

**AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 24TH DAY OF APRIL 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  
W. Wilford Kale, Jr., Jamestown 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** – Ryan Springsteen, fourth-grade student at J.B. Blayton Elementary School led the Board and citizens in the Pledge of Allegiance.

**E. PRESENTATIONS** - None

**F. PUBLIC COMMENT**

1. Mr. Alan Lutz, 511 River Bluffs, Williamsburg, representing the River Bluffs Condominium Association, expressed his concerns about the proposed Dominion Virginia utility line stating that it would have an unfavorable visual impact on the area. He urged the Board to support the resolution urging the undergrounding of the proposed utility line underneath the James River.

2. Mr. Richard Swanenburg, 4059 South Riverside Drive, Lanexa, addressed the Board concerning a watershed study contract.

3. Ms. Mary Lou Clark, 2035 Bush Neck Road, Williamsburg, thanked the Board and County staff for their efforts in opening Jolly Pond Road.

4. Mr. Keith Sadler, 9929 Mountain Berry Court, Toano, addressed the Board concerning the County's purchase of land for greenspace. He read from a newspaper article which stated that all greenspace purchases ceased in 2008. He stated that he recalled numerous acquisitions made in the last several years and asked that Board to clarify this statement to set the record straight. He stated that presently the County has over 36 percent of land preserved in open space and questioned if the County needed any more greenspace.

Ms. Jones stated that she had the privilege to attend the Go Ape ribbon cutting ceremony at Freedom Park. She stated that she is pleased to have them in James City County. She stated that she also attended a ribbon cutting ceremony for the Habitat Restore. She stated that the Restore is a tremendous asset to the community. She stated that she attended the Earth Day Fair on Friday, April 20. Ms. Jones advised the Board that she attended a Regional Issue Committee meeting in the morning and was provided with an update on the Coordinated Comprehensive Review, which is available on the internet.

## H. CONSENT CALENDAR

1. Minutes –
  - a. April 10, 2012, Regular Meeting

Mr. Icenhour made a motion to approve the Consent Calendar. Mr. Icenhour asked Mr. Middaugh for enlightenment on the dedication of streets in the length of time experienced on the completion of the streets and the actual dedication.

Mr. Middaugh stated that from the time the road is actually completed, VDOT has a review and approval process that takes years. He stated that one of the requirements is that there are three homes constructed on the road section in question. He stated that it is a process that is administered with VDOT and the developer. He stated that the County's role is to petition VDOT when it is time for VDOT to take the road when all the requirements have been filled.

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

2. Reimbursement Grant Award – Purchase of Development Rights (PDR) Program - \$110,952

### RESOLUTION

#### REIMBURSEMENT GRANT AWARD – PURCHASE OF DEVELOPMENT RIGHTS (PDR)

#### PROGRAM – \$110,952

WHEREAS, the James City County Purchase of Development Rights (PDR) Program has been awarded a reimbursement grant in the amount of \$110,952 from the Office of Farmland Preservation, Virginia Department of Agriculture and Consumer Services, pursuant to the Code of Virginia, § 3.2-201; and

WHEREAS, the grant funds will reimburse James City County for up to 50 percent of eligible expenses, not to exceed \$110,952, incurred in purchasing one or more conservation easements on qualifying rural lands; and

WHEREAS, qualifying expenses include the easement purchase price, title insurance premium, property appraisal fees, property survey fees, and fees for outside legal counsel; and

WHEREAS, the grant requires no additional match.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the acceptance of reimbursements as a result of this grant and the appropriation of these reimbursements to the PDR Program.

attached Additions Form AM-4.3 to the secondary system of State highways, pursuant to § 33.1-229 of the Code of Virginia, and the Department's Subdivision Street Requirements.

BE IT FURTHER RESOLVED, the Board guarantees a clear and unrestricted right-of-way, as described and any necessary easements for cuts, fills, and drainage.

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Residency Administrator for the Virginia Department of Transportation.

5. Dedication of Streets in the Retreat Subdivision Phases One and Two

**RESOLUTION**

**DEDICATION OF STREETS IN THE RETREAT SUBDIVISION PHASES ONE AND TWO**

WHEREAS, the streets described on the attached AM-4.3, fully incorporated herein by reference, are shown on plats recorded in the Clerk's Office of the Circuit Court of James City County; and

WHEREAS, the Residency Administrator for the Virginia Department of Transportation advised the Board that the streets meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation; and

WHEREAS, the County and the Virginia Department of Transportation entered into an agreement on July 1, 1994, for comprehensive stormwater detention which applies to this request for addition.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests the Virginia Department of Transportation to add the streets described in the attached Additions Form AM-4.3 to the secondary system of State highways, pursuant to § 33.1-229 of the Code of Virginia, and the Department's Subdivision Street Requirements.

BE IT FURTHER RESOLVED, the Board guarantees a clear and unrestricted right-of-way, as described and any necessary easements for cuts, fills, and drainage.

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Residency Administrator for the Virginia Department of Transportation.

6. Section 8 Housing Choice Voucher Program Public Housing Agency (PHA) Plan

**RESOLUTION**

**SECTION 8 HOUSING CHOICE VOUCHER PROGRAM**

**PUBLIC HOUSING AGENCY (PHA) PLAN**

WHEREAS, the James City County Office of Housing and Community Development (OHCD) is designated as the Public Housing Agency, VA041, and authorized to operate the Section 8 Housing Choice Voucher Program within James City County; and

1. Ms. Jodi Consoli, 709 Queens Way, Williamsburg, representing the James City County Education Association, stated that education is the forefront of a democratic society and that the Association looks to the Board for leadership.

2. Ms. Trish Farinholt, 120 Dover Road, Williamsburg, requested that the Board fully fund the School Board's budget.

3. Ms. Dawn Forgit, 110 Deerwood Drive, Williamsburg, thanked the Board for its work in opening Jolly Pond Road and thanked the Board for fully funding the School budget.

4. Mr. Ed Oyer, 139 Indian Circle, Williamsburg, expressed concern with using the percentage method to show accomplishments on performance by the amount of work done by an employee. Mr. Oyer questioned why the County needs new school buses.

As no one else wished to speak, Ms. Jones closed the Public Hearing and no action was taken on the FY 13-14 budget.

**J. BOARD CONSIDERATION**

1. School Contract

Mr. Middaugh stated that at the last meeting, the Board deferred action on this matter until this meeting in order to meet with Mr. Kale. Mr. Middaugh stated that he has met with Mr. Kale and has successfully addressed his concerns. He stated that the contract remains unchanged and recommends it for the Board's approval.

Mr. McGlennon made a motion to approve the resolution.

On a roll call vote, the vote was: AYE: McGlennon, Icenhour, Kale, Jones (4). NAY: Kennedy (1).

**RESOLUTION #**

**JOINT RESOLUTION TO AMEND THE RESTATED  
CONTRACT FOR THE JOINT OPERATION OF SCHOOLS,  
CITY OF WILLIAMSBURG AND COUNTY OF JAMES CITY**

DATE OF DOCUMENT: ~~March 27, 2007~~                     , 2012

**PREAMBLE**

By Agreement dated October 9, 1980, the County School Board of James City County, Virginia, and the County of James City, parties of the first part and the School Board of the City of Williamsburg,

By Resolution dated March 27, 2007, by the County, and April 12, 2007, by the City (hereinafter referred to as the "2007 Amendment,") the parties amended the restated contract.

By Resolution dated \_\_\_\_\_, 2012, by the County, and \_\_\_\_\_, 2012, by the City (hereinafter referred to as the "2012 Amendment,") the parties amended the restated contract.

RESOLUTION

NOW, THEREFORE, BE IT RESOLVED that effective July 1, 2007~~12~~, the funding formula of the *Restated Contract* is amended as follows:

1. Operational Costs. Beginning Fiscal Year 2007~~12~~/2008~~13~~, City's contribution toward annual operational costs of the joint school system shall be:

a. A portion of the total operational costs jointly approved by County and City for each fiscal year which portion shall be equivalent to the percentage of City students enrolled in the joint system determined as hereinafter set forth times an add-on factor that varies by year as follows:

<u>Year</u>	<u>Factor</u>
FY 2008 <del>13</del>	1.45 <del>14</del>
FY 2009 <del>14</del>	1.45 <del>14</del>
FY 2010 <del>15</del>	1.45 <del>14</del>
FY 2011 <del>16</del>	1.14
FY 2012 <del>17</del>	1.14

“Operational Costs” are all costs of operating the joint school system other than Capital Project Costs and shall include, but not be limited to: Administration, operation of school plants, routine maintenance of school plants, instructional costs, F.I.C.A. taxes and other employer funded employment benefits, repair and replacement of furnishing and equipment.

c. ~~The School board shall be permitted to retain and determine the use of any year-end surplus operating funds up to an amount equal to \$500,000. Any operating funds that exceed that amount shall be dedicated to, the Capital Budget for the following year for projects appearing in the adopted five-year capital improvement programs of both the City and the County. Based on § 22.1-100 of the Code of Virginia, local school funds unexpended in any year shall become a part of the appropriated funds of the City and County for the School Board for the following year. However, based on a spending plan submitted by the School Board, unexpended local funds at year-end may be appropriated by the City and County for school purposes beyond those previously funded.~~

d. City and County shall pass through any and all of their shares of the State Sales Tax for schools to the schools. The School Board shall determine how such funds shall be used.

e. City and County shall have a responsibility to their respective citizens to assure that funding provided to the school system is spent wisely and efficiently in achieving quality of education for the students.

The funding formula calculated for operational costs in Section 1, above, shall be used to determine the funding by City and County for all Capital Project Costs approved by their respective governing bodies, ~~except that the City's share of funding for the fourth middle school, ninth elementary school, and any school additions primarily of classroom space shall be three and one quarter percent (3 1/4%) of the Capital Project costs. The foregoing notwithstanding, if any new school other than the fourth middle school and the~~

Any capital project balance not to exceed \$500,000 may be retained by the School Board if these funds are invested in a capital project included in the adopted five-year capital improvement programs of both City and County. Project balances exceeding \$500,000 shall be ~~returned to the City and County in the same proportion as they were contributed~~ *considered in the same way as unexpended local funds in the operating budget, paragraph 1(c) of this agreement.*

FURTHER RESOLVED that paragraphs 3 through 6 of the Restated Contract are hereby amended and restated as follows:

3. Termination. Either the Williamsburg City Council or the James City County Board of Supervisors may elect to terminate this contract at any time by giving written notice to the other. Unless City and County shall agree otherwise, termination shall become effective at the close of the school year next following the school year during which notice was given.

In the event of termination, the City shall have one hundred percent (100%) equity in all school facilities located within the City's corporate limits and the County shall have one hundred percent (100%) equity in all school facilities located in the County; provided, however, that the non-situs locality shall have an equity interest in any real property located in the other locality which was used for school purposes, equal to all capital contributions made by the non-situs locality for the erection or improvement of buildings on such real property subsequent to July 1, 1997; provided, however, that City's capital contributions made under the provisions of this contract attributed to the construction of Matoaka Elementary School, *Hornsby Middle School, and Blayton Elementary School* and the unnamed fourth middle and ninth elementary schools shall be considered as an increase in City's equity position in Warhill High School or any other currently operating school buildings chosen by City. City relinquishes all equity interest in Matoaka Elementary School, *Hornsby*

School Buses - As shown in most recent issue of valuation booklet for school buses, "Yellow Book" published by Yellow School Buses, P.O. Box 261, Los Angeles, CA 90078 or if out of publication, as determined by other mutually agreeable method.

Other Personal - Acquisition cost depreciated over five (5) years with ten percent (10%) salvage value.

4. School Board Membership. Effective July 1, 1993, City's School Board shall consist of two (2) members and County's School Board shall consist of five (5) members. The two School Boards shall serve as one Board for all decisions regarding operation of the joint school system including the hiring and firing of the superintendent.

5. Review of Contract. The Restated Contract as here amended shall be reviewed by City and County prior to the fiscal year beginning July 1, 2012~~7~~, and every fifth (5th) year thereafter. Each review shall commence not later than January of the previous fiscal year. The parties intend that any subsequent amendments to the Restated Contract shall result from the regularly scheduled reviews, and each party represents to the other its intent to withhold requests for further amendments until the time of such scheduled reviews unless urgent necessity dictates otherwise.

6. Effective Date of Amendments. All future amendments to the Restated Contract as here amended shall become effective on the July 1 following the fiscal year in which the parties reach written agreement as to such amendment.

IN WITNESS WHEREOF, Pursuant to resolution duly adopted, the City of Williamsburg, Virginia, on this \_\_\_\_ day of \_\_\_\_\_, 2012; the County of James City on the \_\_\_\_ day of \_\_\_\_\_, 2012.

WHEREAS, a 1979 Presidential Directive requires all federal agencies to seek to avoid or mitigate actions that would adversely affect one or more NRI segments; and

WHEREAS, the visual impact of the power lines crossing the James River will be a significant detriment to the visual and historic nature of the river; and

WHEREAS, putting the electrical transmission lines on towers across the James River will have a detrimental impact on tourism, tourist attractions, existing and proposed transient occupancy along the James River, and property values of nearby waterfront properties; and

WHEREAS, installing the electrical transmission lines under the James River will not only eliminate the adverse impacts it will also provide a safer and better long-term solution to providing electrical power Dominion customers; and

WHEREAS, the transmission line in James City County crosses several industrial parcels of economic significance to the County, which access might be adversely affected by the transmission line tower placement and preclude VDOT acceptance of roads to access the industrial parcels; and

WHEREAS, the visual impact on residential development should be minimized to the extent feasible.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby urges Dominion to place the proposed Surry-Skiffes Creek electrical transmission lines underground for that portion which crosses the James River.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, hereby urges Dominion to locate any transmissions line towers in the County in such a manner to both allow appropriate access to impacted parcels and the ability to have parcel access roads accepted in the VDOT system.

BE IT FURTHER RESOLVED that the Board of Supervisors directs the County Administrator and County Attorney to intervene on behalf of James City County in the State Corporation Commission permitting process to all appropriate actions to see that the Dominion 500 kV electric transmission line is built under the James River.

#### **K. PUBLIC COMMENTS**

1. Mr. Ed Oyer, 139 Indian Circle, Williamsburg, addressed the Board regarding the recent home fires in Chesapeake and Suffolk spreading from one structure to multiple structures and stated his concerns about cluster developments. Mr. Oyer also commented about accountability of the proposed budget.

2. Mr. Richard Thek, 4032 Kings Oak, Williamsburg, thanked the Board for passing the resolution encouraging Dominion Virginia Power to seek underwater access for its power needs. Mr. Thek expressed his concerns about another alternative of Dominion Virginia Power utilizing its current easement that goes through a high residential area with a narrow right-of-way for its 500-kV utility line.

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, consideration of a personnel matter(s), the appointment of individuals to County boards and/or commissions.

## 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, consideration of acquisition/disposition of a parcel/parcels of property for public use.

Mr. McGlennon made a motion to certify that the Board only talked about what they said they were going to speak about in the Closed Session.

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

Mr. McGlennon moved for the appointment of Ms. Elizabeth Peterson to the Clean County Commission and the recommendation of Ms. Vickie Nase to the Board of Equalization to the Circuit Court.

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

Mr. Kale moved for the appointment of Ms. Robin Bledsoe as the Jamestown Representative on the Planning Commission for a two-year term ending January 31, 2014.

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