

**AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 24TH DAY OF MARCH 2009, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.**

**A. CALL TO ORDER**

**B. ROLL CALL**

James G. Kennedy, Chairman, Stonehouse District  
Mary Jones, Vice Chair, Berkeley District  
Bruce C. Goodson, Roberts District  
James O. Icenhour, Jr., Powhatan District  
John J. McGlennon, Jamestown District

Sanford B. Wanner, County Administrator  
Leo P. Rogers, County Attorney

**C. PLEDGE OF ALLEGIANCE** – Mac Ambler, Campbell Burden, Jack DeVore, and Austin Kremer, first-grade students at Clara Byrd Baker Elementary School; and Andrew Robles, Andrew Small, Ben Wood, and Austin Eggart, first-grade students at Matoaka Elementary School, members of Den 7, Cub Scout Pack 103 of First Colony District BSA led the Board and citizens in the Pledge of Allegiance.

Mr. Icenhour requested to amend the agenda to move Highway Matters before the Public Comment section to allow Mr. Halacy to speak to some questions that may arise from the public.

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

**D. PRESENTATION - Emergency Medical Dispatching Accreditation**

Mr. Ken Krumpler, Virginia Emergency Medical Services, presented a letter of accreditation to Ms. Julie McKercher of the James City County Emergency Communications. He explained the accreditation process and congratulated the James City County Emergency Communications staff for achieving this measure.

**E. HIGHWAY MATTERS**

Mr. Todd Halacy, Virginia Department of Transportation (VDOT) Residency Administrator, stated that potholes and spalling areas were occurring recently due to changing temperatures. He stated that crews would be addressing the potholes in the next several weeks.

Mr. Halacy introduced Mr. Jerry Prine, VDOT District Roadside Development Manager, who was present to help clarify some information about tree clearing at WindsorMeade.

Mr. Icenhour stated that he was informed on Friday afternoon that a significant amount of trees would be removed in front of Monticello Marketplace. He stated that he spoke with Mr. Halacy and Mr. Prine and he viewed the area. He stated that some information that had been circulating may not be entirely accurate. He stated that he met with involved parties to understand what was being proposed, which was thinning the trees at the Route 199 ramp at Monticello Avenue. He stated that he met with H.L. Nusbaum to discuss the plans. He called attention to a diagram to illustrate the proposal. He explained that within a stand of large deciduous trees, there were many small pine trees that grew very close together. He stated that the small pines were proposed to be thinned out and the corner of the ramp would be cleaned. He stated that the area was overgrown and drainage issues have occurred as a result of trees growing into the VDOT right-of-way. He explained that he wanted to realize the extent of the thinning. He stated that all of the effective screening was in the VDOT right-of-way. He asked to retain the screening effects of the buffer and to have the developer clean up the buffer area. He asked staff to display photos of what it would look like as the project developed. He stated that he asked the developer for an effective screening from Route 199. He stated that H.L. Nusbaum would do a good job on the screening and that he would request the staff to engage the developer to preserve the buffer.

Mr. Halacy stated that he had received many emails from citizens and asked Mr. Prine to explain the Code that allowed the developer to thin the trees as requested.

Mr. Prine stated that the General Assembly passed laws that allowed businesses to trim vegetation in the VDOT right-of-way. He stated that where the VDOT right-of-way is located, the trees would be clear-cut to prevent drainage issues, but that the buffer area would be managed responsibly. He stated that the permit for the thinning was approved by him, with input from certified arborists. Mr. Prine stated that the permit would not be issued until the County and the developer came to an agreement. He stated that any future vegetation control permit would be submitted to the County for review. He stated that VDOT would work towards a more attractive right-of-way. He stated that the developer would get a better view of the businesses, but VDOT would also get better drainage. He explained that there were three large dead trees in the area to be cleared. He said that it should be a mutually beneficial situation as the developer would be paying to remove these trees.

Mr. Goodson asked if under this policy, there would never be total clearing in the VDOT right-of-way.

Mr. Halacy stated that was correct; unless there was a roadway project in the right-of-way, there would be thinning.

Mr. Prine stated that some larger trees would be taken out for a reason, such as damaged or dead vegetation. He stated that larger, healthy trees would not be taken out as a result of a vegetation withdrawal permit from a business.

Mr. Goodson stated that during Hurricane Isabel, dead trees created problems in the buffers.

Mr. Halacy stated that due to a lack of funding and personnel, seedlings have grown up in the ditch and have created a drainage issue.

Mr. Prine stated that in the future he would hope a tree buffer like this would be discussed between the County and VDOT in advance.

Mr. Kennedy asked if VDOT was working with County staff.

Mr. Prine stated that was correct; and that he had met with Mr. Scott Whyte on February 18, 2009, on this project.

Mr. Kennedy stated that staff was involved in the planning process.

Mr. Prine stated that there was a buffer development agreement and that the trees that are there would be more desirable after the thinning. He stated that they agreed to one pine tree every ten feet, which was similar to James City County's buffer requirements.

Mr. McGlennon thanked Mr. Prine and Mr. Halacy for attending and for the agreement on consultation with the County before permitting. He asked about the VDOT financial situation related to possible stimulus funds for maintenance.

Mr. Halacy stated that some money will be received, but it was currently unknown how much would be received or what projects could be done. He stated that the next six-year secondary plan did not have much money for new construction.

## **F. PUBLIC COMMENT**

1. Mr. Robert Richardson, 2786 Lake Powell Road, commented on the Shaping Our Shores work session presentation. He stated that he preferred the passive development of the Jamestown Yacht Basin. He stated that the sloped area near the shoreline was a highly sensitive environmental area. He commented on the tree-clearing project at WindsorMeade and stated that the proposed project would be acceptable.

2. Mr. Thomas Trask, Newport News, Virginia, commented on camping at Chickahominy Riverfront Park. He stated that the Shaping Our Shores plan would eliminate good campsites. He suggested creating a hiking path and maintaining the campsites.

3. Mr. Terry Elkins, 105 Lothian, stated that he intended to speak on the tree-cutting at WindsorMeade, but would not in light of the new information.

4. Mr. Ed Oyer, 139 Indian Circle, commented on transparency in finances; turn lanes on Route 60 East; and quality of education.

5. Mr. Tim Cleary, 103 Lands End Drive, Chair of the Williamsburg Land Conservancy, commented that development should maintain the character, history, and environment of the community. He thanked Mr. Icenhour's effort to clarify the effort of the proposed thinning of the buffer on Route 199. He asked that the Comprehensive Plan develop specific requirements for the community character corridors.

## **G. CONSENT CALENDAR**

Mr. Goodson made a motion to adopt the Consent Calendar with the amendments to the minutes.

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

1. Minutes – March 10, 2009, Regular Meeting

2. Award of Bid – Warhill Stadium Maintenance Facility, IFB09-0058 – \$176,800

**RESOLUTION**

**AWARD OF BID – WARHILL STADIUM MAINTENANCE FACILITY,**

**IFB 09-0058 – \$176,800**

WHEREAS, competitive bids were advertised for the Maintenance Facility to be constructed on the Warhill Sports Complex adjacent to the stadium; and

WHEREAS, bids were received with the low bidder being David A. Nice Builder, Inc. with a bid of \$176,800; and

WHEREAS, previously authorized Bond Referendum funds are available for this contract bid award.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator or his designee to execute the necessary contract documents for the Warhill Stadium Maintenance Facility in the total amount of \$176,800.

3. Contract Awards – Annual Architectural Services

**RESOLUTION**

**CONTRACT AWARDS – ANNUAL ARCHITECTURAL SERVICES**

WHEREAS, a Request for Proposals was advertised and responses evaluated for annual architectural services; and

WHEREAS, the two firms listed below were determined to be the most fully qualified firms and their proposals best suited the County's needs as defined in the Request for Proposals for architectural services.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby awards the contracts for annual architectural services to the two firms listed below:

1. Hopke & Associates, Inc.
2. Hudson & Associates Architects PLLC

4. Installation of “Watch for Children” Signs – Drummonds Field Subdivision

**RESOLUTION**

**INSTALLATION OF “WATCH FOR CHILDREN” SIGNS –**

**DRUMMONDS FIELD SUBDIVISION**

WHEREAS, Section 33.1-210.2 of the Code of Virginia provides for the installation and maintenance of signs by the Virginia Department of Transportation (VDOT), alerting motorists that children may be at play nearby, upon request by a local governing body; and

WHEREAS, Section 33.1-210.2 further requires that the funding for such signs be from the secondary road system maintenance allocation for the County; and

WHEREAS, residents of the Drummonds Field community have requested that “Watch for Children” signs be installed on Derby Lane and Mott Lane as illustrated on the attached map titled “Drummonds Field Subdivision ‘Watch for Children’ Signs.”

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby request that VDOT install and maintain two “Watch for Children” signs as requested with funds from the County’s secondary road system maintenance allocation.

5. Appointments of Zoning Administrator and Acting Zoning Administrator

**RESOLUTION**

**APPOINTMENT OF ZONING ADMINISTRATOR**

WHEREAS, Mr. Allen J. Murphy, Jr. has served as Zoning Administrator until present; and

WHEREAS, Mr. Murphy has been promoted to the position of Director of Planning/Assistant Development Manager and his current duties preclude his ability to perform the additional functions of Zoning Administrator; and

WHEREAS, Ms. Melissa Brown has been performing all the functions of the Zoning Administrator as Acting Zoning Administrator since January 1, 2008, while Mr. Murphy has been assigned duties as Acting Assistant Development Manager, Acting Development Manager, and Acting Director of Planning; and

WHEREAS, pursuant to Section 24-5 of the Code of the County of James City, the Board of Supervisors is responsible for appointing the Zoning Administrator.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby appoints Melissa C. Brown as Zoning Administrator.

**RESOLUTION**

**APPOINTMENT OF ACTING ZONING ADMINISTRATOR**

WHEREAS, Melissa Brown has been appointed as Zoning Administrator of James City County; and

WHEREAS, occasions may arise that require an Acting Zoning Administrator to perform Zoning Administrator's functions and duties in Ms. Brown's absence; and

WHEREAS, pursuant to Section 24-5 of the Code of the County of James City, the Board of Supervisors is responsible for appointing the Zoning Administrator.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize Ms. Brown to designate Ms. Christy H. Parrish as Acting Zoning Administrator in times of her absence from work.

6. Peninsula Alcohol Safety Action Program (PASAP) Joint Exercise of Powers Agreement

**RESOLUTION**

**PENINSULA ALCOHOL SAFETY ACTION PROGRAM**

**JOINT EXERCISE OF POWERS AGREEMENT**

WHEREAS, pursuant to Virginia Code Sections 15.2-1300, 18.2-271.1, and 18.2-271.2, the Counties of Charles City, James City, and York; and the Cities of Hampton, Newport News, Poquoson, and Williamsburg ("the Parties") have established and operate the Peninsula Alcohol Safety Action Program ("PASAP"), a certified alcohol safety action program; and

WHEREAS, PASAP meets or exceeds the criteria established by the Commission on Virginia Alcohol Safety Action Program by providing services and programs which seek to prevent recidivism of driving under the influence of alcohol and other drugs, and to decrease alcohol- and drug-related incidents which cause property damage, injury, death, and/or human suffering; and

WHEREAS, the Parties desire to set forth the terms and conditions for participation in PASAP and confirm their joint undertaking in an Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the County Administrator is authorized and directed to enter into the PASAP Joint Exercise of Powers Agreement.

## H. PUBLIC HEARINGS

### 1. Ordinance Amendments – James City County Code Chapter 20, Taxation and Chapter 12, Licenses

- a. Ordinance to Amend Chapter 20, Taxation, by amending Section 20-6, Fees to cover administrative costs and reasonable attorney’s or collection agency’s fees in collection of delinquent taxes; Section 20-7.4, Penalties and interest for late payment of taxes; Section 20-7.5, Fee for passing a bad check to the county; Section 20-13.8, Filing annual returns of business personal property and machinery and tools; Section 20-18, Interest and penalties upon failure or refusal to remit tax; Section 20-45, Penalty of late remittance or false return; and Section 20-46, Violations of article; to increase the penalties for certain failures to comply with the food and beverage tax laws.
- b. Ordinance to Amend Chapter 12, Licenses, by Amending Article I, In General, Section 12-5, License requirements.

Mr. Adam Kinsman, Deputy County Attorney, stated that the amendments to Chapter 20 brought the County Code into conformance with the State Code. He stated that there was a revised ordinance which added a necessary phrase that limited the penalty. Chapter 12 brought this chapter into conformance with State Code and added a provision that no license would be granted unless all taxes were paid. He recommended adoption of the ordinances as amended.

Mr. Kennedy opened the Public Hearings.

1. Mr. Chris Henderson, 101 Keystone, stated that small businesses are being severely impacted and that there was nothing in the Code that provided for businesses under a payment plan that may not be current.

Mr. Kinsman stated that it was in Section 12-5 Subsection 5. He noted that the Commissioner of the Revenue may not issue a license unless all delinquent taxes were paid or unless a binding written agreement of payment was in effect. He stated that it would address those small businesses that may be paying taxes on a payment plan.

Mr. McGlennon made a motion to adopt the ordinances with the amendments to Chapter 20.

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

Mr. Kennedy recognized Planning Commissioners Rich Krapf and Chris Henderson.

## I. PUBLIC COMMENT

1. Mr. Chris Henderson, 101 Keystone, commented on the “anti-cul-de-sac” statute of the General Assembly effective in July 2009. He stated that this would affect how communities are developed all over Virginia. He stated that the law would dictate that cul-de-sacs that do not meet a rigid standard would not be allowed by VDOT. He stated that those roads would basically become private. He stated that he has promoted connectivity of neighborhoods to avoid arterial roads to go between neighborhoods. He stated that this would change the County’s approach to neighborhood planning and require more interconnectivity. He stated that there was important discussion about tree buffers and James City County had review of the vegetation removal project.

**J. REPORTS OF THE COUNTY ADMINISTRATOR**

Mr. Wanner stated that at the Annual Meeting of the Greater Williamsburg United Way, he accepted an award for the "Most Improved Campaign." He stated that Police Chief Emmett Harmon and Fire Chief Tal Luton chaired the campaign and the County employees who contributed deserved credit for the award.

He stated that last week he participated in Public Comment to reduction of the Jamestown-Scotland Ferry Service and the consolidation of the Williamsburg Residency of VDOT. He stated that the decisions would be made by the Commonwealth Transportation Board in May with the decisions effective in July 2009. He stated that there was a Closed Session appointment on the agenda but he felt that appointment could be made in Open Session. He stated that when the Board completed its business, it should adjourn to 7 p.m. on April 14, 2009. He stated that after the adjournment, a meeting of the James City Service Authority Board of Directors would be held.

**K. BOARD REQUESTS AND DIRECTIVES**

Mr. Goodson made a motion to appoint Mr. Philip Doggett to the Board of Adjustments and Appeals.

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

Mr. Icenhour asked that staff meet with H.L. Nusbaum to accommodate what it needs and also to try to retain a sufficient buffer after the tree thinning to screen roughly 100 feet.

Ms. Jones stated that on March 4, 2009, she attended the Community Emergency Response Team (CERT) graduation with Mr. Icenhour and extended her congratulations to those participants. She stated that on March 18, 2009, she presented reimbursement checks to Fairway Villas and Jamestown 1607 Homeowners Association for their conservation practices. She stated that the money was a grant from the Department of Conservation and Recreation (DCR) and congratulated those communities for their conservation efforts.

Ms. Jones further stated that the Steering Committee met on Monday night and on Thursday March 26, 2009, from 7-9 p.m. dealing with Community Character. She said that more evening meetings would be scheduled to accommodate those who work during the day.

Mr. Icenhour stated that he presented a DCR check to the Villages at Westminster for conservation.

Mr. McGlennon expressed sympathy to Mayor Jeanne Zeidler of the City of Williamsburg for the loss of her son.

**L. ADJOURNMENT to 7 p.m. on April 14, 2009.**

Mr. Goodson made a motion to adjourn.

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

At 8:01 p.m. Mr. Kennedy adjourned the Board to April 14, 2009, at 7 p.m.

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Sanford B. Wanner  
Clerk to the Board

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