

**AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 24TH DAY OF JANUARY 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**

Mary K. Jones, Chairman, Berkeley District  
John J. McGlennon, Vice Chairman, Roberts 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** – Amy Pressey, an 11th grade student at Jamestown High School, led the Board and citizens in the Pledge of Allegiance.

**E. PRESENTATIONS**

1. Ms. Shelley Weisberg – Williamsburg Area Arts Commission

Ms. Weisberg presented the annual report of the Williamsburg Area Arts Commission and asked for the Board's continued support during the upcoming FY 13 budget.

2. Mr. Scott Jackson – Virginia Arts Festival

Mr. Jackson thanked the Board for its ongoing support and provided a preview of the 2012 program.

**F. BOARD CONSIDERATION**

1. Analysis of HB 316 Cemeteries

Mr. Rogers provided an overview of HB 316 and SB 430, which are identical bills introduced to the General Assembly that expand the definition of cemetery, expand the approval time for cemetery subdivision plats and site plans, create new vesting provisions for zoning, and exempt all structures in a cemetery from the building code. Mr. Rogers noted that although St. Bede has withdrawn its proposal for a mausoleum, these bills would eliminate the need for the St. Bede mausoleum to obtain County approvals.

Mr. McGlennon made a motion to adopt the two resolutions opposing HB 316 and SB 430 noting that the legislation changes the authority of local government.

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

**RESOLUTION**

**ANALYSIS OF HOUSE BILL NO. 316 CEMETERIES**

WHEREAS, the Virginia General Assembly will be considering House Bill No. 316 (HB 316) during its 2012 session; and

WHEREAS, HB 316 greatly expands the definition of cemetery in Virginia Code Section 54.1-2310 by adding additional uses; and

WHEREAS, the amendments proposed in HB 316 lengthen the approval time for cemetery subdivision plats and site plan; and

WHEREAS, HB 316 would exempt development of future sections from complying with any changes to local laws and regulations different from any other land uses; and

WHEREAS, HB 316 would create a new vesting provision for zoning and exempt all structures in a cemetery from the County's building code or "any other applicable code utilized by localities," and

WHEREAS, the erosion of local control in the locating, developing, designing, and construction of cemeteries could negatively impact the residents of the community; and

WHEREAS, HB 316 would eliminate not only local regulation of cemeteries, but also the citizens ability to voice their concerns; and

WHEREAS, local land use decision have been and should continue to be made on a local level giving citizens of the locality and the Commonwealth of Virginia an opportunity to express their opinion.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby opposes HB 316 and calls upon the members of the General Assembly to oppose HB 316.

BE IT FURTHER RESOLVED that the County Administrator and the County Attorney are hereby authorized and directed to express James City County's opposition to House Bill No. 316 and to send a certified copy of this resolution to the County's legislative delegation and to members of the General Assembly who will be considering it.

**RESOLUTION**

**ANALYSIS OF SENATE BILL NO. 430 CEMETERIES**

WHEREAS, the Virginia General Assembly will be considering Senate Bill No. 430 (SB 430) during its 2012 session; and

WHEREAS, SB 430 greatly expands the definition of cemetery in Virginia Code Section 54.1-2310 by adding additional uses; and

WHEREAS, the amendments proposed in SB 430 lengthen the approval time for cemetery subdivision plats and site plan; and

WHEREAS, SB 430 would exempt development of future sections from complying with any changes to local laws and regulations different from any other land uses; and

WHEREAS, SB 430 would create a new vesting provision for zoning and exempt all structures in a cemetery from the County's building code or "any other applicable code utilized by localities," and

WHEREAS, the erosion of local control in the locating, developing, designing, and construction of cemeteries could negatively impact the residents of the community; and

WHEREAS, SB 430 would eliminate not only local regulation of cemeteries, but also the citizens ability to voice their concerns; and

WHEREAS, local land use decision have been and should continue to be made on a local level giving citizens of the locality and the Commonwealth of Virginia an opportunity to express their opinion.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby opposes SB 430 and calls upon the members of the General Assembly to oppose SB 430.

BE IT FURTHER RESOLVED that the County Administrator and the County Attorney are hereby authorized and directed to express James City County's opposition to Senate Bill No. 430 and to send a certified copy of this resolution to the County's legislative delegation and to members of the General Assembly who will be considering it.

Mr. McGlennon asked that the resolutions be circulated to all members of the General Assembly.

**G. PUBLIC COMMENT**

Ms. Jones noted that Mr. Al Woods was in attendance representing the Planning Commission.

1. Mr. Mark Morrow, 124 Ewell Place, prayed for the Board.

2. Mr. Vernon Stocker, 102 Little Aston, expressed concern that St. Bede has left the issue of the mausoleum open. He said that St. Bede may bring another version of the mausoleum forward in the future.

3. Ms. Linda Rice, President of the Friends of Norge Road and Toano, requested \$1,500 from the Board to landscape the median in front of Toano Middle School.

4. Mr. Rick Overa, 150 Old Field Road, representing The Meadows II Homeowners Association, stated the organization is opposed to the St. Bede mausoleum and the bills proposed in the General Assembly regarding cemeteries.

5. Mr. Ralph Spohn, 121 Broadwater, thanked the Board for its opposition to the bills proposed in the General Assembly regarding cemeteries. He noted that even if St. Bede resubmitted a scaled-down version of the mausoleum, it would still be big.

6. Mr. Aiden Digges, 3707 Ironbound Road, discussed the definitions of cemetery and mausoleum.

7. Ms. Mary Catherine Digges, 3612 Ironbound Road, thanked the Board for adopting the resolutions in opposition to HB 316 and SB 430. She expressed concern about the statement by the pastor of St. Bede that he had been assured that a redesigned proposal would be approved.

Mr. Middaugh emphasized that County staff had not assured St. Bede of any approval.

8. Ms. Donna Mishoe, 121 Branscome Boulevard, expressed concern about a water bill she received from the James City Service Authority and asked the Board to review her situation.

9. Ms. Judy Fuss, 3509 Hunter's Ridge, thanked the Board on behalf of the James City County Citizens Coalition (J4C) for adopting the resolutions of opposition to HB 316 and SB 430.

10. Mr. Randy O'Neill, 109 Sheffield Road, said that no issue is more important than children's health.

11. Mr. Jack Fowler, 109 Wilderness, thanked Mr. Kennedy for his efforts to increase fines for repeat offenders of the grass and trash ordinances. He also noted that there are ruts on Forge Road that pose a danger to fire and rescue vehicles. He also noted that a road issue on Rochambeau Drive has not been addressed effectively by the Virginia Department of Transportation (VDOT).

12. Mr. Ed Oyer, 139 Indian Circle, discussed Roberts Rules of Order.

13. Mr. Jim Brown, 4 Longleaf Circle, thanked the Board for adopting the resolutions of opposition to HB 316 and SB 430.

14. Mr. James Vaiden, 4557 the Foxes, thanked the Board for its service.

## **H. CONSENT CALENDAR**

1. Minutes –
  - a. December 20, 2011, Special Meeting
  - b. January 3, 2012, Organizational Meeting
  - c. January 9, 2012, Joint Meeting
  - d. January 10, 2012, Regular Meeting

2. Grant Award – Radiological Emergency Preparedness – \$25,000

**RESOLUTION**

**GRANT AWARD – RADIOLOGICAL EMERGENCY PREPAREDNESS – \$25,000**

WHEREAS, the James City County Fire Department’s Division of Emergency Management has been awarded pass-through funds in the amount of \$25,000 to support radiological emergency preparedness (REP) from the Virginia Department of Emergency Management (VDEM); and

WHEREAS, the funds are to be used for planning and response for public protective actions related to the Surry Power Station nuclear 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 - VDEM	<u>\$25,000</u>
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Expenditure:

Radiological Emergency Preparedness Funds - VDEM	<u>\$25,000</u>
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3. Contract Award – Architectural Services for Fire Station #4, New Construction – \$255,378

**RESOLUTION**

**CONTRACT AWARD – ARCHITECTURAL SERVICES FOR FIRE STATION #4,**

**NEW CONSTRUCTION - \$255,378**

WHEREAS, a Request for Proposals for Architectural Services for Fire Station #4, New Construction was publicly advertised and staff reviewed proposals from 14 firms interested in performing the work; and

WHEREAS, upon evaluating the proposals, staff determined that HVC-Chenault was the most fully qualified and submitted the proposal that best suited the County’s needs as presented in the Request for Proposals.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby awards the \$255,378 contract for Architectural Services for Fire Station #4, New Construction to HVC-Chenault.

4. Grant Award – Office of Emergency Medical Services (OEMS) Rescue Squad Assistance Fund (RSAF) Grant – \$269,840

**RESOLUTION**

**GRANT AWARD – OFFICE OF EMERGENCY MEDICAL SERVICES (OEMS)**

**RESCUE SQUAD ASSISTANCE FUND (RSAF) GRANT – \$269,840**

WHEREAS, the James City County Fire Department has been awarded a Rescue Squad Assistance Fund (RSAF) grant for \$269,840 (\$134,920 grant funds, \$134,920 local match) from the Commonwealth of Virginia Department of Health, Office of Emergency Medical Services (OEMS); and

WHEREAS, the funds are to be used for the purchase of an ambulance and two E-series Automatic External Defibrillators (AEDs); and

WHEREAS, the grant requires a 50 percent match of \$134,920, which is budgeted in the FY 2012 Capital Improvements Program (CIP) (\$107,500 for the ambulance) and Grants Match (\$27,420 for the AEDs) accounts.

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 budget appropriation to the Special Projects/Grants fund:

Revenues:

RSAF-Ambulance and AEDs	\$134,920
Transfer from Capital Projects Fund	107,500
Transfer from General Fund	<u>27,420</u>
Total	<u>\$269,840</u>

Expenditure:

RSAF-Ambulance and AEDs	<u>\$269,840</u>
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Mr. Icenhour made a motion to approve the Consent Calendar.

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

**I. BOARD REQUESTS AND DIRECTIVES**

Ms. Jones mentioned that the Board received a report from Dominion Virginia Power on the proposed transmission line.

Mr. McGlennon asked staff to prepare an analysis of the impact of the transmission line on the County.

The Board by consensus supported Mr. McGlennon's request.

Mr. Icenhour reported that he and Mr. McGlennon attended the VDOT public hearing on the discontinuance of Jolly Pond Road.

The Board asked staff to widely publicize the date of the Commonwealth Transportation Board (CTB) meeting when the CTB will consider the issue.

Mr. McGlennon said that he attended the National Association for the Advancement of Colored People (NAACP) breakfast in celebration of Mr. Martin Luther King and that the pledge leader, Ms. Amy Pressey, received an award at the event.

## **J. PUBLIC HEARING**

### **1. Freedom Park Lease – Go Ape Freedom, LLC**

Ms. Carla Brittle, Management and Resource Administrator, Department of Parks and Recreation, provided an overview of a proposed lease with Go Ape Freedom, LLC for the construction and operation of a ropes course at Freedom Park. Under the provisions of the lease, Go Ape Freedom, LLC will pay to build and operate the course and the County will receive a monthly rent that is equivalent to three percent of annual gross revenues. Ms. Brittle said that the course is consistent with the Master Plan, will not result in the extensive removal of trees, and will not impact any of the current amenities at the park. The course is managed in a manner that does not create a burden on the park as only 14 individuals can participate at one time. No healthy mature trees are removed and the course is not attached to the trees. The proposal offers several public benefits: it adds an amenity at Freedom Park at no taxpayer expense, creates revenue from the lease, creates 12 jobs, and creates tax revenue. Go Ape will also provide free passes for Parks and Recreation and a 10 percent discount for James City County citizens.

Mr. Kennedy asked if participants wear helmets.

Mr. Dan D'Agostino, Chief Executive Officer of Go Ape USA, said that helmets are not required and in fact could be a hazard if one was caught on a safety line. He said that there had been no head injuries in the company's 10 year history.

Mr. Kennedy asked if the course was inspected.

Ms. Brittle said that Building Safety and Permits had been consulted and that there were no guidelines.

Mr. D'Agostino said that they conduct regular inspections and will share the results of inspections with the County.

Mr. McGlennon asked about the impact on the park as it relates to the number of people in the park and the company's business model.

Mr. D'Agostino said that only 14 people every 30 minutes could be accommodated, so there was not a significant impact on the park or need for parking.

Mr. Middaugh asked about the children's course.

Mr. D'Agostino said that they plan to build the course in about a year if everything goes well.

Ms. Jones opened the Public Hearing.

1. Mr. Ed Oyer, 139 Indian Circle, said that liability should be clear.

Mr. Middaugh noted that the company assumes liability in the agreement.

2. Ms. Amy Pressey, 2907 Robert Hunt North, said that she thought the ropes course would be a fantastic opportunity for teenagers in the community.

3. Ms. Christina Clark, 143 The Maine, asked if there were any limitations on weight on the course.

4. Ms. Mary Catherine Digges, 3612 Ironbound Road, asked what participants would do with children.

Mr. D'Agostino said that the course is engineered for 10 people on the platform at any one time. The course is restricted to only three people on a platform at a time.

Mr. McGlennon said this is an interesting new opportunity to provide a recreational amenity and possibly increase tourism and generate revenue. He made a motion to approve the resolution.

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

## **RESOLUTION**

### **FREEDOM PARK LEASE AGREEMENT – GO APE FREEDOM, LLC**

WHEREAS, James City County Parks and Recreation has been tasked with enhancing revenue-generating opportunities to support the operations of parks, programs, and facilities; and

WHEREAS, funds are needed to continue to develop Freedom Park based upon the approved Master Plan; and

WHEREAS, Go Ape Freedom, LLC will design, construct, and operate a high ropes course while paying a monthly rent to James City County; and

WHEREAS, a lease between James City County and Go Ape Freedom, LLC has been prepared that details the usage of the site; and

WHEREAS, the addition of the ropes course provides significant public benefit, protects the integrity of Freedom Park, allows the citizen to participate for a reduced rate, and produces new park revenue.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator or his designee to execute the Freedom Park Lease with Go Ape Freedom, LLC for the operations of a ropes course in Freedom Park.

**K. BOARD CONSIDERATIONS**

1. Creation of a James City County Tourism Zone

Mr. Russell Seymour, Director of Economic Development, stated that the Code of Virginia allows the creation of a tourism zone which provides incentives and regulatory flexibility for qualifying businesses. He said that staff recommended approval of a James City County Tourism Zone and that he met with Mr. McGlennon and Mr. Icenhour since the last Board meeting to respond to questions they had.

Mr. McGlennon said many of his concerns had been resolved.

Mr. Icenhour said that many of his concerns had also been resolved.

Mr. McGlennon made a motion to approve the resolution and ordinance.

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

**RESOLUTION**

**CREATION OF A JAMES CITY COUNTY TOURISM ZONE**

WHEREAS, the tourism industry continues to be an important part of James City County's overall economic and employment base; and

WHEREAS, many of the County's existing businesses rely heavily upon the tourism industry for their business's success; and

WHEREAS, the Commonwealth of Virginia allows for the establishment of Tourism Zones for the purpose of granting tax incentives and for providing regulatory flexibility.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the creation of a James City County Tourism Zone that encompasses the entire County.

2. Board and Commission Appointments

Ms. Jones said that she agreed to serve on the Regional Issues Committee.

The Board appointed Mr. McGlennon to Williamsburg Area Destination Marketing Committee (WADMC) and Mr. Seymour to the Hampton Roads Economic Development Authority. The Board asked staff to contact current delegates to the Community Action Agency Board and asked if they want to continue to serve. The Board had brief discussion on the School Negotiating Committee and asked for copies of the last two contracts.

3. Draft Deferral Policy

Mr. Middaugh stated that the Board had requested a draft deferral policy and that there is a work session scheduled for May that can be accelerated if the Board wishes. The Board deferred action and asked that the policy be circulated among the business and development community for feedback.

Mr. Kennedy asked to look at a policy where the County does not delay an application if an applicant is providing information on a timely basis.

**L. PUBLIC COMMENTS**

1. Mr. Ed Oyer, 139 Indian Circle, spoke about the confusion in assessment notices due to the term “fiscal year.” He also said that the County needs to be realistic about the Dominion Virginia Power transmission line.

2. Mr. Jack Fowler, 109 Wilderness, continued discussion about road issues.

**M. BOARD CONSIDERATION**

1. Discussion of Jamestown District Supervisors Appointment

Mr. Middaugh stated that the County Attorney had contacted the Circuit Court judges and they were agreeable to the schedule set forth by the Board for interviews for the Jamestown District Supervisor appointment. He said there were a total of six applicants.

Ms. Jones asked the Board to submit interview questions to the County Administrator by Monday, January 30.

Mr. Rogers said that the Board needed to amend its calendar.

Mr. McGlennon made a motion to amend the Board’s calendar to include a meeting at 4 p.m. on February 6 in the Building F Work Session Room.

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

**N. COUNTY ADMINISTRATOR’S REPORT**

Mr. Middaugh reported that there will be a Regional Comprehensive Plan meeting on February 2 at 7 p.m. at Magruder Elementary School. The purpose of the meeting is to receive comments related to all of the Historic Triangle, but this meeting will focus on the Riverside, Busch, and Marquis area.

**O. BOARD REQUESTS AND DIRECTIVES**

Mr. McGlennon said that he appreciated Mr. Oyer’s comments about the transmission line. He said the question is not the need for the project, but the route.

**P. ADJOURNMENT**

Mr. McGlennon made a motion to adjourn until February 6 at 4 p.m.

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

At 8:42 p.m., Ms. Jones adjourned the Board.



Robert C. Middaugh  
Clerk to the Board

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