

# A G E N D A

## JAMES CITY COUNTY BOARD OF SUPERVISORS

County Government Center Board Room

January 8, 2013

7:00 P.M.

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- A. CALL TO ORDER**
- B. ROLL CALL**
- C. MOMENT OF SILENCE**
- D. PLEDGE OF ALLEGIANCE** – Amy Pressey, a 12<sup>th</sup> grade student at Jamestown High School.
- E. PRESENTATIONS**
- F. PUBLIC COMMENT**
- G. BOARD REQUESTS AND DIRECTIVES**
- H. CONSENT CALENDAR**
  - 1. Minutes –
    - a. November 27, 2012, Work Session
    - b. December 11, 2012, Regular Meeting
    - c. December 12, 2012, Powhatan Seat Interviews
    - d. December 18, 2012, Powhatan Seat Discussion
  - 2. Contract Award – Mid County Park Kidsburg Playground – \$851,786
  - 3. Contract Award – Mid County Park Phase I Improvements
  - 4. James City County-VDOT Agreement for Removal of Illegal Signs
  - 5. Appointment of Zoning Administrator and Acting Zoning Administrator
- I. PUBLIC HEARINGS**
  - 1. Pre-Budget
- J. BOARD CONSIDERATION**
  - 1. Shared Services – Risk Management
  - 2. Approval of Williamsburg Landing, Inc., Revenue and Refunding Bond through the James City County Economic Development Authority (EDA)
- K. PUBLIC COMMENT**
- L. REPORTS OF THE COUNTY ADMINISTRATOR**

-CONTINUED-

**M. BOARD REQUESTS AND DIRECTIVES**

**N. CLOSED SESSION**

1. Consideration of a personnel matter(s), the appointment of individuals to County boards and/or commissions pursuant to Section 2.2-3711 (A)(1) of the Code of Virginia
  - a. Planning Commission
  - b. Social Services Advisory Board

**O. ADJOURNMENT – to 4 p.m. on January 22, 2013**

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**AT A WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 27TH DAY OF NOVEMBER 2012, AT 4:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.**

**A. CALL TO ORDER**

**B. ROLL CALL**

John J. McGlennon, Chairman, Roberts District  
Mary K. Jones, Vice Chairman, Berkeley District  
James O. Icenhour, Jr., Powhatan District  
W. Wilford Kale, Jr., Jamestown District  
James G. Kennedy, Stonehouse District

Robert C. Middaugh, County Administrator  
Leo P. Rogers, County Attorney

**C. BOARD DISCUSSIONS**

1. Legislative Agenda

Mr. Leo Rogers, County Attorney, introduced the Virginia State legislators in attendance for the discussion, State Senator Thomas K. Norment, Jr., Ms. Phylis Winestock representing Senator John Miller's office, Ms. Alison Boygler representing Senator Michael Watson's office, and Delegate Brenda Pogge.

Mr. Rogers stated that the main item on the County's Legislative Agenda is if placing power lines underwater as a reasonable alternative in areas of scenic rivers and historical value. He stated that the purpose of this is that the County has a proposal to put the Dominion Virginia Power Transmission Lines under the James River. He stated that the State Corporation Commission (SCC) is going to make a decision about the route and it has to consider reasonable alternatives.

Mr. McGlennon began by stating that during the upcoming State Legislative Session, he hopes that the legislators will work with an attitude of "do no harm." He stated that he hopes the legislators will be cognizant of the conditions and constraints that local governments are operating under today and be mindful of the impact decisions made in Richmond that have on local governments and the communities they serve.

Mr. McGlennon stated that the Mayors and Chairs of the Urban Crescent are becoming increasingly concerned over the growing transportation funding crisis. He stated that the legislators would be receiving a letter very soon from the Urban Crescent outlining its specific concerns. He stated that he hoped the Legislators would be involved in helping find a solution for the transportation crisis.

Senator Norment addressed the Board stating that the State is facing uncertain times. The State has been affected by the economic hardships just like everyone else. He stated that the State receives money from the Federal Government, mostly through the Department of Defense, for every man, woman, and child in the State. Therefore, any amount of sequestration could have a huge impact on the revenue of the State. He stated

that in regard to transportation, there are several proposals. He stated that Virginia recently dropped from the No. 1 Best Place to Do Business to the No. 3 and that drop was attributed to Virginia's transportation infrastructure. He stated that in 2014 there will be no money for anything except maintenance in the transportation budget.

Delegate Brenda Pogge stated that we should be cautiously optimistic; however, the Governor is telling the agencies to plan for a reduction in spending. She stated that this would trickle down to the localities as well. She stated that she would like to see the localities adopt a similar attitude and hold the line on spending. She stated that she did not believe that the citizens would vote for a referendum on transportation. She stated that it does not appear that there will be much change in the fiscal outlook for several years.

Senator Norment stated that he would be recusing himself from any discussion in regard to the Dominion Virginia Power Transmission Line Route due to a conflict of interest.

Delegate Pogee stated that she believes that these decisions and regulations should be left up to the SCC. She stated that she would not be supporting the legislation.

Mr. Kale stated that currently the SCC does not consider power lines going underwater as an alternative, and this legislation would add it to its list of alternatives. He stated that many of the historic sites, as well as the James River, will be affected by the power lines. He stated that there is not a bridge near Jamestown for exactly the same reason. The Commonwealth and its citizens have not wanted to negatively impact the view and the historical site.

Mr. Rogers stated that this legislation would not dictate to Dominion Power what it has to do. Instead this would create guidance of what is considered an alternative in a scenic or historic area.

Mr. Rogers stated that the next section of the Legislative Agenda included Legislation supported by the County. He stated that he hopes the State will continue its funding for tourism.

Mr. McGlennon stated that the County is dedicated to supporting the tourism within the County and the Historic Triangle.

Ms. Jones stated that sports tourism has been very productive for the County and the other localities in the region.

Mr. Middaugh described the County's efforts in attracting tourism and sporting events. He cited the Ladies' Professional Golf Association (LPGA) tournament this past fall, a Bass Master's Fishing Tournament that will be coming to the County, the Harley HOG Convention this past summer, Christmas Town at Busch Gardens, and the holiday events in Colonial Williamsburg.

Mr. Rogers stated that the County is concerned about maintenance of secondary roads being transferred back to the localities without adequate State funding.

Mr. Rogers briefly went through the rest of the items that the County is supporting.

Mr. Icenhour stated that in regard to the "local aid to the Commonwealth," he would prefer the term "surplus" not be used until such a time as there is no more local aid going to the Commonwealth.

Ms. Jones stated that she is very concerned about unfunded mandates.

Delegate Pogge stated that the General Assembly is looking to reduce unfunded mandates, but there should not be any new unfunded mandates coming down.

Ms. Jones stated that she is concerned about the new healthcare reforms and how those costs are going to be passed down to the localities.

Senator Norment stated that the uncertainty about the healthcare reforms is affecting everyone. He stated that the healthcare reforms have the potential to have a huge impact on the State's revenues.

Mr. McGlennon stated that Olde Towne Medical Center (OTMC) has begun preparing for the changes that will come as a result of the healthcare reforms. He stated that OTMC is looking to provide more valuable and active services to the community. He stated that while the near future is daunting, ultimately getting healthcare costs under control is good.

Mr. McGlennon asked Mr. Kennedy if he had anything he wanted to add to the discussion.

Mr. Kennedy stated not at this time.

Senator Norment stated he hoped the reciprocity between his office and the County would continue. He said that County staff has always been very helpful.

Ms. Alison Boygler, representing Senator Watson, stated that if any of the Board members would like a meeting with Senator Watson, please call his district office and they would be happy to set up a meeting.

## 2. Fiscal Trends

Ms. Sue Mellen, Assistant Director of Financial and Management Services, addressed the Board giving a summary of the Fiscal Trends Report in the Work Session Agenda Packet.

Mr. Middaugh addressed the Board stating that there are more positives than negatives in the revenue streams for the County. He said staff believes the trends of modest growth, similar to what is being seen on the Federal level, will continue.

Mr. Icenhour asked if the \$3 million in the Capital Improvements Program (CIP) was designated for particular projects in the FY 2013 budget.

Ms. Mellen stated that was correct.

Mr. Icenhour asked what particular projects that money was allocated for in the CIP.

Mr. John McDonald, Director of Financial and Management Services, stated that the monies were used for Public Safety projects, school improvements, General Services projects, Stormwater projects, and Parks and Recreation projects.

Mr. McGlennon asked if there was more information available on the Business, Professional, & Occupational License (BPOL) numbers, specifically, which sectors saw the most increase.

Ms. Mellen stated that personal and retail services are the areas with the most increase.

Mr. Middaugh stated that the construction trade continues to be the under performer at this time; however, if national trends continue, those numbers should begin to increase.

Mr. Kennedy asked when calculating the BPOL numbers, does staff break the numbers down into what is inflation related increases or what is true growth. He stated that he is wondering if we are truly seeing

healthy business growth.

Ms. Mellen stated when looking at restaurant sales, staff does take food related inflation into account. And yes, even considering inflation, that sector is seeing growth. She stated that when looking at the projections, the real estate sector has been coming in right around the forecasted amounts. However, the sales, meals, and lodging sector have been coming in above the forecasted amounts.

Mr. McGlennon stated that the managers of the Premium Outlets are reporting that there was about a 12 percent increase in traffic at the Outlets this year for Black Friday. He also stated that national reports are indicating an increase in consumer spending. He stated that these reports coincide with what staff is seeing and projecting.

Ms. Mellen stated that staff has been very cautious in their predictions and the numbers are coming in above the forecasts.

### 3. Employee Compensation

Mr. Middaugh stated that there are three aspects to the Employee Compensation materials included in the Agenda Packet. He stated that only one item would potentially require a vote this evening, and that is the granting of an employee bonus. The other two items require Board direction for staff.

Mr. Middaugh stated that there are sufficient resources for the Board to grant a \$1,000 bonus for County employees. He stated that there are other options for other amounts as well; also, included in the items before the Board is an option to grant December 31 as a paid holiday. He stated that this option was included based on the actions taken by the State as well as surrounding jurisdictions. He stated that the cost of granting this holiday is mostly used to pay for the overtime given to Public Safety employees.

Mr. Middaugh stated that the pay raise for employees that is forecasted for the upcoming budget is the priority. He stated that if the bonus and the pay raise are too much, then he wants the Board to have that conversation. Mr. Middaugh stated that in comparison to the surrounding jurisdictions, the County is close to the bottom in regard to increases seen in employee compensation. He stated that in talking with employees, he is concerned that the County will begin to lose some of its very fine employees.

Mr. Kale asked if the Schools have a surplus in their budget, is that money turned over to the County, or can that money be used to help fund their own pay raises.

Mr. Middaugh stated that the simple answer is yes; however, that is a discussion to be had with the School Administration and with the School Board.

Mr. Kennedy stated that he does not believe that the Board should do both. He believes the pay raise is more important for both the County and the School employees. He stated that he does not want to get in the habit of doing a yearly bonus and the Board gave a bonus last year. He stated that in regard to the compensation study, he is concerned that it is hard to do a comparison. He stated that there is no real comparison with the private sector and it is hard to compare to larger localities. He stated that he wants to take care of the County employees as well as the School employees. He stated that with the revenue projections coming in, he would like to see a 1 percent real estate reduction as well as the pay raise.

Mr. Middaugh stated that in his discussions with employees, he has made it clear that if the Board gives the choice of a pay raise or the bonus, then the priority is the pay raise.

Ms. Jones stated that she agrees with Mr. Kennedy. She stated that she appreciates staff and believes they should be rewarded; however, the Board needs to be extraordinarily cautious in these uncertain times.

She stated she would consider supporting a pay raise, but does not want to commit to one at this time. She stated that after hearing the thoughts and uncertainty relayed by the legislators earlier, the County should be cautious. She stated that spending money on a compensation study is a waste of time and money. She stated that there are so many moving parts that a comparison to other localities is not valid. She stated that other localities have raised taxes to continue to raise salaries. She stated that she would not be supporting a bonus and would consider a pay raise in the future.

Mr. McGlennon stated that a pay raise was factored into the upcoming budget based on the increase in revenues.

Ms. Jones stated that is correct; however, adjustments can be made to the upcoming budget prior to adopting it. She stated the Board needs to look carefully at how and on what it is spending money. She stated, for example, the Board just spent over \$1 million on a land purchase. Perhaps the priorities of the Board need to change.

Mr. Kennedy stated that he supports the pay raise in the upcoming budget. However, if the things go south and the pay raise does not happen, he would be supportive of a one-time bonus as a contingency plan. He stated he would like to see the excess revenues held in contingency for a bonus if the pay raise does not go through.

Mr. McGlennon stated that he would like to direct the County Administrator to plan for the pay raise in the budget. He stated obviously, that is ultimately contingent upon revenues.

Mr. Kale stated that he does not like being unable to reward staff for the job they are doing now. He stated that he does not like the idea of waiting to see if something can be done later.

Mr. Middaugh stated that he had a couple comments about the compensation study component of the discussion. He stated that a full-blown compensation study looks at job descriptions, benefits comparison, personnel policy and procedures, as well as the wage data component. He stated that the County has not done a full-blown compensation study in 17 years. He stated that another option would be to do a recalibration study, which would look at the State and national benchmarks for wage comparison and make adjustments to bring the County's compensation more in line with those averages. He stated that a full-blown compensation study would cost roughly \$100,000 while a recalibration study would be in the neighborhood of \$25,000 and may be more suitable to the Board.

Ms. Jones asked if the County is having a hard time filling open positions.

Mr. Middaugh stated that the applicant pool is not as robust as it used to be and in order to bring people to the County, the County has to pay higher than the starting salary.

Mr. McGlennon stated that in regard to the compensation study, he does not support the idea of a full-blown compensation study; however, he believes the idea of a recalibration study has merit.

Mr. Kale stated that he agreed with Mr. McGlennon and would be supportive of that as well.

Mr. Icenhour stated he agreed as well, but he asked if the benefit component could still be included in some way with a recalibration study.

Mr. Middaugh stated that the large benefit categories could be looked at, but there is a lot of variance in the total benefit component.

Mr. Kennedy stated that he has always had a problem with the comparison. He stated that how do you

compare one locality to another, or public sector to private sector. He stated there are too many variances for the comparison to be truly accurate.

Mr. Icenhour stated that he understands Mr. Kennedy's point. His concern is the comparison with other localities and jurisdictions surrounding the County. He stated those jurisdictions have employees doing the same jobs as the County and those jurisdictions are where we are going to lose our employees.

Mr. Icenhour stated that in regard to the rest of the compensation discussion, he believes that going forward with the pay raise is something that the County owes to its employees. He stated that the 3 percent pay raise probably would not even cover half of what the employees have lost to inflation over the past four years, but it needs to be done. He stated that the pay raise has already been included in the budget for next year and as long as the money is there, he would support it. He stated that he was supportive of doing a modified compensation study. He stated that he does not think it is impossible to do the bonus and still do the pay raise next year. He believes some type of bonus should be done, even if it is reduced or modified.

Mr. McGlennon stated that he believes the modified compensation study should be done. He stated that it is necessary for the County to retain the employees it has. He stated that the County should plan on the pay raise in the budget, provided that economic factors allow it. That being said, he thinks some form of bonus is warranted. He stated that doing some form of bonus would send a clear message to the employees that the County recognizes their hard work, dedication, and loyalty. He stated that the extra holiday for December 31 should be on the bottom of the list of options. He stated that employees should be able to take that day if they so desire without having to shut down the whole County.

Ms. Jones questioned if there would be a savings to shutting down the County for the holiday.

Mr. Middaugh stated there really would not be a savings.

Ms. Jones stated that she really appreciated the discussion that had taken place around the table this evening. She stated that she wanted to recognize the taxpayers. She said that a lot of discussion had taken place about the employees of the County, but their salaries are paid for by the taxpayers. She stated that there are no guarantees in the private sector or public sector. She said she is supportive of the pay raise in the budget; however, that may require some changes in priorities in the budget. She stated that it is important to remember that the taxpayers are struggling as well and they are feeling the effects of higher gas prices and the increase in the price of goods.

Mr. McGlennon stated that Ms. Jones makes a valid point; however, after just paying his own real estate property taxes, it is important to note that there was a reduction in the real estate taxes. In that respect, the taxpayer is being recognized as well. He stated that the County's ability to hold the line on the real estate tax was an important step for the tax payers. He stated that he believes it is important to reward the employees though, for the employees to see that they are not always at the end of the line with someone else in front of them.

Mr. Kennedy stated that he does support doing the pay increase. He stated that the County has picked up the extra cost of the health care, instead of passing it on to the employees. He stated that he does not agree with the statement that the employees are being kept at the end of the line. He stated that these options should be put on hold until budget time to see what the Commonwealth is going to do and what costs are going to be passed down to the localities.

Mr. Icenhour stated that if the bonus was reduced to \$500/\$250, then the cost would be roughly \$400,000 which roughly equals the amount of under spending.

Mr. Middaugh stated that was correct.

Mr. Middaugh stated that he needs a definitive direction from the Board about what they want to do so that the right document can be drafted for their vote during the regular meeting.

Mr. McGlennon stated that in regard to the pay raise and the upcoming budget, nothing needs to be decided on tonight. He stated that he had heard agreement from the majority of the members to do a modified, or scaled-back, version of the compensation study. He also stated that he had heard from the majority of the members an agreement to do a bonus for the employees. Mr. McGlennon stated that he would have the County Administrator draft the resolution and then it can be discussed or modified during the meeting.

Ms. Luckam stated that the Constitutional Officers would need to be included as well. She stated that there are four Constitutional Officers, one General Registrar, and the County Attorney.

Mr. Kennedy asked if the Constitutional Officers would get a bonus from the Commonwealth if the Commonwealth decided to offer one.

Ms. Luckam stated that no, they would not get a bonus from the Commonwealth because they are not considered employees of the Commonwealth.

Mr. Kennedy stated that some of the Constitutional Officers get pay raises based on population, so did they not just get a pay raise based on the 2010 census numbers.

Ms. Luckam stated that yes, their salaries are based on population numbers, but she would have to go back and look to see which Constitutional Officers got pay raises and how much those raises were.

Mr. Middaugh stated that he had all the information and direction that he needed from the Board.

Mr. McGlennon recessed the Board at 6:20 p.m. for a brief break.

Mr. McGlennon reconvened the Board at 6:31 p.m.

#### 4. Closed Session

a. Consideration of the purchase of parcel(s) of property for public use and the disposition of public property pursuant to Section 2.2-3711(A)(3) of the Code of Virginia.

b. Consideration of a personnel matter(s), the appointment of individuals to County boards and/or commissions pursuant to Section 2.2-3711(A)(1) of the Code of Virginia

Ms. Jones made a motion to go in to Closed Session at 6:33 p.m.

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

#### **D. ADJOURNMENT**

Mr. Kale made a motion to certify the Closed Session at 6:52 p.m.

On a roll call vote, the vote was: AYE: Mr. Icenhour, Mr. Kale, Mr. Kennedy, Ms. Jones, Mr. McGlennon (5). 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) consideration of the purchase of parcel(s) of property for public use and the disposition of public property pursuant to Section 2.2-3711(A)(3) of the Code of Virginia; and ii) consideration of a personnel matter(s), the appointment of individuals to County boards and/or commissions pursuant to Section 2.2-3711 (A)(1) of the Code of Virginia.

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Robert C. Middaugh  
Clerk to the Board

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AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 11TH DAY OF DECEMBER 2012, 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**

John J. McGlennon, Chairman, Roberts District  
Mary K. Jones, Vice Chairman, Berkeley District  
James G. Kennedy, Stonehouse District  
James O. Icenhour, Jr., Powhatan District

Robert C. Middaugh, County Administrator  
Leo P. Rogers, County Attorney

**C. MOMENT OF SILENCE**

**D. PLEDGE OF ALLEGIANCE** - Tara Heatwole, a 12th grade student at Jamestown High School lead the Board and citizens in the Pledge of Allegiance.

**E. PRESENTATIONS**

1. The Comprehensive Annual Financial Report - Dixon Hughes Goodman, LLP

Ms. Leslie Roberts, representing Dixon Hughes Goodman, LLP, addressed the Board giving a summary of the financial report that was included in the Agenda Packet. She stated that once again, the County has received a clean audit opinion. She stated that there was one minor issue with a conflict of interest statement not being turned in in a timely manner.

2. Lifesaving Recognition - James City County Recreation Center

Mr. McGlennon read the Lifesaving Recognition Resolution, recognizing Mr. Mike Prelewicz and Ms. Gigi Robinson, for their lifesaving actions in aiding a citizen at the James City County Recreation Center.

3. Chairman's Award

a. Staff Recognition

Mr. McGlennon read the Chairman's Award recognizing the County's Stormwater Division staff.

**CHAIRMAN'S AWARD 2012**

- WHEREAS, sound stormwater management provides benefits to all citizens of James City County through protection of property as well as protection of the County's abundant natural resources and waterways; and
- WHEREAS, the General Services Department Stormwater Division responds to over 240 requests for assistance from citizens annually; and
- WHEREAS, the General Services Stormwater Division provides technical training and equipment to over 25 citizen volunteers who regularly collect and evaluate water quality conditions in the County's waterways; and
- WHEREAS, the General Services Stormwater Division outreach programs reach several thousand citizens annually with information on actions citizens can take to improve stormwater conditions in their neighborhoods and businesses; and
- WHEREAS, the General Services Stormwater Division seeks and secures funds to help neighborhoods, businesses and homeowners retrofit their property with measures, such as rain gardens, that improve water quality through better stormwater management; and
- WHEREAS, the General Services Stormwater Division is committed to excellence in operating and maintaining over 60 public stormwater management facilities; and
- WHEREAS, the General Services Stormwater Division, with assistance from the Stormwater Program (citizen) Advisory Committee, seeks to maintain and improve water quality and natural resource conditions in the County through the County's capital improvement program; and
- WHEREAS, the General Services Stormwater Division has sought public input and developing a common sense, practical approach to meeting very complex new state and federal water quality requirements, including the Chesapeake Bay Total Maximum Daily Load, that will improve and protect James City County waterways.

NOW, THEREFORE, BE IT RESOLVED that the Chairman of the Board of Supervisors of James City County, Virginia, does hereby recognize the outstanding services of

**Stormwater Division Staff**

**Fran Geissler  
Paul Cuomo  
Suzanne Dyba  
Pat Menichino  
JoAnna Ripley**

b. Citizen Recognition

Mr. McGlennon read the Chairman's Award recognizing Ms. Sarah Kadec's efforts and contributions to the County.

**CHAIRMAN'S AWARD 2012**

WHEREAS, Sarah Kadec saw a need to organize concerned individuals, homeowners associations, environmental groups and other organizations into one entity which would give citizens a stronger voice and identity with local government; and

WHEREAS, Sarah is a founding member the James City County Citizens' Coalition (J4C) to protect the quality of life and environment in James City County; and

WHEREAS, J4C has played an active role in conducting research on issues important to James City County and educating the community; and

WHEREAS, Sarah has attended and participated in numerous meetings over the years on specific development proposals, as well as larger projects and processes such as Zoning Ordinance and Comprehensive Plan updates, and area studies such as the Five Forks area study; and

WHEREAS, Sarah's participation has enhanced these meetings by helping to encourage citizen attendance and participation, by acting as a citizen monitor of the processes, by sharing information with the community and with County staff, and by consistently encouraging knowledge of all the facts, and good results; and

WHEREAS, Sarah has served as an on-going informal liaison with County staff, providing information on J4C forums and other events that help the County to be better informed of citizen meetings and community issues; and

WHEREAS, Sarah's efforts have helped to bring the community together.

NOW, THEREFORE, BE IT RESOLVED that the Chairman of the Board of Supervisors of James City County, Virginia, does hereby recognize

**SARAH KADEC**

and presents this award as a token of appreciation.

**F. PUBLIC COMMENT**

1. Ms. Sue Sadler, 9929 Mountain Berry Court, addressed the Board asking where is the honesty, transparency, and accountability from the Board to the citizens.

2. Mr. Keith Sadler, 9929 Mountain Berry Court, addressed the Board in regards to the fiscal responsibility of the Board. He stated that the goal of the coming year should be honesty, transparency, and accountability from the Board.

3. Ms. Marjorie Ponziani, 4852 Bristol Circle, addressed the Board in regards to the 2013 Legislative Agenda. She questioned the Board's recent fiscal spending and fiscal responsibility.

4. Mr. Keith White, 6309 Adams Hunt Drive, addressed the Board asking if a member of the Board will take a leadership position in the selection process of filling the vacant Powhatan Seat.

5. Mr. John Pottle, representing Crosswalk Community Church, 4233 Teakwood Drive, led the Board and citizens in an invocation.

6. Mr. Ed Oyer, 149 Indian Circle, stated that there has been an increase in heavy equipment traffic on Route 60, from Windy Hill to Ft. Eustis. He also stated that he would like to echo the Chairman's words of recognition for Ms. Sarah Kadec.

7. Mr. Jeff Ryer, Merrimac Trail, thanked the Board for closing the Recreation Center on Election Day. He also stated that he would like to see the Board adopt a policy that would prohibit the naming of public assets after living individuals.

#### **G. BOARD REQUESTS AND DIRECTIVES**

Mr. McGlennon welcomed Mr. Kennedy back after his recent health issues.

Mr. Kennedy stated that he wanted to clarify some statements from the last meeting. He stated that he supports the reuse of James Blair as a middle school. He stated that he believes in the new Superintendent of Schools, and that he deserves to make a presentation to the Board and to be heard in regards to what he wants to do for the school system.

Ms. Jones stated that she supports the reuse of James Blair as a middle school as well. She stated that the Board has always been very clear in their stance, so she is not sure why there seems to be an ongoing question in the press. She stated that in regards to the citizen's comment about unfunded mandates, Senator Norment and Delegate Pogge both cautioned the County about their spending. She stated that the legislators were adamant about the uncertainty of the economy and how that would affect the State budget and budget cuts. She stated that during her conversation with Governor McDonnell, he stated that the State is looking at the unfunded mandates and hoping not to pass anymore down to the localities.

Mr. Icenhour stated that he attended the Virginia Municipal League (VML) Finance Forum with Mr. Middaugh and Mr. John McDonald. The materials from the forum will be provided to all the Board members.

#### **H. CONSENT CALENDAR**

Ms. Jones made a motion to approve the Consent Calendar.

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

1. Minutes -
  - a. November 27, 2012, Regular Meeting

2. Grant Award - Virginia Department of Environmental Quality - \$14,755

**RESOLUTION**

**GRANT AWARD - VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY - \$14,755**

WHEREAS, the Department of Environmental Quality has awarded James City County a Litter Prevention and Recycling Grant in the amount of \$14,755.

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:

Litter Control Grant \$14,755

Expenditure:

Litter Control Grant \$14,755

3. Lifesaving Recognition - James City County Recreation Center

**RESOLUTION**

**LIFESAVING RECOGNITION – JAMES CITY COUNTY RECREATION CENTER**

WHEREAS, a patron suffered a sudden cardiac arrest on November 15, 2012, while exercising at the James City County Recreation Center; and

WHEREAS, James City County Recreation Center staff found him unresponsive without a pulse or respirations; and

WHEREAS, Mr. Mike Prelewicz and Ms. Gerenda (Gigi) Robinson together performed Cardiopulmonary Resuscitation (CPR) in conjunction with the use of an Automated External Defibrillator (AED); and

WHEREAS, their quick efforts combined with EMS treatment resulted in a successful transportation of the individual to the hospital for further treatment.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby recognizes and thanks Mr. Prelewicz and Ms. Robinson for their heroic efforts in saving the life of a James City County citizen at the James City County Recreation Center.

4. Establishment of a Part-time Regular Custodial Position

**RESOLUTION**

**ESTABLISHMENT OF A PART-TIME REGULAR CUSTODIAL POSITION**

WHEREAS, the James City County Department of General Services desires to provide outstanding custodial services to all County facilities; and

WHEREAS, it has been determined that a part-time permanent custodial position is needed to maintain the Law Enforcement Center.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby establishes one part-time permanent custodial position in the Department of General Services effective December 16, 2012.

**I. PUBLIC HEARINGS**

1. Case No. SUP-0015-2012. Stewart Family Subdivision

Mr. Luke Vinciguerra, Planner, addressed the Board giving a summary of the staff report included in the Agenda Packet.

Mr. McGlennon asked if the Board had questions for staff.

As there were none, Mr. McGlennon opened the Public Hearing.

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

Mr. Kennedy made a motion to approve the resolution.

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

**RESOLUTION**

**CASE NO. SUP-0015-2012. STEWART FAMILY SUBDIVISION**

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a Special Use Permit (SUP) process; and

WHEREAS, Ms. Tracie Woodward has requested an SUP to allow for a family subdivision with two new lots less than three acres in size in an A-1, General Agricultural, District, located at 9484 Richmond Road, further identified as James City County Real Estate Tax Map Parcel No. 0240100042; and

WHEREAS, a public hearing was advertised, adjoining property owners notified, and a hearing conducted on Case No. SUP-0015-2012; and

WHEREAS, the Board of Supervisors is of the opinion that the SUP to allow for the above-mentioned family subdivision should be approved.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. SUP-0015-2012, as described herein, pursuant to the following conditions:

1. **Plan.** This SUP is valid for a family subdivision for the creation of no more than two new lots and one parent lot with each lot being no less than one acre in size as generally shown on the conceptual plat submitted with this application. The final number of lots shall be determined by the Director of Planning subject to a review of septic drainfield information.
2. **Access.** Only one entrance serving all lots through a shared driveway shall be allowed onto Richmond Road. Access shall be from an all-weather surface of rock, stone, or gravel, with a minimum depth of three inches and a minimum width of ten feet per Sec. 19-17 of the Subdivision Ordinance.
3. **Commencement.** Final subdivision approval must be received from the County within 12 months from the issuance of this SUP or the permit shall become void.
4. **Severance Clause.** The SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

2. AFD-7-86-1-2012. Mill Creek Agricultural and Forestal District Addition

Mr. Jason Purse, Senior Planner II, addressed the Board giving a summary of the staff report included in the Agenda Packet.

Mr. McGlennon asked if the Board had questions for staff.

As there were none, Mr. McGlennon opened the Public Hearing.

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

Mr. Kennedy made a motion to approve the Ordinance.

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

**ORDINANCE NO. \_\_\_\_\_**

AFD-7-86-1-2012. MILL CREEK AFD ADDITION (8700 BARNES ROAD)

WHEREAS, a request has been filed with the Board of Supervisors of James City County, Virginia, (the "Board of Supervisors") to add 104 acres of land owned by Barnes Road LLC located at 8700

Barnes Road and identified as James City County Real Estate Tax Map No. 1010100037 to AFD 7-86, which is generally known as the 3,361-acre "Mill Creek Agricultural and Forestal District" (the "Application"); and

WHEREAS, at its October 18, 2012, meeting the Agricultural and Forestal District (AFD) Advisory Committee voted 8-0 to recommend approval of the Application; and

WHEREAS, a public hearing was advertised and held by the Planning Commission (the "Commission") at its November 7, 2012, meeting, pursuant to Section 15.2-4314 of the Code of Virginia, 1950, as amended (the "Virginia Code"), after which the Commission voted 6-0 to recommend approval of the Application; and

WHEREAS, pursuant to Section 15.2-4214 of the Virginia Code, a public hearing was advertised and held by the Board of Supervisors.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors, James City County, Virginia, hereby adds 104 acres owned by Barnes Road LLC, as referenced herein to the 3,361 acres of the Mill Creek Agricultural and Forestal District, which is scheduled to expire October 31, 2014, with the following conditions:

1. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of communications towers and related equipment provided: a) the subdivision does not result in the total acreage of the District to drop below 200 acres; and b) the subdivision does not result in a remnant parcel of less than 25 acres.
2. No land within the AFD may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land within the AFD, may be withdrawn from the District in accordance with the Board of Supervisors' Policy Governing the Withdrawals of Property from AFDs, adopted September 28, 2010, as amended.
3. No special use permit shall be issued except for agricultural, forestal, or other activities and uses consistent with the Virginia Code, Section 15.2-4301 et. seq., which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue special use permits for wireless communications facilities on AFD properties, which are in accordance with the County's policies and ordinances regulating such facilities.

3. Case No. SUP-0012-2012. Toano Middle School Parking Improvements

Mr. Jose Riberio, Senior Planner, addressed the Board giving a summary of the staff report included in the Agenda Packet.

Mr. Kennedy stated that an expansion of this parking lot was done in 2007/2008.

Mr. Riberio stated that was correct, expansion was done to the bus parking lot.

Mr. Kennedy asked how do we know that these improvements are going to improve what has already been improved before. He stated that new addition done in 2007/2008 never completely solved the issues.

Mr. Riberio stated that the current circular loop is not sufficient to handle the volume of cars dropping off children. He stated that the proposed layout of the parking lot would allow for a safer flow of vehicles in and out of the parking lot.

Mr. Kennedy asked if the bike path would cut in to any of the current sidewalk areas.

Mr. Riberio stated that he did not believe so. He stated that the turn lane is being widened to accommodate the bike path.

Mr. McGlennon said that in the staff report it is stated that the current drop-off loop would be used on rare occasions. He stated that he is concerned that this will cause confusion.

Mr. Riberio stated that the limited situations where the current drop-off loop would be utilized would be in cases of children who have a physical limitation or injury who need closer access to the entrance of the school.

Mr. Kennedy stated that he would like more information on the issue of the speed limit on the stretch of Richmond Road in front of the school. He stated that it is a concern for the safety of the children outside this school.

As there were no more questions for staff, Mr. McGlennon opened the Public Hearing.

1. Mr. Graham Cornson, from AES representing the Schools, addressed Mr. Kennedy's question stating that yes some of the sidewalk will have to be removed to allow for the expansion of the bike path.

Mr. Kennedy asked if impervious pavers were considered for the project.

Mr. Cornson stated they were considered; however, after testing was done, it was determined that the soil could not support the impervious pavers.

Mr. McGlennon asked for clarification on the current drop-off loop.

Mr. Cornson stated that the area will be heavily signed and will only be utilized in extraordinary cases and mainly by emergency vehicles.

Mr. Icenhour asked if the school has a plan in place to help direct the flow of traffic in the beginning after the project is completed.

Mr. Cornson stated that in regard to their plans, he really cannot speak for the schools. He stated that the signs will be visible as soon as you enter the parking lot.

Mr. Kennedy stated that his concern is that when projects are planned, they need to completely solve the problem.

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

Mr. Icenhour made a motion to approve the resolution.

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

## RESOLUTION

### CASE NO. SUP-0012-2012. TOANO MIDDLE SCHOOL PARKING LOT IMPROVEMENTS

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a Special Use Permit (the "SUP") process; and

WHEREAS, Mr. Bruce Abbott has applied for an SUP to allow the construction of a new student drop-off area, 30 parking spaces, and other minor improvements to the site; and

WHEREAS, the proposed development is shown on a plan titled "Master Plan Toano Middle School Williamsburg/James City County City County Schools" dated September 21, 2012, and revised on October 23, 2012 and November 15, 2012; and

WHEREAS, the property is located at 7817 Richmond Road and can be further identified as James City County Real Estate Tax Map Parcel No. 1240100051; and

WHEREAS, the Planning Commission, following its public hearing on November 7, 2012, voted 6-0 to recommend approval of this application; and

WHEREAS, the Board of Supervisors of James City County, Virginia, finds this use to be consistent with the 2009 Comprehensive Plan Use Map designation for this site.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-0012-2012 as described herein with the following conditions:

1. **Master Plan.** This SUP shall be valid for a proposed new student drop-off area, additional off-street parking spaces, and other minor improvements to the site located at 7817 Richmond Road and further identified as James City County Real Estate Tax Map No. 1240100051 (the "Property"). Development of the Property shall occur generally as shown on the exhibit drawn by AES Consulting Engineers, entitled "Master Plan Toano Middle School Williamsburg/James City County Schools" dated September 21, 2012, and revised on October 23, 2012, and November 15, 2012 (the "Master Plan"), with only changes thereto that the Planning Director determines do not change the basic concept or character of the development.
2. **Water Conservation.** The Williamsburg-James City County School Board shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority (the "JCSA") prior to final site plan approval. The standards shall include, but shall not be limited to such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials including the use of drought resistant native and other adopted low water use landscaping materials and warm season turf where appropriate and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.

3. **Lighting.** All new exterior light fixtures, including building lighting, on the Property shall have recessed fixtures with no lens, bulb, or globe extending below the casing. In addition, a lighting plan shall be submitted to and approved by the Planning Director or his designee, who indicates no glare outside the property lines unless otherwise approved by the Planning Director. All light poles shall not exceed 20 feet in height unless otherwise approved by the Planning Director prior to final site plan approval. "Glare" shall be defined as more than 0.1 foot-candle at the boundary of the Property or any direct view of the lighting source from the adjoining properties.
4. **Commencement of Construction.** If construction has not commenced on this project within 36 months from the issuance of an SUP, the SUP shall become void.
5. **Severance Clause.** This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

4. Case No. SUP-0013-2012. King of Glory Church Building Expansion

Mr. Jose Riberio, Senior Planner, addressed the Board giving a summary of the staff report included in the Agenda Packet.

Mr. McGlennon asked if Phase 2 of the expansion is anticipated to have an effect on traffic.

Mr. Riberio stated that Phase 2 involves the expansion of the sanctuary, so traffic impact is probable.

Mr. McGlennon asked for clarification on the use of the proposed expanded space. He questioned if it will be utilized by groups that already hold meetings at the church.

Mr. Riberio stated the groups currently meet at the church. He stated that the larger groups just cannot meet at the same time, nor is there a designated meeting space for the larger groups to utilize.

As there were no more questions for staff, Mr. McGlennon opened the Public Hearing

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

Ms. Jones made a motion to approve the resolution.

Mr. McGlennon stated that as Phase 2 comes forward, a cumulative impact on traffic conditions needs to be brought forward as well.

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

**RESOLUTION**

**CASE NO. SUP-0013-2012. KING OF GLORY LUTHERAN CHURCH BUILDING EXPANSION**

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a Special Use Permit (the "SUP") process; and

WHEREAS, Mr. Matthew Connolly has applied for an SUP to allow the construction of a 12,500-foot building; and

WHEREAS, the proposed development is shown on a plan titled "Master Plan for King of Glory-Phase 1 Plan " dated October 14, 2012, and revised on October 22, 2012; and

WHEREAS, the property is located at 4897 Longhill Road and can be further identified as James City County Real Estate Tax Map Parcel No. 3240100033; and

WHEREAS, the Planning Commission, following its public hearing on November 7, 2012, voted 6-0 to recommend approval of this application; and

WHEREAS, the Board of Supervisors of James City County, Virginia, finds this use to be consistent with the 2009 Comprehensive Plan Use Map designation for this site.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-0013-2012 as described herein with the following conditions:

1. **Master Plan.** This SUP shall be valid for a proposed 12,500-square-foot building expansion and other minor improvements to the site located at 4897 Longhill Road and further identified as James City County Real Estate Tax Map No. 3240100033 (the "Property"). Development of the Property shall occur generally as shown on the exhibit drawn by Mr. Mel Grewe, entitled "Master Plan for King of Glory-Phase 1 Plan", dated October 14, 2012, and revised on October 22, 2012, with only changes thereto that the Planning Director determines do not change the basic concept or character of the development.
2. **Lighting.** All new exterior light fixtures, including building lighting, on the Property shall have recessed fixtures with no lens, bulb, or globe extending below the casing. In addition, a lighting plan shall be submitted to and approved by the Planning Director or his designee, who indicates no glare outside the property lines unless otherwise approved by the Planning Director. All light poles shall not exceed 20 feet in height unless otherwise approved by the Planning Director prior to final site plan approval. "Glare" shall be defined as more than 0.1 foot-candle at the boundary of the Property or any direct view of the lighting source from the adjoining properties.
3. **Architectural Review.** Prior to final site plan approval, architectural elevations, building materials, and colors shall be submitted to the Planning Director or his designee for review and approval. The purpose of this condition is to ensure that the proposed structure on the Property is uniform and compatible in terms of design, scale, materials, and colors with other structures on the site.

4. **Commencement of Construction.** If construction has not commenced on this project within 36 months from the issuance of an SUP, the SUP shall become void.
5. **Severance Clause.** This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

5. Case No. ZO-0004-2012. Soil Stockpile Ordinance

Mr. Jason Purse, Senior Planner II, addressed the Board giving a summary of the staff report included in the Agenda Packet.

As there were no questions for staff, Mr. McGlennon opened the Public Hearing.

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

Mr. Icenhour made a motion to approve the ordinance.

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

6. Zoning Ordinance Update

- a. Case No. ZO-0006-2012. Floodplain Housekeeping
- b. Case No. ZO-0009-2012. Procedural/Submittal Requirements and Definitions
- c. Case No. ZO-0007-2012. Research and Technology
- d. Case No. ZO-0008-2012. Private Streets Housekeeping

Mr. Jose Riberio, Senior Planner, addressed the Board giving a summary of the staff report included in the Agenda Packet.

As there were no questions for staff, Mr. McGlennon opened the Public Hearing.

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

Mr. Kennedy made a motion to approve all of the Ordinances included in the Zoning Ordinance Update.

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

7. Case No. SO-0001-2011. Subdivision Ordinance

Ms. Ellen Cook, Senior Planner II, addressed the Board giving a summary of the staff report included in the Agenda Packet.

As there were no questions for staff, Mr. McGlennon opened the Public Hearing.

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

Mr. Kennedy made a motion to approve the Ordinance.

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

## **J. BOARD CONSIDERATIONS**

### **1. Regional Business Incubator**

Mr. Russell Seymour, Director of Economic Development Department, addressed the Board giving a summary of the memorandum included in the Agenda Packet.

Mr. Icenhour asked for clarification on the Business, Professional and Occupational License (BPOL) taxes from the graduating businesses and about the time frame that those taxes would be going back into the incubator.

Mr. Seymour stated that it is a period of five years.

Mr. Icenhour stated that the proposal has been approved by the Economic Development Authorities (EDA) of the participating localities in the region; however, he questioned if the proposal had been voted on the localities themselves.

Mr. Seymour stated that the proposal has gone before the York County Board of Supervisors and was approved, and the City of Williamsburg will be voting on the proposal on Thursday.

Mr. McGlennon stated that if a graduating business does not locate in one of the participating localities then they have to pay back the monies that were invested in them by the incubator. He questioned what happens if there is a change in location during the five-year period after graduation.

Mr. Seymour stated if they changed location, but stayed in the region, then their five-year period would not start over. However, if the business was to move outside of the three regions involved with the incubator, then the business would be required to pay back a portion of the monies that were invested in them by the incubator.

Mr. Kennedy stated that individual business sales tax information is confidential information and cannot be obtained from the Commissioner of the Revenue. He questioned how the incubator would get this information, and how the information would remain confidential.

Mr. Seymour stated that as part of the contract to join the incubator, the business would have to sign a release of information for their sales tax information.

Mr. Kennedy asked who is going to audit all three jurisdictions.

Mr. Seymour stated that the County will do its own internal audit with the EDA. He stated that it is something that will have to be worked out with the other localities.

Mr. Kennedy stated that he would like a report back on how the localities are going to hold each other accountable.

Mr. Icenhour asked what the protocol is if this regional incubator does not work.

Mr. Seymour stated that then the individual localities would go back to operating as individual incubators.

Mr. Icenhour made a motion to approve the resolution.

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

**RESOLUTION**

**SUPPORT FOR A REGIONAL BUSINESS INCUBATOR TO BE ESTABLISHED JOINTLY BY**

**THE ECONOMIC DEVELOPMENT AUTHORITIES OF JAMES CITY COUNTY, YORK**

**COUNTY, AND THE CITY OF WILLIAMSBURG AND PLEDGING CERTAIN FUTURE TAX**

**REVENUES IN SUPPORT OF THE INCUBATOR**

WHEREAS, the Economic Development Authorities (EDA) of James City County, York County, and the City of Williamsburg (the Authorities) have entered into a Memorandum of Understanding regarding the creation of a business incubator in a facility located in and owned by James City County; and

WHEREAS, it is the intent of the Authorities to provide a cost-effective business environment for new businesses to establish and locate within the facility pursuant to lease agreements with normal terms of three years, subject, however to negotiation; and

WHEREAS, the Board desires to support the cost of the operation of the incubator by future appropriations of all or a portion of business and professional occupancy license taxes, machinery and tools taxes, sales taxes, and business personal property taxes received from any business graduating from the incubator and locating and continuing to operate in James City County.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves and endorses the concept of the regional business incubator to be established by the Authorities outlined in the referenced Memorandum of Understanding.

BE IT FURTHER RESOLVED, that the Board, subject to annual appropriations, shall annually remit to the EDA of James City County an amount equal to any business and professional occupational license taxes, machinery, and tools taxes, sales taxes, and business personal property taxes (but not real estate taxes) received from any business which shall have graduated from the business incubator and thereafter located in James City County, such payments to continue for a maximum period of five fiscal years, plus any partial fiscal year should the business graduate from the incubator during the fiscal year, not to exceed, however, an amount necessary to fully fund the operation of the incubator in any fiscal year properly apportioned between the governing bodies of James City County, York County, and the City of Williamsburg.

2. 2013 Legislative Program

Mr. Leo Rogers, County Attorney, addressed the Board giving a summary of the memorandum included in the Agenda Packet. He stated that there was an amendment made to the Legislative Program, at Mr. Kennedy's request, Item 1-2 which would allow for the publication of public hearing notices through the County website and online avenues, instead of only publishing through published newspapers.

Mr. Kennedy made a motion to approve the resolution.

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

**RESOLUTION**

**2013 LEGISLATIVE PROGRAM**

WHEREAS, James City County has developed a Legislative Program for the consideration of the 2013 session of the General Assembly which outlines certain legislative policies which the Board believes ought to guide the General Assembly and proposes certain legislation that would benefit the County; and

WHEREAS, the Board has carefully considered its Legislative Program and believes that it is in the best interests of the citizens of James City County.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the County's 2013 Legislative Program and commends it to the County's representatives in the General Assembly for action.

BE IT FURTHER RESOLVED that a copy of the County's 2013 Legislative Program be forwarded to the County's elected representatives to the General Assembly.

3. Powhatan Seat Vacancy Discussion

Mr. Middaugh addressed the Board stating that this is the time for the Board to discuss how they plan to proceed in the selection process. He stated that the interview questions have been given to the Board members and asked that they approve the questions so that they may be distributed to the candidates. He also stated that it would helpful if the Board would choose the date for their next consideration.

Mr. McGlennon asked the members if the questions were acceptable with the revision of the one question to be more along the lines of a general budgetary question.

The other Board members concurred.

Mr. McGlennon instructed Mr. Middaugh to make the revision to the question and then distribute the questions to the applicants.

Ms. Jones suggested next Tuesday, December 18, 2012, at 4:30 p.m. as the date and time for the meeting to discuss the candidates and potentially vote.

The other Board members concurred with the date and time proposed.

Ms. Jones made a motion to amend the Board's calendar to add the meeting on Tuesday, December 18, 2012.

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

**K. PUBLIC COMMENT**

1. Mr. Ed Oyer, 139 Indian Circle, addressed the Board in regards to the pay and benefits study proposed by the County Administrator. He wished the Board and citizens a Merry Christmas and a Happy New Year.

2. Mr. Keith White, 6309 Adams Hunt Drive, addressed the Board in regards to the Powhatan Seat Vacancy. He questioned if there was a process that could be implemented to alleviate the need for an appointed supervisor.

**L. REPORTS OF THE COUNTY ADMINISTRATOR**

Mr. Middaugh stated that the Police Department received the 2012 John T. Hanna award for Outstanding Achievement in Youth Traffic Safety excellence in Hampton Roads on December 4 in Norfolk. The award recognizes the department's programs educating youth and spreading the message on the importance of youth traffic safety.

He stated that the General Services Department was granted the VaCO 2012 Go Green Award for the work they have done on the County buildings implementing policies and practices for reducing energy consumption and the carbon footprint.

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

At 8:47 p.m., Mr. McGlennon recessed the Board of Supervisors to conduct the JCSA Board of Directors Meeting.

At 8:50 p.m., Mr. McGlennon recessed the Board of Supervisors for a break.

**N. CLOSED SESSION**

At 8:52 pm, the Board entered Closed Session.

At 9:28 pm, Mr. Kennedy made a motion to certify the Closed Session.

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

Mr. Icenhour made a motion to appoint Ms. Nicole Jennings and Mr. Greg Lilly to the Williamsburg Area Arts Commission.

On a roll call vote, the vote was: AYE: Mr. Icenhour, Mr. Kale, Mr. Kennedy, Ms. Jones (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) consideration of the purchase of parcel(s) of property for public use pursuant to Section 2.2-3711(A)(3) of the Code of Virginia; and ii) consideration of a personnel matter(s), the appointment of individuals to County boards and/or commissions pursuant to Section 2.2-3711(A)(1) of the Code of Virginia.

**O. ADJOURNMENT** – until 4:30 p.m. on December 12, 2012, for Powhatan Seat Interviews

At 9:30 p.m., Ms. Jones made a motion to adjourn.

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

At 9:31 p.m., Mr. McGlennon adjourned the Board.

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Robert C. Middaugh  
Clerk to the Board

**AT A SPECIAL MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 12TH DAY OF DECEMBER 2012, AT 3:30 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD WORK SESSION ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.**

**A. CALL TO ORDER**

**B. ROLL CALL**

John J. McGlennon, Chairman, Roberts District  
Mary K. Jones, Vice Chairman, Berkeley District  
James G. Kennedy, Stonehouse District  
James O. Icenhour, Jr., Jamestown District

Robert C. Middaugh, County Administrator  
Leo P. Rogers, County Attorney

**C. INTERVIEWS FOR VACANT POWHATAN SEAT**

The Board of Supervisors interviewed six candidates who applied to fill the vacant Powhatan District Supervisor seat on an interim basis:

1. Mr. M. Anderson Bradshaw
2. Mr. Richard Krapf
3. Mr. Glenn Carlson
4. Dr. Melinda Lincoln-Richardson
5. Mr. Michael Hipple
6. Mr. Steven Ward

At the conclusion of the interviews, the Board agreed to discuss the applicants and make a decision at a meeting on Tuesday, December 18, 2012.

Mr. McGlennon encouraged citizens to communicate with the Board in regards to the applicants for the Powhatan Seat Vacancy.

Ms. Jones stated that she would like a Public Comment Section added to the agenda for the December 18<sup>th</sup> meeting. She stated that this Public Comment would only be for discussion of the applicants and the standard three-minute rule should apply. She stated that this would give citizens the opportunity to comment on the applicants for the Powhatan Seat.

The rest of the Board stated its agreement with Ms. Jones.

Mr. McGlennon asked staff to notify the citizens that there would be an opportunity for public comment.

Mr. Middaugh stated that a press release would go out tomorrow and the information would also be available on the County website.

Mr. McGlennon asked if there was any other business to discuss prior to adjourning.

Mr. Kennedy stated that after the Board meeting last night, he had some concerns over the Toano Middle School Parking Lot Improvements that was voted on. He stated that he went back and looked at the information from several years ago, and in fact the parking lot was improved to help traffic flow and to add more parking spaces. He stated that he was not looking to change his vote; however, he stated that these plans need to be looked at more closely since this was just done five years ago. He stated that he asked Mr. Middaugh to look into it more and to get back in touch with him.

Mr. Middaugh stated that he had put in a call to a representative of the school and was waiting to hear back from them.

**D. ADJOURNMENT** - 4:30 p.m. on Tuesday, December 18, 2012

Mr. Icenhour made a motion to adjourn until Tuesday, December 18, 2012, at 4:30 p.m.

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

At 6:05 p.m., Mr. McGlennon adjourned the Board.

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Robert C. Middaugh  
Clerk to the Board

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 18TH DAY OF DECEMBER 2012, AT 4:30 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD WORK SESSION ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

**A. CALL TO ORDER**

**B. ROLL CALL**

John J. McGlennon, Chairman, Roberts District  
Mary K. Jones, Vice Chairman, Berkeley District  
James G. Kennedy, Stonehouse District  
James O. Icenhour, Jr., Powhatan District

Robert C. Middaugh, County Administrator  
Leo P. Rogers, County Attorney

Mr. McGlennon led the Board and citizens in a moment of silence in honor of the tragedy at Sandy Hook Elementary School in Newtown, Connecticut, followed by the Pledge of Allegiance.

**C. PUBLIC COMMENT - POWHATAN SEAT APPLICANTS**

1. Rev. Mark Morrow, 124 Ewell Place, addressed the Board in support of Mr. Michael Hipple. He stated the Mr. Hipple has served on the board of Crosswalk Community Church, which functions in many ways like the Board of Supervisors.

2. Mr. Keith White, 6309 Adams Hunt Drive, addressed the Board giving his opinion on each of the applicants. He requested that the Board seriously consider Mr. Steve Ward for the appointment.

3. Mr. Tom Hitchens, 350 Thompson Lane, addressed the Board in support of Mr. Steve Ward for the appointment.

As no one else wished to speak, Mr. McGlennon closed the Public Comment Session.

**D. DISCUSSION OF VACANT POWHATAN SEAT**

Ms. Jones thanked all of the applicants for taking the time to apply and for their willingness to serve the community and the Powhatan District.

Mr. Kennedy thanked all of the applicants for applying, and stated that he believes that the Board has a strong pool of applicants.

Mr. McGlennon thanked the applicants for submitting their credentials and for coming in for the interviews and the discussion with the Board.

Ms. Jones thanked the citizens for taking the time to email and communicate with the Board in regard to their thoughts about the current applicants.

Mr. Icenhour thanked the applicants for stepping forward and their willingness to serve.

Ms. Jones stated that she strongly supports two candidates, Mr. Michael Hipple and Mr. Richard Krapf. Ms. Jones nominated Mr. Michael Hipple.

Mr. Kennedy stated that he has a level of comfort with Mr. Hipple and Mr. Krapf, and he stated he was very impressed with Mr. Steve Ward.

Mr. McGlennon stated that he would be supportive of Mr. Bradshaw because he has no intention of running for the Powhatan Seat in the November election.

Mr. Icenhour stated that he does not feel it is appropriate to dwell on the strengths or weaknesses of the applicants during a live, televised broadcast. He stated that is why the Board goes into Closed Session when making appointments to Commissions and Committees. He also stated that he does not feel comfortable with giving the advantage of the incumbency to the candidates who plan to run for the seat in the November election. He stated that he could support Mr. Bradshaw.

Mr. Kennedy stated that he likes this appointment process because it is inclusive of the citizens that the appointee will represent. He stated that he is not as concerned about the applicants who are intending to run in the election. He said that he does not view it as the Board giving the applicant the incumbency, and he stated that he has lost an election as an incumbent. He stated that if the Board could not agree on Mr. Hipple or Mr. Krapf, then he would be comfortable nominating Mr. Ward as an alternative candidate.

Mr. McGlennon stated that there was a motion on the floor to fill the vacancy with Mr. Michael Hipple.

On a roll call vote: AYE: Ms. Jones, Mr. Kennedy (2). NAY: Mr. Icenhour, Mr. McGlennon (2).

Mr. McGlennon stated that he did not see much point in nominating Mr. Bradshaw since everyone has been pretty clear about their opinions and how they would vote.

Ms. Jones stated that in regards to Mr. Krapf, she does not have any concerns about him continuing to stay on the Planning Commission if he receives the appointment to the Board.

Mr. McGlennon stated that he disagrees with Mr. Krapf on some very critical, fundamental issues, and for that reason, Mr. Krapf would not be his choice for the appointment.

Mr. Kennedy stated that he does not know that the Board will be able to come to a decision since it appears that the members of the Board are looking at candidates that they can agree with politically and fundamentally.

Mr. Kennedy made a motion to fill the vacancy with Mr. Richard Krapf.

On a roll call vote: AYE: Ms. Jones, Mr. Kennedy (2). NAY: Mr. Icenhour, Mr. McGlennon (2).

Mr. Kennedy made a motion to fill the vacancy with Mr. Steven Ward.

On a roll call vote: AYE: Ms. Jones, Mr. Kennedy (2). NAY: Mr. Icenhour, Mr. McGlennon (2).

Mr. Kennedy asked if there was a candidate that anyone was going to agree too.

Mr. McGlennon stated that it seems obvious that there is not.

Mr. Kennedy stated that it is a shame that the Board cannot come to decision and that the decision is going to be taken out of the public eye and handed over to the judges.

Mr. Kennedy stated that he would put Mr. Glen Carlson forward, but he did not think it would go anywhere. He stated that he does not believe that Dr. Lincoln-Richardson is ready for this position based on the amount of time that she has been here. He stated that it is unfortunate that the Board is sending the message to the citizens that the Board is unwilling to compromise, that the Board cannot get along.

Mr. Middaugh asked the Board for guidance on moving forward. He asked if the Board wanted staff to go ahead and communicate with the judges, or would the Board rather wait and let the time run out.

Mr. Kennedy stated that he would like some clarification in regard to communicating with the judges. He asked if the Board is permitted to write the judges and declare their support of individual candidates.

Ms. Jones asked if citizens were permitted to write to the judges in support of individual candidates.

Mr. Kennedy stated that if citizens are permitted to write the judges, then he would like that process to be published and communicated to the citizens. Mr. Kennedy asked Mr. Rogers who the judges are in the 9th Judicial Circuit.

Mr. Rogers stated that the judges are Judge Tommy Hoover in New Kent, Judge Bruce Long in Gloucester, Judge Richard Atlee in York, and Judge Mike McGinty in Williamsburg-James City. Mr. Rogers stated that there is nothing prohibiting citizens from writing to the judges; however, he stated that he would prefer to let the judges decide how they would like to handle citizen comments.

Mr. Kennedy stated that he would like to keep the process open until the 28th of December in case a Supervisor decides to change their mind. In that time, Mr. Kennedy encouraged citizens to write to the Board.

Ms. Jones stated that she was disappointed that the Board could not come together and make a decision. She stated that the citizens had communicated their support for three of the candidates, and she appreciated their communications.

Mr. McGlennon stated that he was in agreement with keeping the process open until the time expired on December 28, 2012.

Ms. Jones stated that she wanted to send thoughts and condolences to the community of Newtown, Connecticut during this time of tragedy. She also wished all the citizens of James City County Happy Holidays.

Mr. Icenhour asked Mr. Middaugh in this time of tragedy in Connecticut there has been a police presence in our schools this week but he would ask that a police presence in our elementary schools be considered and continued.

Mr. Kennedy stated that he is disappointed in the Board's inability to make a decision, and that it sends a message to the citizens that the Board will not be able to get along. He stated that the Board should be able to be better than this.

Mr. McGlennon stated that this process and this vote are not a vote that lends itself to compromise. He stated that this does not mean that the Board is unable to compromise going forward.

**E. ADJOURNMENT** - 4:00 p.m. on Wednesday, January 2, 2013 for the Organizational Meeting

At 5:30 p.m., Mr. Icenhour made a motion to adjourn.

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

At 5:31 p.m., Mr. McGlennon adjourned the Board.

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Robert C. Middaugh  
Clerk to the Board

**MEMORANDUM COVER**

**Subject:** Contract Award – Mid County Park Kidsburg Playground – \$851,786

**Action Requested:** Shall the Board of Supervisors approve the resolution to award the contract for the purchase and installation of the Kidsburg Playground to Cunningham Recreation?

**Summary:** The County is beginning improvements to Mid County Park Kidsburg Playground as previously approved by the Board of Supervisors through Case No. SUP-003-2011 on June 28, 2011.

Proposed improvements under this contract include the purchase and installation of a new Kidsburg Playground structure. A Request for Proposals (RFP) for design of the new Kidsburg Playground was released in April 2012 and eight vendors responded. Cunningham Recreation was selected to work with staff to complete the final design of the new Kidsburg Playground. Public input of the design was solicited through the County’s Facebook and website pages, suggestion boxes, and at a public meeting with the Parks and Recreation Advisory Commission. The final design incorporates the existing Jamestown theme to include a new ship, retains separate play areas by age group, and expands shade and seating areas.

Staff recommends approval of the attached resolution.

**Fiscal Impact:** \$851,786 will be spent from the County Capital Improvements Budget.

**FMS Approval, if Applicable:** Yes  No

**Assistant County Administrator**

Doug Powell \_\_\_\_\_

**County Administrator**

Robert C. Middaugh \_\_\_\_\_

**Attachments:**

- 1. Memorandum
- 2. Resolution
- 3. Drawing

**Agenda Item No.:** H-2

**Date:** January 8, 2013

## M E M O R A N D U M

DATE: January 8, 2013  
TO: The Board of Supervisors  
FROM: John H. Carnifax, Director of Parks and Recreation  
SUBJECT: Contract Award – Mid County Park Kidsburg Playground – \$851,786

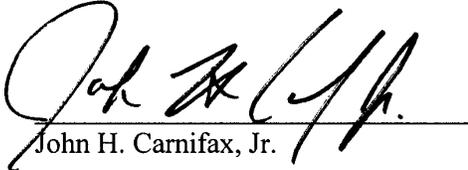
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The County is beginning improvements to Mid County Park Kidsburg Playground as previously approved by the Board of Supervisors through Case No. SUP-003-2011 on June 28, 2011.

Proposed improvements under this contract include the purchase and installation of a new Kidsburg Playground structure. A Request for Proposals (RFP) for design of the new Kidsburg Playground was released in April 2012 and eight vendors responded. Cunningham Recreation was selected to work with staff to complete the final design of the new Kidsburg Playground. Public input of the design was solicited through the County's Facebook and website pages, suggestion boxes, and at a public meeting with the Parks and Recreation Advisory Commission. The final design incorporates the existing Jamestown theme to include a new ship, retains separate play areas by age group, and expands shade and seating areas.

Cunningham Recreation has an exemplary reputation in the State for providing quality playgrounds and technical support. The contract amount is \$ 851,786 and funds are available as previously appropriated by the Board of Supervisors. The attached resolution would authorize the contract award to Cunningham Recreation for completion of the new Kidsburg Playground at Mid County Park.

Staff recommends approval of the attached resolution.



John H. Carnifax, Jr.

JHC/gb  
CA-Kidsburg\_mem2

Attachments

**RESOLUTION**

**CONTRACT AWARD – MID COUNTY PARK KIDSBURG PLAYGROUND – \$851,786**

WHEREAS, funds are available in the Capital Improvement Budget to cover the replacement of the Kidsburg Playground at Mid County Park; and

WHEREAS, Cunningham Recreation was selected to complete the final design and installation of the new playground through a Request for Proposals (RFP) process; and

WHEREAS, public input was sought and incorporated into the final design.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby awards the contract for the design and installation of the new playground at Mid County Park to Cunningham Recreation in the total amount of \$851,786.

\_\_\_\_\_  
Chairman, Board of Supervisors

ATTEST:

\_\_\_\_\_  
Robert C. Middaugh  
Clerk to the Board

	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCLENNON	___	___	___
JONES	___	___	___
KENNEDY	___	___	___
ICENHOUR	___	___	___

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of January, 2013.

CA-Kidsburg\_res2

## 1 be fair

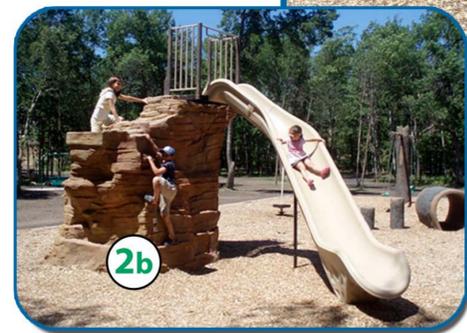
The play environment provides social justice by being equitable and usable by people of all abilities so they can enjoy their right to play.

## 2 be included

The play environment supports the participation of individuals with diverse abilities in social & physical activities for inclusive, intergenerational play.

## 3 be smart

The play environment is easy to understand, allowing individuals to be successful and gain confidence through play.



## 4 be independent

The play environment allows children to effectively explore and participate in play at their own level.

## 5 be safe

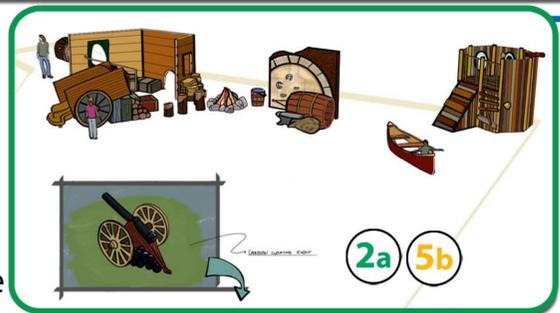
The play environment addresses current safety standards while providing developmental opportunities needed for exploration and challenge.

## 6 be active

The play environment supports various degrees of physical and social participation in play while minimizing unnecessary fatigue.

## 7 be comfortable

The play environment is usable for individuals with sensory needs, diverse body size, posture, mobility, and motor control.



Mid County Park - Kidsburg (5-12 Year Olds Area)  
Williamsburg, VA

Composite Wood Roof and Ramp Handrail Slats

Entrance Sign

Items Below Not Pictured

(2) Hay Tug Swing

Swamp Climber

Natural Rock

Rope System

Forest Climber

Rock Climber

Vine Climber

Turtle Spinner

Whirlwind Seat

10-Position Prime Time Swing

Natural Rock Slide

www.cunninghamrec.com

800.438.2780

Mid County Park - Kidsburg (Custom Themed Play Elements)  
Williamsburg, VA

Sample Tactile Features

Interactive Bell and Cannon Sounds

5-12 Year Olds (Ship Area)

Sample GFRG Boats

Sample Play Features

2-5 Year Olds (Fort Area)

www.cunninghamrec.com

800.438.2780

**MEMORANDUM COVER**

**Subject:** Contract Award – Mid County Park Phase I Improvements – \$644,600

**Action Requested:** Shall the Board of Supervisors approve the resolution to award the contract for the Mid County Park Phase I Improvements to David Nice Builders?

**Summary:** The County is ready to begin Phase I improvements to Mid County Park as previously approved by the Board of Supervisor through Case No. SUP-003-2011 on June 28, 2011.

The attached map highlights the proposed improvements within in the red line. Proposed improvements under the contract will include razing the existing office building and restrooms and constructing a new 1,600-square-foot building. The new building will consist of office space, meeting space, public restrooms and a vending area. Improvements will also include renovations to the two existing picnic pavilions, the demolition of the existing playground and additional landscaping. The installation of the new playground equipment will be completed under a separate contract.

Six firms submitted bids and were considered for contract award. David Nice Builders has done satisfactory work for James City County in the past and was determined to be the lowest responsive bidder. The bid amount of \$644,600 is consistent with the project estimate and funds are available as previously appropriated by the Board of Supervisors.

Staff recommends approval of the attached resolution.

**Fiscal Impact:** \$644,600 will be spent from the County Capital Improvements Budget.

**FMS Approval, if Applicable:** Yes  No

**Assistant County Administrator**  
  
Doug Powell \_\_\_\_\_

**County Administrator**  
  
Robert C. Middaugh \_\_\_\_\_

**Attachments:**  
1. Memorandum  
2. Resolution  
3. Drawing

**Agenda Item No.:** H-3  
  
**Date:** January 8, 2013

**MEMORANDUM**

DATE: January 8, 2013  
 TO: The Board of Supervisors  
 FROM: John H. Carnifax, Director of Parks and Recreation  
 SUBJECT: Contract Award – Mid County Park Phase I Improvements – \$644,600

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The County is ready to being Phase I improvements to Mid County Park as previously approved by the James City County Board of Supervisors through SUP-003-2011 on June 28, 2011.

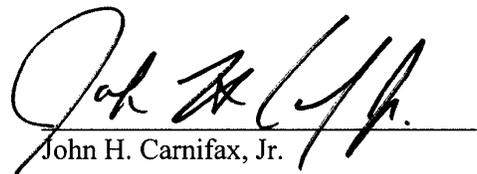
The attached map highlights the proposed improvements within in red line. Proposed improvements under this contract will include razing the existing office building and restrooms and constructing a new 1,600-square-foot building. The new building will consist of office space, meeting space, public restrooms, and a vending area. Improvements will also include renovations to the two existing picnic pavilions, the demolition of the existing playground and additional landscaping. The installation of the new playground equipment will be completed under a separate contract.

The following six firms submitted bids and were considered for contract award:

<u>Firm</u>	<u>Amount</u>
David Nice Builders	\$644,600.00
Everest Construction	\$690,601.36
Henderson Construction	\$752,059.00
Spacemakers	\$815,618.00
Homeland Construction	\$825,300.00
RD Lambert	\$857,130.00

David Nice Builders has done satisfactory work for James City County in the past and was determined to be the lowest responsive bidder. The bid amount of \$644,600 is consistent with the project estimate and funds are available as previously appropriated by the Board of Supervisors. The attached resolution would authorize the contract award to David Nice Builders for completion of the Mid County Park Phase I Improvements.

Staff recommends approval of the attached resolution.

  
 \_\_\_\_\_  
 John H. Carnifax, Jr.

JHC/gb  
 CA-MidCoParkImp\_mem

Attachments

**RESOLUTION**

**CONTRACT AWARD – MID COUNTY PARK PHASE I IMPROVEMENTS – \$644,600**

WHEREAS, the Board of Supervisors approved the Mid County Park Phase I improvements on June 28, 2011 through SUP-003-2011; and

WHEREAS, funds are available in the Capital Improvement Budget to cover the construction costs for the Mid County Park Phase I Improvements; and

WHEREAS, six competitive bids were received with the lowest bid amount of \$644,600 as submitted by David Nice Builders.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby awards the contract for the Mid County Park Phase I Improvements to David Nice Builders in the total amount of \$644,600.

\_\_\_\_\_  
John J. McGlennon  
Chairman, Board of Supervisors

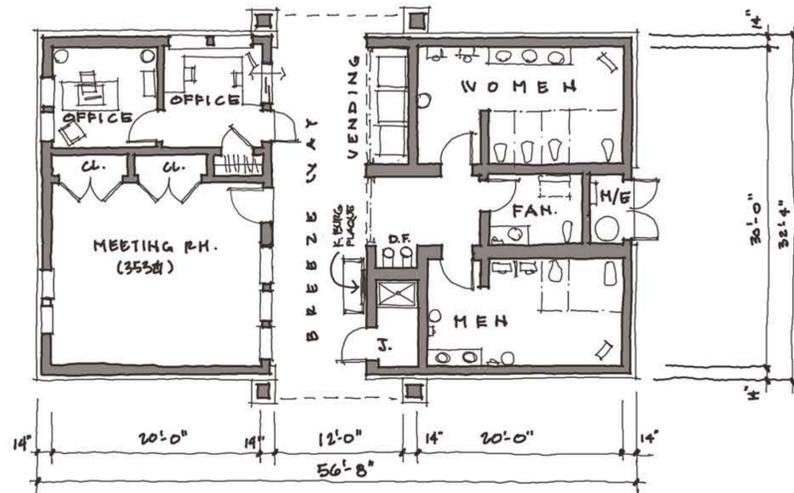
ATTEST:

\_\_\_\_\_  
Doug Powell  
Deputy Clerk to the Board

	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
JONES	_____	_____	_____
KENNEDY	_____	_____	_____
ICENHOUR	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of January, 2013.

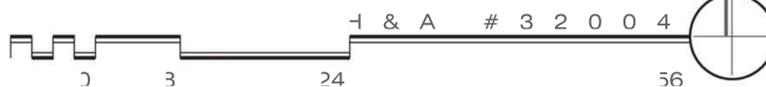
CA-MidCoParkImp\_res



SCHEMATICS FOR  
**MID COUNTY PARK CENTER**

JAMES CITY COUNTY VA

15 MAY 2012





**MEMORANDUM COVER**

**Subject:** Agreement between the Virginia Department of Transportation (VDOT) and the Board of Supervisors of James City County, Virginia

**Action Requested:** Shall the Board approve a resolution that authorizes the County Administrator to enter into an agreement with the Virginia Department of Transportation (VDOT) to enforce the provisions of Section 33.1-373 of the Code of Virginia, 1950, as amended (the “Virginia Code”), specifically regulation of illegal signs in the VDOT right-of-way?

**Summary:** Currently, County staff and the Williamsburg-James City County Sheriff’s Office remove signs illegally placed in the VDOT right-of-way pursuant to the County’s current agreement with VDOT in relation thereto. However, changes to the Virginia Code necessitate updating this agreement.

The attached resolution authorizes the County Administrator to execute the new agreement in order to enforce the provisions of Section 33.1-373 of the Virginia Code and designates the Zoning Administrator as the party responsible for enforcing the agreement. The Zoning Administrator will ensure that the Sheriff’s Office remains a party authorized to enforce the new agreement. Further, the new agreement sets forth provisions for the collection of penalties and costs related to the removal of the illegal signs.

Staff recommends approval of the attached resolution.

**Fiscal Impact:** N/A

**FMS Approval, if Applicable:** Yes  No

**Assistant County Administrator**

Doug Powell \_\_\_\_\_

**County Administrator**

Robert C. Middaugh \_\_\_\_\_

**Attachments:**

- 1. Memorandum
- 2. Resolution
- 3. Draft Agreement

**Agenda Item No.:** H-4

**Date:** January 8, 2013

## M E M O R A N D U M

DATE: January 8, 2013

TO: The Board of Supervisors

FROM: Adam R. Kinsman, Deputy County Attorney

SUBJECT: Agreement between the Virginia Department of Transportation (VDOT) and the Board of Supervisors of James City County, Virginia

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In 2003, the County entered into an agreement with the Virginia Department of Transportation (“VDOT”) which permits the County or its agents to remove signs illegally placed in the VDOT right-of-way. Recent amendments to the Virginia Code have necessitated a new agreement, a copy of which is attached. There are two substantive changes to the existing agreement, both of which are mandated by the Virginia Code. First, the County is no longer able to keep one-half of the penalties collected. Instead, the monetary penalty collected must be returned to the Commonwealth for the Highway Maintenance and Operating Fund. In addition to the monetary penalties, the County may also collect and keep its costs expended in removing the signs. The current amount is \$34 per sign, which includes the cost of employee time, gasoline, vehicle maintenance, and legal fees, among others. Second, the agreement now includes a right of appeal to the Board of Supervisors for individuals who disagree with the notice of violation. The civil penalty that may be assessed for each illegal sign remains \$100.

On one recent Monday, staff removed more than 25 illegal signs just along the Monticello corridor. The Sheriff’s Office regularly removes dozens of such signs throughout the County. To date, however, staff has not been assessing costs or civil penalties for these signs. I believe that citing violators with costs and civil penalties will help alleviate some of these signs from the County and intend to begin doing so upon execution of the new agreement.

Staff recommends that the Board adopt the attached resolution authorizing the County Administrator to enter into the attached agreement with VDOT regarding the removal of illegal signs placed in the VDOT right-of-way.



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Adam R. Kinsman

CONCUR:

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Leo P. RogersARK/nb  
VDOTAgree\_mem

Attachments

**RESOLUTION**

**AGREEMENT BETWEEN THE VIRGINIA DEPARTMENT OF TRANSPORTATION (VDOT)**

**AND THE BOARD OF SUPERVISORS OF JAMES CITY COUNTY, VIRGINIA**

WHEREAS, the Board of Supervisors of James City County, Virginia (the "Board") has the authority to enter into an agreement with the Virginia Department of Transportation (the "VDOT") pursuant to Section 33.1-373 of the Code of Virginia, 1950, as amended (the "Virginia Code"); and

WHEREAS, the Board desires to enter into an agreement with VDOT to enforce the provisions of Section 33.1-373 of the Virginia Code and to collect the penalties and costs provided therein.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize the County Administrator to execute those documents necessary to enter into an agreement with VDOT to enforce the provisions of Section 33.1-373 of the Virginia Code and to collect the penalties and costs provided therein.

BE IT FURTHER RESOLVED that the Board of Supervisors designates the Zoning Administrator to be the County's responsible party for enforcement of the agreement.

\_\_\_\_\_  
Chairman, Board of Supervisors

ATTEST:

\_\_\_\_\_  
Robert C. Middaugh  
Clerk to the Board

	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCLENNON	___	___	___
JONES	___	___	___
KENNEDY	___	___	___
ICENHOUR	___	___	___

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of January, 2013.

VDOTAgree\_res

**AGREEMENT BETWEEN  
THE VIRGINIA DEPARTMENT OF TRANSPORTATION  
AND  
THE BOARD OF SUPERVISORS  
OF  
\_\_\_\_\_ COUNTY, VIRGINIA  
FOR ENFORCEMENT OF LAWS REGARDING ILLEGAL SIGNS AND  
ADVERTISING WITHIN THE LIMITS OF THE HIGHWAY**

THIS AGREEMENT is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, between the Commissioner of Highways of the Commonwealth of Virginia (Commissioner), and the County of \_\_\_\_\_, Virginia, acting by and through its Board of Supervisors (Board).

**WITNESSETH:**

WHEREAS, pursuant to Title 33.1, Chapter 7, Article 1 of the *Code of Virginia* (1950), as amended (*Code*), the Commissioner, as the chief executive officer of the Virginia Department of Transportation (VDOT), enforces the prohibition on the placement of signs and advertising within the limits of highways in the Commonwealth; and

WHEREAS, the Board, as the governing body of \_\_\_\_\_ County, has an interest in protecting the public health, safety, and welfare, and in protecting the appearance of the County, in general; and

WHEREAS, the Board has found that the proliferation of signs and advertising in the rights-of-way of highways in \_\_\_\_\_ County threatens the public safety and the welfare of the County, and has a negative effect on the appearance of highways; and

WHEREAS, by an appropriate resolution adopted by the Board at its meeting on [DATE] \_\_\_\_\_, and attached hereto as Exhibit A, the Board expressed its desire and agreement to enter into an agreement with the Commissioner to enforce the provisions of § 33.1-373 of the *Code of Virginia* (1950), as amended, and to collect the penalties and costs provided therein; and

WHEREAS, the Commissioner desires the Board's assistance in removing signs and advertising from the highways in \_\_\_\_\_ County.

NOW, THEREFORE, for and in consideration of the mutual benefits to be derived from this Agreement, the parties hereto agree as follows:

1. The Commissioner hereby authorizes the Board to act as the Commissioner's agent for the purposes of removing any signs or advertising located within the rights-of-way, in violation of §33.1-373 of the *Code*; and
2. The Commissioner further authorizes the Board to act as the Commissioner's agent for the purposes of collecting the penalties and costs provided for in §33.1-373 of the *Code*; and
3. The Board may authorize local law-enforcement agencies or other local governmental entities to act as agents of the Commissioner for the purpose of fulfilling the terms of this Agreement; and

4. The Board shall be entitled to reimbursement, in full, of its costs of removal of signs and advertising and enforcement of this Agreement. Any penalties collected pursuant to this Agreement shall be remitted to the Commissioner and paid into the Highway Maintenance and Operating Fund on a calendar quarterly basis; and
5. The Board, or its designee, when collecting the penalties and costs referenced in Paragraph 2, above, shall:
  - a. Issue an invoice to the person, firm, or corporation being advertised for collection of any and all penalties and costs, as provided in §33.1-373 of the *Code*, which shall provide that within 30 days, 33 days if the invoice is sent by mail, the person, firm, or corporation being advertised shall either (a) remit payment of the invoice to the Board, or its designee, or (b) notify the Board or its designee in writing that matter and/or the penalties and costs are disputed.
  - b. In the event that a person, firm or corporation disputes the matter and/or penalties and costs provided in such invoice, the Board shall be responsible for resolving the dispute in accord with all applicable laws.
6. The Board shall require local government employees and others who are authorized to act or perform services pursuant to this agreement to comply with the provisions of this Agreement and all applicable laws; and
7. This Agreement shall remain in full force and effect unless sooner terminated upon 30-days' written notice by either party to the other party; and
8. This Agreement may be amended at any time by the written agreement of the parties.

In WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives:

VIRGINIA DEPARTMENT OF TRANSPORTATION \_\_\_\_\_ COUNTY, VIRGINIA

BY: \_\_\_\_\_  
 Emmett R. Heltzel, P.E.  
 State Maintenance Engineer

BY: \_\_\_\_\_  
 Printed Name: \_\_\_\_\_  
 County Administrator of \_\_\_\_\_

**MEMORANDUM COVER**

**Subject:** Appointment of Zoning Administrator and Acting Zoning Administrator

**Action Requested:** Shall the Board of Supervisors adopt resolutions appointing a Zoning Administrator and an Acting Zoning Administrator?

**Summary:** Pursuant to Section 24-5 of the Code of the County of James City, the Board of Supervisors is responsible for the appointment of the Zoning Administrator to oversee the enforcement of the County's Zoning Ordinance. Attached for consideration are resolutions that provide for the appointment of Mr. Jason E. Purse as Zoning Administrator and Ms. Christy H. Parrish as Acting Zoning Administrator, as well as Mr. Allen J. Murphy continuing to serve as the Alternate Acting Zoning Administrator.

Staff recommends approval of the attached resolution.

**Fiscal Impact:** N/A

**FMS Approval, if Applicable:** Yes  No

**Assistant County Administrator**  
  
Doug Powell \_\_\_\_\_

**County Administrator**  
  
Robert C. Middaugh \_\_\_\_\_

**Attachments:**  
1. Memorandum  
2. Two Resolutions

**Agenda Item No.:** H-5  
  
**Date:** January 8, 2013

## M E M O R A N D U M

DATE: January 8, 2013

TO: The Board of Supervisors

FROM: Allen J. Murphy, Development Management Director

SUBJECT: Appointment of Zoning Administrator and Acting Zoning Administrator

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Pursuant to Section 24-5 of the Code of the County of James City, the Board of Supervisors is responsible for the appointment of the Zoning Administrator to oversee the administration and enforcement of the County's Zoning Ordinance.

The position of Zoning Administrator has been accepted by Mr. Jason E. Purse. Mr. Purse began his career with James City County in June 2005 as a Planner. Since that time he was promoted to Senior Planner in 2007 and then to Senior Planner II in 2011. He holds a Masters Degree in Public Administration from Old Dominion University and has earned certification from the American Institute of Certified Planners. He has demonstrated his ability to capably handle complex zoning matters. It is necessary that the Board of Supervisors formally appoint a Zoning Administrator to officially fulfill the duties and functions of the position.

In addition, staff recognizes the need to be prepared for occasions that may arise when the absence of Mr. Purse necessitates an alternative arrangement. For this reason, staff is recommending that Mr. Purse be granted the ability to appoint Ms. Christy H. Parrish as Acting Zoning Administrator in his absence. Ms. Parrish has achieved Certified Zoning Administrator through the Virginia Association of Zoning Officials and has demonstrated ability to handle complex zoning matters. Ms. Parrish has been serving as Acting Zoning Administrator.

Further, consistent with the action taken by the Board of Supervisors at their October 23, 2012 meeting, I would continue to serve as an Alternate Acting Zoning Administrator, in the absence of both Mr. Purse and Ms. Parrish.

Staff recommends approval of the attached resolutions.



Allen J. Murphy

AJM/gb  
ZoningAppt\_mem

Attachments

**RESOLUTION**

**APPOINTMENT OF ZONING ADMINISTRATOR**

WHEREAS, the position of Zoning Administrator of James City County was vacant; and

WHEREAS, Ms. Christy H. Parrish has served as Acting Zoning Administrator since the position became vacant; and

WHEREAS, Mr. Jason Purse has accepted the position of Zoning Administrator of James City County; and

WHEREAS, Mr. Purse holds a Master's Degree in Public Administration from Old Dominion University, earned certification from the American Institute of Certified Planners, and has demonstrated his ability to capably handle complex zoning matters; 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 appoint Mr. Jason E. Purse as Zoning Administrator.

\_\_\_\_\_

Chairman, Board of Supervisors

ATTEST:

\_\_\_\_\_  
Robert C. Middaugh  
Clerk to the Board

	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	___	___	___
JONES	___	___	___
KENNEDY	___	___	___
ICENHOUR	___	___	___

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of January 2013.

ZoningAdmAppt\_res

**RESOLUTION**

**APPOINTMENT OF ACTING ZONING ADMINISTRATOR**

WHEREAS, Mr. Jason E. Purse 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 Mr. Purse's absence; and

WHEREAS, Ms. Christy H. Parrish has served previously as Acting Zoning Administrator, achieved the Certified Zoning Administrator status through the Virginia Association of Zoning Officials, and has demonstrated her ability to capably handle complex zoning matters; 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 Mr. Purse to designate Ms. Christy H. Parrish as Acting Zoning Administrator in times of his absence from work, or, in the absence of Ms. Parrish, Mr. Allen J. Murphy as Alternate Acting Zoning Administrator.

\_\_\_\_\_  
Chairman, Board of Supervisors

ATTEST:

\_\_\_\_\_  
Robert C. Middaugh  
Clerk to the Board

	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	___	___	___
JONES	___	___	___
KENNEDY	___	___	___
ICENHOUR	___	___	___

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of January 2013.

ActZoningAdmAppt\_res

**MEMORANDUM COVER**

**Subject:** Pre-Budget Public Hearing - FY 2014 Budget

**Action Requested:** No Action Required

**Summary:** The purpose of this public hearing is to invite comments and suggestions from citizens for the upcoming County Budget. The comments and suggestions made at this pre-budget Public Hearing will help guide staff in preparing a budget proposal for the Board's review in April.

**Fiscal Impact:** N/A

**FMS Approval, if Applicable:** Yes  No

**Assistant County Administrator**

Doug Powell \_\_\_\_\_

**County Administrator**

Robert C. Middaugh \_\_\_\_\_

**Attachment:**

1. Memorandum

**Agenda Item No.:** I-1

**Date:** January 8, 2013

MEMORANDUM

DATE: January 8, 2013  
TO: The Board of Supervisors  
FROM: Suzanne R. Mellen, Assistant Manager of Financial and Management Services  
SUBJECT: Pre-Budget Public Hearing - FY 2014 Budget

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The purpose of this public hearing is to invite comments and suggestions from citizens for the upcoming County Budget. The comments and suggestions made at this pre-budget Public Hearing will help guide staff in preparing a budget proposal for the Board's review in April. No Board action is requested at this time.

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Suzanne R. Mellen

SRM/gb  
PH-2014Bud\_mem

**MEMORANDUM COVER**

**Subject:** Shared Services – Risk Management

**Action Requested:** Should the Board of Supervisors authorize the County Administrator to enter into an agreement for shared risk management services and create a new full-time Safety Coordinator position whose salary, fringes, and training are reimbursed by the Schools?

**Summary:** County and School staff have been discussing the possibility of a combined Risk Management function. This function would focus on property/casualty insurance management and claims processing, safety inspections and training, loss prevention, workers' compensation, accident/injury investigations, and all reporting requirements.

The proposed County/School effort would include using the funds from a School position vacancy to create and fund a Safety Coordinator within the current Risk Management function at the County. The current County Risk Management function employs one staff member with some clerical support. This arrangement is expected to cost the County an additional \$60,000 a year, fully reimbursed by the Schools and should improve Risk Management capabilities for both the County and the Schools.

The Board is being asked to allow the County Administrator to execute an agreement with the Williamsburg-James City County Schools that establishes Risk Management as a shared service and creates a full-time position (reimbursed by the Schools) within Risk Management. When the agreement is executed by both parties, the County Administrator is authorized to fill that position.

Staff recommends adoption of the attached resolution.

**Fiscal Impact:** Costs the County an additional \$26,208.

**FMS Approval, if Applicable:** Yes  No

**Assistant County Administrator**

Doug Powell \_\_\_\_\_

**County Administrator**

Robert C. Middaugh \_\_\_\_\_

**Attachments:**

- 1. Memorandum
- 2. Resolution

**Agenda Item No.:** J-1

**Date:** January 8, 2013

**MEMORANDUM**

DATE: January 8, 2013

TO: The Board of Supervisors

FROM: John E. McDonald, Director, Financial and Management Services

SUBJECT: Shared Services – Risk Management

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The County and the Schools continue, on an on-going basis, to review services that we expect will both improve services and save money if they are shared. A recent analysis, kicked off by a position vacancy in the Schools, focuses on Risk Management. Risk Management is a division in the County's Department of Financial and Management Services (FMS).

We are close to an agreement, should you approve the attached resolution, that would share the education, training, and experience of the County's Risk Manager by combining the risk management functions for both the County and the Schools.

The function of risk management in the County is multi-dimensional. Mr. Bart Johnson heads up the program, with the assistance of a clerical position that he shares with other FMS divisions.

It involves the following:

- Creating and managing property and casualty insurance programs for all County functions, managing insurance claims, accident investigations, property damage assessments, working with both staff and citizens on issues relating to property loss or injury, and developing prevention tools to avoid reoccurrences.
- Crafting all needed reports for OSHA or Va.-OSHA relating to accidents involving the County and following up on any regulatory visits, planned or unannounced, relating to citizen or employee safety.
- Develop safety training programs for as many of the normal workday hazards faced by County employees as possible. Recent programs included training in confined spaces, operating a forklift, defensive driving, operating a chainsaw, safe handling of chemicals (including those found in a science classroom in the schools), training in the use of AEDs or epi-pens and the use of protective gear such as earplugs, gloves, or hard hats.
- Coordinate all workers compensation claims – including medical and accident reports – involving employees, working with both Payroll and Human Resources.
- Either investigate or coordinate the investigation of hazards reported by citizens or employees. Recent examples have focused on playground safety, air quality investigations that suggested mold or spores causing allergic reactions and programatic evaluations such as those of ramps and bridges on mountain bike trails at Freedom Park.

Mr. Johnson has consulted or provided direct services to the Schools in the past, as requested, and has included School employees in County safety training programs when appropriate. He recently worked with the Schools to re-bid the School property/casualty and worker's compensation insurance programs, resulting in savings of approximately \$250,000 a year. He is well-known and respected by members of the School staff.

The proposal before you would create a County position of Safety Coordinator, the costs of which would be fully reimbursed by the Schools. The costs of salaries, fringe benefits, and training are estimated at approximately \$60,000 for the first year, \$25,000 for what remains in FY 2013. With both Mr. Johnson and a

Safety Coordinator, the County would assume most of the Risk Management functions of the Schools, including expanding those current services to collecting , reporting, and investigating any accidents involving injuries to students.

The advantage to the Schools focuses on the availability of an experienced Risk Manager who is a known talent and a problem-solver, as well as an additional professional that focuses on safety. The current position vacancy in the Schools has freed up the funds to pay the County for these services.

There are advantages for the County as well. The Schools have extensive safety programs in place in some areas such as school bus safety and driver training, physical education and athletics, monitoring systems in place at school entrances and on buses and the use of the school nurses as first responders. The lessons learned might be transferable to similar programs in the County.

A second advantage is that it allows the Risk Manager to augment his talents with those of another professional for the benefit of both the County and the Schools. It also allows the possibility of succession management. Mr. Johnson has extensive private industry experience in insurance and in loss prevention and, with his experience and continuing education with the County, will be difficult to replace.

The attached resolution would allow the County Administrator to execute an agreement with the Williamsburg-James City County Schools that establishes Risk Management as a shared service and creates a full-time position (reimbursed by the Schools) within Risk Management and makes the necessary budget amendment. When the agreement is executed by both parties, the County Administrator is authorized to fill that position.

Staff recommends approval of the attached resolution.

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John E. McDonald

JEM/nb  
ShSrvRskMgt\_mem

Attachment

**RESOLUTION**

**SHARED SERVICES – RISK MANAGEMENT**

WHEREAS, a proposal has been authored that would combine the Risk Management functions of the County and the Schools in a shared service designed to improve risk management and safety for both organizations; and

WHEREAS, an agreement setting out the terms and conditions of this shared service will be drafted and would, if approved, 1) have the Schools reimburse the County for the costs of a newly-created Safety Coordinator position in Financial and Management Services (FMS) while 2) the County provides risk management services to the Schools.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves a budget amendment for FY 2013 that appropriates the funding from the Schools for part of the fiscal year:

FY 2013 General Fund Expenditures

Salary and Fringes – FMS	+ <u>\$25,000</u>
Reimbursement – WJCC Schools	- <u>\$25,000</u>

BE IT FURTHER RESOLVED, that the Board of Supervisors approves the creation of a full-time regular position of Safety Coordinator within FMS and authorizes the County Administrator to fill that position and execute a suitable shared services agreement with the Schools when, in his opinion, the details of that agreement are finalized.

\_\_\_\_\_  
Chairman, Board of Supervisors

ATTEST:

\_\_\_\_\_  
Robert C. Middaugh  
Clerk to the Board

	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
JONES	_____	_____	_____
KENNEDY	_____	_____	_____
ICENHOUR	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of January, 2013.

**MEMORANDUM COVER**

**Subject:** Approval of Williamsburg Landing, Inc., Revenue and Refunding Bond through the James City County Economic Development Authority (EDA)

**Action Requested:** Shall the Board approve the resolution that authorizes the issuance of the Revenue and Refunding Bond for Williamsburg Landing, Inc.?

**Summary:** The Board of Supervisors has been requested to approve a refinancing of currently existing tax exempt bonds by Williamsburg Landing, Inc. The refinancing will be executed through the Economic Development Authority (EDA) of James City County, which has adopted an approving resolution on December 13, 2012, in an amount not to exceed \$4 million. The EDA can issue \$10 million this year, which will leave \$6 million remaining.

Williamsburg Landing, Inc. is located in James City County and is a continuing care retirement community.

Staff recommends approval of the attached resolution.

**Fiscal Impact:** None

**FMS Approval, if Applicable:** Yes  No

**Assistant County Administrator**

Doug Powell \_\_\_\_\_

**County Administrator**

Robert C. Middaugh \_\_\_\_\_

**Attachments:**

1. Memorandum
2. Concurring Resolution Board of Supervisors
3. Approved Resolution-EDA
4. Fiscal Impact Statement

**Agenda Item No.:** J-2

**Date:** January 8, 2013

## M E M O R A N D U M

DATE: January 8, 2013

TO: The Board of Supervisors

FROM: Russell C. Seymour, Director of Economic Development Authority

SUBJECT: Approval of Williamsburg Landing, Inc., Revenue and Refunding Bond through the James City County Economic Development Authority (EDA)

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The Board of Supervisors has been requested to approve the issuance of a Revenue and Refunding Bond on behalf of Williamsburg Landing, Inc. The bond will be executed through the Economic Development Authority (EDA) of James City County, which adopted an approving resolution on December 13, 2012, in an amount not to exceed \$4 million. As a qualified "small issuer", James City County can issue up to \$10 million in Bank Qualified bonds during a calendar year. In addition to James City County, four other local EDA's/IDA's including Essex County IDA, Mathews County IDA, Gloucester County EDA and the City of Williamsburg EDA are also participating, as the total amount of refinancing being sought by Williamsburg Landing is just over \$33 million

Williamsburg Landing is located in James City County and is a continuing care retirement community.

Staff recommends approval of the issuance of the Revenue and Refunding Bond by the EDA of James City County on behalf of Williamsburg Landing, Inc.

  
\_\_\_\_\_  
Russell C. Seymour

RCS/nb  
WLandingBond\_mem

Attachment

## RESOLUTION

### APPROVAL OF WILLIAMSBURG LANDING, INC., REVENUE AND REFUNDING BOND

#### THROUGH THE JAMES CITY COUNTY ECONOMIC DEVELOPMENT AUTHORITY (EDA)

- WHEREAS, the Board of Supervisors of the County of James City, Virginia (the "Board"), has been advised that there has been described to the Economic Development Authority of James City County, Virginia (the "Authority"), the plan of Williamsburg Landing, Inc. (the "Company"), whose principal place of business is located in the County of James City, Virginia (the "County"), at 5700 Williamsburg Landing Drive, Williamsburg, Virginia 23185, for the issuance by the Authority of its Revenue and Refunding Bond in a principal amount not to exceed \$4 million (the "Bond") to assist the Company in a) financing renovations to the Company's facilities for the residence and care of the aged at 5700 Williamsburg Landing Drive, Williamsburg, Virginia (the "Project"); b) paying a portion of the cost of the current refunding of the Authority's Residential Care Facility First Mortgage Revenue and Refunding Bonds (Williamsburg Landing, Inc.), Series 2003A; and c) paying certain costs of issuance (collectively, the "Plan of Finance"); and
- WHEREAS, the Board has been advised that the Company, in its appearance before the Authority, has described the benefits to the County to be derived from the Plan of Finance and has requested that the Authority agree to issue the Bond pursuant to the Industrial Development and Revenue Bond Act, Chapter 49, Title 15.2, Code of Virginia of 1950, as amended (the "Act"), and loan the proceeds from the sale of the Bond to the Company for the purposes described above; and
- WHEREAS, the Board has been advised that a public hearing with respect to the Bond, as required by the Act and the Internal Revenue Code of 1986, as amended (the "Code"), was held by the Authority at its meeting on December 13, 2012, and that after such hearing the Authority agreed to assist the Company by issuing the Bond; and
- WHEREAS, the Project is located in the County and the members of the Board constitute the highest elected governmental officials of the County; and
- WHEREAS, Section 15.2-4906C of the Act provides that the Board shall, within 60 calendar days from the public hearing with respect to the issuance of bonds of the Authority, either approve or disapprove the issuance of such bonds; and
- WHEREAS, a copy of the Authority's resolution approving the issuance of the Bond, a reasonably detailed summary of the comments expressed at the public hearing with respect to the Bond, and a statement in the form prescribed by Section 15.2-4907 of the Act have been filed with the Board, and the Authority has recommended that the Board approve the issuance of the Bond.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia:

1. The foregoing recitals are hereby incorporated in, and deemed a part of, this resolution.
2. The Board approves the issuance of the Bond by the Authority to assist in the Plan of Finance for the benefit of the Company, to the extent required by the Code and the Act.
3. The approval of the issuance of the Bond, as required by the Code and the Act, does not constitute an endorsement to a prospective purchaser of the Bond of the creditworthiness of the Company and, as required by the Act, the Bond shall provide that neither the County nor the Authority shall be obligated to pay the Bond or the interest thereon or other costs incident thereto except from the revenues and moneys pledged therefor and that neither the faith or credit nor the taxing power of the Commonwealth of Virginia, the County, nor the Authority shall be pledged thereto.
4. This resolution shall take effect immediately upon its adoption.

The undersigned hereby certifies that the above resolution was duly adopted by an affirmative vote of a quorum of the members of the Board of Supervisors of the County of James City, Virginia, at a regular meeting duly called and held on January 8, 2013, and that such resolution is in full force and effect on the date hereof.

\_\_\_\_\_  
Chairman, Board of Supervisors

ATTEST:

\_\_\_\_\_  
Robert C. Middaugh  
Clerk to the Board

	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
JONES	_____	_____	_____
KENNEDY	_____	_____	_____
ICENHOUR	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of January, 2013.

WLandingBond\_res

FISCAL IMPACT STATEMENT  
SUBMITTED TO THE  
BOARD OF SUPERVISORS OF JAMES CITY COUNTY, VIRGINIA

The undersigned submits the following information in compliance with Section 15.2-4907 of the Code of Virginia of 1950, as amended:

Name of applicant: Williamsburg Landing, Inc.

Facility: The Landing Building, 5700 Williamsburg Landing Drive, Williamsburg, Virginia

1.	Maximum amount of financing sought	\$4,000,000
2.	Estimated taxable value of facility's real property to be constructed in the locality	\$30,800
3.	Estimated real property tax per year using present tax rates	N/A
4.	Estimated personal property tax per year using present tax rates	N/A
5.	Estimated merchant's capital tax per year using present tax rates	N/A
6.	a. Estimated dollar value per year of goods that will be purchased from Virginia companies within the locality	\$914,000
	b. Estimated dollar value per year of goods that will be purchased from non-Virginia companies within the locality	\$3,080,000
	c. Estimated dollar value per year of services that will be purchased from Virginia companies within the locality	\$6,000
	d. Estimated dollar value per year of services that will be purchased from non-Virginia companies within the locality	N/A
7.	Estimated number of regular employees on year round basis	330
8.	Average annual salary per employee	\$32,013.00

Dated: December 13, 2012

ECONOMIC DEVELOPMENT AUTHORITY  
OF JAMES CITY COUNTY, VIRGINIA

By: 

Chairman<sup>1</sup>

<sup>1</sup> The Chairman did not participate in discussions, or vote on, the applicant's proposal, but is submitting this Statement as required by Section 15.2-4907 of the Code of Virginia of 1950, as amended.

RESOLUTION OF THE  
ECONOMIC DEVELOPMENT AUTHORITY  
OF JAMES CITY COUNTY, VIRGINIA FOR THE  
ISSUANCE OF ITS REVENUE AND REFUNDING BOND  
ON BEHALF OF WILLIAMSBURG LANDING, INC.

WHEREAS, there has been described to the Economic Development Authority of James City County, Virginia (the "Authority"), the plan of Williamsburg Landing, Inc. (the "Company"), whose principal place of business is located in James City County, Virginia, at 5700 Williamsburg Landing Drive, Williamsburg, Virginia 23185, for the issuance by the Authority of its Revenue and Refunding Bond in a principal amount not to exceed \$4,000,000 (the "Bond") to assist the Company in (a) financing renovations to the Company's facilities for the residence and care of the aged at 5700 Williamsburg Landing Drive, Williamsburg, Virginia, (b) paying a portion of the cost of the current refunding of the Authority's Residential Care Facility First Mortgage Revenue and Refunding Bonds (Williamsburg Landing, Inc.), Series 2003A (the "Refunded Bonds"), and (c) paying certain costs of issuance (collectively, the "Plan of Finance");

WHEREAS, the Company has requested that the Authority designate the Bond as a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), and has represented that the Company is a corporation described in Section 501(c)(3) of the Code and which is exempt from federal income taxation pursuant to Section 501(a) of the Code;

WHEREAS, the Company has described to the Authority the health care and other benefits to the Commonwealth of Virginia to be derived from the Plan of Finance and has requested that the Authority agree to issue the Bond under the Industrial Development and Revenue Bond Act, Chapter 49, Title 15.2, Code of Virginia of 1950, as amended (the "Act"), and to loan the proceeds of the Bond to the Company to assist the Company in effecting the Plan of Finance;

WHEREAS, a public hearing has been held by the Authority as required by the Act and Section 147(f) of the Code on the date hereof;

WHEREAS, the Company has elected to proceed with the Plan of Finance, whereby the Bond will be issued by the Authority and sold to a financial institution selected by the Company (the "Lender"); and

WHEREAS, there has been presented to this meeting the form of a Bond Purchase and Financing Agreement to be dated on or about January 10, 2013 (the "Financing Agreement"), among the Authority, the Company and the Lender, together with the form of the Bond and the form of the Company's promissory note (the "Note") payable to the Authority in the principal amount of the Bond, and the instrument of assignment of the Note from the Authority to the Lender (collectively, the "Authority Documents").

NOW, THEREFORE, BE IT RESOLVED BY THE ECONOMIC DEVELOPMENT AUTHORITY OF JAMES CITY COUNTY, VIRGINIA:

1. It is hereby found and determined that the issuance of the Bond for the purposes described herein will promote healthcare and will otherwise benefit the safety, health, welfare,

convenience and prosperity of the inhabitants of the Commonwealth of Virginia. The Chairman, Vice Chairman and other members of the Authority having disclosed potential conflicts with respect to the Plan of Finance, the Authority hereby appoints Robin Carson as designated Authority Chairman (hereinafter, the "Chairman") and Leanne DuBois as an Authorized Signatory (hereinafter, the "Authorized Signatory") to take certain actions hereinafter described with respect to the Bond and related documents and matters.

2. To assist the Company with the Plan of Finance, the Authority hereby agrees to undertake the issuance of the Bond in a principal amount not to exceed \$4,000,000, to designate the Bond as a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3) of the Code for calendar year 2013, and to loan the proceeds of the Bond to the Company upon the terms and conditions set forth in the Financing Agreement.

3. The Bond will be a limited obligation of the Authority payable solely from funds provided by the Company. The Bond shall not be deemed to constitute a debt or a pledge of the faith or credit of the Commonwealth of Virginia or any political subdivision thereof, including the Authority and James City County (the "County"), and neither the Commonwealth of Virginia nor any political subdivision thereof, including the Authority and the County, shall be obligated to pay the principal of, premium, if any, or interest on the Bond, or other costs incident thereto, except from the revenues and receipts derived by the Authority from the Company or other available funds provided by the Company. Neither the faith and credit nor the taxing power of the Commonwealth of Virginia or any political subdivision thereof, including the Authority and the County, will be pledged to the payment of the principal of, premium, if any, or interest on the Bond or other costs incident thereto. No covenant, condition or agreement contained in the Bond or in any other Authority Document or other instrument delivered in connection with the Bond shall be deemed to be a covenant, agreement or obligation of any past, present or future director, officer, employee or agent of the Authority in his or her individual capacity, and neither the directors of the Authority nor any officer or employee thereof executing the Bond or any other Authority Document or other instrument shall be personally liable thereon or subject to any personal liability or accountability by reason of the issuance or execution thereof.

4. Concurrently with the issuance of the Bond, the Chairman and the Authorized Signatory, either of whom may act, are each hereby authorized and directed to execute and to deliver the Financing Agreement to the other parties thereto.

5. The Chairman and the Authorized Signatory, either of whom may act, are each hereby authorized and directed to execute, the Secretary and Assistant Secretary, either of whom may act, are each authorized and directed to affix and attest the seal of the Authority, and any of such officers are authorized and directed to deliver the Bond to the Lender upon the terms provided in the Bond and in the Financing Agreement; provided, however, that delivery of the Bond shall not occur until the Bond has been approved by the Board of Supervisors of James City County, Virginia (the "Board"). All terms of the Bond are by this reference thereto incorporated herein as a part of this Resolution.

6. The Chairman and the Authorized Signatory, either of whom may act, are each hereby authorized and directed to execute and deliver to the Lender an assignment of the Note and of the rights of the Authority under the Financing Agreement (except for the reserved rights set forth therein).

7. The Authority Documents shall be in substantially the forms presented at this meeting which are hereby approved, with such completions, omissions, insertions and changes as may be

approved by the Chairman or the Authorized Signatory, either of whom may act, his execution to constitute conclusive evidence of his approval of any such omissions, insertions and changes.

8. The officers of the Authority are hereby authorized and directed to execute and deliver all certificates and instruments, including Internal Revenue Service Form 8038, and to take all such further action as they may consider necessary or desirable in connection with the issuance and sale of the Bond and the undertaking of the Plan of Finance.

9. The Authority hereby agrees to the recommendation of the Company that Kaufman & Canoles, a Professional Corporation, be appointed as Bond Counsel and hereby appoints such firm to supervise the proceedings and approve the issuance of the Bond.

10. All costs and expenses in connection with the Plan of Finance, including the Authority's administrative fees, the fees and expenses of the Authority and the fees and expenses of Bond Counsel, counsel to the Authority, counsel to the Company and counsel to the Lender, shall be paid from the proceeds of the Bond to the extent permitted by law or from funds of the Company. If for any reason the Bond is not issued, it is understood that all such fees and expenses shall be paid by the Company and that the Authority shall have no responsibility therefor. The Company agrees to indemnify and save harmless the Authority's directors, employees, agents and counsel from and against all liabilities, obligations, claims, penalties, losses, costs and expenses in any way connected with the issuance of the Bond and the Plan of Finance.

11. The Authority's officers shall perform such other acts and adopt such further resolutions as may be required to implement its undertakings as hereinabove set forth.

12. The Authority hereby recommends that the Board approve the issuance of the Bond and hereby directs the regular Chairman of the Authority to submit to the Board the statement in the form prescribed by Section 15.2-4907 of the Act, a reasonably detailed summary of the comments expressed at the public hearing required by Section 15.2-4906 of the Act, and a copy of this Resolution.

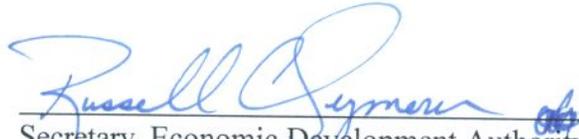
13. Neither the Authority nor the County has endorsed the creditworthiness of the Company or the ability of the Company to repay the Bond and the Lender shall agree to purchase the Bond at its sole risk and that no representations of any kind have been made to the Lender by either the Authority or the County.

14. All other acts of the officers of the Authority which are in conformity with the purposes and intent of this Resolution and in furtherance of the issuance of the Bond are hereby approved and confirmed.

15. This Resolution shall take effect immediately upon its adoption.

The undersigned hereby certifies that the above Resolution was duly adopted by the directors of the Economic Development Authority of James City County, Virginia at a meeting duly called and held on December 13, 2012, and that such Resolution is in full force and effect on the date hereof.

Dated: December 13, 2012

  
Secretary, Economic Development Authority  
of James City County, Virginia