

**AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 23RD DAY OF JUNE 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 - Absent  
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** – Sabrina Swift, a fifth-grade student at Norge Elementary School, led the Board and citizens in the Pledge of Allegiance.

Mr. Kennedy recognized Planning Commissioner Reese Peck in attendance. He also recognized Boy Scout Troop No. 414 in attendance to complete requirements for a merit badge.

**D. PUBLIC COMMENT**

1. Mr. Jack Fowler, 109 Wilderness Lane, commented on debris, carrion, and vehicle fluids that can be found near the Little Creek Reservoir risking environmental contamination.

2. Mr. Sasha Digges, 3612 Ironbound Road, commented on grass cuttings being dumped into storm drains, insufficient tree buffers, and debris and trash on highways.

3. Mr. Randy O’Neill, 109 Sheffield Road, commented on the use of his program for physical activity for students in Albemarle County, Hampton, and Newport News.

4. Mr. Ed Oyer, 139 Indian Circle, commented on the recent approval of Dee’s Day Care in Poplar Hall and on his efforts to maintain his community.

**E. HIGHWAY MATTERS**

Mr. Todd Halacy, Virginia Department of Transportation (VDOT) Williamsburg Residency Administrator, commented on the completion of a speed study on old News Road from News Road to Monticello Avenue. He stated that the review concluded that the speed should be reduced to 35 mph and that a new sign has been installed displaying the reduced speed.

The Board thanked Mr. Halacy for following up on their requests.

**F. CONSENT CALENDAR**

Mr. McGlennon asked to pull Item No. 2.

Mr. Kennedy asked to pull Item No. 9 for discussion.

Mr. McGlennon made a motion to adopt the remaining items on the Consent Calendar with the amendments to the minutes.

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

- 1. Minutes – June 9, 2009, Regular Meeting
- 3. Grant Award – Department of Criminal Justice Services – \$53,475

**RESOLUTION**

**GRANT AWARD – DEPARTMENT OF CRIMINAL JUSTICE SERVICES - \$53,475**

WHEREAS, the James City County Police Department anticipates receipt of a grant award from the Virginia Department of Criminal Justice Services (DCJS) in September 2009 for \$43,720 (DCJS share \$32,790; County Match \$10,930); and

WHEREAS, the funds are to be used towards the salary and partial fringe benefits to continue the position of the full-time Gang Investigator; and

WHEREAS, the grant requires a local cash match of \$10,930, which is available in the County’s FY 2010 Grant Match account; and

WHEREAS, additional costs for this position estimated overtime and additional cost for fringe benefits, totaling \$9,755 and the funds are also available in the FY 2010 Grant Match account;

WHEREAS, the grant will be administered by DCJS with a grant period of July 1, 2009, through June 30, 2010.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the continuation of the full-time Gang Investigator position and the following budget appropriation to the FY 2010 Special Projects/Grants fund:

Revenues:

DCJS – Gang Investigator FY 2010	\$32,790
County’s Grant Match Account	<u>20,685</u>
Total	<u>\$53,475</u>

Expenditure:

DCJS – Gang Investigator FY 2010	<u>\$53,475</u>
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4. Grant Award – Edward Byrne Justice Assistance Grant – \$54,793

**RESOLUTION**

**GRANT AWARD – EDWARD BYRNE JUSTICE ASSISTANCE GRANT – \$54,793**

WHEREAS, through the American Recovery and Reinvestment Act of 2009 - Edward Byrne Justice Assistance Grant (JAG), the James City County Police Department has received an allocation of \$54,793; and

WHEREAS, the Department’s pending grant request to continue the GREAT (Gang Resistance Education and Training) program will not be awarded; and

WHEREAS, the Department remains vigilant in its efforts to fight gangs and educate citizens on the subject of gangs and so has chosen to use this JAG allocation toward the salary and fringe benefits of the GREAT Officer in order that this valuable program can continue; and

WHEREAS, additional funds necessary to pay the salary and fringe benefits for this position are \$5,036 and are available in the County’s Grant Match Account.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the acceptance of this grant, the continuation of the position, and the following budget appropriation to the FY 2010 Special Projects/Grants fund:

Revenues:

JAG – GREAT	\$54,793
County’s Grant Match Account	<u>5,036</u>
Total	<u>\$59,829</u>

Expenditure:

JAG – GREAT	<u>\$59,829</u>
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5. Destruction of Bond Records from 2000

**RESOLUTION**

**DESTRUCTION OF BOND RECORDS FROM 2000**

WHEREAS, the Code of Virginia § 58.1-3130 states that the Treasurer may, with the consent of the governing body, destroy the said Bond Records at any time after five years from the end of the fiscal year in which bond and bond coupons were paid, in accordance with the retention regulations pursuant to the Virginia Public Records Act (§ 42.1-76 et seq.); and

WHEREAS, the Bond Records hereby referred to are records from 2000.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the destruction of the Bond Records from 2000.

6. Authorization to Enter into Reciprocal Public Safety Mutual-Aid Agreements

**RESOLUTION**

**AUTHORIZATION TO ENTER INTO RECIPROCAL PUBLIC SAFETY**

**MUTUAL-AID AGREEMENTS**

WHEREAS, cooperation between Federal, State, and local governments will enhance preparedness and assist in handling law enforcement emergencies, disaster situations, and other public safety matters; and

WHEREAS, Virginia law authorizes local governments to enter into reciprocal agreements for mutual-aid and for cooperation in the furnishing of law enforcement services, fire and rescue services, and emergency medical services; and

WHEREAS, it is beneficial to James City County to participate in reciprocal mutual-aid agreements with Federal, State and local governments for managing or providing public safety services.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the County Administrator is authorized to execute all reciprocal mutual-aid agreements with the governmental entities of the United States of America, the Commonwealth of Virginia, and Virginia localities provided that such agreements have been approved by the County Attorney; do not require any upfront financial contribution from the County; allow the County to withdraw as a party without penalty; and are deemed by the County Administrator to be in the best interest of James City County.

7. Termination of County-Funded Long-Term Disability Program and Related Revisions to Chapter 5, Employee Benefits of the *Personnel Policies and Procedures Manual*

**RESOLUTION**

**TERMINATION OF THE COUNTY-FUNDED, LONG-TERM DISABILITY PROGRAM AND**

**CONTRACT AND RELATED REVISIONS TO CHAPTER 5, EMPLOYEE BENEFITS, OF THE**

**JAMES CITY COUNTY *PERSONNEL POLICIES AND PROCEDURES MANUAL***

WHEREAS, it is the practice of the County to offer high quality benefits, at a reasonable cost to both employees and the County, which prove valuable and useful to employees; and

WHEREAS, employees covered by the County-funded Long-Term Disability program are also eligible for disability coverage under the Virginia Retirement System and the Social Security Disability Insurance program; and

WHEREAS, elimination of the County Long-Term Disability program would be a sound budgetary decision while still maintaining a focus on benefit programs that have a more meaningful impact on employees.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that that the County-funded Long-Term Disability program and contract are terminated, effective June 30, 2009, and Section 5.6.C.1.b of the *Personnel Policies and Procedures Manual* is deleted, effective July 1, 2009.

8. Revisions to the Family and Medical Leave Act Policy, Chapter 5, Employee Benefits, of the James City County Personnel Policies and Procedures Manual

### **RESOLUTION**

#### **REVISIONS TO THE FAMILY AND MEDICAL LEAVE ACT POLICY, CHAPTER 5,**

#### **EMPLOYEE BENEFITS, OF THE JAMES CITY COUNTY**

#### **PERSONNEL POLICIES AND PROCEDURES MANUAL**

WHEREAS, it is the practice of the County to update its personnel policies to ensure conformance to laws; and

WHEREAS, the Federal Government has revised the Family and Medical Leave Act of 1993 to clarify provisions of the Act and expand benefits for eligible employees with family members called to active duty in the military.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that Section 5.4.D is deleted and a new Section 5.5 is adopted with associated Section numbering revisions in the *Personnel Policies and Procedures Manual*, effective July 1, 2009.

10. Contract Change Order – Design of Community Gymnasium

### **RESOLUTION**

#### **CONTACT CHANGE ORDER – DESIGN OF COMMUNITY GYMNASIUM**

WHEREAS, James City County desires to modify the scope of the original contract for design of the Community Gymnasium Facility by adding additional features to the structure which were not part of original scope of work; and

WHEREAS, a previous contract was awarded to Hopke and Associates, Inc. in the amount of \$280,667; and

WHEREAS, staff has negotiated fees in the amount of \$83,226 for the additional work and believes these fees to be reasonable charges for the expanded effort; and

WHEREAS, previously authorized Capital Improvements Program (CIP) budgeted funds are available to fund this design contract change.

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 to amend the design of the James City County Gymnasium Facility at the Warhill Sports Complex by adding \$83,226 to the contract amount.

11. Award of Bid – Warhill Phase I and II Sidewalk and Traffic Improvements – IFB 09-0071

**RESOLUTION**

**AWARD OF BID – WARHILL PHASE I AND II SIDEWALK AND TRAFFIC IMPROVEMENTS,**

**IFB 09-0071 – \$245,000**

WHEREAS, competitive bids were advertised for the Improvements and traffic-calming measures to be constructed on the Warhill Sports Complex; and

WHEREAS, bids were received with the low bidder being Shamrock Construction with a bid of \$245,000; 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 Phase I and Phase II Sidewalk and Traffic Improvements at Warhill District Park in the total amount of \$245,000.

2. Chesapeake Bay Preservation Ordinance Violations – Civil Charges – John W. Ballentine, Jr.

Mr. Scott Thomas, Environmental Director, stated that the civil charge was made against Mr. John W. Ballentine, Jr., for violation of the Chesapeake Bay Preservation Ordinance. He stated that Mr. Ballentine's attorney was present. Mr. Thomas displayed a map of the location of the violation, 212 Turner's Neck Road, Parcel zoned A-1, approximately 75 acres. He stated that property owner Dudley S. Waltrip leased the property to Mr. Ballentine, who disposed of trees, stumps, and other debris at the site for a commercial wood processing operation. Mr. Thomas illustrated the .25 acres that were affected by the material that was dumped on the site. He stated that no Resource Protection Area was involved, but there was a Resource Management Area with steep slopes that was affected. He stated that the unauthorized activities were in violation of the County's Chesapeake Bay Preservation Ordinance and the property owner and lessee have entered into a Chesapeake Bay restoration agreement with the County which consisted of a \$4,000 civil charge and a final restoration plan. He stated that there was already a preliminary plan and \$50,000 surety was also provided to ensure the agreement. Mr. Thomas stated that in order to achieve the civil charge amount, staff used a standardized matrix and explained how the case was determined to be \$4,000. He stated that the final restoration plan was due by June 26, 2009, with a final completion date of November 30, 2009. He stated that there was a previous documented history for Mr. Ballentine on a single-family residence, but none with this property or with the commercial business. He recommended approval of the resolution.

Mr. McGlennon stated that he hoped to highlight the significance of the action and to make the community aware and to ensure that this behavior was not acceptable. He stated that the matrix to determine the level of the civil charge was helpful in understanding how staff arrived at the civil charge amount. He stated that he wanted to emphasize how seriously this matter was considered.

Mr. Icenhour thanked Mr. Thomas for his presentation and stated that he hoped to exhibit that dumping was not acceptable.

Mr. McGlennon made a motion to adopt the resolution.

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

## **RESOLUTION**

### **CHESAPEAKE BAY PRESERVATION ORDINANCE VIOLATIONS - CIVIL CHARGES -**

#### **JOHN W. BALLENTINE, JR.**

WHEREAS, Dudley S. Waltrip of 2868 Lake Powell Road, Williamsburg, is the owner of a certain parcel of land commonly known as 212 Turners Neck Road, Toano, VA, designated as Parcel No. 2130100005C, within James City County's Real Estate system, herein referred to as the ("Property"); and John W. Ballentine Jr., of 300 Turners Neck Road, Toano, VA, is the Lessee, of the Property; and

WHEREAS, on or about April 9, 2009, John W. Ballentine Jr., caused the removal of vegetation from within a Chesapeake Bay Preservation Area (CBPA) and caused the disposal of approximately 5,000 cubic yards of trees, stumps, lumber, and other materials in a ravine within the CBPA on the Property; and

WHEREAS, John W. Ballentine Jr., has executed a Chesapeake Bay Restoration Agreement with the County, agreeing to remove all of the material disposed of within the CBPA and to install native canopy trees, native understory trees, and native shrubs within the CBPA on the Property in order to remedy the violations under the County's Chesapeake Bay Preservation Ordinance and he has also posted sufficient surety to guaranteeing the installation of the aforementioned improvements and the restoration of the Resource Protection Area on the Property; and

WHEREAS, John W. Ballentine Jr., has agreed to pay a total of \$4,000 to the County as civil charges under the County's Chesapeake Bay Preservation Ordinance; and

WHEREAS, the James City County Board of Supervisors is willing to accept the restoration of the impacted area and the civil charges in full settlement of the Chesapeake Bay Preservation Ordinance violation, in accordance with Section 23-18 of the Code of the County of James City.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to accept the \$4,000 in civil charges from John W. Ballentine Jr., as full settlement of the Chesapeake Bay Preservation Ordinance Violations.

#### 9. **Virginia Department of Transportation Enhancement Grant – Toano Sidewalk Improvements**

Mr. Jason Purse stated that VDOT has awarded a grant of approximately \$80,000 for construction of sidewalks in Toano. He stated that as a condition of the grant, VDOT requires a 20-percent match of approximately \$17,000. He stated that the Friends of Forge Road and Toano is continuing to seek donations to cover the match, but has not yet raised the funds. He stated that the grant was needed to complete the project.

Mr. Kennedy stated that he had met with the Friends of Forge Road and Toano and stated his support for the project. He asked about matching grants and the County’s obligation in the future. He asked if there were any similar future projects.

Mr. Purse stated that there were none at this time, but that there may be more in the future.

Mr. Kennedy stated that often people proffer for sidewalks and asked that staff investigate contributions to similar projects to offset the costs.

Mr. Purse stated that money cannot be accepted for sidewalks offsite. He stated that in this case, the sidewalks were in disrepair.

Mr. Kennedy made a motion to approve the resolution.

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

**RESOLUTION**

**VIRGINIA DEPARTMENT OF TRANSPORTATION ENHANCEMENT GRANT –**

**TOANO SIDEWALK IMPROVEMENTS**

WHEREAS, in accordance with Commonwealth Transportation Board construction allocation procedures, the Virginia Department of Transportation (VDOT) has awarded James City County \$83,750 (VDOT share \$67,000; \$16,750 County Match) in Federal Surface Transportation Program (STP) Transportation Enhancement Grant funds; and

WHEREAS, the funds will be used for the replacement of a section of a sidewalk along Richmond Road (Route 60) in Toano; and

WHEREAS, estimated project costs total \$83,750, and the grant requires a 20 percent local match of \$16,750, which is available in the County’s Grants Match account.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the acceptance of this grant and authorizes the following budget appropriation to the FY 2010 Special Projects/Grants Fund:

Revenues:

VDOT STP Transportation Enhancement Grant	\$67,000
County Grants Match Account	<u>16,750</u>
Total	<u>\$83,750</u>

Expenditure:

VDOT Sidewalk Enhancement Grant \$83,750

**G. PUBLIC COMMENT – None**

**H. REPORTS OF THE COUNTY ADMINISTRATOR**

Mr. Wanner stated that when the Board completed its business, it should adjourn to 7 p.m. on July 14, 2009, and a brief meeting of the James City Service Authority should be held following the adjournment of the Board. He noted that the County Fair would take place on June 25-27, 2009, at Chickahominy Riverfront Park.

**I. BOARD REQUESTS AND DIRECTIVES**

Mr. Icenhour highlighted the “In our Own Voice” event at Legacy Hall on June 24, 2009, 6:30 p.m.

Mr. McGlennon stated that he participated in the Williamsburg-James City County public high schools’ commencement activities on Saturday, June 20. He congratulated those graduates of public and private schools in the County.

Ms. Jones commented that on June 10, 2009, she spoke at Jamestown High School about local government. She stated that on June 13, 2009, she attended Neighborhood Day at Ironbound Park with Mr. McGlennon and attended a wall-raising for Habitat for Humanity in Ironbound Square on June 23, 2009. She stated that there would soon be a ribbon-cutting for the new home.

Mr. McGlennon commented on the Neighborhood Day event where Mr. Phil Smead was selected as an honoree as the Robert Moore Community Patriot of the Year.

**J. ADJOURNMENT to 7 p.m. on July 14, 2009.**

Mr. McGlennon made a motion to adjourn.

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

At 7: 40 p.m. Mr. Kennedy adjourned the Board to 7 p.m. on July 14, 2009.

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Sanford B. Wanner  
Clerk to the Board