

**AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 12TH DAY OF JANUARY 2010, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.**

**A. ROLL CALL**

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

Sanford B. Wanner, County Administrator  
Adam R. Kinsman, Deputy County Attorney

**B. MOMENT OF SILENCE**

**C. PLEDGE OF ALLEGIANCE** – Emily Crawford, a fourth-grade student at Rawls Byrd Elementary School, led the Board and citizens in the Pledge of Allegiance.

**D. PUBLIC COMMENT**

Mr. Kennedy noted that the second public hearing on the Hospice House Wireless Tower has received a request for a deferral from the applicant. He stated the public hearing would be opened and the public would be allowed to speak, and the public hearing would be continued until the case came forward again.

1. Mr. Jack Fowler, 109 Wilderness Lane, commented on illegal junkyards near Chickahominy Road and Little Creek Dam Road. He stated that little has been done to address the trash situation. He asked that the County rectify the blighted areas.

2. Mr. John Schmerfeld, 172 Red Oak Landing Road, Vice President Friends of Powhatan Creek Watershed Protection, complimented the County on the recent stream restoration workshop. He commented that there was a need for stream restoration all over the County. He asked that the stream restoration needs be considered in the budget process.

3. Ms. Sarah Kadec, 3504 Hunters Ridge, on behalf of the James City County Citizens' Coalition (J4C), reviewed the goals and mission of the J4Cs and commented on the working relationship of the J4Cs with the County. She commented that J4C membership does not condone statements by individuals that do not represent J4C goals. She commented on the importance of public participation in government.

4. Mr. Ed Oyer, 139 Indian Circle, commented on the number of applicants to serve on the School Board and the Planning Commission; and housing sales below assessments.

5. Mr. Robert Richardson, 2786 Lake Powell Road, commented on correspondence with the County Administrator about his decorum at public meetings. He commented on a double standard for speech in public meetings.

**E. CONSENT CALENDAR**

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

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

- 1. Minutes – December 8, 2009, Regular Meeting
- 2. Grant Award – Citizens Corps Program – \$24,000

**RESOLUTION**

**GRANT AWARD – CITIZENS CORPS PROGRAM – \$24,000**

WHEREAS, the James City County Fire Department’s Division of Emergency Management has been awarded a Citizens Corps Program grant in the amount of \$24,000 from the Virginia Department of Emergency Management; and

WHEREAS, the grant requires no match; and

WHEREAS, the funds are to be used in the delivery of preparedness education and training to County citizens by members of the James City County Citizens Corps Program.

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

Revenue:

Citizens Corps FY 10	<u>\$24,000</u>
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Expenditure:

Citizens Corps FY 10	<u>\$24,000</u>
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- 3. Grant Award – Local Emergency Management Performance Grant (LEMPG) – \$34,692

**RESOLUTION**

**GRANT AWARD – LOCAL EMERGENCY MANAGEMENT PERFORMANCE**

**GRANT (LEMPG) – \$34,692**

WHEREAS, the Virginia Department of Emergency Management (VDEM) has awarded James City County Fire Department a Local Emergency Management Performance Grant (LEMPG) in the amount of \$34,692; and

WHEREAS, the funds are to be used for enhancing the capability of the James City County Division of Emergency Management to develop and maintain a comprehensive emergency management program; and

WHEREAS, the grant requires a 100 percent in-kind match, which is met through the Division’s normal annual budget.

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

Revenue:

VDEM – LEMPG – FY 10	<u>\$34,692</u>
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Expenditure:

VDEM – LEMPG – FY 10	<u>\$34,692</u>
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- 4. Grant Award – Radiological Emergency Preparedness Funds – \$50,000

**RESOLUTION**

**GRANT AWARD – RADIOLOGICAL EMERGENCY PREPAREDNESS FUNDS – \$50,000**

WHEREAS, the Virginia Department of Emergency Management (VDEM) has awarded James City County pass-down funds for Radiological Emergency Preparedness in the amount of \$50,000; and

WHEREAS, the funds are to be used for planning and response for public protective actions related to the Surry Nuclear Power Plant; and

WHEREAS, the grant requires no match.

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

Revenue:

Radiological Emergency Preparedness Funds – FY 10	<u>\$50,000</u>
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Expenditure:

Radiological Emergency Preparedness Funds – FY 10	<u>\$50,000</u>
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5. Grant Appropriations – Clerk of the Circuit Court – \$131,109

**RESOLUTION**

**GRANT APPROPRIATIONS – CLERK OF THE CIRCUIT COURT – \$131,109**

WHEREAS, the State Compensation Board and the Library of Virginia (LVA) have awarded the Clerk of the Circuit Court grants totaling \$125,024; and

WHEREAS, there is a local match required for the grants to purchase a high-density filing system for \$6,085.

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

Revenues:

Revenues from the Commonwealth	\$125,024
County Grant Match Account	<u>6,085</u>

Total: \$131,109

Expenditure:

Clerk of The Circuit Court	<u>\$131,109</u>
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**F PUBLIC HEARINGS**

**1. Pre-Budget Public Hearing**

Ms. Sue Mellen, Assistant Manager, Financial and Management Services, stated that the purpose of this public hearing was to provide the first opportunity for public comment on the FY 2011 County Budget. She commented on budget shortfalls that would need to be addressed. She gave a timeline of the budget process: January 23, 2010, would be the Board's Budget Retreat; Public Hearing in April on the County Administrator's proposed budget; three work sessions on April 28, 2010, May 5, 2010, and May 6, 2010; and the FY 2011 County Budget was scheduled for adoption in May.

She stated that no action was required on this item.

Mr. Kennedy opened the Public Hearing.

1. Mr. Paul Scott, Williamsburg, Executive Director of Child Development Resources (CDR), thanked the Board for its support in the past. He stated that he understood that budget cuts would result in children's needs being unmet. He noted that CDR has established cost-saving measures to help direct funds to programming. He thanked the County and its employees for participating in the United Way giving campaign.

2. Ms. Judy Ewart, 117 Kingspoint Drive, thanked the Board for its responsiveness to the volunteers at the Hospice House. She commented that Hospice House has served James City County for 27 years, and stated that funding and donations have been reduced due to the current economic situation. She stated that she was shocked to hear that the Hospice House was removed from the budget. She asked on behalf of the volunteers for the Board to include Hospice House in the next budget without a reduction. She commented that the need for Hospice House is constant and increasing.

3. Ms. Carolyn Baker, 6290 Old Mooretown Road, on behalf of the Williamsburg-James City County (WJCC) Community Action Agency (CAA) Board Chair, stated the CAA is a nonprofit service entity that is funded through a tier of government agencies. She thanked the Board for its previous support. She stated the mission for the CAA and reviewed its ten target areas and programming such as the Historic Triangle Substance Abuse Coalition (HTSAC) program, youth development, cars for work, emergency services for utility bills, adult training, Fatherhood program, Feed the Need, Toys for Tots, Thanksgiving dinners, Christmas baskets, Hope program, and the legal outreach program. She commented that the local funding provided housing for individuals, and the Neighborhood Basketball League. She thanked the Board again and asked for consideration in the budget process.

4. Ms. Lisa Thomas, 109 Landsdowne, Deputy Director of Child Development Resources, commented on the services provided to developmentally-delayed children. She commented that over 50 percent of the families served live in James City County and over 50 percent live below the federal poverty level. She commented on the drastic increase of requests and support needs for families due to the current economic conditions. She requested consideration for CDR funding levels in the budget process.

5. Mr. Mark Rickards, 525 Center Street, Executive Director of Williamsburg Area Transit Authority (WATA), commented that WATA has had a good year and there were one million riders in FY 2010. He noted the support of local government to encourage use of public transportation in the County. He stated that fares have not been raised yet, but there were budget constraints. He emphasized the importance of the buses to students and workers in the community.

6. Ms. Reba Bolden, Executive Director for WJCC Community Action Agency (CAA), commented on the difficult economic conditions. She thanked the Board for its previous support. She commented that the local government funding covers the general and support services office space. She stated that no other funding source allows office space to be part of a funding expense. She stated the CAA programs meet the needs of low-income citizens. She stated that all programs and services receive an outstanding satisfaction rate from those served. She commented that her organization received a Federal Seal of Excellence. She commented that the Neighborhood Basketball League program was funded by local government contributions, which fosters a safe and positive atmosphere for youth. She stated that the contributions also provide housing funds to assist citizens. She commented on unemployment and underemployment which has increased demand as a result of current economic conditions. She stated that local government funding cuts may result in programming decreases or elimination of CAA.

7. Ms. Glenice Lawson, 130 Lafayette Boulevard, commented on funding for the CAA. She requested that the CAA funding remain intact. She commented how helpful the programming and services provided are to citizens. She stated that she was a previous Head Start parent, which allowed her to go to work

and helped her son prepare for kindergarten. She highlighted how the Head Start program impacted her life. She commented on various youth programs provided by CAA which help provide a safe and positive place for youth in the community. She also asked that the Head Start program be considered for the space at James Blair Middle School if it is no longer in use.

8. Dr. James Smart, 104 Spyglass, supported the request for funding by Hospice House. He commented on the importance of the Hospice House concept and its necessity in the community. He commented on the difference between lives being lived out in the hospital versus in a hospice house. He stated he was amazed that there was no charge to those who use the Hospice House in James City County. He commented that reduced donations have resulted in financial risk. He requested that the Hospice House be considered in the budget process.

9. Ms. Janice Mitchell, 363 Diamond Street, Chairperson for Prodigy Castle, CAA Head Start, commented on the programs and opportunities that CAA provides to lower-income families. She requested that funding be considered for CAA in the budget process.

10. Mr. Ed Oyer, 139 Indian Circle, commented on increased land values to compensate declining property values and stated it was still a tax increase; any consumption tax is disproportionately to the lowest-income consumers; comments from the Mayor of the City of Richmond regarding the inability to close the budget shortfall gap with taxes; and funds for landscaping at Anderson's Corner.

11. Mr. Robert Richardson, 2786 Lake Powell Road, commented on revenue increases versus pennies increased on the tax rate. He commented that public safety and community services were dependent on raising revenues. He commented on potential staff reductions.

12. Mr. Jack Fowler, 109 Wilderness Lane, commented on those in the community without indoor plumbing. He stated that funding should be used for basic needs such as those who do not have indoor plumbing. He asked for consideration of these individuals in the budget process.

13. Mr. Bill Wallace, 3512 Fieldcrest Court, requested consideration for the Hospice House in the budget process.

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

2. Case No. SUP-0024-2009. Hospice House Wireless Communication Facility (WCF) Tower

Mr. Jason Purse, Senior Planner, stated the applicant has asked for a deferral and staff agreed with that request. He stated he was available for any questions.

Mr. Kennedy opened the Public Hearing.

1. Ms. Gloria Freye, on behalf of the applicant, stated that a 30-day deferral has been requested. She stated that another property has become available and that she would bring the case forward again at a different location.

2. Mr. Robert Richardson, 2786 Lake Powell Road, stated the case was recommended for denial by the Planning Commission and staff recommended denial. He asked why a memorandum was prepared to support the case. He asked who requested a memorandum to approve it. He stated that the Hospice House was a good organization, but it was not in compliance with the County Code.

Mr. Kinsman stated the Planning Commission and staff make recommendations on each case to the Board. He stated that it has always been standard operating procedure to provide a resolution with specific conditions that the Board may adopt if it wished to do so.

As no one else wished to speak to this matter, Mr. Kennedy continued the Public Hearing.

Mr. McGlennon moved that the Board defer this case until February 9, 2010.

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

3. Case No. SO-0001-2009. Subdivision Ordinance Amendment

Mr. Christopher Johnson, Principal Planner, stated that on November 4, 2009, the Planning Commission adopted an initiating resolution directing staff to pursue amending Section 19-26 of the Subdivision Ordinance to extend the term of validity for the preliminary plan to bring the County Code into conformance with the Virginia Code. The County Attorney's office notified staff of an inconsistency between the County Code and the Virginia State Code §15.2 – 2260. The Subdivision Ordinance states that a subdivider shall have no more than one year from the date of approval of the preliminary plan to record a final subdivision plat or seek an extension of preliminary approval for a period of one year from the Subdivision Agent. The State Code states that once a preliminary subdivision plan has been approved, it shall be valid for a period of five years, provided the subdivider submits a final subdivision plat for all or a portion of the property within one year of such approval and diligently pursues approval of the final subdivision plat.

At its December 2, 2009, meeting the Planning Commission voted 7-0 to recommend approval of the ordinance amendment.

Staff recommended that the Board of Supervisors approve this ordinance amendment.

Mr. McGlennon asked when the State Code was adopted in relation to this provision.

Mr. Johnson stated he believed it was adopted in 2002. He stated that it has not been an issue for any applicant, but it was brought to staff's attention in 2009, and has moved through the initiating process to be corrected.

Mr. McGlennon asked for clarification that the Board did not have any discretion in this situation because the ordinance was being brought into conformance with State Code.

Mr. Johnson stated that was correct.

Mr. Kennedy opened the Public Hearing.

1. Mr. Robert Duckett, Director of Public Affairs, Peninsula Housing and Builders Association, stated support of the ordinance amendment. He commended the County Attorney's office for bringing this forward, and stated that this would improve the County's business climate and consistency.

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

Mr. Icenhour made a motion to adopt the ordinance amendment.

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

## **G. PUBLIC COMMENT**

1. Mr. Jack Fowler, 109 Wilderness Lane, commented on Jamestown Campground and the Chickahominy Riverfront Park in relation to various possible gravesites on or near the property. He asked for a thorough investigation to search for human gravesites before construction is done.

## **H. REPORTS OF THE COUNTY ADMINISTRATOR**

Mr. Wanner commented on the landscaping project on Anderson's Corner. He stated that the County was locally administering one of the last revenue sharing projects. He stated that the Virginia Department of Transportation (VDOT) has released the funds which allowed for the bid that was in the newspaper. He stated that the Anderson's Corner project was a VDOT project. He stated that when the Board completed its business, it should recess to 8 a.m. on January 23, 2010, for the Board's annual Budget Retreat. He stated that the Board had a closed session on the agenda for the consideration of a personnel matter pursuant to Section 2.2-3711(A)(1) of the Code of Virginia for the appointment of individuals to County boards and/or commissions. He stated the next regular meeting of the Board of Supervisors would be on January 26, 2010.

## **I. BOARD REQUESTS AND DIRECTIVES**

Mr. McGlennon commented on the possibility of revisiting the WCF policy. He asked that this policy review be expedited due to the number of requests being received at this time. He asked the Board to consider prioritizing that policy for consideration.

Mr. Icenhour agreed that he would like to see that policy considered sooner.

Mr. Wanner stated that staff would need to evaluate that possibility due to the need for outside consultation to determine any associated costs.

Mr. McGlennon commented that the Mayor of the City of Williamsburg, Jeanne Zeidler, would not be seeking re-election and stated appreciation for her role in the region and in the Jamestown 2007 commemoration.

## **J. CLOSED SESSION**

Mr. Goodson made a motion to go into closed session pursuant to Section 2.2-3711(A)(1) of the Code of Virginia for the appointment of individuals to County boards and/or commissions, specifically the Historical Commission and the Planning Commission.

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

At 8:21 p.m. Mr. Kennedy recessed the Board into Closed Session.

At 8:56 p.m. Mr. Kennedy reconvened the Board.

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

On a roll call vote, the vote was: AYE: McGlennon, Goodson, Icenhour, Jones, Kennedy (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) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies; and ii) only such public business matters were heard, discussed, or considered by the Board as were identified in the motion, Section 2.2-3711(A)(1) of the Code of Virginia, to consider a personnel matter, the appointment of individuals to County boards and/or commissions.

Mr. McGlennon made a motion to appoint Ms. Stephanie Luton to a one-year term as the Board's liaison to the Historical Commission with a term to expire on December 31, 2010.

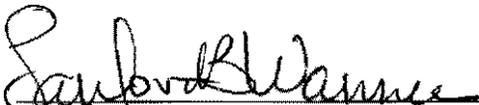
No action was taken on the Planning Commission appointments.

**K. RECESS** to 8 a.m. on January 23, 2010

Mr. Icenhour made a motion to recess.

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

At 8:57 p.m. Mr. Kennedy recessed the Board to 8 a.m. on January 23, 2010.

  
Sanford B. Wanner  
Clerk to the Board

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ADOPTED

JAN 12 2010

BOARD OF SUPERVISORS  
JAMES CITY COUNTY  
VIRGINIA

ORDINANCE NO. 30A-36

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 19, SUBDIVISIONS, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE II, PROCEDURES AND DOCUMENTS TO BE FILED, SECTION 19-26, TERM OF VALIDITY FOR THE PRELIMINARY PLAN AND EXTENSION.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 19, Subdivisions, is hereby amended and reordained by amending Section 19-26, Term of validity for the preliminary plan.

Chapter 19. Subdivisions

Article II. Procedures and Documents to be Filed

**Sec. 19-26. Term of validity for the preliminary plan and extension.**

~~(a) The subdivider shall have no more than 365 days from the date of approval of the preliminary plan to record a final subdivision plat in accordance with this chapter. A final plan shall be submitted and approved pursuant to section 19-30 prior to recordation. Failure to record a final plat within the specified time period shall make preliminary approval null and void. The agent may, on written request by the subdivider, grant one or more extensions of preliminary approval for a period of one year finding:~~

- ~~(1) a. The subdivider has substantially satisfied all conditions of preliminary approval;~~
- ~~b. Significant progress has been made in construction;~~
- ~~c. There has been no significant change in comprehensive plan policy or James City County Code requirements that affect the property; and~~

~~d. The project has progressed without being cited for any construction related violation of the James City County Code or, in the event such violation has occurred, it has been corrected in a timely manner; or~~

~~(2) There have been unusual delays in proceeding with the subdivision process or construction caused by government agencies or acts of God.~~

*Once a preliminary subdivision plan is approved, it shall be valid for a period of five years, provided the subdivider (i) submits a final subdivision plat for all or a portion of the property within one year of such approval, and (ii) thereafter diligently pursues approval of the final subdivision plat. "Diligent pursuit of approval" means that the subdivider has incurred extensive obligations or substantial expenses relating to the submitted final subdivision plat or modifications thereto. However, no sooner than three years following such preliminary subdivision plan approval, and upon 90 days written notice by certified mail to the subdivider, the commission or agent may revoke such approval upon a specific finding of facts that the subdivider has not diligently pursued approval of the final subdivision plat.*

(b) If a subdivider records a final plat, which may be a section of a subdivision as shown on an approved preliminary plan, and furnishes to the county a certified check, cash escrow, bond, or letter of credit in an amount and form acceptable to the county for the estimated cost of construction of the facilities to be dedicated within said section for public use and maintained by the locality, the commonwealth or other public agency, the developer shall have the right to record the remaining sections shown on the preliminary plan for a period of five years ~~from the recordation date of the first section.~~ *from the date of the latest recorded plat of subdivision for the property. The five-year period of validity*

*shall extend from the date of the latest recorded plat.* Such right shall be subject to the terms and conditions of the Code of Virginia and subject to engineering and construction standards and the zoning ordinance requirements in effect at the time that each remaining section is recorded.

James G. Kennedy  
Chairman, Board of Supervisors

<u>SUPERVISOR</u>	<u>VOTE</u>
MCGLENNON	AYE
SOODSON	AYE
ICENHOUR	AYE
JONES	AYE
KENNEDY	AYE

ATTEST:



Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of January, 2010.

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