joyner and Brandon Lapetina for their life-saving efforts.

3. Dedication of Streets in Powhatan Secondary, Phases 6A-C

RESOLUTION

DEDICATION OF STREETS IN POWHATAN OF

WILLIAMSBURG SECONDARY, PHASES 6A-C

WHEREAS, the streets described on the attached Additions Form AM-4.3, fully incorporated herein by reference, are shown on plats 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 streets meet 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 July 1, 1994, for comprehensive stormwater detention which applies to this request for addition.

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 streets described on the attached Additions Form AM-4.3 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 that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

4. Chesapeake Bay Restoration Fund Grant - \$5,432

RESOLUTION

CHESAPEAKE BAY RESTORATION FUND GRANT - \$5,432

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 Standard of Learning based environmental component to the Division's REC Connect Camp Program.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, accepts the \$5,432 grant awarded by the Chesapeake Bay Restoration Fund to help with the additions to the summer camp program.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following appropriation to the Special Projects/Grants Fund:

Revenue:

From the Commonwealth \$5,432

Expenditure:

Parks and Recreation \$5,432

5. Appropriation of Grant Funds – Temperature Control Systems - \$5,000

RESOLUTION

APPROPRIATION OF GRANT FUNDS - TEMPERATURE CONTROL SYSTEMS - \$5,000

WHEREAS, James City County applied for and was awarded a grant in the amount of \$5,000 from the Hampton Roads Metropolitan Medical Response System (HRMMRS) via the Hampton Roads Planning District Commission (HRPDC) for the purpose of reimbursing expenses related to county government costs related to the temperature control systems on fire apparatus; and

WHEREAS, the grant requires no local matching funds.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following appropriation to the Special Projects/Grants Fund:

Revenue:

HRPDC-HRMMRS Temperature Control Boxes - EMS \$5,000

Expenditure:

HRPDC-HRMMRS Temperature Control Boxes - EMS \$5,000

6. Overhire of Eligibility Worker

RESOLUTION

OVERHIRE OF ELIGIBILITY WORKER

WHEREAS, the Aged, Blind, and Disabled (ABD) Medicaid program Eligibility Worker will be out on military leave for one year beginning July 5, 2006; and

WHEREAS, this position is responsible for an ongoing caseload providing benefit programs to the aged, blind, and disabled residents requiring eligibility determinations and annual redetermination for continued eligibility for Medicaid, Long-Term Care, State and Local Hospitalization, and Auxiliary Grant Program applicants; and

WHEREAS, it is necessary to fill this position by July 31, 2006, in order to offer continued quality services; and

WHEREAS, the Division of Social Services will have sufficient funds in its FY 2007 budget to pay the salary and fringe benefits of the newly hired Eligibility Worker.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the overhire of the Eligibility Worker on July 25, 2006.

7. Appropriation of Grant Funds – Department of Conservation and Recreation - \$150,000

RESOLUTION

DEPARTMENT OF CONSERVATION AND RECREATION – GRANT AWARD - \$150,000

WHEREAS, the Department of Conservation and Recreation (DCR) has approved a Water Quality Improvement Fund (WQIF) Grant for the amount of \$150,000 to conduct the Community Conservation Partnership Incentive Program; and

WHEREAS, the grant will be administered by DCR with a grant period of July 1, 2006, through June 30, 2009.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following appropriation to the Special Projects/Grants Fund:

Revenues:

DCR – WQIF \$150,000

Expenditure:

DCR – WQIF \$150,000

H. PUBLIC HEARINGS

Mr. Goodson recognized Ms. Shereen Hughes, Planning Commissioner, in the audience.

1. 2006 Agricultural and Forestal District (AFD) Renewals

- a. Case No. AFD 5-86, Barnes Swamp Renewal
- b. Case No. AFD 10-86, Christenson’s Corner Renewal
- c. Case No. AFD 6-86, Cranston’s Pond Renewal
- d. Case No. AFD 2-88, Croaker Renewal
- e. Case No. AFD 9-86, Gordon Creek Renewal
- f. Case No. AFD 12-86, Gospel Spreading Church Farm Renewal
- g. Case No. AFD 3-86, Hill Pleasant Farm Renewal
- h. Case No. AFD 7-86, Mill Creek Renewal
- i. Case No. AFD 11-86, Yarmouth Island Renewal

Ms. Kate Sipes, Planner, stated that nine Agricultural and Forestal Districts (AFDs) were up for renewal. Ms. Sipes stated at the time of renewal, a property owner had the right to withdraw or add property to the District. Staff stated that those property owners withdrawing from the Districts may be subject to five years of rollback taxes. Ms. Sipes stated the renewal period was set for four years and three months to synchronize with the majority of the other renewals.

Ms. Sipes indicated the following withdrawals from the Agricultural and Forestal Districts:

1. AFD-2-86. Croaker: Taskinas, LLC would like to remove Parcel No. (14-4)(1-03), consisting of 29 acres. After withdrawal, the size of the District will be approximately 1,049 acres.
2. AFD-3-86. Hill Pleasant Farm: Mr. Don Hunt would like to withdraw six acres from Tax Map No. (24-1) (1-5). After the withdrawal, the size of the District will be approximately 567.62 acres.
3. AFD-5-86. Barnes Swamp: Toano Business Center would like to remove Parcels No. (4-1)(5-1); (4-1)(5-2); (4-1)(5-3); (4-1)(5-4); and (4-1)(5-5), formerly listed as (4-1)(1-8) totaling 88.376 acres.
4. AFD-6-86. Cranston's Pond: Withdrawal requests included all six Marston properties, totaling 85.61 acres and identified as Parcel Nos. (1-90), (1-33), (1-34), (1-36), (1-37) on Tax Map (22-2); and both Heath properties, totaling 25.91 acres and identified as Parcel Nos. (22-3)(1-33) and (21-4)(1-39). In addition, the Ripley parcel, identified as Parcel No. (31-2)(1-3), was approved for a family subdivision and the two-acre subdivision was being withdrawn from the District. After the withdrawals, the size of the District would be approximately 1,786.13 acres.
5. AFD-7-86. Mill Creek: The Cowles Family Limited Partnership would like to remove Parcel No. (20-1)(1-1) consisting of 433 acres. After the withdrawal, the size of the District would be 2,913 acres.
6. AFD-9-86. Gordon Creek: W. A. Thompson and Charles Flemming would like to remove three acres from Parcel No. (36-2)(1-40). The size of the remaining parcel will be 136.96 acres. David and Stephanie Allen would like to remove 25 acres from Parcel No. (34-2)(1-2). The size of the remaining parcel will be 132.98. John Carswell would like to add 28.36 acres of land at Parcel No. (35-2)(1-10). Parcel No. (43-2)(1-3), consisting of approximately 210 acres, has been added from the Barrett's Ferry AFD. After the withdrawals and addition, the size of the District would be 3,343.804 acres.
7. AFD-10-86. Christenson's Corner: No changes were proposed.
8. AFD-11-86. Yarmouth Island: No changes were proposed.
9. AFD-12-96 Gospel Spreading Church: Mr. Lyman Hall, Jr., would like to remove Parcel Nos. (47-4)(1-13) consisting of 39.11 acres and (47-4)(1-11) consisting of 17.89 acres for a total of 57 acres. After the withdrawal, the size of the District would be 1,133.76 acres.

Ms. Sipes stated changes were made to two Districts since staff prepared the staff report: the name of one property owner in the Mill Creek AFD was corrected and a property owner requested to withdraw 183 acres from the Barnes Swamp AFD. Staff stated before the renewal period, the combined acreage of the Districts was 18,080 acres, and 938.5 were acres withdrawn, which left total remaining acreage at 17,171 acres.

At its meeting on June 27, 2006, the AFD Advisory Committee voted 8-0 to recommend approval of all the AFD renewals except Gospel Spreading Church, for which the vote was 7-0 with one abstention.

At its meeting on July 10, 2006, the Planning Commission voted 6-0 to recommend approval of all the AFD renewals except Hill Pleasant Farms, for which the vote was 5-0 with one abstention.

Staff recommended approval of the ordinances to continue the Agricultural and Forestal Districts for a period of four years and three months with attached conditions.

Mr. Bradshaw commented that neighbors in the Bush Neck Road area were concerned about several property owners withdrawing property from Cranston's Pond AFD. Mr. Bradshaw asked if property owners had the ultimate right to withdraw property.

Ms. Sipes stated that this was an entirely volunteer program and the property owner had the right to withdraw upon renewal.

Mr. Bradshaw asked if any Board had the right to compel the landowner not to withdraw property.

Ms. Sipes stated there was no action by the Board that would serve to prohibit landowners from withdrawing land.

Mr. Goodson stated that the vote by the Board was to extend the AFD and without this vote they would expire.

Ms. Sipes stated this was correct.

Mr. Bradshaw disclosed that he represents clients in several of the AFD properties and he is a trustee for one AFD, but holds no authority in the trust; however, he felt he could vote on this matter impartially and fairly.

Mr. Goodson opened the Public Hearing.

1. Ms. Viola Cowles, 145 Bush Springs Road, on behalf of Bush Springs Road Community Organization, commented on the Cranston's Pond AFD. Ms. Cowles expressed the concern of her neighbors and her community organization with development in the Bush Neck Road area due to increased traffic, crime, lack of rural atmosphere, and the threat of confiscated property from area landowners to improve Bush Springs Road.

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

Mr. Icenhour made a motion to adopt the AFD renewal ordinances as amended.

On a roll call vote, the vote was AYE: Icenhour, McGlennon, Bradshaw, Goodson (4). NAY: (0).

2. Assign Contract to Purchase Property – 2945 and 2976 Forge Road

Mr. Adam Kinsman, Assistant County Attorney, stated the County has been offered an opportunity to assign the contract to purchase property at 2945 and 2976 Forge Road for a conservation easement. The property consisted of 88 acres but ultimately with the property belonging to Mr. and Mrs. Elwood Perry, the total acreage would be 98 acres, including the Branch residence. Mr. Kinsman explained the County initiated purchase of the property for \$1,910,000 with the goal of ultimately placing a conservation easement on it. Mr. Kinsman stated staff spoke with adjacent property owners, the Perry's, to take assignment on the contract for having a conservation easement on the property and began negotiations for the conservation easement to

include the Perry's property, 10 acres in addition to the original 88 acres. Mr. Kinsman stated this would increase the conservation easement to 98 acres on Forge Road, adjacent to property which the County already had purchase of development rights. Mr. Kinsman stated the conditions under which the conservation easement would fall would prohibit most commercial development and limit single-family dwellings to seven, would allow agricultural uses, and improve the view shed. Mr. Kinsman stated that the property owner would give the County the existing Branch residence, to be replaced with an agricultural structure and a caretaker residence. Mr. Kinsman stated that the development of this land was in the hands of the County and staff believed this was an excellent opportunity to preserve 98 acres on Forge Road.

Mr. Kinsman recommended approval of the resolution.

Mr. Goodson opened the Public Hearing.

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

Mr. Bradshaw disclosed he has prepared loan documents for the property owners involved, but he felt he could fairly vote on this resolution.

Mr. Bradshaw made a motion to adopt the resolution.

Mr. Bradshaw stated this conservation easement was vital to the community especially those concerned with the viewshed on Forge Road. Mr. Bradshaw gave a brief history of Sunnyside Farm and the importance of the preservation of an agricultural nature of this area of the County. Mr. Bradshaw stated this was a fortunate situation wherein a seller and buyer come together, and recognized those involved in this process, including Mr. Ed Overton, PDR administrator, Mr. Wanner, Mr. Kinsman, and the Perrys. Mr. Bradshaw stated this was an example of a property owner coming forth with options and the County being flexible enough to work with the property owner.

On a roll call vote, the vote was AYE: Icenhour, McGlennon, Bradshaw, Goodson (4). NAY: (0).

RESOLUTION

ASSIGN CONTRACT TO PURCHASE PROPERTY - 2945 AND 2975 FORGE ROAD

WHEREAS, on April 18, 2006, the County entered into a contract (the "Contract") to purchase 88 acres of real property located at 2945 and 2975 Forge Road, designated as Tax Parcel Nos. 1230100021 and 1230100022 (the "Property") for \$1,910,000; and

WHEREAS, protection of the Property and the pastureland thereon is vital to the County's efforts to preserve the rural and agricultural nature of the Forge Road corridor; and

WHEREAS, Elwood and Sharon Perry (the "Perrys") have indicated a desire to assume the County's interest in the Contract; and

WHEREAS, upon settlement on the Property, the Perrys have agreed to grant the County a conservation easement intended to protect the Property and the property currently owned by the Perrys located at 2875 Forge Road and designated as Tax Map No. 1230100022A (together with the Property, the "Properties") for a total of 98 acres; and

WHEREAS, the proposed conservation easement on the Properties will further the purpose of protecting the rural and agricultural nature of the Forge Road corridor and will prevent inappropriate development of the Properties.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize and direct the County Administrator to execute the attached assignment agreement and any other documents needed to assign the right to purchase the Property to Elwood and Sharon Perry.

I. PUBLIC COMMENT - None

J. REPORT OF THE COUNTY ADMINISTRATOR

Mr. Wanner recommended that following the Board Requests and Directives, the Board hold a James City Service Authority meeting and then go into Closed Session pursuant to Section 2.2-3711(A)(1), to consider personnel matters, the appointment of individuals to County boards and/or commissions; for the appointment of individual for Social Services Advisory Board, to discuss appointments for the Economic Development Authority, and the Williamsburg Regional Library Board of Trustees, and Section 2.2-3711 (A)(1) to consider a personnel matter involving the annual performance review of the County Administrator.

K. BOARD REQUESTS AND DIRECTIVES

Mr. Icenhour thanked Chief Luton and the Fire Department for assistance of a citizen with a question about burn permits and the burning ban in James City County. Mr. Icenhour asked if staff could investigate extension of the burning ban to include May and September.

Chief Luton stated staff would investigate that information. Chief Luton explained for a number of years the State Department of Environmental Quality (DEQ) had issued a ban on open burning in metropolitan areas in Virginia, exempting specifically James City County, York County, and the City of Poquoson. Chief Luton explained this spring the DEQ removed that exemption but failed to inform the County. Chief Luton stated the Fire Marshal does not enforce DEQ violations, but the Fire Department cannot issue permits due to the burning ban. He stated there were four permits in effect and that staff has notified all four citizens that a burning ban was in effect until September 1.

Mr. Icenhour extended his thanks to the Peninsula Homebuilders Association for a letter, E-Mails, and phone calls. Mr. Icenhour stated the letter dealt with rural lands issues which allowed him to speak with individuals and to reassure them that the issues were being addressed and that the outcome would be beneficial to the community.

Mr. Goodson recessed the Board of Supervisors for a JCSA meeting at 7:36 p.m.

Mr. Goodson reconvened the Board of Supervisors at 7:40 p.m.

Mr. Wanner stated the only Board meeting in August will be on August 8, 2006, and will be preceded by a newly added work session at 4:00 p.m., on the Powhatan Creek Watershed.

Mr. Goodson thanked Mr. Braxton for attending.

Mr. Goodson recessed the Board for a Closed Session.

L. CLOSED SESSION

Mr. McGlennon made a motion to go into Closed Session pursuant to Section 2.2-3711(A)(1), to consider personnel matters, the appointment of individuals to County boards and/or commissions; for the appointment of individual for Social Services Advisory Board, to discuss appointments for the Economic Development Authority and the Williamsburg Regional Library Board of Trustees, and Section 2.2-3711 (A)(1) to consider a personnel matter involving the annual performance review of the County Administrator

On a roll call vote, the vote was AYE: Icenhour, McGlennon, Bradshaw, Goodson (4). NAY: (0).

At 7:42 p. m, Mr. Goodson convened the Board into Closed Session

At 9:08 p.m., Mr. Goodson reconvened into Open Session.

Mr. McGlennon made a motion to adopt the Closed Session resolution.

On a roll call vote, the vote was AYE: Icenhour, McGlennon, Bradshaw, Goodson (4). NAY: (0).

RESOLUTION

CERTIFICATION OF CLOSED MEETING

WHEREAS, the Board of Supervisors of James City County, Virginia, (Board) 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 of the Code of Virginia requires a certification by the Board that such closed meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge: i) 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 ii) only such public business matters were heard, discussed, or considered by the Board as were identified in the motion, Section 2.2-3711(A)(1), to consider personnel matters, the appointment of individuals to County boards and/or commissions; and Section 2.2-3711(A)(1) to consider a personnel matter involving the annual performance review of the County Administrator.

Mr. McGlennon made a motion to appoint Mr. John Favret to an unexpired term on the Social Services Advisory Board, term to expire July 1, 2009.

On a roll call vote, the vote was AYE: Icenhour, McGlennon, Bradshaw, Goodson (4). NAY: (0).

Mr. McGlennon made a motion to approve an 8 percent increase for Mr. Wanner, in recognition of his outstanding performance and continuation of the 7.5 percent County contribution to Mr. Wanner's deferred compensation plan.

On a roll call vote, the vote was AYE: Icenhour, McGlennon, Bradshaw, Goodson (4). NAY: (0).

M. ADJOURNMENT

Mr. Icenhour made a motion to recess.

On a roll call vote, the vote was AYE: Icenhour, McGlennon, Bradshaw, Goodson (4). NAY: (0).

At 9:10 p.m., Mr. Goodson recessed the Board until 4:00 p.m. on August 8, 2006.

Sanford B. Wanner
Clerk to the Board

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