

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 12TH DAY OF JULY 2011, 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

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

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

C. MOMENT OF SILENCE

D. PLEDGE OF ALLEGIANCE – Kiersten Fister, a rising fifth–grade student at Norge Elementary School, led the Board and citizens in the Pledge of Allegiance.

E. PUBLIC COMMENT

1. Mr. Grover Lewis, 4305 Oak Tree Lane, commented on the conditions of Oak Tree Lane due to pot holes. He has discussed his concerns with the Virginia Department of Transportation (VDOT); however, the neighborhood is still under construction and the streets have not been accepted into the State system.

2. Mr. David Brown, 1502 Bush Neck Road, made comments on the closure of Jolly Pond Road.

3. Mary Lou Clark, 2035 Bush Neck Road, made comments on the closure of Jolly Pond Road and when the road can be opened. She further discussed the inconvenience of the road closure and distance traveled by the residents who live on the road. Ms. Clark further discussed the additional traffic due to the new schools.

4. Mr. Rick Karpinski, 2035 Bush Neck Road, commented on closure of Jolly Pond Road.

5. Mr. Clive Fenton, 120 Riviera, commented on the closure of Jolly Pond Road and wanted to know if there is another reason for the road closure.

6. Ms. Janet Casanave, 3404 Waterman Road, made comments about the International Council for Local Environmental Initiatives (ICLEI) and Agenda 21 in reference to sustainable development and the broader application of sustainable development policies.

7. Ms. Rosanne Reddin, 2812 King Rook Court, commented on ICLEI and Agenda 21 and its relation to the United Nations.

8. Mr. Shawn Johnson, 3428 Wexford Run, commented on ICLEI and Agenda 21. He commented on ICLEI mission statement.

9. Mr. Gary Moore, 158 Forest Heights Road, a representative for the Forest Heights Road area, commented on behalf of the neighbors that they are in support of the re-zoning of the area.

10. Mr. Ed Oyer, 139 Indian Circle, commented on home sales in the area, the public right-of-way fee charged by Cox Cable, and ICLEI.

11. Ms. Sandra Sullivan, 118 James Gray, commented on ICLEI.

12. Mr. Keith Sandler, 9929 Mulberry Court, commented on ICLEI and Agenda 21. He recommended the County withdraw from the ICLEI.

13. Mr. Dick Henley, 113 Harris Glen, commented that he could not hear the citizens comments made during the public comment period.

F. BOARD REQUESTS AND DIRECTIVES

Mr. Kennedy commented about a pothole at the intersection of Route 199 and Route 60 and asked for a briefing about unsightly properties. He also requested further discussion about the discharge of firearms.

Mr. Goodson also commented on the hunting restrictions and the State laws. He mentioned York County's ordinance and Mr. McGlennon suggested the Board discuss the issue further at a work session.

Mr. Icenhour stated he continued to receive inquiries from citizens about three issues related to Cox Communications: rates, programming, and competition.

Mr. Rogers stated the County had no ability, based on Federal law, to control rates or programming. He said the County had taken steps to encourage competition but at this time no other company was expressing an interest in providing cable service in the County. He stated that Channel 12 could petition Cox and that citizens should contact Channel 12 directly or the County, if they wish, for Cox Communications to retain that channel.

Ms. Jones commented on a road issue at Five Forks and that VDOT will address the issue.

G. CONSENT CALENDAR

Mr. Goodson made a motion to adopt the Consent Calendar.

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

1. Minutes –
 - a. June 28, 2011, Work Session
 - b. June 28, 2011, Regular Meeting

H. PUBLIC HEARINGS

1. Case No. SUP-0024-2009. Hospice House and Support Care of Williamsburg Wireless Communication Facility Tower (Deferred from April 12, 2011; Applicant Withdrawal)

Mr. Jason Purse, Senior Planner, commented to the Board of Supervisors that the applicant of the Hospice House and Support Care of Williamsburg Wireless Communication Facility Tower has withdrawn the application. Once the applicant locates a site they will have to re-submit and go before the Planning Commission again.

No one spoke at the public hearing.

2. Case No. HW-0001-2011. Kingsmill Marriott Wireless Communication Facility (WCF) Antennas

Mr. Jason Purse, Senior Planner, gave a presentation to the Board. Mr. John Miller has applied on behalf of New Cingular Wireless PCS, LLC (AT&T) for a height limitation waiver for three wireless communication antennas and three associated screening walls on top of the Kingsmill Marriott, at a total height of approximately 64 feet on a parcel located at 50 Kingsmill Road. The three antennas will be located at either side of the building, as well as in the center, and screened from public view by five-foot screening walls. Staff finds the proposal consistent with surrounding zoning and development and consistent with the Comprehensive Plan. Since the antennas will only project an additional five feet above the existing roof and will be screened from view, there will be minimal additional impact to the surrounding area.

Staff recommended approval of this height limitation waive

Ms. Jones opened the public hearing for comments.

Ms. Lisa Murphy, with LeClair Ryan and on behalf of AT & T, gave a presentation to the Board about the Kingsmill Marriott Wireless Communication Facility.

Mr. Goodson mentioned that he had been asked by citizens if this tower would help with cell service in surrounding neighborhoods. Ms. Murphy replied that it would help in the nearby office area but not in the residential areas.

Mr. Goodson made a motion to adopt the resolution.

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

RESOLUTION

CASE NO. HW-0001-2011. KINGSMILL MARRIOTT WIRELESS COMMUNICATION

FACILITY (WCF) ANTENNAS

WHEREAS, Mr. John Miller on behalf of New Cingular Wireless PCS, LLC (AT&T) has applied for a height limitation waiver to allow for the construction of three wireless communication antennas and three associated screening walls on the Kingsmill Marriott; and

WHEREAS, the proposed antennas and screening walls will be located on property zoned M-1, Limited business/industrial, located at 50 Kingsmill Road and further identified as James City County Real Estate Tax Map Parcel No. 5020900015; and

WHEREAS, the M-1 zoning district requires structures in excess of 60 feet to receive a height limitation waiver from the Board of Supervisors and the proposed antennas and screening walls will be mounted at a height of 64 feet, a total of five feet above the existing roof; and

WHEREAS, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled on Case HW-0001-2011; and

WHEREAS, the Board of Supervisors finds that the requirements of Section 24-419 of the James City County Zoning Ordinance have been satisfied in order to grant a height limitation waiver to allow the erection of three antennas and three associated screening walls atop the Kingsmill Marriott at a height of 64 feet.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. HW-0001-2011.

I. BOARD CONSIDERATIONS

1. Initiation of Rezoning of 53 Parcels within the Forest Heights Road Area

Ms. Marion Paine, Acting Director of Housing and Community Development, presented a request to initiate the rezoning of 53 privately owned parcels within the Forest Heights Road area. On November 10, 2009, the Board of Supervisors authorized a \$25,000 Community Development Block Grant (CDBG) Project Planning Grant from the Virginia Department of Housing and Community Development (VDHCD) to research and plan road, infrastructure, and housing improvements within the Forest Heights Road Project Planning Area (Planning Area). The Planning Area included 37.4 acres fronting on Forest Heights Road, Neighbors Drive, and Richmond Road between the Premium Outlet Mall and Wellesley Boulevard, as shown on Attachment 1. After meeting with area residents, County staff, the Chesapeake Bay Wetlands Board, and the Development Review Committee, a preferred conceptual plan was selected which included paved roads, stormwater management and drainage facilities, housing improvements, and property resubdivision.

The project, including property purchases, design and construction of new infrastructure, and housing improvements, was estimated to cost over \$4 million. The maximum CDBG award is \$1.4 million; therefore, the Office of Housing and Community Development (OHCD) resolved to divide the project into the Forest Heights Road Neighborhood Improvement Project (Forest Heights) and the Neighbors Drive/Richmond Road Neighborhood Improvement Project (Neighbors Drive). By creating two distinct projects, the County would be eligible for the \$1.4 million 2010 CDBG award for Forest Heights and could apply for additional CDBG funding for Neighbors Drive.

On March 23, 2010, the Board of Supervisors authorized OHCD to apply for the \$1.4 million CDBG to fund the Forest Heights project. VDHCD awarded the County \$1.4 million in CDBG funds, and on December 14, 2010, the Board authorized the County Administrator to enter into the CDBG contract and appropriated the funds.

To complete both neighborhood improvement projects, all of the properties on Forest Heights Road, Neighbors Drive, and from 5939 Richmond Road to 6059 Richmond Road must be rezoned from R-2, General Residential, to MU, Mixed Use. In the rezoning area there are 64 parcels, including 38 occupied homes, 25 vacant parcels, and one parcel owned by the James City Service Authority (JCSA). The County owns 11 of the vacant parcels. As noted in the March 23, 2010, memorandum to the Board, rezoning the project area is required to allow property exchanges where road right-of-way is needed on the privately owned parcels.

To provide enough land for right-of-way so that Forest Heights Road and Neighbors Drive can become public roads maintained by the State, the front boundary line of most of the lots on those roads must be adjusted. When boundary lines are adjusted, the County ordinance requires every lot to conform to current zoning rules. The existing lots, which are currently zoned R2, do not conform to the R2 zoning requirements and cannot be made to conform to R2 requirements with the existing space constraints.

Staff recommended adoption of the attached resolution which authorizes a Board-initiated rezoning of the 53 privately owned and JCSA parcels in the Forest Heights Road Project Planning Area from R-2 to MU.

Mr. Goodson asked Ms. Paine if there were any letters from homeowners opposing this re-zoning and she responded that there were not. Mr. Goodson asked if an SUP would be needed for the Salvation Army facility due to the size of the building.

Ms. Paine commented the size of the building would be restricted based on the Proffers.

Mr. Kennedy asked Ms. Paine if the letters to property owners were mailed registered mail and if she has the receipts from those returned and for the boundary line adjustments. Mr. Kennedy asked how many have signed the letters and Ms. Paine responded 16 have signed agreements and five additional are needed. Mr. Kennedy asked what happens if the owners do not sign the boundary line agreement and Ms. Paine responded if the owner does not comply the road would have to be adjusted again. Mr. Kennedy mentioned his concern about this issue and that all property owners should be in support of the boundary line adjustments.

Ms. Jones mentioned her concerns about the project as well, and having to tell an owner what is best for their property. She stated she is concerned about not having all owners in agreement yet.

Mr. Icenhour had concerns in reference to the property owners and he mentioned the boundary line adjustment survey not being available until a few months ago. He further mentioned the survey needed to be available so a property owner would be able to comment to the boundary line adjustment.

Mr. Kennedy stated that when the rezoning application comes before the Board, the County must reach agreement with all of the property owners from whom the County is acquiring property or he will not support the project.

Ms. Jones commented she, too, wants the County to reach an agreement with all property owners from whom the County is acquiring property or she will not support the project.

Mr. McGlennon commented on the high cost of acquisition of this kind and that property owners have the opportunity to use their property as they see fit. However; the public sometimes has a need and in these circumstances, property owners should be compensated fairly for the use of the property.

Mr. Icenhour made a motion to adopt the resolution.

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

RESOLUTION

**INITIATION OF THE REZONING OF 53 PARCELS WITHIN THE
FOREST HEIGHTS ROAD PROJECT PLANNING AREA**

WHEREAS, on November 10, 2009, the Board of Supervisors authorized a Community Development Block Grant (CDBG) Project Planning Grant to study conditions and needs within the Forest Heights Road Project Planning Area, which included 37.4 acres fronting on Forest Heights Road, Neighbors Drive, and Richmond Road between the Premium Outlet Mall and Wellesley Boulevard (Project Planning Area); and

WHEREAS, on December 14, 2010, the Board authorized a \$1.4 million CDBG contract for the Forest Heights Neighborhood Improvement Project (Forest Heights Area), which included a portion of the Project Planning Area; and

WHEREAS, the Salvation Army plans to construct its area headquarters and community center on property within the Project Planning Area; and

WHEREAS, the County Office of Housing and Community Development (OHCD) intends to apply for a Community Development Block Grant to assist in funding the Neighbors Drive/Richmond Road Neighborhood Improvement Project which will include properties that are in the Project Planning Area but which are not included in the Forest Heights Neighborhood Improvement Project Area; and

WHEREAS, in furtherance of the Forest Heights Neighborhood Improvement Project, the Salvation Army property development and the Neighbors Drive/Richmond Road Neighborhood Improvement Project, OHCD submitted an application to rezone 11 parcels in the Forest Heights Road Project Planning Area from R-2, General Residential to MU, Mixed Use.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the rezoning of the following 53 parcels from their current zoning designation to MU, Mixed Use, shall be initiated and shall be considered by the Planning Commission and Board of Supervisors:

1. James City County Real Estate Tax No. 3220400001, 112 Forest Heights Road
2. James City County Real Estate Tax No. 3220400002, 113 Forest Heights Road
3. James City County Real Estate Tax No. 3220400003, 115 Forest Heights Road
4. James City County Real Estate Tax No. 3220400004, 116 Forest Heights Road
5. James City County Real Estate Tax No. 3220400005, 120 Forest Heights Road
6. James City County Real Estate Tax No. 3220400008, 124 Forest Heights Road
7. James City County Real Estate Tax No. 3220400007, 125 Forest Heights Road
8. James City County Real Estate Tax No. 3220400009, 128 Forest Heights Road
9. James City County Real Estate Tax No. 3220400011, 129 Forest Heights Road
10. James City County Real Estate Tax No. 3220400012, 132 Forest Heights Road

11. James City County Real Estate Tax No. 3220400014, 133 Forest Heights Road
12. James City County Real Estate Tax No. 3220400013, 136 Forest Heights Road
13. James City County Real Estate Tax No. 3220400015, 137 Forest Heights Road
14. James City County Real Estate Tax No. 3220400016, 138 Forest Heights Road
15. James City County Real Estate Tax No. 3220400018, 141 Forest Heights Road
16. James City County Real Estate Tax No. 3220400017, 142 Forest Heights Road
17. James City County Real Estate Tax No. 3220400019, 145 Forest Heights Road
18. James City County Real Estate Tax No. 3220400020, 146 Forest Heights Road
19. James City County Real Estate Tax No. 3220400022, 149 Forest Heights Road
20. James City County Real Estate Tax No. 3220400023, 153 Forest Heights Road
21. James City County Real Estate Tax No. 3220400024, 154 Forest Heights Road
22. James City County Real Estate Tax No. 3220400025, 158 Forest Heights Road
23. James City County Real Estate Tax No. 3220400028, 162 Forest Heights Road
24. James City County Real Estate Tax No. 3220400027, 165 Forest Heights Road
25. James City County Real Estate Tax No. 3220400029, 166 Forest Heights Road
26. James City County Real Estate Tax No. 3220400030, 169 Forest Heights Road
27. James City County Real Estate Tax No. 3220400032, 170 Forest Heights Road
28. James City County Real Estate Tax No. 3220400031, 173 Forest Heights Road
29. James City County Real Estate Tax No. 3220100085A, 174 Forest Heights Road
30. James City County Real Estate Tax No. 3220100090, 101 Neighbors Drive
31. James City County Real Estate Tax No. 3220100088, 104 Neighbors Drive
32. James City County Real Estate Tax No. 3220500012, 115 Neighbors Drive
33. James City County Real Estate Tax No. 3220500006, 116 Neighbors Drive
34. James City County Real Estate Tax No. 3220500005, 118 Neighbors Drive
35. James City County Real Estate Tax No. 3220500011, 119 Neighbors Drive
36. James City County Real Estate Tax No. 3220500004, 122 Neighbors Drive
37. James City County Real Estate Tax No. 3220500010, 123 Neighbors Drive
38. James City County Real Estate Tax No. 3220500003, 126 Neighbors Drive
39. James City County Real Estate Tax No. 3220500007, 135 Neighbors Drive
40. James City County Real Estate Tax No. 3220100086, 138 Neighbors Drive
41. James City County Real Estate Tax No. 3220100087, 139 Neighbors Drive
42. James City County Real Estate Tax No. 3220100116, 140 Neighbors Drive
43. James City County Real Estate Tax No. 3220100095, 5939 Richmond Road
44. James City County Real Estate Tax No. 3220100093, 5941 Richmond Road
45. James City County Real Estate Tax No. 3220100092, 5943 Richmond Road
46. James City County Real Estate Tax No. 3220100094, 5947 Richmond Road
47. James City County Real Estate Tax No. 3220100089, 5981 Richmond Road
48. James City County Real Estate Tax No. 3220100081, 6015 Richmond Road
49. James City County Real Estate Tax No. 3220100080, 6039 Richmond Road
50. James City County Real Estate Tax No. 3220100079, 6043 Richmond Road
51. James City County Real Estate Tax No. 3220100078, 6047 Richmond Road
52. James City County Real Estate Tax No. 3220100077, 6051 Richmond Road
53. James City County Real Estate Tax No. 3220100076, 6059 Richmond Road

J. PUBLIC COMMENT

No one spoke at the public comment.

K. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Middaugh commented on the article from the Virginia Gazette about Jolly Pond Road. He stated that there are several steps in a process to attempt to reopen the road. He will travel to Richmond on Wednesday, July 13 to start this process and there will be costs involved.

L. BOARD REQUESTS AND DIRECTIVES

1. Discussion on County-Funded Agencies and Lobbying

Ms. Jones commented that she had been contacted by citizens who had concerns that the County was a member of ICLEI, and that she raised this concern at the June 14 Board meeting. Ms. Jones asked the Board to support the County's withdrawal from ICLEI and asked how long the County had been a member of ICLEI.

Mr. Middaugh responded that the County has been a member for the past three years and the membership is paid for the calendar year.

Mr. McGlennon stated there was not a direct decision to join ICLEI when the Board adopted the Cool Counties initiative, but the County's decision to begin to take action to address energy efficiency and climate changes led us to look for opportunities. ICLEI provides the tools for local government to do that.

Ms. Jones stated she is still uncertain of the benefits received from ICLEI.

Mr. McGlennon replied the Board should evaluate all the organizations equally. He feels there is misinformation about ICLEI and that various other organizations the County deals with for specific benefits, like National Association of Counties (NACo), Virginia Association of Counties (VACo), Virginia Municipal League (VML), or Hampton Roads Planning District Commission (HRPDC) may be involved in advocacy that the County may or may not agree with. ICLEI is very limited in what the organization can do. They are an independent organization and are not part of the United Nations. He mentioned the Williamsburg Area Chamber and Tourism Alliance as an example of an organization that the County supports that lobbies, sometimes aggressively.

Mr. Kennedy stated he spoke with the chair person of ICLEI and he further researched the Board of Directors of ICLEI. He further commented that he did not want to single one organization out, but that he wanted to review every organization. He wants to look at the issue objectively in a work session. He has concerns about this organization and others.

Mr. Goodson commented on the number of organizations in which the County is a member. He stated that the County has to be aware of the membership terms and he asked if the County cancelled its ICLEI membership early would the County receive its funding back.

Mr. Middaugh responded no.

Mr. Goodson suggested the County not renew the ICLEI membership until further information is provided.

Mr. Kennedy suggested to Mr. Middaugh that a list of the organizations be developed detailing costs and benefits.

Ms. Jones suggested again the withdrawal from ICLEI and that she would like to move forward to review other organization memberships to save funds. She would like to schedule a work session in August.

Mr. Kennedy commented that if staff has all the information requested he would support a work session in August.

Mr. Goodson mentioned his concerns about the timing of membership renewals, and that if the County renewed any memberships on July 1 it would be another year before the County could withdraw. He expressed his desire not to pay any more memberships until the Board conducts its review.

Mr. Kennedy commented he would like to have all the information available in reference to ICLEI before he makes a decision.

Ms. Jones commented she thought supervisors had time to research the topic.

Mr. McGlennon commented that he attended a coffee tasting hosted by a new client that was established through the business incubator.

M. CLOSED SESSION

Mr. McGlennon made a motion to go into closed Session pursuant to acquisition of parcel (s) of property for public use pursuant to Section 2.2-3711 (A) (3) of the Code of Virginia.

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

At 8:45 p.m., Ms. Jones recessed the Board into closed session.

At 9:00 p.m., Ms. Jones reconvened the Board.

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

On a roll call vote, the vote was AYE: Kennedy, Goodson, McGlennon, Icenhour, Jones (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)(3) of the Code of Virginia, to consider the acquisition of parcels of property for public use.

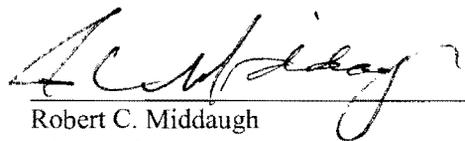
The Board decided to hold a work session at 4 p.m. on August 9 to discuss firearm/hunting issues and to review County memberships in organizations.

Mr. Kennedy made a motion to adjourn.

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

At 9:08 p.m., Ms. Jones adjourned the Board until 4 p.m. on July 26, 2011.

N. ADJOURNMENT to 4 p.m. on July 26, 2011



Robert C. Middaugh
Clerk to the Board