

Policy Committee Government Center Complex Conference Room, Building D

July 10, 2014 - 3 p.m.

1. Roll Call

2. Minutes

a. May 15, 2014

3. Old Business

4. New Business

a. Case No. ZO-0001-2014. Chicken Keeping in R-2, General Residential and R-3, Residential Development

- Memorandum
- Attachment 1 - Ordinance
- Attachment 2 - Zoning Districts
- Attachment 3 - Subdivisions
- Attachment 4 - 31413 Policy Materials
- Attachment 5 - 41113 Policy Materials
- Attachment 6 - 5113 PC Materials
- Attachment 7 - 52814 BOS Materials
- Attachment 8 - 72313 BOS Minutes
- Attachment 9 - 111213 BOS Minutes
- Attachment 10 - 121013 BOS Materials
- Attachment 11 - 11614 Policy Materials
- Attachment 12 - 21314 Policy Materials
- Attachment 13 - 31314 Policy Materials
- Attachment 14 - 41414 Policy Materials
- Attachment 15 - 5713 PC Materials

5. Adjournment

MEMORANDUM

DATE: July 10, 2014

TO: The Policy Committee

FROM: W. Scott Whyte, Senior Landscape Planner II

SUBJECT: Case No. ZO-0001-2014, Chicken Keeping in R-2, General Residential and R-3, Residential Redevelopment.

Per a request from the Policy Committee, staff has compiled all documentation from consideration of chicken keeping in residential areas of the county from the Policy Committee's meetings in 2013 and 2014. Please see attached staff reports, minutes, and agendas.

The Policy Committee first considered chicken keeping in residential areas of the county in early 2013 and again in early 2014. The Committee reviewed sample ordinances from other localities, considered HOA covenant restrictions, coop construction and location, the number of chickens that should be allowed, and nuisance concerns. The Committee instructed staff to draft two ordinances that addressed their concerns and the Policy Committee voted 4-0 on April 14, 2014 to advance a draft ordinance to allow chicken keeping in R-1, Limited Residential to the Planning Commission. At the Planning Commission meeting on May 7, 2014, a motion to approve the ordinance failed by a voted of 4-2.

At the June 10, 2014 Board of Supervisors meeting, a motion to adopt the ordinance was approved by a vote of 3-2. The Board instructed staff to draft an initiating resolution to reconsider chicken keeping in the R-2, General Residential and R-3 Residential Redevelopment, zoning districts. The initiating resolution was approved by a vote of 3-2 at their June 24, 2014 meeting.

Staff is seeking Policy Committee guidance prior to drafting an ordinance.



W. Scott Whyte,
Senior Landscape Planner II

Attachments:

1. Ordinance for the R-1, Limited Residential District, as adopted
2. Zoning Districts Matrix for R-1, R-2 and R-3

3. Listing of subdivisions by zoning district
4. Memorandum and Minutes from March 14, 2013 Policy Committee meeting
5. Memorandum and Minutes from April 11, 2013 Policy Committee meeting
6. Memorandum and Minutes from May 1, 2013 Planning Commission meeting
7. Memorandum and Minutes from May 28, 2013 Board of Supervisors meeting
8. Minutes from July 23, 2013 Board of Supervisors meeting
9. Minutes from November 12, 2013 Board of Supervisors meeting
10. Memorandum and Minutes from December 10, 2013 Board of Supervisors meeting
11. Memorandum, Attachments and Minutes from January 16, 2014 Policy Committee meeting
12. Memorandum, Attachments and Minutes from February 13, 2014 Policy Committee meeting
13. Memorandum, Attachments and Minutes from March 13, 2014 Policy Committee meeting
14. Memorandum, Attachments and Minutes from April 14, 2014 Policy Committee meeting
15. Memorandum, and Minutes from May 7, 2014 Planning Commission meeting

James City County Zoning Ordinance
Sec. 24-47. Keeping of Chickens in Residentially Zoned Areas

Keeping and housing domestic chickens on residentially-zoned and occupied property shall be solely for purposes of household consumption and shall comply with the following requirements:

- (a) Chickens allowed pursuant to this section shall be kept and raised only for domestic purposes and no commercial activity such as selling eggs or selling chickens for meat shall be allowed. No commercial harvesting of chickens is permitted.
- (b) The maximum number of chickens permitted on a residential lot shall be two hens per the first 5,000 square feet of lot area, and one additional bird for each additional 5,000 square feet of total lot area thereof. The total number of birds is not to exceed a maximum of 12 hens.
- (c) Chickens shall only be allowed on properties consisting of single-family homes and which are on lots of at least 15,000 square feet in size.
- (d) No roosters shall be allowed.
- (e) Coops or cages and runs shall only be located in the rear yard area. The Zoning Administrator may grant an exception to this requirement in cases where due to unusual lot configuration, topography, or proximity of neighbors, another area of the yard is more suitable for such an activity.
- (f) Coops or cages and runs shall be situated at least five feet from adjoining property lines and 25 feet from any dwelling located on a property not owned by the applicant. On corner lots, all pens coops or cages shall be situated no closer than 35 feet from the side street.
- (g) Coops or cages and runs shall be located outside of Resource Protection Areas and any conservation easements dedicated to the County.
- (h) Coops or cages and runs shall be required, a portion of which shall be covered. Such coops, cages, and runs shall be enclosed with a minimum four feet high chicken wire fence. All coops, cages, or runs shall provide at least three square feet of area per bird.
- (i) Each property owner seeking to keep chickens shall file an application with the James City County Zoning Office. Such application shall be accompanied by a \$20 processing fee. The application shall include a sketch showing the area where the chickens will be housed and the types and size of enclosures in which the chickens shall be housed. The sketch must show all dimensions and setbacks. Upon review and determination that the proposed chicken-keeping complies with the standards set forth in this section, the zoning office shall issue a permit. Any permit that is found in violation or not in compliance with this section may be revoked.

Zoning Districts R1 through R3

District	Statement of Intent	By_Right Residential Category Uses	Minimum Lot Size
R-1	<p>The Limited Residential District, R-1, is composed of certain quiet, low-density residential areas plus certain open areas where similar residential development is likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to limit activities of a commercial nature and to implement the policies and designations of the Comprehensive Plan applicable to low-density residential areas. To these ends, development is limited to low-density residential and generally permitted uses are limited to single-family dwellings, plus certain additional community-oriented uses that serve the residents of this district.</p>	<p>1) Accessory buildings or structures as defined (P) 2) Group home or residential facility, for eight or fewer adults (P) 3) Single-family detached dwellings with a maximum gross density of one dwelling unit per acre in accordance with section 24-233(a) (P)</p>	<p>(a) Public water/sewage disposal. Lots served by public water and public sewage disposal systems shall have a minimum area of 10,000 square feet. (b) Public sewage disposal only. Lots served by a public sewage disposal system but not a public water distribution system shall have a minimum area of 12,000 square feet. (c) Public water distribution only. Lots served by a public water distribution system but not a public sewage disposal system shall have a minimum area of 20,000 square feet. (d) Individual water/sewage disposal. Lots served by individual water and sewage disposal system shall have a minimum area of 30,000 square feet. Supp. No. 36, 12-13 24-5-4-4 (e) Applicability to certain lots. These minimum sizes shall not apply to lots of less than 12,000 square feet recorded or legally in existence prior to April 8, 1985.</p>
R-2	<p>The General Residential District, R-2, is composed of certain quiet, low-density residential areas plus certain open areas where similar residential development is likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage the clustering of residential developments to maximize shared and purposeful open space, to protect the natural environment and to promote a sense of community, to limit activities of a commercial nature and to implement the policies and designations of the Comprehensive Plan applicable to low-density residential areas. To these ends, development is limited to low-density residential and permitted uses are limited to dwellings designed to be occupied by one family or more than one family under certain conditions plus certain additional community-oriented uses that serve the residents of the district.</p>	<p>1) Accessory apartments in accordance with Section 24-32 (P) 2) Accessory buildings or structures as defined (P) 3) Group home or residential facilities, for eight or fewer adults (P) 4) Multifamily dwellings, up to and including four units, with a maximum gross density of one unit per acre, contained within residential cluster development in accordance with article VI, division 1 of this chapter (P) 5) Single-family detached dwellings with a maximum gross density of one dwelling unit per acre, either <ul style="list-style-type: none"> ● in accordance with section 24-253(a), or ● contained within residential cluster development in accordance with article VI, division 1 of this chapter (P) </p>	<p>(a) Public water/sewage disposal. Lots served by public water and public sewage disposal systems shall have a minimum area of 10,000 square feet. (b) Public sewage disposal only. Lots served by a public sewage disposal system but not a public water distribution system shall have a minimum area of 12,000 square feet. (c) Public water distribution only. Lots served by a public water distribution system but not a public sewage disposal system shall have a minimum area of 20,000 square feet. (d) Individual water/sewage disposal. Lots served by individual water and sewage disposal system shall have a minimum area of 30,000 square feet. Supp. No. 36, 12-13 24-5-4-4 (e) Applicability to certain lots. These minimum sizes shall not apply to lots of less than 12,000 square feet recorded or legally in existence prior to April 8, 1985.</p>
R-3	<p>The purpose of the residential redevelopment district is to encourage the replacement or reuse of existing buildings or previously developed sites to accommodate new residential development that provides benefits to the county, but would be difficult to achieve with other zoning districts. The principal uses and development form should preserve or improve the desirable and viable characteristics of the previous use and the adjacent parcels. The desired result is improved function and appearance of the same use or introduction of a use or uses compatible and/or complementary to the surrounding developed areas. All parcels to be zoned residential redevelopment should conform to the residential redevelopment policy.</p>	<p>Accessory buildings or structures as defined (P) Accessory apartments in accordance with section 24-32 (P) Apartments (P) Group homes or residential facilities, for eight or fewer adults (P) Multifamily dwellings up to and including four units (P) Multifamily dwellings greater than four units (P) Single-family dwellings (P)</p>	<p>A Residential Redevelopment District, R-3, is permitted in areas designated Low Density Residential by the Comprehensive Plan. The minimum site size is five acres.</p>

R1

Acreage Lots
Adam's Hunt
Berkeley's Green
Boughsprings
Bozarth & Mahone
Brandon Woods
Bush Springs
Canterbury Hills
Chanco Estate
Chestnut Hills
Druid Hills
Drummond's Quarter on the James
Durfey's Mill
Fernbrook
Fieldcrest
First Colony
Five Lots on Jamestown Road
Frank Armistead (Jamestown Road)
Gatehouse Farms
Gilliam's Woods
Graylin Woods
Greensprings Plantation
Heritage Landing
Hollybrook
Hunter's Creek
Indigo Park
Jamestown Farms
Kingsmill
Kingspoint
Kingswood
Lake Powell Forest
Lake Powell Pointe
Lake Toano Estates
Lakewood
Marywood
Mill Creek Landing
Mirror Lakes Estates
Neck-O-Land Hundred
Paddock Green
Paddock Lane
Page Landing
Peleg's Point
Powhatan Crossing
Powhatan Shores
Riverview Plantation
Sand Hill

Settler's Mill
Shellbank
Shellbank Woods
Sheppard & Kinley
Smith Grove
Springhill
St. George's Hundred
Steers
Temple Hall Estates
The Colony
The Pointe at Jamestown
Toano Woods
Villas at Five Forks
Vineyards at Jockey's Neck
Ware Creek Manor
Wellington
Westray Downs
White Oaks
Williamstown
Windsor Forest

R1 Total

R2

Acreage Lots
Albemarle Condos
Baron Woods
Belen & Carriage Heights, Parker
Benjamin & Helen Clark
Benjamin Jones
Birchwood Park & Marlboro
Bradshaw Ordinary
Brook Haven
Burlington Woods
Cardinal Acres
Chickahominy Haven
Chisel Run
Colonial Park
Colonial Terrace
Cottages at Stonehaven
D.C. Renick on Indigo Dam Road
Davis/Clark/JCC
Deer Run
Eustis Terrace
Ewell Hall
Farmville Estates
Fenwick Hills
Ford's Colony

Forest Glen
Fox Ridge
Frank Armistead Estate
Gilley Properties LLC
Green Cove
Greensprings Plantation
Greyhound Estates
Grove
Grove Area
Harwood
Higg, Katherine Smith
Hill
Holly Ridge
Indigo Terrace
Ironbound Square
J. W. Moore Estate
James Terrace
Jamestown 1607
Jamestown Hundred
John Henry Lee
Kensington Woods
Kingsmill
Kristiansand
Landfall at Jamestown
Landfall Village
Larson's Lane
Longhill Gate
Longhill Station
Magruder Heights
Magruder View
Marlboro Apartments
Minichiello Villa
Mulberry Place
Neal's Grant
Nelson
Norge
Norge Court
Norvalia
Oak Hill Condos
Old Stage Manor
Pendleton, Elijah
Pine Grove
Poplar Hall
Powhatan Secondary
Raintree
Raintree Villas
Raleigh Square

Rolling Woods
Sadie Lee Taylor
Schulyer & Troy Smith
Scott's Pond
Season's Trace
Settler's Mill
Solomon Orange
Springhill
The Colonies Williamsburg Timeshares
The Colony
The Hamlet
The Meadows
The Pointe at Jamestown
Toano Terrace
Toano Trace
Tom & Hazel Kearney
Vass Meadows
Village Square
Villages at Westminster
Villas at Five Forks
Wallace Woods
Walnut Grove
Weatherly @ Whitehall
Westmoreland
White Hall
Whiting, William L.
Williams Circle
Williamsburg Plantation
Williamsburg Terrace
Williamsburg West
Williamstown
Windmill Meadows
Windsor Estates
Windsor Forest
Winston Terrace
Wynn's
R2 Total

R4

Acreage Lots
Druid Hills
Fenwick Hills
Fieldcrest
First Colony
Ford's Colony
Governors Land
Greensprings Plantation

Jamestown 1607
Kingsmill
Mallard Hill
Monticello Marketplace
Monticello Woods
Poplar Hall
Powhatan Secondary

MEMORANDUM

DATE: March 14, 2013
TO: The Policy Committee
FROM: Paul D. Holt, III, Director of Planning
SUBJECT: Planning Division Work Program – Remainder FY13 and FY14

The information contained in this memorandum is designed to provide the Policy Committee with an update on the Planning Division work program for the remainder of fiscal year 2013 and for fiscal year 2014. Staff is particularly interested in talking to the Committee about item II, Ordinance amendments, in the context of the Comprehensive Plan and the other work program items noted below.

I. Comprehensive Plan-related activities

As has already been outlined in a separate memo, staff anticipates some work on the Comprehensive Plan in the next fiscal year, and looks forward to additional discussion and input on this category.

II. Ordinance amendments

Currently underway are an examination of pawnshops and changes to the landscape ordinance. Other potential ordinance amendments, together with a short description, are listed below:

Rural Lands Public Engagement	This major item was part of the original Zoning Ordinance Update. Anticipate bringing forward a proposed methodology to define a public engagement process to solicit public/stakeholder input into the commercial and residential aspects of the Rural Lands districts.
Chickens in Residential Districts	This item was brought to Commission's and Board's attention in 2012. Anticipate examining whether to permit chickens, and if so, under what circumstances.
Accessory Apartments	This item was discussed by the Policy Committee. Anticipate re-examining whether to permit/specially permit accessory apartments in the various districts and their associated standards and conditions.
Fast Food Restaurant	Clarify the current definition, based on recent experience/inquiries and the industry.
Other Housekeeping	Based on recent experience, staff anticipates small "tweaks" to the Parking, Wireless Communication Facilities, and R-4 sections of the ordinance.
Wind and Solar Production/ Electric Vehicle Charging	Examine changes to the ordinance to accommodate these technologies.

III. Transportation projects

Preparation of information and coordination of transportation items has been a significant work program item in past years, and staff anticipates this category continuing and increasing in scope in coming years. In particular, the two County-administered corridor studies will be major planning efforts spanning 12-18 months and will include technical reports and public/stakeholder input.

Management of Corridor Studies – Longhill Road and Mooretown Extended
Updates to Six Year Plan
Participation in on-going regional effort to secure a VDOT enhancement money for Rt. 60
Work with VDOT on approved transportation improvement projects (such as Rt. 60 relocated, Skiffes Creek Connector, Racefield Road, Croaker Multi-Use Trail, etc.)
On-going work with the Hampton Roads Transportation Planning Organization on funding of existing projects
Preparation of new requests for various funding sources (CMAQ, RSTP, Transportation Alternatives Program, etc.)

IV. Other "Special Projects"

Cumulative Impact Tracking project – next steps include assigning per unit/lot impacts in various impact categories (especially re: traffic and transportation)

Establishment of an AFDs of Local Significance Program (per recent changes in State Code)

Follow-up to items adopted during the Zoning Ordinance update (green building internal and external training, establishment of protocols for the Housing Opportunity Policy)
--

V. "Routine" duties

In addition to the items above, staff will complete "routine" duties, including, but not limited to; current planning case review and preparation (conceptual, site, subdivision, rezoning, SUP, etc.); demographic and socioeconomic updates and information; work with groups such as the Historical Commission, HTBAC, Williamsburg Botanical Garden, New Town DRB, etc.; greenspace acquisition and monitoring assistance; coordinating updates of the Comprehensive Plan Goals, Strategies and Actions; preparation of Capital Improvement Program materials; tracking State Legislation; and Division management (budget, workload indicators, work program, etc.).

Division Resources

During the last Comprehensive Plan update, the Division had nine staff planners, plus management and support staff. At the present time, the Division has six staff planners, plus management and support staff.

Conclusion

Staff looks forward to the Policy Committee's discussion on March 14, 2013. Staff looks to the Committee for its priorities, information about the Committee's expectations (scope, timing, etc.) for the projects described above, and information on any other items the Committee may wish to consider in FY13/FY14. This input will help prepare staff for the Planning Commission/Board of Supervisors joint work session, with an aim toward better aligning the work program and resources to expectations.

POLICY COMMITTEE MEETING

March 14, 2013

3:00 p.m.

County Government Center, Building A

1) Roll Call

Present

Ms. Robin Bledsoe
Mr. Tim O'Connor
Mr. Rich Krapf

Staff Present

Mr. Paul Holt
Ms. Tammy Rosario
Mr. Luke Vinciguerra

Ms. Robin Bledsoe called the meeting to order at 3:00 p.m.

Ms. Tammy Rosario noted that she had left a message for Mr. Woods in the event he wanted to call back to participate by telephone.

2) Minutes

The minutes from the January 17, 2013 meeting were approved as submitted by unanimous voice vote.

3) Old Business

There was no old business to discuss.

4) New Business

a) Update on Coordinated Regional Comprehensive Planning Process

Ms. Rosario provided the Committee with an overview of the Coordinated Regional Comprehensive Planning Process. Ms. Rosario requested feedback from the Committee on the draft summary document, Joint Transportation Study and the draft Regional Bikeways Map provided as part of their agenda materials. Ms. Rosario also requested that the committee consider the next steps leading up to the joint meeting of the James City County Planning Commission and Board of Supervisors which is tentatively scheduled for May 28, 2013.

The Committee and staff discussed the regional work products and how they might be incorporated into the County's Comprehensive Plan Update. The Committee also discussed whether to make a recommendation to the Planning Commission regarding the regional work products or make it part of the discussion at the upcoming joint work session between the Board of Supervisors and the Planning Commission.

The Committee requested that the matter be brought back to the next Policy Committee meeting on April 11, 2013 for further discussion. Staff agreed to facilitate the discussion by providing some specific questions to be considered by the Committee.

b) Planning Division Work Program

Mr. Paul Holt provided the Committee with an update on the Planning Division work program for the remainder of fiscal year 2013 and for fiscal year 2014.

Mr. Holt requested that the Committee provide feedback on priorities and expectations for the projects described in the work program and information on any other items that the Committee might wish to consider in FY13/FY14.

Mr. Holt noted that staff was particularly interested in the Committee's priorities for advancing the ordinance amendments.

The Committee reviewed the potential ordinance amendments and requested that the topic be placed on the April Policy Committee agenda for further discussion.

The Committee also requested that FMS staff present a budget primer at a future meeting in advance of the next round of CIP discussions.

5) Public Comment

Mr. Keith Johnson of Colonial Williamsburg inquired if the Coordinated Regional Comprehensive Planning Process documents were available to the public.

Ms. Rosario noted that the documents were available on the County's website as part of the Policy Committee agenda. Ms. Rosario also noted that the summary was a draft document and to let staff know if Colonial Williamsburg had any questions or comments.


6) Other Business

Ms. Rosario inquired if the Committee would consider a shift from verbatim minutes toward action-oriented minutes that would capture major discussion points and actions along with any discussion that informed decisions.

The Committee approved the change.

7) Adjournment

Ms. Bledsoe moved to adjourn. The meeting was adjourned at 4:20 p.m.


Robin Bledsoe, Chair of the Policy Committee

MEMORANDUM

DATE: April 11, 2013
TO: Policy Committee
FROM: Paul D. Holt, III, Planning Director
SUBJECT: Planning Division Work Program – Remainder of FY13 and FY14

At its March 14, 2013 meeting, the Policy Committee began a discussion of the Planning Division's work program. The Committee generally discussed the items and then deferred additional discussion and conclusion to this meeting. Staff suggests that the following questions be considered by the Committee as it finalizes the discussion.

- Of the possible ordinance amendment topics listed in the March 14, 2013 memo:
 - What priority order would the Committee recommend?
 - Are there any proposed amendments the committee would recommend not pursuing at all in FY14?
 - Are there any additional amendment topics the committee would like to add to the list?
- For each of the ordinance amendment topics to be pursued, does the Committee have any particular guidance regarding timing and/or scope?

As noted in the March 14, 2013 memo, staff would ask that the Policy Committee keep the other items on the work program in mind when providing guidance.

Attachment:

1. March 14, 2013 memo

POLICY COMMITTEE MEETING

April 11, 2013

3:00 p.m.

County Government Center, Building A

1) Roll Call

Present

Ms. Robin Bledsoe

Mr. Al Woods

Mr. Tim O'Connor

Mr. Rich Krapf

Staff Present

Mr. Paul Holt

Ms. Tammy Rosario

Ms. Ellen Cook

Mr. Jason Purse

Ms. Robin Bledsoe called the meeting to order at 3:00 p.m.

2) Minutes

Mr. Al Woods requested clarification on the acronym FMS. Staff stated that it stands for the Division of Financial and Management Services. The minutes from the March 14, 2013 meeting were approved as corrected by unanimous voice vote.

3) Old Business

Mr. Woods noted the suggestion made at the March 14 meeting to have FMS present a budget primer at a future meeting in advance of the next round of CIP (Capital Improvement Program) discussions and recommended that the Committee establish a list of questions and subjects for discussion.

Mr. Paul Holt noted that he would provide the Committee with the state code sections that apply to the role of planning commissions in the CIP process.

Mr. Tim O'Connor requested that the Committee also receive a copy of the CIP application form.

4) New Business

a) Update on Coordinated Regional Comprehensive Planning Process

Ms. Tammy Rosario noted that the objective is to bring the Coordinated Regional Comprehensive Planning Process to a successful conclusion. In order to accomplish this, it is necessary to look back at the process as well as the work products that resulted from the process. Ms. Rosario also noted that it is necessary to address the role of the work products now and for the County's upcoming Comprehensive Plan Review.

1. Disposition of Summary Document, Regional Bikeways Map, Transportation Study

Ms. Rosario requested that the Committee consider the individual work product documents and determine for each whether it should be used for informational purposes or more formally adopted.

Ms. Bledsoe asked how the other localities addressed the documents.

Ms. Rosario responded that the other localities have used the documents as a springboard for their revisions and are reflected in the Comprehensive Plans going forth for adoption. Ms. Rosario noted that the Summary Document was being used in the other localities for informational purposes.

Mr. Rich Krapf noted that the reason the other localities chose to use the Summary Document for informational purposes was because they were conducting a complete five-year update of their Comprehensive Plans and they incorporated much of the wording and material in the Comprehensive Plan. Mr. Krapf noted that the County is on a different schedule and that the County should carefully consider the weight given to each document in its Comprehensive Plan review process.

The Committee and staff discussed options for when and how the County might incorporate the work products in a Comprehensive Plan review.

Ms. Bledsoe inquired whether there was anything that the Committee absolutely needed to act on at this time.

Ms. Rosario responded that the Regional Bikeways Map would be the most urgent because the other jurisdictions will have formally adopted it and will be using it as the basis for decision making. Ms. Rosario noted that County staff would want to see it adopted in order to be able to use it in the development review process.

The Committee asked staff to differentiate between endorsing and adopting the documents.

Mr. Holt noted that an endorsed document would be consulted and reviewed much like an adopted document. The example was given of the *Shaping Our Shores Master Plan* which was endorsed by the Board of Supervisors and formed the basis of the recent Jamestown Beach rezoning.

Ms. Rosario further noted that there might be a greater distinction between accepting and endorsing/adopting a document. The action of accepting a document would indicate taking it for informational purposes and acknowledging that staff would be acting on portions of it.

Mr. Krapf noted that adopting the Summary Document might be too aggressive; however, endorsing the document might be a more appropriate.

Mr. Holt stated that endorsing the work products that were always envisioned to come out of the Regional Comprehensive Planning Process would serve as a nice conclusion to the process. Mr. Holt noted when the process began, there were some hopes for where the process would lead but there was not universal consensus on where all three localities would end up. Mr. Holt stated that it became apparent during the process that the end product did not want to create new text; did not want to create mutual goals, strategies and actions; did not want to language similar to all three jurisdictions. Mr. Holt further noted that there is no new text for James City County, but the Summary Document discusses areas of common interest as well as the dissimilarities for these mutual geographic areas.

Mr. Holt noted that the policy basis for adopting the Regional Bikeways Map is because it has been substantively updated. Mr. Holt further noted that there could be a hybrid recommendation which would allow flexibility in how the recommendations are implemented and policies established.

Ms. Bledsoe inquired if it would be reasonable to recommend adoption of the Regional Bikeway Map and endorse the Summary Document.

Mr. Krapf noted that he felt it would be appropriate to adopt the Regional Bikeway Plan and possibly the Transportation Study and to endorse the Summary Document.

Ms. Bledsoe inquired if the Committee was in agreement that at minimum they would recommend endorsing the Summary Document.

Mr. O'Connor noted that the recommendation would be driven by the Comprehensive Plan Update. If the Comprehensive Plan is not being revised in 2013, then it would be appropriate to accept or endorse the Summary Document and potentially adopt it during a later review.

Mr. O'Connor noted that despite the sentiment against regionalism, it is necessary to recognize that what occurs in one jurisdiction has an impact on the neighboring localities.

Mr. Woods asked if it was correct that the opportunity to consider revising the Comprehensive Plan at this time had passed.

Ms. Rosario stated that the Board of Supervisors felt strongly that since so much effort had been expended to complete the 2009 Comprehensive Plan and in such a recent timeframe, they did not immediately want to revise it in a substantive way.

Mr. O'Connor stated that he felt the appropriate weight for the Summary Document would be acceptance.

Ms. Bledsoe inquired what message endorsing the Summary Document would send to the Board of Supervisors and staff.

Ms. Rosario stated that it would acknowledge the work had been done and give staff the ability to rely on it as a technical resource and foundational document for future years.

Mr. Krapf stated that his preference would be to endorse the Summary Document and the Transportation Study and adopt the Regional Bikeways Map.

Mr. Holt noted that the endorsement of the Summary Document validates the efforts involved in the Community Conversations and the information that was generated.

Ms. Bledsoe inquired what effect the Transportation Study would have on the Governor's transportation plan.

Ms. Rosario responded that the Governor's transportation plan deals with finances, which affects the viability of some projects.

Ms. Bledsoe inquired if endorsing the Transportation Study would give validity to future transportation projects when funding becomes available.

Mr. Holt responded that staff would be able to use it as a technical resource for justification of future transportation improvement projects.

Mr. O'Connor inquired how the Transportation Study would be presented to the Board of Supervisors.

Ms. Rosario noted that staff envisions presenting it to the Board of Supervisors as part of the Work Session materials. Should the Board require an in-depth presentation, then staff would arrange for a representative from the Hampton Roads Transportation Planning Organization to facilitate the conversation on a separate occasion.

Mr. Krapf inquired if the components of the current discussion would form the basis of the Work Session agenda.

Mr. Holt noted that the Policy Committee would most likely want to discuss their conclusions with the full Planning Commission at the May 1, 2013 Planning Commission meeting. Mr. Holt further noted that one of Work Session agenda items would be a discussion on how to formally conclude the Coordinated Regional Comprehensive Planning Process.

Mr. O'Connor recommended that once the full Planning Commission has considered the recommendations of the Policy Committee, an outline paper or talking points be prepared for the joint work session.

Ms. Bledsoe inquired who would make the presentation to the Board of Supervisors.

Ms. Rosario noted that staff would prepare the documentation and would assist the Commissioners in the dialogue with the Board.

Mr. O'Connor inquired whether the Committee wanted to consider adopting the Transportation Study to lend it more weight.

Ms. Rosario noted that the other localities have been using it as a technical reference for developing the transportation element of their comprehensive plans.

Mr. Holt clarified that the consensus of the Committee was to formally adopt the Regional Bikeways Map as part of the Comprehensive Plan to give it the weight of policy in terms of future land use decisions; endorse the Summary Document which would conclude that process; and adopt the Transportation Study a technical appendix or endorse it as a technical resource to the Comprehensive Plan.

Ms. Bledsoe inquired if the Committee was in favor of adopting the Transportation Study.

Mr. O'Connor inquired if the Transportation Study would be updated before the FY14 Comprehensive Plan Review.

Mr. Holt added that the substantive value of the technical work in Transportation Study will remain valid for the County's 2014 Comprehensive Plan review.

Mr. Woods suggested endorsing the Transportation Study as a reference document.

Mr. O'Connor stated that he wanted to ensure the Transportation Study would be a useful tool for staff moving forward with the 2014 Comprehensive Plan Update.

Ms. Bledsoe stated that it appeared to be the consensus of the Committee to endorse the Summary Document, endorse the Transportation Study as a reference document and adopt the Regional Bikeways map.

Mr. Woods inquired if the Regional Bikeways map was spiritually consistent with the existing Comprehensive Plan.

Ms. Rosario noted that there are substantive changes; however, it will still provide adequate access for citizens to have meaningful bicycle experiences in the County.

Mr. O'Connor noted that it was necessary to adopt the Regional Bikeways Map so that it would become the guiding policy and be consistent with the other localities.

Ms. Bledsoe inquired if it was necessary for the Committee to take a vote.

Mr. Holt stated that a vote was not required.

2. Focus and Scale of the 2014 Comprehensive Plan Update

Ms. Rosario noted that this discussion was to confirm that the Comprehensive Plan Update would commence in FY14 and to ensure that the staff is in step with the Planning Commission and Board of Supervisors as to the scope of the process.

Ms. Rosario requested that the Committee provide input on the on the elements of the Comprehensive Plan that should be examined during the process. Items outlined in the staff memo were: follow-up from the Coordinated Regional Comprehensive Planning Process; major elements such as the Land Use Section, confirmation of the Goals, Strategies and Action; other elements typically part of the plan, such as the Environmental Section, Economic Development, and Community Character.

Mr. Krapf noted that the 2009 Comprehensive Plan was a thorough examination of all elements and that the next update should be smaller in scale, focusing only on key elements.

Mr. Holt noted that staff did not perceive a need to revisit all sections of the Comprehensive Plan in depth.

Ms. Bledsoe inquired if the Committee felt there were any items from the staff report that should be taken out or that should be added.

Mr. Krapf inquired why Housing was not included.

Ms. Rosario responded that staff differentiated between the Land Use section, which is the core of the Comprehensive Plan and other elements. Ms. Rosario further noted that certain elements had been listed as examples but all elements are open for consideration.

Ms. Bledsoe stated that it appeared there was a consensus to thoroughly review the Land Use section.

Ms. Rosario noted that Transportation would also be reviewed.

Ms. Bledsoe noted that she would like to see a substantial review of the Economic Development section.

Ms. Rosario noted that the base elements of each section would be updated. Ms. Rosario further noted that staff wanted to know if the Committee envisioned refinements or major policy changes.

Ms. Bledsoe inquired if staff anticipated a broader discussion about larger issues or more focus on the specifics of the update.

Ms. Rosario stated that staff wanted to know if the Committee was already aware of major issues that would need to be examined during the Comprehensive Plan update or did the

Committee feel that the current Comprehensive Plan was largely heading in the right direction.

There was a consensus from the Committee that the Comprehensive Plan was substantially moving in the right direction; however, certain topics might need extensive review.

Mr. Krapf noted that the extensive work done by Parks and Recreation with the *Shaping Our Shores* Master Plan could be incorporated by reference.

Mr. Woods inquired which areas the Bikeways Map would impact.

Mr. Holt noted that it would be Land Use, Community Character and Transportation.

Ms. Bledsoe inquired whether the Comprehensive Plan would be affected by citizen sentiment against issuing development bonds.

Mr. Holt noted that the Comprehensive Plan should not be affected and strongly encouraged the Committee to distinctly separate the cost of implementing the Comprehensive Plan goals, strategies and actions from the establishment of a 30-year vision for the County.

Mr. Krapf stated that it might be beneficial to commission a large scale community survey to ensure that all voices are heard and not just the most vocal groups.

Ms. Rosario noted that there had been a survey in 2003 through Virginia Tech which measured citizen responses to a series of land use questions. The survey was replicated for the 2009 Comprehensive Plan. Ms. Rosario noted that staff anticipated doing a similar survey for the next Comprehensive Plan review.

Ms. Bledsoe concurred that a citizen survey would be important.

Ms. Bledsoe confirmed that the Committee was in agreement with the items for review proposed by staff.

3. Future of the Regional Comprehensive Planning Process

Ms. Rosario inquired if the Committee would conclude that there were enough successes/positives to the process over the last two years to make another regional process desirable in future years.

Mr. Woods noted that you had to stay the course to see the long-term benefits.

Ms. Bledsoe stated that from the Planning Commission perspective, the Regional Comprehensive Planning Process makes sense because you are working with the adjacent localities to ensure the best possible stewardship of the land.

Mr. Krapf noted that the three adjacent localities, while remaining separate entities, are

dependent on each other to an extent and have overlapping impacts and resources. Although it was initially awkward, the process must be repeated to gain the most benefit. Mr. Krapf further noted that public engagement was essential to the success of the process.

Ms. Bledsoe confirmed that the Committee agreed that the Regional Comprehensive Planning Process should be repeated in the future.

4. Methodology for Future Regional Comprehensive Planning Processes

Mr. Woods inquired if this question needed to be addressed at this time.

Mr. Holt responded that there is a tentative agenda item for the July Regional Issues Committee which anticipates a report from each locality to benchmark the process.

Mr. Woods noted that many similar processes are done over two days to provide for activities to break the ice so the remainder of the discussions will be productive.

Ms. Bledsoe noted that the success of the joint Planning Commission meetings depends on how well staff prepares the Commissioners for the discussion. Ms. Bledsoe further noted that the James City County Planning Commission is always well prepared thanks to the research and briefings by staff.

Mr. Krapf suggested a different format such as day-long event with a concentration on small focus groups which would each discuss the various topics.

Mr. O'Connor recommended narrowing the scope of the questions posed at the public forums to focus the responses.

Ms. Rosario asked for confirmation that the Committee wanted to retain the Community Conversations as part of the process.

The Committee confirmed.

Mr. Woods stated that it would be beneficial to have an impartial professional facilitator lead the joint Planning Commission meetings.

Mr. Krapf suggested that the facilitator might handle the public forums and keep the discussion more focused.

Mr. Holt requested that the Committee consider whether the large scale public forum would be effective going forward or whether smaller groups would be better.

Mr. Wood noted that the large meeting would be more effective if the attendees were divided into small focus groups to discuss each topic.

Mr. Krapf noted that that format was used by the County for the 2009 Comprehensive Plan

with good results.

Mr. Woods noted that the smaller focus groups would require more staff to facilitate the discussion.

Ms. Bledsoe noted that whatever format would be used for future public forums, it would be necessary to ensure that all voices are heard.

Mr. O'Connor noted that the choice of venue for the joint Planning Commission meeting would be important to allow the public to better hear the discussion.

Ms. Rosario thanked the Commissioners for their comments on the items posed for discussion.

b) Planning Division Work Program

Mr. Holt requested that the Committee provide feedback on the priority for six potential Zoning Ordinance amendment components: Rural Lands public engagement; chickens in residential districts; accessory apartment requirements; fast food restaurant standards; wind and solar production/ electric vehicle charging; and housekeeping items related to parking, wireless communication facilities, and the R-4 district.

Mr. Holt noted that Mr. Jason Purse, Zoning Administrator, was also present to assist with any questions the Committee might have.

Mr. Woods requested a brief explanation of the issues.

Mr. Purse stated that the question of keeping of chickens in residential districts had been brought forward last year by the Board of Supervisors in response citizen inquiries. Currently chickens are only allowed in the A-1 and R-8 districts which comprise approximately 48% of the County.

Mr. Purse further noted that staff had done a substantial amount of research on how other localities address the issue in their ordinances and that it is a complicated issue which is why it had not been part of the recent ordinance revisions.

Mr. Purse noted that there were currently a number of reports of people are keeping chickens in residential districts in violation of the Zoning Ordinance. These violations have not been addressed to date, pending any revisions to the Zoning Ordinance. If no revisions are made, staff will need to begin enforcement actions.

Mr. O'Connor noted that it was necessary for the benefit of the community to determine whether a revision to the ordinance was appropriate.

Mr. Holt noted that revising the Zoning Ordinance would also require consideration of other aspects such as conflicts with neighborhood covenants and the keeping of other types of animals.

Mr. Krapf stated that he is in favor of leaving the Zoning Ordinance as it currently stands related to the keeping of chicks due to the time and effort required to address all the ancillary issues.

The Committee concluded that it would not recommend pursuing amendments related to the keeping of chickens, meaning that the current ordinance standards remain in effect and enforcement of those standards would resume.

Mr. Holt noted that the Zoning ordinance currently allows accessory apartments with the restriction that they must be attached to the main structure; look like they are part of the main structure. Mr. Holt noted that the ordinance did not provide for any architectural flexibility.

Mr. Purse noted that an accessory apartment could not be more than 35% of the floor area of the main structure.

Ms. Bledsoe inquired why this topic was being brought forward.

Mr. O'Connor stated that there was substantial citizen sentiment to allow more flexibility for creating an accessory apartment to accommodate individual needs. Mr. O'Connor further noted that allowing more flexibility would be beneficial to the community to address the needs of an ageing population.

Mr. Purse noted that the reason for requiring the accessory apartment to be part of the main structure was for related to determining development unit caps, proffer requirements, and parking requirements.

Mr. Krapf noted that the impacts would exist under any circumstances. Mr. Krapf concurred that review of accessory apartment requirements would be a high priority.

Ms. Bledsoe agreed that this was an important issue due to the nature of the community. Ms. Bledsoe further stated that addressing the issue now would be a proactive step to have updated requirements in place in advance of a time when there would be an increasing number of requests.

Mr. Holt noted that reviewing fast food restaurant requirements was an extension of some of the housekeeping items. Mr. Holt stated that the Zoning Ordinance is not clear on what actually constitutes fast food due to the nature of services provided by establishments such as Starbucks and Subway among others.

Mr. Holt stated that the final item for consideration was review of the effect of emerging technologies such as wind and solar production/ electric vehicle charging on the Zoning Ordinances.

Mr. Woods inquired if there was demand for the wind turbines and if they were viable source of energy.

Mr. Holt stated that there had been requests in the Hampton Roads area.

Mr. O'Connor noted that there were a substantial number of wind turbines in New Kent County.

The Committee concurred that emerging technologies should be reviewed.

The Committee discussed the options for assigning priority levels to the remaining amendment topics.

The Committee concluded that review of accessory apartment standards would be the highest priority followed by the Rural Lands public engagement process. Review of fast food restaurant standards and the housekeeping items would be a medium priorities and consideration of emerging technologies would be lowest priority.

Ms. Rosario clarified that the Rural Lands public engagement process is a first step to assist the Board of Supervisors in gauging the preference of the community.

Mr. Krapf noted that the success of the conversations about Rural Lands would be enhanced if the County is able to obtain the grant to review potentials for economic growth in the Rural Lands district.

Mr. Holt noted that the remaining items in the staff report related to transportation and special projects were provided for informational purposes so that the Committee is aware of projects and items that would be coming forward throughout the year.

Ms. Bledsoe stated appreciation for the efforts of the Committee in working through the discussion items.

Mr. Woods reminded Ms. Bledsoe that she had wanted to return to the CIP topic at the end of the meeting.

Mr. Holt noted that he had as an action item to send the Committee the state code sections related to planning commissions in the CIP process along with a blank application.

Ms. Bledsoe stated that this review was to establish what the boundaries are for the Committee's involvement in the process.

Mr. Holt noted that after the committee reviews the information there could be a discussion of any changes the Committee would like to see in the application process.

Mr. O'Connor inquired if other localities ask for operating budget impacts related to the CIP.

Mr. Holt stated that it was more typical for localities to review an application based on a checklist, point ranking system, consistency with the Comprehensive Plan or Strategic Plan and implementation of goals, strategies and actions.

Mr. Holt further noted that there had been an effort within the last two years to update the state code language which established new language to mandate that some of the operating budget components be included in the evaluation process.

Ms. Rosario noted that historically it has been natural for the various policy committees to want to review the CIP process to be sure they are comfortable with it.

Mr. Krapf noted that, if not prohibited by statute, the Committee might wish to review the weighted criteria and decide if there was anything that should be changed.

Mr. Holt stated that the intent written in the state code would reflect that the CIP review from a planning commission context is focused on land use and achievement of the Comprehensive Plan versus the fiscal analysis that is more traditionally done by the locality's CAO and financial management team.

Mr. Purse noted that the fiscal impact was one of the weighted criteria and having that information can assist with the larger land use decision.

Mr. Holt noted that the affordability and fiscal impact aspect of a CIP application is generally reviewed in depth at the Board of Supervisors level.

Ms. Bledsoe noted that it would be important to know what the Committee is charged with related to reviewing CIP applications.

5) Public Comment

No one was present to speak.

6) Other Business

There was no other business to discuss.

7) Adjournment

The meeting was adjourned at 5:54 p.m.



Robin Bledsoe, Chair of the Policy Committee

M E M O R A N D U M

DATE: May 1, 2013

TO: The Planning Commission

FROM: Paul Holt, Planning Director

SUBJECT: Preparation for the May 28, 2013 Joint Planning Commission/Board of Supervisors Work Session

In preparation for the joint Planning Commission/Board of Supervisors work session scheduled for May 28, 2013, the Policy Committee recently discussed the topics of the Coordinated Regional Comprehensive Planning Process and the overall Planning Division work program for FY14. Each topic was introduced in the Policy Committee's March 14 packet (attached), and follow-up questions were presented on April 11 to facilitate the discussion (summarized below).

The Committee is sharing this information with the full Commission to allow for broader Commission discussion and input prior to the work session, if desired. In addition, staff will be working with the Planning Commission and Policy Committee chairs on supplemental meeting materials to guide the discussion.

Coordinated Regional Comprehensive Planning Process

1. Is the Committee comfortable accepting or formally endorsing the regional work that has been done to date?

The Committee concluded that the summary document and the James City County/Williamsburg/York County Comprehensive Transportation Study should be endorsed by the Commission/Board to recognize the work that went into producing them and to elevate their status as technical resources and foundational planning documents for future years. The Committee recommended that the Regional Bikeway Map be adopted by the Commission/Board as an official document, similar to the process that has occurred in Williamsburg and York County.

2. What does the Committee believe should be the focus and scale of the Comprehensive Plan Update process commencing in FY14?

The Committee suggested an update process that was smaller in scope than a full re-write of the 2009 Comprehensive Plan. The Committee members indicated that replicating the citizen survey would be an important element. The Committee thought the Land Use, Transportation and Economic Development sections would need to be more closely examined but that other sections might remain wholly or substantially in their current state.

3. Would the Committee conclude that there were enough success/positives to the process over the last two years to make another regional process desirable in future years?

The Committee members indicated that regional coordination continues to be important and that the process had positive elements. The Committee recommended continued efforts in future years.

4. If so, would the Committee have any guidance on the possible methodology of the County's participation in future efforts (public meetings and discussion among the Commissions similar to this last process, or inclusion of other elements or processes that might be different)?

The Committee indicated that public forums and a joint meeting of the Planning Commissions might continue to be components of a process in the future and offered a number of suggestions that could enhance them. Suggestions included considering a different format for the joint Planning Commission meeting (such as a day-long event with a concentration on small group work), using third-party facilitation for the meetings, and changing the level of specificity in the questions that are posed at the public forums.

Planning Division Work Program – FY14

1. Of the possible ordinance amendment topics listed in the March 14, 2013 memo, what priority order would the Committee recommend? Are there any proposed amendments the committee would recommend not pursuing at all in FY14? Are there any additional amendment topics the committee would like to add to the list?

The Committee suggested that the Rural Lands public engagement piece and Accessory Apartment items be high priorities, that the restaurants change and housekeeping items be medium priorities, and that the “emerging technologies” item (wind, solar, etc.) be a low priority. The Committee did not add any additional topics to the list.

Attachments

1. Memos provided to the Committee for its March 14th meeting
2. Draft Coordinated Comprehensive Plan Summary Document provided to the Committee for its March 14th meeting

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE FIRST DAY OF MAY, TWO-THOUSAND AND THIRTEEN, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101-F MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

1. ROLL CALL

Planning Commissioners

Present:

George Drummond

Chris Basic

Mike Maddocks

Tim O'Connor

Rich Krapf

Al Woods

Absent:

Robin Bledsoe

Staff Present:

Paul Holt, Planning Director

Leo P. Rogers, County Attorney

Leanne Reidenbach, Planner, III

Jennifer VanDyke, Planner

Mr. Al Woods called the meeting to order at 7:00 p.m.

2. PUBLIC COMMENT

Mr. Woods opened the public comment.

There being none, Mr. Woods closed the public comment.

3. MINUTES

Mr. Rich Krapf moved to approve the minutes from the April 3, 2013 meeting.

In a unanimous voice vote, the Commission approved the minutes. (6-0)

4. COMMITTEE / COMMISSION REPORTS

A. Development Review Committee

Mr. Woods noted that the Development Review Committee did not meet in April and accordingly there would be no report.

B. Policy Committee

Mr. Krapf reported that the Policy Committee met on April 11, 2013 to discuss the Coordinated Regional Comprehensive Planning Process and the Planning Division Work Program for FY14.

Mr. Krapf stated that the Committee concluded that the Summary Document for the Coordinated Regional Comprehensive Planning Process and the James City County/ Williamsburg/ York County Comprehensive Transportation Study should be endorsed by the Planning Commission and Board of Supervisors to recognize the effort that went into producing them. The Committee also recommended that the Regional Bikeways Map be adopted by the Planning Commission and the Board of Supervisors as an official document similar to the process that occurred in Williamsburg and York County.

Mr. Krapf noted that with respect to the Planning Division Work Plan for FY14, the Committee focused primarily on updates to the Zoning Ordinance and the FY14 Comprehensive Plan Update. For possible updates to the Zoning Ordinance, the Committee suggested the Rural Lands public engagement effort and reviewing accessory apartment standards be high priorities. Other miscellaneous housekeeping items would be medium priorities and review of emerging technologies would be low priority. The Committee recommended not pursuing amendments related to the keeping of chickens, meaning that the current ordinance standards remain in effect and enforcement of those standards would resume. The Committee did not add any additional topics to the list.

Mr. Krapf stated that regarding the FY14 Comprehensive Plan update, the Committee suggested a process that was smaller in scope than the full re-write of the 2009 Comprehensive Plan. The Committee members indicated that replicating the Citizen Survey would be an important element. The Committee believed that the Land Use, Transportation and Economic Development sections would need to be more closely examined but that other sections might remain substantially in their current state.

C. Regional Issues Committee

Mr. Mike Maddocks stated that the Regional Issues Committee met on April 23, 2013 and that the minutes for that meeting had been sent to the Planning Commission members.

Mr. Maddocks noted that Kevan Danker, Executive Director, presented a report on the Williamsburg Area Transit Authority.

Mr. Maddocks stated that Leonard Sledge, Director of Economic Development for the College of William & Mary, provided information on the College's new model for tuition.

Mr. Maddocks stated that there was a Coordinated Regional Comprehensive Plan status report provided by the planning administrators of the three localities. Mr. Maddocks noted that the Williamsburg Comprehensive Plan was adopted in January; the York County Comprehensive Plan is still under review; and the James City County Policy Committee has been reviewing the work products from the Coordinated Regional Comprehensive Planning Process.

Mr. Maddocks noted that there was a report on the activities of the Historic Triangle Collaborative by Sanford Wanner.

Mr. Maddocks stated that the Greater Williamsburg Chamber and Tourism Alliance announced that Ms. Karina Ferguson has been hired to handle the marketing effort for the Williamsburg Area Destination Marketing Committee.

Mr. Maddocks noted that there was a report from Mr. Jeff Lunsford, Deputy Executive Director of Administration, regarding the Jamestown/Yorktown Foundation.

Mr. Maddocks stated that the next meeting of the Regional Issues Committee has been changed from July 23, 2013 to July 30, 2013.

5. PUBLIC HEARING CASES

A. SUP-0003-2013, Route 199 Water Tank HRSD Pressure Reducing Station

Ms. Leanne Reidenbach, Senior Planner II, stated that Mr. Matthew Poe, on behalf of the Hampton Roads Sanitation District (HRSD), has applied to amend an existing special use permit for water and sewer facilities to install a pressure reducing station to help increase system capacity during wet weather and to minimize spill locations. The project consists of underground piping, two above-ground pumps, two above-ground diesel fuel tanks and screening landscaping.

Ms. Reidenbach noted that the property is surrounded by R-8, Rural Residential property that is designated Low Density Residential on the 2009 Comprehensive Plan. Water and sewer facilities are a specially permitted use in the R-8, Rural Residential district. A Special Use Permit for the existing water tank was approved in 1986, but since the pressure reducing station for the sanitary was not included under this initial SUP, a SUP amendment is required.

Ms. Reidenbach stated that due to the location of the pressure reducing station on Route 199, a Community Character Corridor, the applicant has agreed to minimize tree clearing, paint the pump houses a natural color that will blend with the surrounding woods and plant supplemental landscaping that will further screen the facility.

Ms. Reidenbach noted that while the 2009 Comprehensive Plan does not specifically include this use as a recommended use, staff recognizes that such facilities are important to the functioning of the overall sanitary sewer system and the property is already being used for a James City Service Authority (JCSA) water tank. The proposal is also compatible with the surrounding zoning and development.

Ms. Reidenbach stated that staff recommends that the Planning Commission recommend approval of the project to the Board of Supervisors subject to the conditions found in the staff report.

Mr. Woods opened the floor to questions from the Commissioners.

Mr. Woods inquired what could be concluded when both boxes regarding historic and archaeological sites are checked on the application.

Ms. Reidenbach responded that the property is not in an area of high archaeological sensitivity for the County and there is a minimal amount of land disturbance occurring, so the archaeological study condition was not imposed.

Mr. Woods inquired if the applicant wished to address the Commission.

Mr. Matthew Poe, HRSD Interceptor Engineer, noted that the localities in the region are developing a Regional Wet Weather Management Plan to address capacity concerns as well as future development needs.

Mr. Poe stated that the current project is an attempt to address pressure issues on the entire force main system. The essential function of the pressure reducing station will be to reduce pressures which will increase system capacity and reduce spill locations as well as sanitary spill volumes.

Mr. Poe stated that the HRSD is aware that the project location is of aesthetic concern and they are working with the Planning Division and the Colonial Williamsburg Foundation to have a visually pleasing product.

Mr. Krapf inquired whether the new pressure reducing station would work in conjunction with the existing tank or operate independently.

Mr. Poe responded that the pressure reducing station would operate independently. The tank on the site is actually owned by JCSA for the water supply.

Mr. Krapf inquired why that particular location was selected.

Mr. Poe noted that the force main essentially runs from Kingsmill to the Stonehouse area. This location is closer to the treatment plant which means that it has a positive impact upstream where the terminal pump stations connect to the force main. By being close to the treatment plant, more stations upstream will see the effects of reduced pressure and will be able to pump more flow during wet weather.

Mr. Woods inquired if the work was being done in response to a Consent Decree.

Mr. Poe responded most of the items in the Consent Decree will be addressed by the Regional Wet Weather Management Plan. He further noted that one of the requirements in the Consent Decree was to improve short term pressure and capacity issues. The current project is an interim solution until the permanent solutions can be developed and implemented.

Mr. Woods inquired if the permanent solutions have been identified.

Mr. Poe responded that the permanent solutions have not been identified. A study is currently underway for the entire region to identify those solutions.

Mr. Woods inquired who has verified that this project would be a short term solution.

Mr. Poe responded that HRSD, Planning Division staff and the JCSA have reviewed the site and the plans and agree that the project will be beneficial to the County.

Mr. Woods inquired about any environmental concerns related to the diesel fuel storage tanks.

Mr. Poe responded that the tanks will be double-walled and further containment will not be necessary.

Mr. Woods inquired if there would be alarm systems or just static double walled tanks.

Mr. Poe responded that the plans were not complete; however other similar tanks recently installed had alarm capabilities.

Mr. Woods inquired why the required 100-foot separation that is usually required by the Virginia Department of Health (VDH) is being waived.

Mr. Poe stated that the VDH has the 100-foot separation requirement for any facility that is considered treatment. The requirement may exist because of those instances in the treatment process where the stream may be exposed. Mr. Poe noted that this system is pressurized and the only time there is potential for spillage is in the event the force main breaks. Due to the nature of the project and the site characteristics, VDH has granted a waiver.

Mr. Woods opened the public hearing.

As no one wished to speak, Mr. Woods closed the public hearing.

Mr. Woods opened the floor for discussion.

Mr. Maddocks moved to recommend approval with the stated conditions.

Mr. Woods inquired if the applicant understood and agreed to the conditions.

Mr. Poe confirmed.

On a roll call vote the Planning Commission voted to recommend approval of the application with the conditions listed in the staff report. (6-0)

B. Case Nos. Z-0001-2013/SUP-0002-2013, Williamsburg Landing, Boatwright Circle

Ms. Jennifer VanDyke, Planner, stated that Mr. Paul Gerhardt of Kaufman & Canoles has applied on behalf of Williamsburg Landing, Inc. to amend the existing proffers and special use permit conditions to allow one additional independent living unit on Boatwright Circle.

Ms. VanDyke noted that the property is zoned R-5, Multifamily Residential with proffers and a portion of the property lies within the Airport Approach Overlay district. The property is designated as low density residential on the 2009 Comprehensive Plan. Retirement and care facilities are recommended.

Ms. VanDyke stated that the subject parcel together with the parcels to the north and east comprise Williamsburg Landing, a Continuing Care Retirement Community (CCRC). In 1993, the subject parcel was rezoned from R-8 to R-5, Multifamily Residential, with proffers. The applicant concurrently applied for a special use permit to allow the development of 27 dwelling units in the area now known as Boatwright Circle.

Ms. VanDyke noted that there is currently a maintenance shed at the approximate location of the proposed new unit. This facility will be demolished and replaced with a new facility on an adjacent parcel. The new unit constructed in its place will resemble the other units on Boatwright Circle. An architectural review condition was included to ensure consistency and compatibility with the adjacent residential structures.

Ms. VanDyke stated that a cash water proffer was determined to be unnecessary as the requested unit was approved during earlier land use decisions.

Ms. VanDyke noted that Williamsburg Landing management has engaged in conversations with residents in Boatwright Circle regarding the proposed changes. Management states that they received positive feedback and support for the project and no objections were expressed.

Ms. VanDyke stated that staff finds the proposed use to be consistent with the surrounding zoning and development and compatible with the 2009 Comprehensive Plan. Staff recommends the Planning Commission recommend approval of this application to the Board of Supervisors with the amended proffers and the conditions attached to the staff report.

Mr. Krapf congratulated Ms. VanDyke on her promotion to planner.

Mr. Woods asked the applicant if he wished to speak.

Mr. Paul Gerhardt stated that the conditions and proffers had been reviewed and were understood and agreed to. He noted that Mr. Montgomery, CEO of Williamsburg Landing, was present and would also be happy to answer any questions.

Mr. Krapf stated that he understood that the maintenance shed was being moved because of the noise generated early in the morning and inquired how far the shed was being moved.

Mr. Gerhardt indicated the approximate position of the shed on the location map and stated that the location of the shed will be seen on plans to be submitted in connection with the expansion of Woodhaven which is the nursing and assisted living component of the facility.

Mr. Woods opened the public comment.

As no one wished to speak, Mr. Woods closed the public hearing.

Mr. Woods opened the floor to discussion by the Commissioners.

Mr. Maddocks stated that he was appreciative of the services offered by Williamsburg landing and that it is an excellent resource for the aging population.

Mr. Maddocks moved to recommend approval with the proffers and stated conditions.

On a roll call vote the Planning Commission voted to recommend approval of the applications with the conditions listed in the staff report. (6-0)

6. PLANNING COMMISSION CONSIDERATION

A. Preparation for the May 28, 2013 Joint Planning Commission/Board of Supervisors Work Session

Mr. Paul Holt, Planning Director, stated that in preparation for the joint Planning Commission/Board of Supervisors work session currently scheduled for May 28, 2013, the Policy Committee recently discussed the Coordinated Regional Comprehensive Planning Process and the work products that resulted from that effort. The Committee also reviewed the Planning Division Work Plan for FY14, specifically focusing on priorities for updates to the Zoning Ordinance and held preliminary discussion on the focus and scale of the Comprehensive Plan Update process that will commence in FY14.

Mr. Holt noted that the staff report and supplemental materials were being shared with the full Planning Commission to facilitate broader discussion and to generate input for agenda items to be discussed at the joint work session.

Mr. Krapf requested that Mr. Holt review the distinction between endorsing and adopting a work product and how the choice would relate to its impact on the Comprehensive Plan, noting that the Committee had concluded that the Regional Bikeways Map should be adopted and the James City County/ Williamsburg/ York County Comprehensive Transportation Study should be endorsed.

Mr. Holt responded that the updated Regional Bikeways Map has been formally adopted as part of the Comprehensive Plan process in the other two localities. He noted that this is an important distinction in terms of future land use cases because it will have standing to give the County the policy basis with which to evaluate future land use applications.

Mr. Holt noted that the two other work products did not result in any new text for James City County and the Committee concluded that there was no need to formally adopt them.

Mr. Holt noted that the Committee felt it was important to acknowledge the effort involved with the Coordinated Regional Comprehensive Planning Process, conducting the Community Conversations and creating the resulting work products.

Mr. Drummond noted that he was pleased to see the positive effect the Regional Bikeway Map would have on the Grove Community since Pocahontas Trail currently lacked adequate room for bicycles and the sidewalks were not completed.

Mr. Holt stated that there was a separate project in progress through the Hampton Roads Transportation Planning Organization to improve the Pocahontas Trail corridor and that the project was a high priority for the Board of Supervisors.

Mr. Drummond inquired about the time frame for the project.

Mr. Holt responded that cuts had recently been made in Congestion Mitigation and Air Quality (CMAQ) funds which would affect the timing of many projects in the region.

Mr. Holt stated that staff has identified funding to do preliminary engineering and right of way acquisition; however, construction funds have not yet been identified.

Mr. Drummond inquired whether the funding issues would affect the Route 60 Relocation and Upgrading project.

Mr. Holt stated that the project had been part of the Long Range Transportation Plan for quite some time; however, funding for construction has not been identified.

Mr. Woods asked the Commissioners if they agreed that the recommendations of the Policy Committee as outlined in the staff report was accurate or if there should be any modifications.

Mr. Basic inquired what factors elevated the discussion of Rural Lands to be a high priority.

Mr. Holt responded that this was a follow-up action item from a Board of Supervisors work session in June 2012.

Mr. Krapf noted that the County is in the process of applying for a grant which will involve a two-year study of potential economic uses within the Rural Lands District, so the discussion would tie in well should the grant be awarded.

Mr. Woods noted that the Policy Committee discussed in depth all of the items to be considered for ordinance amendments and in relation to other matters Rural Lands was determined to be a high priority.

Mr. Basic inquired if this was a continuation of a previous discussion as opposed to a new effort.

Mr. Holt noted that this was part of an ongoing discussion over several years. Staff had provided a comprehensive report to the Board of Supervisors last year which resulted in several action items for follow-up.

Mr. Woods noted that there was also considerable discussion regarding the value of the joint Planning Commission meetings and the public forums.

Mr. Woods requested that Mr. O'Connor update the Commissioners on the Policy Committee's conclusions.

Mr. O'Connor noted that there was a consensus that the Committee wanted to acknowledge the work of the three jurisdictions in the Coordinated Regional Comprehensive Planning Process. The Committee felt strongly that the information gathered during the process should be part of the continuing process to address common areas of interest, while maintaining individuality of each locality's comprehensive plan.

Mr. Woods requested that Mr. Holt discuss what the next steps would be related to the recommendations of the Policy Committee.

Mr. Holt noted that staff would develop the supporting materials to facilitate the discussion with the Board of Supervisors at the joint work session.

7. PLANNING DIRECTOR'S REPORT

Mr. Holt stated that he had nothing to add to the printed report that had been provided.

Mr. Drummond stated that he was impressed by the cooperation among the three localities during the Coordinated Regional Comprehensive Planning Process.

Mr. Woods noted that it was a good first step which needs to continue.

Mr. O'Connor inquired whether the Development Review Committee (DRC) has conducted the semi-annual parking review of New Town.

Mr. Holt noted that there had been some recent inquiries and would follow up on the schedule for the comprehensive review.

Mr. Basic noted that in 2012 the schedule had been followed regarding the periodic submittals; however, there had been no substantive change since the previous review. The developer had requested deferral on the submittal and the DRC agreed to the deferral.

Mr. O'Connor noted that he was interested in the impact of the recent development in Settlers Market on parking.

8. PLANNING COMMISSION DISCUSSION AND REQUESTS

Mr. Krapf inquired what the process would be for sharing agenda topics and materials among the Planning Commissioners and the Board of Supervisors for the joint work session.

Mr. Woods noted that the vision was that the communication would flow in both directions and that materials would be supplied in advance of the meeting to allow for adequate consideration.

Mr. Krapf inquired if it had been determined what block of time would be devoted to the discussion.

Mr. Holt noted that staff would confirm the details about the meeting and provide the information to the Commissioners. Mr. Holt further noted that an agenda packet would be provided well in advance of the meeting.

Mr. Woods inquired when the Commissioners could expect confirmation of the date and time.

Mr. Holt responded that the date and time should be confirmed within the week.

9. ADJOURNMENT

Mr. Maddocks moved to adjourn the meeting.

The meeting was adjourned at 7:46 p.m.

Al Woods, Chairman

Paul D. Holt, III, Secretary

MEMORANDUM

DATE: May 28, 2013

TO: The Board of Supervisors

FROM: Paul D. Holt, III, Planning Director

SUBJECT: Joint Board/Planning Commission Work Session – Coordinated Regional Comprehensive Planning Process, James City County FY 14 Comprehensive Plan Update, and Proposed Updates to the Zoning Ordinance

In preparation for the joint Board/Planning Commission work session, the Policy Committee recently discussed the topics of the Coordinated Regional Comprehensive Planning Process and the overall Planning Division work program for FY 14. The Committee's recommendations were subsequently discussed at the May 1, 2013, Planning Commission meeting. Staff looks forward to the opportunity to discuss these topics, particularly the key decision-point questions listed at the end of the memorandum.

Coordinated Regional Comprehensive Planning Process

The attached March 14, 2013, Policy Committee memorandum describes the Coordinated Regional Comprehensive Planning Process to date (Attachment No. 1). The "next steps" section of the memorandum also contains a series of discussion points intended to define the desired next steps for the regional work that has been done. These discussion points are reproduced below, with each point followed by the Commission's input and a decision-point question for the Board. Note that the regional summary document, James City County/Williamsburg/York County Comprehensive Transportation Study ("regional transportation study") and Regional Bikeway Map referenced are all included as attachments to this memorandum (Attachment Nos. 2, 3, and 4).

1. Accepting, either for informational purposes or more formally endorsing, the regional work (summary document, regional transportation study, and Regional Bikeway Map) that have been done to date.

The Commission concluded that the regional summary document and the regional transportation study should be endorsed by the Commission/Board to recognize the work that went into producing them and to elevate their status as technical resources and foundational planning documents for future years. The Commission recommended that the Regional Bikeway Map be adopted by the Commission/Board as an official document, similar to the process that has occurred in Williamsburg and York County.

2. Staff would appreciate input and feedback on the Coordinated Regional Comprehensive Planning Process as it has progressed (e.g., successes/positives, etc.) over the last two years. As a corollary, discussion and input into how the coordination process, including participation in regional meetings and discussions, should be pursued in future years following the upcoming Comprehensive Plan update would be appreciated.

The Commission members indicated that regional coordination continues to be important and that the process had positive elements. The Commission recommended continued efforts in future years. In terms of guidance on a possible future methodology, the Commission indicated that public forums and a joint meeting of the Planning Commissions might continue to be components of a process in the future and offered a number of suggestions that could enhance them. Suggestions included considering a different format for the joint Planning Commission meeting (such as a day-long event with a concentration on small group work), using third-party facilitation for the meetings, and changing the level of specificity in the questions posed at the public forums.

James City County FY 14 Comprehensive Plan Update

3. In keeping with a five-year clock from the County's 2009 Comprehensive Plan, staff would appreciate input and early discussion regarding those elements that should be included as part of the next Comprehensive Plan Update commencing in FY 14. Staff anticipates this could at a minimum include the regional elements (Regional Bikeway Map; Regional Transportation Study; and demographic information related to the 2010 Census data); the Land Use Section; and confirmation of the Goals, Strategies, and Actions.

The Commission suggested an update process that was smaller in scope than a full rewrite of the 2009 Comprehensive Plan. The Commission members indicated that replicating the citizen survey would be an important element. The Commission thought the Land Use, Transportation, and Economic Development sections would need to be more closely examined, but that other sections might remain wholly or substantially in their current state.


Proposed Updates to the Zoning Ordinance – FY14

The second memorandum March 14 Policy Committee memorandum (Attachment No. 5) outlined possible items for the Division's FY 14 work program. In particular, staff sought guidance on the ordinance-related work program items which are listed in the memorandum. Staff asked for guidance on priorities at that meeting – the Commission's input is shown below, followed by a decision-point question for the Board.

The Commission suggested that the Rural Lands public engagement piece and Accessory Apartment items be high priorities, that the restaurants change and housekeeping items be medium priorities, and that the "emerging technologies" item (wind, solar, etc.) be a low priority. The Commission recommended not pursuing amendments related to the keeping of chickens (meaning that the current ordinance standards would remain in effect and their enforcement would re-commence). The Commission did not add any additional topics to the list.

Key Decision Points:

1. Does the Board concur with the approach to the regional documents suggested by the Commission - endorsing the summary document and the James City County/Williamsburg/York County Comprehensive Transportation Study, and adopting the Regional Bikeway Map?
2. Does the Board concur with the Commission suggestion to continue to participate in a regional process in future years? If so, does the Board have any suggestions for elements to retain or change?
3. Does the Board concur with the approach to updating the James City County Comprehensive Plan suggested by the Commission, which would entail completing a citizen survey and pursuing a more limited updated scope, which focuses on the Land Use, Transportation, and Economic Development sections?
4. Does the Board concur with the Commission's suggested priorities for ordinance amendments (or ordinance-related work activities) the Division should pursue in FY 14?



Paul D. Holt, III

CONCUR:



Allen J. Murphy, Jr.

PDH/gb
FY14CPUupdates_mem

Attachments:

1. Coordinated Regional Comprehensive Plan memo provided to the Committee for its March 14 meeting
2. Draft Coordinated Comprehensive Plan Summary Document
3. Regional Transportation Study
4. Regional Bikeway Map
5. FY 14 Division Work Program memorandum provided to the Committee for its March 14 meeting
6. March 14 Policy Committee minutes
7. April 11 Policy Committee minutes
8. May 1 Planning Commission minutes

AT A WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 28TH DAY OF MAY 2013, AT 4:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. CALL TO ORDER

B. ROLL CALL

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

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

C. BOARD DISCUSSIONS

1. Joint Board/Planning Commission Work Session – Coordinated Regional Comprehensive Planning Process, James City County FY 14 Comprehensive Plan Update, and Proposed Updates to the Zoning Ordinance

Mr. Paul Holt, Director of Planning, called the Planning Commission to order.

Roll Call

Mr. George Drummond – Absent
Ms. Robin Bledsoe
Mr. Christopher Basic
Mr. Timothy O'Connor
Mr. Michael Maddocks
Mr. Richard Krapf
Mr. Alfred Woods

Mr. Holt stated that the purpose of this Joint Work Session is to discuss the Coordinated Regional Comprehensive Planning process, the FY 14 Comprehensive Plan Update and the next round of updates to the Zoning Ordinances. He stated that in the Agenda Packet is a list of decision points to help guide the discussion.

Ms. Ellen Cook, Senior Planner II, addressed the Board and the Commission giving an overview of the Coordinated Regional Comprehensive Planning Process included in the Agenda Packet. She stated that staff has two key questions in order to wrap up the Coordinated Regional Comprehensive Planning Process: Does the Board concur with the approach to the regional documents suggested by the Policy Committee – endorsing the summary document and the James City County/Williamsburg/York County Comprehensive Transportation

Study, and adopting the Regional Bikeway Map? Does the Board concur with the Policy Committee suggestion to continue to participate in a regional process in the future years; and if so, does the Board have any suggestions for elements to retain or change?

Mr. Al Woods, Chair of the Planning Commission, addressed the Board and asked Mr. Tim O'Connor to speak to the Summary Document and the Regional Bikeway Map.

Mr. O'Connor stated that the Planning Commission felt it was important to recognize the process, and the efforts put in by the three regional entities. He stated that a lot of feedback was received, especially in regard to the public forums. He stated that the feedback was very helpful and the decision was made to continue to have three separate Comprehensive Plans. He stated that by endorsing the work of the regional entities, the supporting documents would become technical documents for the County's own Comprehensive Planning Process, and would acknowledge the work of the other jurisdictions. He stated that in regard to the Regional Bikeway Map, that the other two jurisdictions have already adopted this updated version, and adopting it would keep the County moving down the path with the bikeway plan. He stated that the Planning Commission recommends endorsing the Summary Document and adopting the Regional Bikeway Map.

Mr. Icenhour stated that the regional entities are on their own timeframe for their Comprehensive Plan Updates. He asked how these documents would be utilized when each entity is at varying stages in their Comprehensive Planning Process, or would the documents just be considered background documentation.

Mr. O'Connor stated that would be the intention. He stated that these would be living, breathing documents that can, and will be, updated and will become additional resources. He stated that it would also drive the conversation between the jurisdictions which are an important piece.

Mr. Bradshaw stated that he is not surprised that the regional entities were not able to synchronize their Comprehensive Planning Processes; however, he does not believe that the timing is the important piece. He stated that the important piece is that the County pays heed to what is being done by our neighbors in the region. He stated that focusing on the items that, by their nature, are interconnected like the regional comprehensive transportation study and the regional bikeway map has to be the essence of the regional effort. He stated that those items that, by their proximity, become an issue, like land use, should be focused on as well. He stated that he is pleased with the documentation that came from the Regional Comprehensive Planning Process.

Ms. Jones stated that there is a significant amount of emphasis placed on the Regional Bikeway Map; however, she is wondering if too much emphasis is being placed on it because the statistics of the number of citizens that bike or walk to work do not sustain it. She stated that the bikeways seem to be more recreational and not a necessity. She stated that she brings this issue up because the roadways and infrastructure needs to be maintained, which costs money and so do the bike paths. She stated that when looking at dollars and cents, the roadways need to be prioritized over the bike paths.

Mr. Bradshaw stated that until the bikeways reach a certain maturity, one cannot use them to get to where they need to go. He stated that until some of the circuits are completed, they never will have high use.

Mr. McGlennon stated that those are both valid questions and points because we are living in a world of limited resources and priorities. He stated that when improving roads, incorporating bike lanes is the much cheaper route to go than coming back and doing it after the fact. He stated that marginal increases in the number of people walking, biking, or using mass transit would have a significant impact on the congestion on our roads.

Mr. Woods stated that all these points were discussed during the process. He stated that he did not want the perception to be that the Planning Commission gave this more importance than something else.

Ms. Jones stated that was not what she was implying.

Mr. Woods stated that it was interesting to see this issue come to the forefront in the other jurisdictions and be embraced by them. He stated that as work is planned for infrastructure improvements, looking at the regional bikeway map to see how it can be connected would be far cheaper and more efficient.

Ms. Tammy Rosario, Principal Planner, stated that during the work on the Regional Bikeway Map, the emphasis was on completing routes and connecting routes that were most likely to succeed and be utilized.

Mr. Kennedy stated that when talking about bike paths, they need to be prioritized. He stated that he does not want to see bike paths that lead to nowhere. He stated that it makes more sense to him to piggy back on things to completion, instead of having a bunch of partial completion. He stated that the other concern when talking about bike paths is signage. He stated that maintenance of the bike paths is also a concern. He stated the other issue then becomes enforcement of using the bike paths, riding abreast, and obeying the traffic rules. He stated that he hears from citizens about bike clubs being out on the weekends, riding abreast on the roads, and then vehicles cannot get through.

Mr. McGlennon asked if the areas where the jurisdictions come together were a factor in the discussion of the Regional Comprehensive Planning Process.

Mr. Richard Krapf stated that at the first ever Joint Regional Planning Commission Meeting, it was an important first step. He stated that the Planning staffs from all three jurisdictions have a very good working relationship and that they coordinate with each other. He stated that having the Planning Commissions talking and interacting with each other more is an important step. He stated that there are overlapping issues that make it incumbent upon the Board and Commission to having a good working relationship with the other jurisdictions. He stated that the Commission supports more interaction with the other jurisdictions and the reality is that there are more and more issues that are overlapping.

Mr. Icenhour asked if there was a plan to have more of those meetings between the three Planning Commissions.

Ms. Rosario stated that there is a spirit of wanting the staffs to come together more often to discuss those issues at the staff level. She stated that the Regional Issues Committee will be meeting in July to discuss the efforts on more of a broader scale. She stated that formally the next cycle for this to occur would be in 2018.

Ms. Rosario stated that, in an effort to summarize for staff, she did not hear any opposition to endorsing transportation document and approving bikeway map through a later process. She stated that there was not much discussion about the summary document, so does that mean that the Board is in agreement with the Planning Commission.

The Board nodded in agreement.

Ms. Rosario asked if there were any specific comments from the Board, in addition to the ones proposed by the Commission, about the Regional Process that staff could bring back to the Regional Issues Committee.

Mr. Icenhour asked how productive the public meeting was to the process. He asked if the Commission believes that changing the format and the approach will make the process more productive.

Mr. Woods stated yes. He stated that he believes it is fair to say that the format of the public meeting helped to promote a “herd” mentality, and that is not particularly productive with the type of strategic thinking that we are trying to engage. He stated that the Commission believes changing the format of the public hearing is important. He stated for example, divide the group into five or ten smaller groups with carefully constructed discussion topics would allow for richer information to be solicited and brought forth.

Ms. Robin Bledsoe stated that all the Commissions were on the same page, wanting the public hearings to be beneficial. She stated that with a facilitator or the smaller group discussions, it is believed that the information would be more productive. She stated it was left to staff to look into the various options. She stated that all were in agreement that the format used this last time was not as beneficial as it could have been.

Mr. Kennedy stated that he believes this should be approached with a lot of caution. He stated that there are many groups out there that are political. He stated that it could have the appearance of being subjective, and some of these groups could take that as an assault on their rights. He stated that people need to be enlightened on what planning really is and what is realistic and what is unrealistic. He stated that he is not sure that a facilitator would be able to get us to that point.

Ms. Bledsoe stated that the County is very lucky in that it has many bright people in this community, and the Policy Committee believes that those people have ideas that need to be tapped in to. She stated that what happened at the public hearing is that some of those political groups tried to take over the dialogue, which was not fair. She stated that it is the hope that in smaller groups everyone would have a chance to voice their opinion.

Mr. Icenhour stated that he is fine with endorsing the Summary Document, the Regional Transportation Study, and with adopting the Regional Bikeway Map at a later date. He stated he would like there to be a plan to keep these documents up to date, so that when we begin our Comprehensive Plan update, that the County has the most up to date information. He stated that in regard to the public forum, he believes that Mr. Kennedy is right and it needs to be as inclusive as possible. He stated that for that to work, he believes the small group discussions are the best way to include everyone and allow people the chance to be heard.

Mr. Kennedy stated that in 2001 the County contacted every registered group in the County in an attempt to be as inclusive as possible in the process. He stated that he is not sure if that is something that is still being done. He stated that perhaps the groups that are in dissent should be given the opportunity to meet with leaders and have their views heard. He stated that perhaps that would keep one particular group from dominating a public forum.

Ms. Rosario stated that when the County does its own Comprehensive Plan Review there is more flexibility and it has been the tradition to reach out to all the community groups. She stated that the last Comprehensive Plan Team allowed each group to do a presentation, and be recorded, and it seemed to be a beneficial session. She stated that she believes it would be a good process to do again at the next review.

Mr. McGlennon stated that he believes the County has been very diligent in reaching out to the various groups in the County during the Comprehensive Plan Reviews. He stated that those meetings have been very successful. He stated he believes that the issue of regionalism at the public forum for the Regional Comprehensive Plan Review triggered the problem. He stated for some, the issue of regionalism and a regional plan is a hot topic.

Ms. Jones stated that we represent our constituents in our districts, so the concern with regionalism is that people from a different jurisdiction are influencing decisions in James City County. She stated that it is understandable that citizens would have concerns over this idea of regionalism, and if it went unchecked, it could become quite significant. She stated that she agrees with the synchronization of the regional comprehensive plans, but she would caution the extent of the idea of regionalism.

Mr. McGlennon stated that a check on the opinions that comes out of these public meetings is that the County does a survey of a random section of the population to see what those opinions are as well.

Mr. Kennedy stated that the planning process is different than the issue of the moment. He stated that many times the same people and groups show up to these meetings, and while it is great that they are participating, the planning process is more thought out and long range. He stated that he would be careful of breaking groups apart; he believes it might give more push back. He stated in regard to the surveys that Mr. McGlennon mentioned, he would recommend moving away from the yes/no questions because they do not necessarily give an accurate interpretation of the issues.

Ms. Jones stated that it is always important to have the views of the stakeholders at the front end of the discussion. She stated that she agrees with Mr. Kennedy that the survey questions are more open-ended so that the County receives more constructive feedback.

Ms. Rosario stated that all this feedback goes along with the next discussion point which was does the Board concur with the approach to updating the James City County Comprehensive Plan suggested by the Policy Committee, which would entail completing a citizen survey and pursuing a more limited updated scope, which focuses on Land Use, Transportation, and Economic Development sections. She stated that the comments made about the surveys will definitely be taken into account with the next round of citizen surveys that are sent out. She stated that the Planning Commission believes that a more limited scope is all that is necessary, generally focusing on those areas that require more frequent updates, like land use, transportation, and economic development sections.

Mr. Icenhour stated that he liked this approach. He stated that we went through the whole process last time, so he is in agreement with this more focused and limited scope. He stated that he believes the critical element is a truly random, unbiased, citizen survey sample. He stated that it has been discussed about the groups that participate and speak out, and that tends to be a self-selected sample, which has a bias. He stated that the citizen survey is how we deal with that bias, so modifying the questions to get more feedback is important. He stated he believes that the survey is key because people will respond to that even more so than responding by going door-to-door. He stated that his other concern is that there is not a policy that will shape or control growth in our county. He stated that the top two citizen concerns are rural lands and residential growth, and there is a disconnect between how the Comprehensive Plan is going to address those two issues. He stated that ultimately we have 144 square miles, and what is the build out of those miles going to look like. He said that this upcoming Comprehensive Plan needs to address the issue of density.

Ms. Jones stated that there are tools in the Comprehensive Plan to help control the build out. There are land use designations and zoning which are definitive tools. She stated that there are environmental restrictions and height restrictions in place as well. She stated that she is not sure how writing a statement will change that. She stated that you want to leave development up to the free market, and the economy has changed the rate of development in the County. She stated that she would be cautious of overstepping on private property rights.

Mr. Icenhour stated that yes there are a lot tools in the Comprehensive Plan. He stated that what is lacking is the political will to use them.

Mr. Kennedy stated he believes there has been a lot of usage of political will in the last decade. One of them would be Purchase of Development Rights (PDR) and Greenspace. He stated that the market is setting the rate of growth. He stated that James City County is a desirable place to live. He stated that Mr. Icenhour is right in the sense that we have never said what we want James City County to look like. He stated that he believes in more open space and higher density; however he stated he is not in favor of looking like Manhattan, but there is a median in between. He stated if we can agree that there is going to be growth and where we want that growth to be, and then he is willing to participate in that conversation, but the political will needs to be on both sides.

Mr. McGlennon stated that the real questions here are what should be done as we go forward. He stated that he supports the surveys with some of the same close-ended questions because it allows the assessment of a change in opinions. He stated that while he agrees that the focus of the Comprehensive Plan Review should be more focused, he believes that the citizen survey should be broad and incorporate services provided by the County. He stated that he believes the surveys should be completed early in the process so that staff has an opportunity to draw out the information and then be able to follow those answers up in public comment or focus groups.

Ms. Jones stated that a good question to ask is if the citizens know what the Comprehensive Plan is.

Mr. Kennedy stated that his concern over the survey is that it will be used as a political tool.

Mr. McGlennon stated that we cannot resolve the fact that people will use evidence of their position wherever they find it. He stated that hopefully people will be open to other positions, or at least open to the fact that they might not get 100% what they want.

Mr. Kennedy stated that his point is that when people say the growth rate is too fast, but then say that there is not enough affordable housing or retail, it contradicts each other.

Mr. McGlennon stated he believes that leads into a more detailed discussion. He stated that perhaps the growth rate is too fast, but when development does occur there needs to be more of a mix of available housing.

Mr. Kennedy said that then that is what needs to be found out.

Mr. McGlennon stated that when providing guidance on the surveys, the Board needs to say these are the issues we want to find out more about. He stated that the Board needs to provide some sense of what we intend to use this information for and to accomplish.

Mr. Bradshaw stated that it makes sense to focus on those particular areas mentioned, but to make the information gathering be somewhat broader. He stated that he would encourage the Comprehensive Plan to include some language that is a bit stronger than what was included in Williamsburg and York County's Comprehensive Plans about regional cooperation. He stated that perhaps even stated that the impact on neighboring jurisdictions be considered. He stated that it does not compel the decision be made that way, but to consider the impact.

Ms. Rosario stated that she has heard consent on a more focused Comprehensive Plan Update and considerable input and importance on the development of a citizen survey. She stated that there will certainly be questions that will us to benchmark ourselves in the future, but also develop ways to dig deeper into the answers to the questions.

Mr. Holt stated that the last topic on this particular agenda is the next round of the Zoning Ordinance

Update. He stated that the key decision point is does the Board concur with the Policy Committee's suggested priorities for ordinance amendments, or ordinance-related work activities, that the Planning Division should pursue in FY 14.

Ms. Bledsoe stated that the Policy Committee identified the Rural Lands public engagement piece and the Accessory Apartment as the high priorities. She stated that the recommendations were based on comments from staff about what they have been hearing. She stated that the medium priority items are restaurants change and housekeeping items. She stated that there was a desire to do a better job defining what is considered fast food restaurants and what is considered dining restaurants. She stated that the low priorities are "emerging technologies, like wind and solar. She stated this does not mean that they are not considered a priority; it is just not something that needs to be addressed at this point.

Mr. Bradshaw asked if she could expand upon that statement a bit more.

Ms. Bledsoe stated that at this point, wind and solar is not something that staff has seen expand enough that it would need to be addressed at this point.

Mr. Bradshaw stated then it is not something that staff sees in the foreseeable future.

Mr. Holt stated that with limited resources, the Policy Committee and staff felt it was not a high priority issue.

Ms. Bledsoe stated that there was a lengthy discussion on the keeping of chickens, and it was decided that, at this time, there would be no amendments made to the ordinance, and the recommendation is to enforce the ordinance that is already on the books.

Mr. Middaugh asked for clarification on the Accessory Apartment component.

Mr. Krapf stated that at this time, the accessory apartment must be attached to the main structure of the house. He stated that the issue was raised that if someone wanted to build an accessory apartment above their garage, that would not qualify; however, if a breezeway was built to connect the house to the garage, then it would qualify. He stated that it is necessary to revisit the ordinance in order to work with the reality of the situations that people are looking for.

Mr. Icenhour stated that there is a company that does a modular accessory apartment that is fairly easy to put in, so it is good that the Commission is reevaluating this issue.

Mr. McGlennon stated that most of the more decent developments have covenants in place that would prevent this from happening. He stated that the older developments, some of which pre-date Homeowners Associations, are where this is more prevalent.

2. Rural Lands

Ms. Leanne Reidenbach, Senior Planner, addressed the Board and Commission giving a summary of the staff report included in the Agenda Packet.

Mr. Icenhour asked when staff comes back to the Board after the public meeting, what would be the status of the economic development strategic plan.

Ms. Reidenbach stated that staff could provide an update at that point, but it will be about a year and a half long process.

Ms. Reidenbach stated that the first discussion point is does the Board re-endorse the three-pronged approach listed in the staff report for approaching Rural Lands, and does the Board concur with partnering with the Virginia Cooperative Extension for the public engagement piece.

Ms. Jones stated that it is important to reach out to the landowners that have property in the Rural Lands. She also stated that citizen input needs to be reevaluated.

Mr. McGlennon stated that he believes it is important to note that the citizens at large are stakeholders in this discussion as well. He stated that the largest impact will be on the landowners that own those large tracts of land; however the citizens are impacted as well.

Ms. Reidenbach stated that during the public engagement piece the intent is to educate the public about the economic development incentive.

Mr. Icenhour asked what staff's analysis is of the different public engagement options. He stated it is a little difficult to choose one or the other without knowing the pros and cons of each option.

Ms. Reidenbach stated, for clarification, the first option pairs the educational and listening sessions in a single meeting, and option 2 involves one educational seminar and separate public input sessions. She stated that when looking at the options, the biggest difference is the time commitment. Option 1 requires a lengthy time commitment, approximately four hours, from the citizens. She stated that the disadvantage, as viewed by staff, of option 2 is that not everyone will attend both sessions. She noted also that the speakers would not be available during the input session of option 2.

Mr. Icenhour stated that he does not believe that people will attend a four hour session. He stated that there are drawbacks to both options, but he tends to lean toward option 2.

Ms. Jones stated that she tends to agree with Mr. Icenhour. She said one possibility is to record the educational session and make it available to the public. She stated that might limit the concern of citizens attending the input session without having heard the educational component.

Mr. Icenhour asked if there had been a decision on the time of day to do these sessions.

Ms. Reidenbach stated that no decisions have been made about the time of day to hold the sessions.

Mr. Kennedy stated that he would look at holding the meetings on the weekends to avoid having to make citizens choose between work and the meetings. He stated that doing them in June or July is during the vacation months, and he stated that staff may want to look at doing these meetings in the later months. He stated that he did not see a four hour meeting as something that most citizens would consider feasible.

Ms. Rosario stated that staff appreciates the feedback and it seems that the group is gravitating toward Option 2. She stated that staff would like to hold the meetings at different times and different locations in an effort to be as accommodating to most people as possible. She stated that staff did consult with those landowners that are actively farming on what months would be best for them, and the response was July or August.

Mr. Krapf asked if staff had to resources to provide an extended day format on a weekend for those that wanted to attend an all-day version of the meeting, and then still provide the other version of the meetings by separating the components. He asked if that would possible with the speaker panel, or would it become cost-prohibitive.

Ms. Reidenbach stated that it would depend on speaker availability more than anything. She stated that staff is in the beginning stage of planning these meetings and reaching out to speakers. She stated at this point, staff does not know if there will be speaker fees associated.

Mr. Krapf stated that some people might like the continuity of doing the components all in one day.

Ms. Rosario stated that the Communications Division has stated their support of taping the speakers. She stated that citizens could tune in to taped educational component and then provide feedback through other electronic means, not just at the public meeting.

Mr. O'Connor indicated that he needed to leave as he had another engagement that he must attend.

Mr. McGlennon asked if there was a specific group that staff was hoping to reach at these meetings.

Ms. Reidenbach stated that staff is hoping to reach as many citizens as possible.

Mr. McGlennon asked if every landowner was to participate, how many would that be.

Ms. Reidenbach stated that staff has begun to pull up the data in the GIS system, and the number of Rural Landowners is in the thousands. She stated that staff would look in to doing some direct mailings to make sure the large property owners are notified.

Mr. Icenhour stated that the last Rural Lands public meeting that was held at Legacy Hall was attended by 100-150 people.

Ms. Rosario stated that is the expectation with these meetings as well.

Mr. Bradshaw stated that he has a concern over a false impression over who is occupying the Rural Lands. He stated that there are only a handful of farmers occupying the Rural Lands. He stated that it is good information for the public to have, but need to be careful in giving the idea that every farmer is going to find a young farmer to take over his land. He stated that he does not want to give the false impression that this is some new way of farming that is going to make farming profitable again.

Ms. Reidenbach stated that the real goal of these meetings is to throw out all the available options, and allow people to look in to those that interest them.

Mr. Bradshaw stated that he concurs that Option 2 is the more feasible option to reach the most people.

Ms. Reidenbach stated that it appears there is clear preference for Option 2, taping the educational component, and having an option to supply feedback outside of the public meeting.

Ms. Reidenbach stated that she was hoping to receive feedback on the draft questions for this forum and help staff come up with a final questionnaire.

Mr. Bradshaw stated that he was particularly intrigued by the outline of how the County defines Rural Lands and what it is that the County is trying to preserve. He stated that he liked the fact that it is part of the discussion.

Ms. Reidenbach asked if there was consensus on using the questionnaire document that is shown on page 9.

Mr. McGlennon stated that it reflects a lot of time and effort on the part of staff and seems well thought out. He stated that he is confident that if staff sees some of the questions are not working, that staff will adapt.

Ms. Rosario thanked the Board for their input, and stated that staff would work rapidly to get the meetings organized. She stated that staff would come back to the Board in the fall to give an analysis of the meetings and the feedback generated.

Mr. McGlennon thanked the Planning Commission for their participation in this joint meeting.

Mr. Woods thanked the Board for the opportunity to attend and for their forethought in sharing opinions between the Board and the Planning Commission.

At 5:55 p.m. the Joint Work Session between the Board and the Planning Commission concluded and the Board recessed for a ten minute break.

The Board reconvened at 6:08 p.m.

Mr. Icenhour made a motion to go into Closed Session.

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

D. CLOSED SESSION

1. Consideration of acquisition/disposition of a parcel/parcels of property for public use, pursuant to Section 2.2-3711 (A)(3) of the Code of Virginia.
2. Consideration of a personnel matter(s), the appointment of individuals to County boards and/or commissions pursuant to Section 2.2-3711(A)(1) of the Code of Virginia
 - a. Parks and Recreation Advisory Committee

At 6:36 p.m., Mr. Icenhour made a motion to certify the Closed Session.

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

RESOLUTION

CERTIFICATION OF CLOSED MEETING

WHEREAS, the Board of Supervisors of James City County, Virginia, (Board) has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by the Board that such closed meeting was conducted in conformity with Virginia law.

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

hereby certifies that, to the best of each member's knowledge: 1) consideration of acquisition/disposition of a parcel/parcels of property for public use, pursuant to Section 2.2-3711 (A)(3) of the Code of Virginia; and 2) consideration of a personnel matter(s), the appointment of individuals to County boards and/or commissions pursuant to Section 2.2-3711(A)(1) of the Code of Virginia.

a) Parks and Recreation Advisory Committee

E. ADJOURNMENT

The Board recessed at 6:37 p.m. until their Regular Meeting at 7:00 p.m.

Robert C. Middaugh
Clerk to the Board

052813bosws_min

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 23RD DAY OF JULY 2013, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

ADOPTED

AUG 13 2013

**Board of Supervisors
James City County, VA**

A. CALL TO ORDER

B. ROLL CALL

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

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

C. MOMENT OF SILENCE

D. PLEDGE OF ALLEGIANCE – Callie Bryant, a recent graduate of Warhill High School and a resident of the Stonehouse District, led the Board and citizens in the Pledge of Allegiance.

Mr. McGlennon recessed the Board of Supervisors Meeting at 7:01 p.m. in order to conduct the James City Service Authority (JCSA) Board of Directors Meeting.

Mr. McGlennon reconvened the Board of Supervisors Meeting at 7:03 p.m.

E. PRESENTATION - None

F. PUBLIC COMMENTS

1. Mr. Randy O'Neil, 109 Sheffield Road, addressed the Board in regard to K-12 health in the school system.

2. Ms. Marjorie Ponziani, 4852 Bristol Circle, addressed the Board in regard to Rural Lands discussions held recently and stated that citizens do not need to be told how to utilize their land.

3. Ms. Carol Bartram, 102 Pageland Drive, Yorktown, addressed the Board in regard to backyard chicken keeping and requested the Board adopt an ordinance similar to the one in York County.

4. Ms. Michelle Fitzgerald, 2906 John Proctor East, addressed the Board in support of backyard chicken keeping.

5. Ms. Joyce Felix, 115 King William Drive, addressed the Board in support of backyard chicken keeping.
6. Mr. Russ Gibbons, 117 King William Drive, addressed the Board in support of backyard chicken keeping.
7. Mr. Joseph Swanenburg, 3026 The Pointe Drive, addressed the Board in regard to the Rural Lands discussions and the lack of regard for public input.
8. Ms. Betty Walker, 101 Locust Place, addressed the Board in regard to regionalism and its effect on free enterprise and personal property rights.
9. Mr. Nate Walker, 101 Locust Place, addressed the Board in regard to license plate scanners now being used on bridges in the Hampton Roads Area.
10. Mr. Ed Oyer, 139 Indian Circle, addressed the Board in regard to lack of storm debris cleanup in his neighborhood and the traffic congestion along Route 60.
11. Ms. Sue Sadler, 9929 Mountain Berry Court, addressed the Board in regard to the recent Rural Lands discussions and the lack of regard for public input.
12. Mr. Keith Sadler, 9929 Mountain Berry Court, addressed the Board in regard to the recent Rural Lands discussions and the lack of regard for public input.
13. Mr. Eric Danzinger, addressed the Board in support of backyard chicken keeping.
14. Ms. Rosanne Reddin, 2812 King Rook Court, addressed the Board in regard to the recent Rural Lands discussions and the lack of regard for public input.

G. BOARD REQUESTS AND DIRECTIVES

Chief Tal Luton, Fire Department, addressed the Board introducing the newly promoted Deputy Fire Chief Ryan Ashe.

Mr. Kennedy stated that he would like staff to review the policy on recording meetings. He stated that the previous Rural Lands meeting, held several years ago, was recorded as well as other meetings. He stated that he would like to see the County go back to recording all meetings.

Mr. Icenhour stated that Community Services Coalition charter states that it is to be a one-stop shop for citizens to have access to services available to them in the community. Up until now, the United Way has handled the pre-screening of individuals and qualified them for services. This was convenient because the United Way was in the same building on Waller Mill Road as the Community Services Coalition. He stated that the United Way is in the process of moving its offices out of the building, which raises the question of the viability of the "one-stop shop" concept. He stated that the Board needs to decide how it wants to move forward, either maintain this concept or make changes. He stated that the Coalition believes that it needs to provide as many services as possible in-house, but the absence of the United Way will make it more difficult. He stated that the Board has allocated money in the budget to go to United Way for this pre-screening service; however that service will no longer be offered in that building after September 30.

Mr. McGlennon stated that he would like to know how this change is affecting the clients and their ability to receive services. He stated that this information would be important as they consider the funding for the agency in the future.

Mr. Bradshaw stated that he agrees with Mr. McGlennon. He stated that the population that needs these services is receiving them. He would like to see the situation monitored.

Ms. Jones stated that it is a shame to lose the shared services under one roof, and she would like to see the situation monitored to ensure that the citizens are still being adequately served.

Mr. Kennedy asked what the rationale was for the United Way moving to a different building.

Mr. Icenhour stated that the United Way is an indirect service provider, while the other agencies in the building are direct service providers. He stated that the United Way typically deals with larger organizations. He stated that he believes the reason that the United Way has moved is because it typically deals with executives from large corporations and wanted offices more suitable for receiving that type of clientele.

Ms. Jones stated that the Hampton Roads Military and Federal Facilities Alliance (HRMFFA) meeting was held recently. She stated that the HRMFFA executive offices will be moving to the Regional Building in Chesapeake in September. She stated that this move will result in considerable cost savings for the organization.

Ms. Jones stated that in regard to the backyard chicken keeping, it would be helpful if the Board communicated its intention. She stated that she believes that it would be beneficial to form a committee with staff, Planning Commission members, and the chicken keepers to look at the ordinances from other localities, the best practices, and what is and is not working in other localities. She asked the Board to weigh in on this, so that the public would know what the intent is of this Board.

Mr. Kennedy stated he would be supportive of that.

Mr. Bradshaw stated that he believes it was not adequately communicated as to why the Board did not move forward on this issue. He stated that he believes that any permitting process would place the County in an untenable position. He stated that it would place the County in the middle of a conflict between neighbors. He stated that each citizen that received a letter stating they were in violation of the ordinance, received that letter because someone made a complaint. He stated the County was not driving around looking for chickens, but that someone had called and reported it. He stated that it would also interject the County into private property matters. He stated that almost every residential neighborhood in the County has privately imposed restrictive covenants. He stated that based on his own quick search of restrictive covenants throughout the County, almost every one of them prohibits the raising of poultry or fowl. He stated that should the County go ahead with an ordinance, it would be issuing a government permit for a privately prohibited action and is not a situation in which the County should be in. He stated that in his opinion, there is no ordinance that could be drafted that would adequately address the issues of enforcement and the privately imposed restrictive covenants.

Mr. Icenhour stated that he agrees with the analysis made by Mr. Bradshaw. He stated that the raising of poultry is permitted in the A-1 and R-8 districts which comprise about 49 percent of the County.

Mr. McGlennon stated that he agrees with Mr. Bradshaw. He stated that he is open to reviewing possible ordinances that address these issues; however, he has not yet seen one. He stated in the absence of that, he does not see the point of spending a lot of time on this. He stated that it is important to remember that every citizen that was cited received the citation because there was a complaint. He stated that the citizens who

bought their homes in those neighborhoods had an expectation that the covenants would be followed, and while the County is not going to enforce the covenants, it should not be undermining them either.

H. CONSENT CALENDAR

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

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

1. Minutes –
 - a. June 25, 2013, Work Session
 - b. July 9, 2013, Regular Meeting
2. Dedication of Streets in the Marywood Subdivision - Phase Four

RESOLUTION

DEDICATION OF STREETS IN THE MARYWOOD SUBDIVISION - PHASE FOUR

WHEREAS, the streets described on the attached Form AM-4.3, fully incorporated herein by reference, is 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.

3. Grant Award - Virginia E-911 Services Board Public Safety Answering Point (PSAP) - \$2,000

RESOLUTION

GRANT AWARD - VIRGINIA E-911 SERVICES BOARD

PUBLIC SAFETY ANSWERING POINT (PSAP) - \$2,000

WHEREAS, the James City County Fire Department Emergency Communications Division has been awarded a \$2,000 grant from the Virginia E-911 Services Board under the FY 2014 Public Safety Answering Point (PSAP) Grant Program for the Wireless E-911 PSAP Education Program; and

WHEREAS, the funds are to be used for 9-1-1/public safety communications education and training; and

WHEREAS, the grant does not require a local match.

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:

Revenue:

PSAP Grant-Education \$2,000

Expenditure:

PSAP Grant-Education \$2,000

4. Grant Award - Office of Emergency Medical Services (OEMS) Rescue Squad Assistance Fund (RSAF) Grant - \$148,946

RESOLUTION

GRANT AWARD - OFFICE OF EMERGENCY MEDICAL SERVICES (OEMS)

RESCUE SQUAD ASSISTANCE FUND (RSAF) GRANT - \$148,946

WHEREAS, the James City County Fire Department has been awarded a Rescue Squad Assistance Fund (RSAF) grant in the amount of \$148,946 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 Monitor/Automatic External Defibrillators (AEDs) with accessories and AutoPulse cardiopulmonary resuscitation (CPR) system units, and for registration of Advanced Life Support (ALS) providers in practical emergency airway management workshops; and

WHEREAS, the grant requires a 50 percent local match of \$74,473, of which \$64,473 is budgeted in the FY 2014 Grants Match account and \$10,000 is budgeted in the Fire Department General Fund budget.

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 Grant – EMS Equipment and Training	\$74,473
Transfer from General Fund	<u>74,473</u>
Total	<u>\$148,946</u>

Expenditure:

RSAF Grant – EMS Equipment and Training	<u>\$148,946</u>
---	------------------

- 5. Grant Award - Virginia Department of Emergency Management (VDEM) Hazard Mitigation Grant Program (HMGP) - \$98,000

RESOLUTION

GRANT AWARD - VIRGINIA DEPARTMENT OF EMERGENCY MANAGEMENT (VDEM)

HAZARD MITIGATION GRANT PROGRAM (HMGP) - \$98,000

WHEREAS, the James City County Fire Department Emergency Management Division has been awarded a Hazard Mitigation Grant Program (HMGP) grant in the amount of \$98,000 from the Commonwealth of Virginia Department of Emergency Management (VDEM) using funds from the United States Department of Homeland Security (DHS) Federal Emergency Management Agency (FEMA) Hazard Mitigation Grant Program and from VDEM; and

WHEREAS, the funds are to be used for the purchase and installation of a shelter generator at the James River Community Center; and

WHEREAS, the grant requires a five percent local match of \$4,900, which is budgeted in the FY 2014 Grants Match account.

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:

HMGP Grant – Shelter Generator	\$93,100
Transfer from General Fund	<u>4,900</u>
Total	<u>\$98,000</u>

Expenditure:

HMGP Grant – Shelter Generator	<u>\$98,000</u>
--------------------------------	-----------------

- 6. Colonial Community Corrections (CCC) Appropriation of the Department of Justice Office on Violence Against Women Funds - \$47,500

RESOLUTION

COLONIAL COMMUNITY CORRECTIONS (CCC) APPROPRIATION OF THE DEPARTMENT OF JUSTICE OFFICE ON VIOLENCE AGAINST WOMEN FUNDS - \$47,500

WHEREAS, Colonial Community Corrections (CCC) worked in partnership with York County in development of a grant application to the Department of Justice, Office on Violence Against Women and has been awarded \$47,500; and

WHEREAS, funding will be used for the establishment of a Part-time Other Probation Officer to work 32 hours per week and for associated expenses.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the appropriation to CCC and the establishment of a Part-time Other Probation Officer as follows:

Revenue:

Revenue from the Federal Government	<u>\$47,500</u>
-------------------------------------	-----------------

Expenditure:

Office on Violence Against Women Grant	<u>\$47,500</u>
--	-----------------

- 7. Colonial Community Corrections (CCC) Appropriation of Additional Offender and Reentry Transitional Services (ORTS) Funding - \$30,759

RESOLUTION

COLONIAL COMMUNITY CORRECTIONS (CCC) APPROPRIATION OF ADDITIONAL OFFENDER AND REENTRY TRANSITIONAL SERVICES (ORTS) FUNDING - \$30,759

WHEREAS, Colonial Community Corrections (CCC) has been awarded additional funding in the amount of \$30,759; and

WHEREAS, funding will be used to hire a Full-time Other Probation Officer to serve as Reentry Coordinator.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the new appropriation to CCC and the establishment of a Full-Time Other Probation Officer effective September 16, 2013:

Revenue:

New Funding \$30,759

Expenditure:

Personnel \$30,759

- 8. Colonial Community Corrections (CCC) Appropriation of Fund Balance - \$14,555

RESOLUTION

COLONIAL COMMUNITY CORRECTIONS (CCC) APPROPRIATION OF

FUND BALANCE - \$14,555

WHEREAS, Colonial Community Corrections (CCC) has accumulated an estimated fund balance, as of June 30, 2013, of \$88,397; and

WHEREAS, funding will be used for operating costs associated with replacing computers and purchasing kiosks.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the additional appropriation to CCC for the purposes described above:

Revenue:

Fund Balance \$14,555

Expenditure:

Computers and Kiosks \$14,555

I. PUBLIC HEARINGS

- 1. Ordinance Amendments to Chapter 4, Building Regulations, Section 4-37, Penalties; Sanctions, Injunctive Relief, Fines

Mr. Adam Young, Legal Intern in the County Attorney’s Office, addressed the Board giving a summary of the memorandum in the Agenda Packet.

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

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

Mr. Bradshaw made a motion to adopt the ordinance.

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

2. SUP-0010-2013. Jolly Pond Road Convenience Center Special Use Permit (SUP) Amendment

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

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

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

Mr. Icenhour made a motion to adopt the ordinance.

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

J. BOARD CONSIDERATION

1. James City County Vegetative Debris Policy

Mr. Middaugh addressed the Board giving a summary of the memorandum included in the Agenda Packet.

Mr. Kennedy stated that the County currently charges \$75 for a bulk load pick up. He asked how big the truck is that is used for the bulk pick-up.

Mr. Middaugh asked Mr. Jim Hill, Solid Waste Superintendent, for an answer to the question.

Mr. Hill stated that the trucks are 24- and 30-foot boom trucks.

Mr. Kennedy asked if it was permissible, considering the storms that have occurred more recently over the past few years, for the truck to go into a neighborhood and the citizens share the fee. He stated for example, like Mr. Oyer's case, if you have neighbors that have small piles of debris and were able to split the fee, then that is only \$7.50 per house.

Mr. Middaugh stated that the fee is designed per load. He stated that if you have multiple piles in one vicinity, then the question becomes what the definition of vicinity is. He stated that if the Board would like staff to look in to this possibility, then they can certainly do so.

Mr. Kennedy stated that if it is designated for one road and if the people on that road split the fee and it fills up the truck, then so be it

Mr. McGlennon stated that he would be supportive of designing a fee structure that makes sense and is beneficial to the citizens. He stated that Mr. Oyer raised the question earlier about why nothing had been done in his neighborhood, and it is important to remember that nothing was done in any of the neighborhoods

in the County. He stated that a State of Emergency was not declared and therefore, there is no opportunity for recouping the expenses. He stated that the County needs to be flexible in coming up with a fee schedule that will help the citizens.

Ms. Jones stated that she believes the Board and the County should be helping the citizens and should come up with a modest fee schedule that would allow the removal of the vegetative debris.

Mr. Kennedy asked what these trucks are being used for on a daily basis.

Mr. Hill stated that the trucks are shared with General Services for use in park cleanup and maintenance and for bulk pickups.

Mr. Icenhour stated that he believes there needs to be some flexibility and that this needs to be evaluated on a case-by-case basis.

Mr. Kennedy stated that his point is that if a truck is going out to a neighborhood there should be no reason why the neighbors cannot work together and minimize the trips necessary to clean up a neighborhood after a storm.

Mr. Bradshaw stated that he is supportive of the policy. He stated that when the damage is widespread and severe, that is the time when the government should step in. He stated that it is important to remember that government is not the insurer, that they should not be taking care of everyone's property, and the government should not be interfering with private business that can handle the problem.

Mr. McGlennon stated that he is hearing that the Board is asking for staff to look into some flexibility in the fee schedule for the bulk pickup.

Mr. Bradshaw made a motion to approve the resolution as amended for a typographical error.

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

RESOLUTION

JAMES CITY COUNTY VEGETATIVE DEBRIS POLICY

WHEREAS, James City County is occasionally subjected to weather events that cause damage to trees and vegetation; and

WHEREAS, a weather impact on the County ranges from small isolated areas to widespread damage; and

WHEREAS, extensive tree damage may exceed the capabilities of local residents within the County to adequately remove the debris without public assistance; and

WHEREAS, extensive and widespread vegetative debris caused by weather events may have deleterious effects on the health, safety, and welfare of the citizens of James City County; and

WHEREAS, given the possible wide-range of adverse impacts as a result of weather events on trees in the County, the Board of Supervisors of James City County wishes to establish a policy for determining the circumstances under which County assistance and the nature of that assistance

will be provided to residents of the community.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby declares that the curbside collection of vegetative debris will be undertaken by the County when there is a Declaration of Emergency that affects all or a significant portion of the County by the governor and when a local Declaration of Emergency has been declared by the Board of Supervisors. Subsequent to a Declaration of Emergency by the Board of Supervisors, the County Administrator will submit a plan for the collection and disposal of the vegetative debris for the Board of Supervisors approval. The decision to collect and dispose of vegetative debris will be based upon a damage survey detailing the scope and severity of damage. It shall be the policy of the Board of Supervisors only to declare local States of Emergency for weather events that cause tree damage affecting all or significant portions of the County.

BE IT FURTHER RESOLVED that for weather events causing more localized damage that do not rise to the threshold to be declared an emergency by the Board of Supervisors, other assistance to residents may be provided by direction of the Board of Supervisors on a case-by-case basis, which generally will not include vegetative debris curbside collection. Other options and actions that may be considered by the Board of Supervisors include:

- Providing information to residents about private service options for vegetative debris collection.
- Waiving disposal fees at the Jolly Pond Convenience Center site for weather event related vegetative debris.
- Bulk collection at individual sites under the established County bulk collection service program then in effect.

Curbside collection of vegetative debris as a result of localized weather events will be undertaken only when and if there are specific circumstances in which the previous options cannot resolve a vegetative debris issue and there is a finding by the Board of Supervisors that absent County intervention there would be a direct threat to the health, safety, and welfare of the citizens of James City County.

BE IT FURTHER RESOLVED that the County Administrator is both authorized and directed to implement a communication plan to inform residents of the County how the County will be addressing vegetative debris caused by weather events.

Mr. Middaugh stated that staff would look in to the Board's suggestions and report back.

K. PUBLIC COMMENTS

1. Ms. Marjorie Ponziani, 4852 Bristol Circle, addressed the Board stating that instead of borrowing money to buy land, why not utilize funds to fix road problems that are repeatedly being brought to the Board's attention.
2. Mr. Jeff Ryer, Merrimac Trail, addressed the Board stating that he was disappointed by the way that the Board members interacted with the citizens at the Rural Lands meeting.
3. Mr. Ed Oyer, 139 Indian Circle, addressed the Board in regard to the \$75 bulk trash pickup fee and stated that taxpayers should not have to pay a fee because they pay taxes.

4. Mr. Keith Sadler, 9929 Mountain Berry Court, addressed the Board in regard to a communist plan to relocate people out of rural areas and into dense cities.

5. Ms. Sue Sadler, 9929 Mountain Berry Court, addressed the Board in regard to the County spending less money on land acquisitions and more money on the needs of the citizens.

6. Mr. Joseph Swanenburg, 3026 The Pointe Drive, addressed the Board in regard to the matching funds required for the grant awards listed on the Consent Calendar.

L. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Middaugh stated that the James City County Recreation Center on Longhill Road is open as a cooling center to allow citizens to escape the heat. He stated that service animals may be brought in, but no pets. He stated that the questionnaire regarding Rural Lands was still available online and the deadline for submittal is August 14.

M. BOARD REQUESTS AND DIRECTIVES

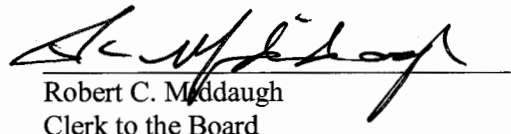
Mr. McGlennon stated that he attended the opening game of the 12 and Under Youth National Softball Association World Series and threw out the first pitch. He stated that the tournament is taking place in James City County, the City of Williamsburg, and York County. He stated that 140 teams, representing 2,000 players are participating in the tournament and that there are approximately 5,000 visitors in the area as a result.

N. ADJOURNMENT – 7 p.m. on August 13, 2013, for the Regular Meeting.

Ms. Jones made a motion to adjourn.

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

At 8:39 p.m., Mr. McGlennon adjourned the Board.


Robert C. Middaugh
Clerk to the Board

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 12TH DAY OF NOVEMBER 2013, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. CALL TO ORDER

ADOPTED

B. ROLL CALL

NOV 26 2013

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

Board of Supervisors
James City County, VA

Doug Powell, Assistant County Administrator
Leo P. Rogers, County Attorney

C. MOMENT OF SILENCE

D. PLEDGE OF ALLEGIANCE – Cole Tross, an 8th-grade student at Hornsby Middle School and a resident of the Berkeley District, led the Board and citizens in the Pledge of Allegiance.

E. PRESENTATION

1. Virginia Department of Transportation (VDOT) Quarterly Update

Mr. Rossie Carroll, Residency Administrator for the Virginia Department of Transportation (VDOT) Williamsburg Residency, addressed the Board giving an update of transportation issues in the County. He stated that the signal synchronization study on Monticello Avenue is on-going and VDOT staff are monitoring the counts of vehicles and do have the ability to adjust the lights remotely if necessary. He stated that VDOT is looking into procuring an adaptive system that would adjust the lights automatically based on traffic flow. He stated that the traffic cameras will be moved to Route 60 near the Prime Outlets in anticipation of Black Friday and then the cameras will be moved west along Route 60 near the Williamsburg Pottery. He stated that 220 maintenance request orders were completed this quarter out of the 310 that were received. He stated that the Route 617-Stonehouse Road slope restoration project has been completed and pavement marking projects have been ongoing throughout the County. The 4th County mowing cycle has been completed except for one stretch along Route 199 between Jamestown Road and Brookwood Road. He stated that the current projects include: Longhill Road signal upgrades at intersection of Olde Towne Road, Route 60, and Airport Road signal upgrade and pedestrian signals. He stated that VDOT will be advertising a slope restoration project on Route 60 just west of Barnes Road, Route 321 Monticello Avenue project at News Road which will add a second turn lane onto News Road and the calendar year paving program. He stated that the secondary

plant mix schedule includes Route 5000, Route 615, and Route 755. He stated that the 2014 slurry-seal schedule has been advertised and includes the Stonehouse and Rolling Woods Subdivisions. He stated that VDOT staff is ready and posed to respond to winter weather and has completed a dry-run of incident response.

Ms. Jones stated that on Ironbound Road, right where the Ironbound Redevelopment Project was done, there was "fill" put in for the bike trail. This elevation is causing run-off to run down into the front of homes.

Mr. Carroll stated that he would look into that situation.

Mr. Icenhour stated that on Carriage Road, on the far end near Chambrel, it does not seem that the mowing was completed.

Mr. Carroll stated that the brush cutting there is a project that VDOT will be completing.

Mr. McGlennon stated that there is work in Newport News along Route 60 up to the County line. He asked if it would affect citizens that live in that end of the County.

Mr. Carroll stated that the road was closed this past weekend, but it should be reopened and not affecting citizens.

Mr. McGlennon asked if there was any hope on the horizon of getting away from the slurry-seal.

Mr. Carroll stated that VDOT has worked with the County to do more restorative overlays than preventative overlays, and he hopes to continue with that.

Mr. McGlennon thanked Mr. Carroll for his update.

F. PUBLIC COMMENTS

1. Ms. Betty Walker, 101 Locust Place, addressed the Board regarding the results of the recent gubernatorial election and the effects of big government.

2. Mr. William Merzs, 3982 East Providence Road, addressed the Board regarding the dangers wolf hybrid dogs pose to pets and small children in the community.

3. Mr. Frank Buckley, 3900 Cold Spring Road, addressed the Board regarding regulating wolf hybrid dogs in the County.

4. Mr. Joshua Bennett, 4011 East Providence Road, addressed the Board requesting that the Board regulate wolf hybrid dogs in the County.

5. Ms. Sue Sadler, 9929 Mountain Berry Court, addressed the Board regarding the acceptance of grant funds and using tax payer dollars for trails and dam studies that the County does not need.

6. Mr. Keith Sadler, 9929 Mountain Berry Court, addressed the Board regarding legitimate safety concerns in New Town.

7. Mr. Joseph Swanenburg, 3026 The Pointe Drive, addressed the Board regarding grant money as a tool for redistributing wealth.

8. Ms. Carol Anderson, 34 Kirkland Court, addressed the Board regarding the recent elections and women's rights.

9. Mr. Chris Henderson, 101 Keystone, addressed the Board regarding the diminishing value of Leadership in Energy and Environmental Design (LEED) certification requirements and requested the Board modify the code to remove the LEED certification requirement for public buildings.

10. Mr. Ed Oyer, 139 Indian Circle, addressed the Board regarding campaign statements for Mr. Watson and how he did most of what he claimed he would do.

G. BOARD REQUESTS AND DIRECTIVES

Ms. Jones stated that our community, and throughout the region, has so many veterans and active duty military personnel and she wanted to thank them for their service. She congratulated Mr. Hipple on winning the election and welcomed him to the Board. She stated that now that the Powhatan District is represented by an elected Supervisor she would like to make a motion for the Board to re-organize and elect a new Chairman.

Ms. Jones made a motion to elect Mr. Kennedy as Chairman of the Board for the remainder of this year.

On a roll call vote, the vote was: AYE: Mr. Hipple, Mr. Kennedy, Ms. Jones (3). NAY: Mr. McGlennon (1). ABSTAIN: Mr. Icenhour (1).

The motion carried and Mr. McGlennon passed the gavel down to Mr. Kennedy to take over the meeting as Chairman.

Mr. McGlennon stated that he traveled to Lancaster County this past Saturday for the memorial service for Mr. Richard Lee, a long-time County employee who passed away.

Mr. Kennedy stated that Mr. Lee will certainly be missed. He stated that he has fond memories of Mr. Lee and awarded him the Chairman's Award back in 2002 when he was Chairman.

Mr. Kennedy stated that it was privilege for him to appear as a veteran at Walsingham Academy yesterday for the Veteran's Day program.

H. CONSENT CALENDAR

Ms. Jones requested that Item No. 4 be pulled from the Consent Calendar for discussion.

Mr. McGlennon made a motion to adopt the remaining Consent Calendar Items.

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

1. Minutes –
 - a. October 8, 2013, Regular Meeting
 - b. October 22, 2013, Regular Meeting

2. Federal Grant Award – Bulletproof Vest Partnership (BVP) – \$11,414

RESOLUTION

FEDERAL GRANT AWARD – BULLETPROOF VEST PARTNERSHIP (BVP) – \$11,414

WHEREAS, the James City County Police Department has been awarded a Bulletproof Vest Partnership (BVP) grant from the Office of Justice Programs’ Bureau of Justice Assistance for \$11,414 (\$5,707 grant/\$5,707 local match); and

WHEREAS, the grant requires a match of \$5,707, which is available in the County’s Grant Match Account; and

WHEREAS, the funds are to be used to purchase approximately 17 replacement bulletproof vests for officers.

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:

Revenues:

BVP-FY13	\$5,707
Grant Match Account	<u>5,707</u>
Total	<u>\$11,414</u>

Expenditure:

BVP – FY13	<u>\$11,414</u>
------------	-----------------

3. Grant Award – Dam Safety Assistance Fund for the Warhill Eastern Pond Dam – \$4,000

RESOLUTION

GRANT AWARD – DAM SAFETY ASSISTANCE FUND FOR THE

WARHILL EASTERN POND DAM – \$4,000

WHEREAS, the Virginia Department of Conservation and Recreation and the Virginia Resources Authority, as administrator of the Dam Safety, Flood Prevention, and Protection Assistance Fund, has awarded James City County a grant to improve dam safety; and

WHEREAS, funds are needed for the Warhill Eastern Pond Dam to develop a dam break inundation map as required for renewal of a regular six-year Operational and Maintenance (O&M) Certificate in accordance with Virginia Dam Safety Act and Impounding Structure Regulations; and

WHEREAS, the award is in the amount of \$4,000 (with \$4,000 local match required); and

WHEREAS, the matching funds of \$4,000 are available in the County Department of Development Management, Division of Engineering and Resource Protection, FY 14 Expenditures Budget for Professional Services No. 001-104-0203.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby accepts the \$4,000 grant awarded by the Virginia Department of Conservation and Recreation and the Virginia Resources Authority for the Warhill Eastern Pond Dam and authorizes the County Administrator to execute the grant agreement.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following appropriation to the County Department of Development Management, Division of Engineering and Resource Protection Division budget:

Revenue:

Dam Safety Assistance Fund	<u>\$4,000</u>
----------------------------	----------------

Expenditure:

Warhill Eastern Pond Dam	<u>\$4,000</u>
--------------------------	----------------

5. Revisions to Chapter 5 of the James City County Personnel Policies and Procedures Manual

RESOLUTION

REVISIONS TO CHAPTER 5 OF THE JAMES CITY COUNTY

PERSONNEL POLICIES AND PROCEDURES MANUAL

WHEREAS, the James City County Personnel Policies and Procedures Manual is an important document that guides decisions; and

WHEREAS, it is the practice of the County to revise and update policies to reflect changes and improvements; and

WHEREAS, the provisions of the Virginia Retirement System's Hybrid Plan that goes into effect January 1, 2014, differ from the provisions of Plan 1 and Plan 2; and

WHEREAS, the Virginia Retirement System advised that localities may wish to consider modifying current leave structure to coordinate more effectively.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that revisions to the personnel policies and procedures are adopted effective December 1, 2013.

6. Contingency Transfer – Human Services Building

RESOLUTION

CONTINGENCY TRANSFER - HUMAN SERVICES BUILDING

WHEREAS, the County's adopted five-year Capital Improvement Plan includes, in the upcoming fiscal year, \$2,050,000 to rehabilitate the 30-year-old Human Services Building; and

WHEREAS, the need for greater efficiencies in the building infrastructure and spatial allocations is a pressing one, given the growth in the number of James City County households served by the offices who occupy the building.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes the transfer of \$120,000 from Capital Contingency to General Services to fine-tune plans, obtain final engineering estimates, and analyze potential changes in the building.

4. Acceptance of a Grant Amendment – Virginia Recreational Trails Fund – \$195,000

Ms. Jones stated that she requested this item be pulled for discussion and for a separate vote. She stated that she does not believe the trail should be a priority at this time. She stated if this amenity is that important to the citizens, then she does not believe that the funding should be coming from outside the County.

Mr. McGlennon stated that the County has already accepted funding for this trail and it is part of the overall master plan for Parks and Recreation. He stated that by not accepting, the Board is basically saying that instead of completing this trail with more help from the State, taxpayers are expected to finish the trail by themselves.

Mr. McGlennon made a motion to approve Item No. 4.

On a roll call vote, the vote was: AYE: Mr. Icenhour, Mr. McGlennon, Mr. Kennedy (3). NAY: Mr. Hipple, Ms. Jones (2).

RESOLUTION

ACCEPTANCE OF A GRANT AMENDMENT –

VIRGINIA RECREATIONAL TRAILS FUND – \$195,000

WHEREAS, funds are needed to assist with the construction of a trail from Freedom Park to the Blayton Elementary and Hornsby Middle School complex; and

WHEREAS, the Department of Conservation and Recreation has additional funds available for a trail development project in James City County through the Federal Recreation Trails Program.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby accepts the \$195,000 grant amendment to help with the construction of the Freedom Park Trail and authorizes the County Administrator to execute the required documents.

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

Revenue:

Virginia Department of Conservation and Recreation \$195,000

Expenditure:

Freedom Park Trail \$195,000

I. PUBLIC HEARING

1. HW-0002-2013. Busch Gardens 2015 Festa Italia Attraction

Ms. Leanne Reidenbach Pollock, Planner III, addressed the Board giving a summary of the staff report included in the Agenda Packet.

Mr. McGlennon stated that he met with the applicant in order to better understand the impacts of this project and because of the proprietary information involved it is difficult for the applicant to explain publicly.

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

1. Mr. Larry Giles, Vice President of Engineering for Busch Gardens, addressed the Board stating that he is representing Busch Gardens in case the Board has any questions.

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

Mr. McGlennon made a motion to approve the resolution on pages 79 and 80 of the Agenda Packet stating that Busch Gardens is very important to the local economy and he is impressed with their efforts to reduce the impacts of the attraction on local residents.

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

RESOLUTION

HW-0002-2013. BUSCH GARDENS 2015 FESTA ITALIA ATTRACTION

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a Height Limitation Waiver process; and

WHEREAS, Mr. Piotr Swietuchowski of VHB, Inc. has applied on behalf of SeaWorld Parks and Entertainment, LLC for a Height Limitation Waiver to allow for the installation of an attraction that is approximately 156 feet above finished grade (the "Attraction"); and

WHEREAS, a public hearing was advertised, adjoining property owners notified, and a hearing conducted on Case No. HW-0002-2013; and

WHEREAS, the location of the proposed Attraction is depicted on the plan prepared by Vanasse Hangen Brustlin, Inc., entitled "Busch Gardens Festa Italia Expansion Exhibit 2 Height Waiver Sight Lines;" and

WHEREAS, the proposed expansion will be constructed in its entirety on property zoned M-1, Limited Business Industrial, further identified as James City County Real Estate Tax Map No. 5140100009 and commonly known as "Busch Gardens" (the "Property"); and

WHEREAS, the Board of Supervisors finds that the requirements of Section 24-418(c) of the James City County Zoning Ordinance have been satisfied in order to grant a height limitation waiver to allow for the erection of structures in excess of 60 feet in height.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Height Limitation Waiver HW-0002-2013 to grant the applicant a 96-foot waiver to the height limitation requirements set forth in the James City County Code to allow for the erection of an attraction up to 156 feet tall from finished grade as described herein, pursuant to the following conditions:

1. **Plan:** This Height Waiver shall be valid for a 96-foot waiver to the height limitation requirements set forth in the James City County Code to allow for the erection of the Attraction up to 156 feet above finished grade (or up to 242 feet above mean sea level) as generally shown on the plan prepared by Vanasse Hangen Brustlin, Inc., entitled "Busch Gardens Festa Italia Expansion Exhibit 2 Height Waiver Sight Lines." For the purposes of this application, "finished grade" is defined as 86 feet above sea level.
2. **Lighting:** All lighting locations and specifications shall be shown on future development plans. Unless otherwise required by the Federal Aviation Authority or necessary for safety purposes, installation of any lights on the Attraction at points above 60 feet in height or installation of lights which direct light upward to illuminate any part of the Attraction or surrounding theme park areas shall be prohibited, with the sole exception being that landscape-shielded "wall-washer" type fixtures may be installed to illuminate vertical (solid) wall surfaces related to the Attraction.
3. **Landscaping:** Supplemental landscaping shall be planted generally in the areas shown on the exhibit entitled "HW-0002-2013 Busch Gardens 2015 Festa Italia Attraction - Landscape Planting Areas" dated October 15, 2013, and as specified in a landscape design plan (the "Landscape Plan") that shall be reviewed and approved by the Director of Planning or his designee and subject to approval by the Virginia Department of Transportation (VDOT). Plantings shall be evergreen varieties that are designed, located, and planted in accordance with the requirements of Section 24-96 of the landscape ordinance. Plantings included on the Landscape Plan shall be installed or bonded prior to issuance of a final Certificate of Occupancy.
4. **Color Scheme:** The color of the Attraction at any point at or above 60 feet above finished grade shall be muted and designed to minimize visual impacts from Community Character Corridors and areas as defined in the Comprehensive Plan. A color scheme plan and color samples shall be submitted to, and approved by, the Director of Planning for consistency with this condition prior to the issuance of a Building Permit for the Attraction.

5. **Commencement of Construction:** Construction on this project shall commence within 36 months from the date of approval of this Height Limitation Waiver or this Height Limitation Waiver shall be void. Construction shall be defined as the obtaining of permits for the construction of foundations and/or footings.
6. **Severance Clause:** This Height Limitation Waiver is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

J. BOARD CONSIDERATIONS

1. Contract Award – Mooretown Road Extended Corridor Study – \$399,967

Mr. Jason Purse, Zoning Administrator, addressed the Board giving a summary of the memorandum included in the Agenda Packet.

Mr. Icenhour stated that the County must have some idea of who would build this road and where it would go. He asked if that was discussed.

Mr. Purse stated that who would fund this road has not been discussed. He stated that there is language in the Comprehensive Plan that this road would be a privately funded road with minimal public assistance. He stated that this is a study to determine if the road is built where it would be most appropriate.

Mr. Icenhour stated that the Board is going to spend \$400,000 of taxpayer dollars to determine where to put a road that would be built by some unknown private party.

Mr. Purse stated that funding has not yet been identified for construction.

Mr. Kennedy stated that this study has been discussed many times. He asked Mr. Middaugh to give some of the history of this item and asked if this item is approved, is it coming back to the Board again or will it begin to move along.

Mr. Middaugh stated that once this contract is awarded, then the corridor study will be done. After that, the question of who builds it and who pays for it will ultimately have to come back to the Board, but the study will already be done. He stated that this item had its genesis with Mr. Sanford Wanner, the previous County Administrator, who found that during a hurricane it was difficult to get back and forth down Route 60. The idea of this road was to provide an alternate means for getting around that area. Subsequently, the Board approved a conceptual zoning for that area called the Economic Opportunity Zone (EO Zone) and this road would be an important part of the maturation of the that zone. The last action of the Board was to appropriate the funds for the study and to make them available for use.

Mr. Kennedy stated that in 2005, when this study first came up, the EO Zone was not in effect. He stated he believes the original idea was that public funds be used for construction.

Mr. Hipple stated that during that hurricane, there were a lot issues with Fire and Rescue vehicles being able to get up and down Route 60 and it is believed that this road would provide another avenue for getting to other parts of the County when Route 60 is gridlocked.

Mr. McGlennon stated that he has not been enthusiastic about this project and believes those funds could be invested in Rochambeau Drive which provides a parallel roadway. He stated that the study would probably prove to be valuable by providing information on where a road would be feasible; however, he remains unconvinced of the need for a road there.

Mr. Icenhour stated that we live on a peninsula and during hurricanes, even the alternate routes get backed up. He stated that a small stretch of road is not going to be a viable alternative during a major storm. He stated that Rochambeau Drive parallels I-64 and Route 60 and it is very rarely used. He stated that he does not believe that this road is needed as an alternate route or for emergency response. He stated that he believes that this project has something to do with two major property holders who would like to have this road, but they would need to take property from other homeowners in order to make it connect. He stated that if the Board wants to make this road an entryway to the Williamsburg Pottery and Mr. Hunt's farm, then fine, but it will require the condemnation of property from other property owners who do not want this road coming across their property. He stated that this is public money being spent to develop and further the economic interest of private individuals. He stated that he believes that this is a bad idea and cannot support this.

Ms. Jones stated that this road was proposed by our public safety officers and the previous County Administrator after a major hurricane and those only continue. She stated that this is just a study, like the Longhill Road Corridor Study, to look at the impacts and what is feasible. She stated that this study was brought up prior to the EO Zone. She stated that this is a study to evaluate the routes for citizens and to make sure that they have avenues to get out safely and the emergency vehicles can get to citizens when they are needed. She stated that she is supportive of the study.

Ms. Jones made a motion to approve the resolution on page 98 of the Agenda Packet.

On a roll call vote, the vote was: AYE: Mr. Hipple, Ms. Jones, Mr. Kennedy (3). NAY: Mr. Icenhour, Mr. McGlennon (2).

RESOLUTION

CONTRACT AWARD - MOORETOWN ROAD EXTENDED CORRIDOR STUDY - \$399,967

WHEREAS, a Request for Proposals (RFP) for Consultant Services to conduct a study of the Mooretown Road Extended corridor was publicly advertised and staff reviewed proposals from six firms interested in performing the work; and

WHEREAS, upon evaluating the proposals, staff determined that Vanasse Hangen Brustlin, Inc. (VHB) was the most qualified and submitted the proposal that best suited the County's needs as presented in the RFP.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby awards the \$399,967 contract for consultant services for the Mooretown Road Extended Corridor Study to VHB.

2. The Virginia Department of Transportation (VDOT) Revenue Sharing Program-Fiscal Year 2015

Ms. Tammy Rosario, Principal Planner, addressed the Board giving a summary of the memorandum included in the Agenda Packet.

Mr. Middaugh stated that this is a competitive process and staff does not know how well this project will rank against other projects from other localities, but it is worth competing for.

Mr. Kennedy asked if these funds would be in addition to the approximately \$3.9 million already allocated to this project or would these funds act as an offset.

Ms. Rosario stated that these funds would be an offset.

Mr. Kennedy stated that for clarity, the project is still running approximately \$3.9 million.

Mr. Vaughn Poller, Director of Housing and Community Development, stated that is correct.

Mr. Hipple asked if there were currently any homes on Neighbors Drive.

Mr. Poller stated yes, there are 11 homes that are affected by this project.

Mr. Hipple stated that for clarity, this action tonight would not cost the County any more money.

Mr. Poller stated that was correct. He stated that if VDOT accepts this application, then VDOT would accept the Community Development Block Grant (CDBG) funds that the County already has as the local match dollars.

Mr. McGlennon stated that would then allow the County to remove local funding from the project and conserve those dollars for use elsewhere in the community.

Mr. Poller stated that was correct.

Mr. Kennedy stated that he has received questions regarding the tree line that was removed along Neighbors Drive near Route 60. He stated that it appears that the entire tree buffer between the two rows of housing was removed. He asked Mr. Poller to clarify why that was done.

Mr. Poller stated that the trees were removed in the area of Phase 1, because of the retention pond that is being built. He stated in the area of Phase 2, six lots were created and homes will be built.

Mr. Hipple asked for a deferral to allow him more time to learn about the project and get up to speed to make an informed decision.

Mr. Kennedy asked Mr. Middaugh if there was a deadline for the application.

Mr. Middaugh stated that there is a timeline, but Ms. Rosario could better answer the question.

Ms. Rosario stated that the signed resolution is due to VDOT by December 2, 2013, so conceivably the action could be deferred until the November 26 meeting and still meet the deadline.

Mr. Kennedy clarified with Mr. Rogers that a vote was not necessary for a deferral.

The Board agreed to defer this action in deference to Mr. Hipple's request.

K. PUBLIC COMMENTS

1. Ms. Carol Anderson, 34 Kirkland Court, addressed the Board regarding an environmental issue near Quarterpath Drive that overlooks James City County and construction trucks have been removing trees, and tar and pitch is showing up in the pond.

2. Mr. Joseph Swanenburg, 3026 The Pointe Drive, addressed the Board and offered a prayer for the newly constituted Board.

3. Mr. Ed Oyer, 139 Indian Circle, addressed the Board stating all of this money is being spent on the Mooretown Road Study and VDOT mentioned the western part of Route 60 several times, but not once were Route 60 in the Grove area mentioned.

4. Mr. Chris Henderson, 101 Keystone, addressed the Board regarding the Mooretown Road Study and believes that it would be to the County's benefit.

5. Mr. Keith Sadler, 9929 Mountain Berry Court, addressed the Board regarding climate issues and claimed that the County has been spending a lot of money on green building codes and conservation based on climate change policies that are being proven wrong.

L. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Middaugh stated that a volunteer group, the Mid County Park Petanque Group, has constructed petanque/bocce courts and Mid County Park and invites those interested to come out and play. He also stated that the second Longhill Corridor Study Public Workshop will be held Thursday, November 21, from 7-9 p.m., at the King of Glory Lutheran Church on Longhill Road. He invited citizens to come out and have their input heard.

M. BOARD REQUESTS AND DIRECTIVES

Ms. Jones stated that many people have voiced concerns about New Town and she believes the community needs to get involved instead of just disregarding the issues. She stated that she would like to see some of the community organizations and local churches work to bring more positive energy to New Town on the weekends. She stated that she appreciates the comments and the emails that the Board has received in regard to wolf-hybrid dogs. She stated that this is a Dillion Rule State, so the County does not have the authority to outlaw them in James City County, but the Board will be looking at that on the County's Legislative Agenda. She stated that in the meantime, she asked that the draft ordinance go to the Policy Committee of the Planning Commission so that it may review the ordinance and move forward with zoning changes. She stated that another animal issue that she would like to see revisited is the backyard chicken keeping ordinance changes. She stated that she would like this Board to support bringing this issue back to the Policy Committee and Planning Commission. She stated that draft ordinances were supplied to staff that the Policy Committee did not have the opportunity to review or act on. She asked that the citizens be involved and part of the process for developing an ordinance and make a recommendation. She stated that while this is going on, that any violation letters not be acted on by County staff.

Mr. Kennedy and Mr. Hipple stated that they could be supportive of reopening that discussion.

Mr. Hipple stated that he believes that there are some changes that can be made in the ordinances that would be for the good of everyone. He also stated that he agrees with the assessment of the issues in New Town. He stated that New Town is a great place, but he does not go down there in the evenings on the weekend.

Mr. Kennedy asked Mr. Rogers if the enforcement of the violation letters for backyard chickens can be delayed.

Mr. Rogers stated that he hears the will of the Board regarding this issue and his office is the one that would enforce the violation, so he will hold up on the enforcement while this issue is sent back to the Policy Committee. Mr. Rogers stated that he wanted to comment on the wolf-hybrid dog issue that was mentioned. He stated that it is scheduled for a Public Hearing on November 26. He stated that it is not a zoning issue, that animal control laws state that the County may regulate the keeping of the dogs through a permitting process. He stated that one of the items that staff is looking at is utilizing zones, but it would still be part of the animal laws not a zoning case and therefore, there is no need for the Policy Committee and Planning Commission to be involved in the wolf-hybrid dog issue.

Mr. McGlennon stated that he is supportive of the Board moving forward expeditiously on this matter instead of having the Policy Committee and Planning Commission weigh in. He stated that the Board should be deliberate in its actions, but there has been a lot of discussion on this matter both by citizens and by the Board during the previous Work Session. He also stated that he has stated on several occasions that he was open to hearing what citizens had to say about backyard chicken keeping. However, it is a difficult issue to resolve when there are numerous neighborhoods with covenants that prevent backyard chickens. He stated that would put the County in a position to be called upon to adjudicate on these items between citizens and their neighborhood covenants. He stated that it is also important to remember that violation letters have only been issued when there has been a complaint from other citizens about their neighbors. He stated that he is certainly willing to listen, but there are issues involved here and perhaps common ground can be reached. He stated that it is not the case that supporters of backyard chickens were ignored. He stated that in regard to New Town, he had the opportunity to participate in several ribbon cuttings in New Town in the last week or so. He stated that all of the new business owners were excited to be located in New Town and that both stores are family establishments, especially Beyond Blocks which cater to young children and their families. He stated that he understands that there will always be issues in areas where there are a lot of people congregated, but wants to make it clear to the public that the level of incidents in New Town is not high.

Ms. Jones stated she was recommending that the community and the Board look at ways to make it better.

Mr. Hipple concurred. He stated that he was not insinuating that New Town is not a good place to be. He believes that there are issues there on Friday and Saturday nights and the community and the Board can come together to solve them.

Mr. McGlennon stated that he has been in New Town on Friday and Saturday nights and finds it to be a safe and enjoyable place to be.

Mr. Hipple stated that he would like to initiate a Public Hearing, as soon as possible, to reinstate uniform terms for the Board members.

Ms. Jones stated that she is supportive of this recommendation. She stated that because of staggered terms, the citizens of the Powhatan District did not have an elected representative on the Board for six years.

Mr. Kennedy stated that he would like to have a discussion about audio recording Closed Sessions, and asked Mr. Middaugh to make these two issues happen.

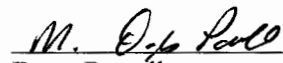
Mr. Rogers stated that with regard to Mr. Hipple's request, the first opportunity to bring a Public Hearing before the Board would be at the December 10 meeting to allow for adequate time to advertise the Public Hearing.

Mr. Kennedy and Mr. Hipple stated that they were fine with that timing.

N. ADJOURNMENT – to 4 p.m. on November 26, 2013, for the Work Session.

Ms. Jones made a motion to adjourn.

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



Doug Powell
Deputy Clerk to the Board

111213bos_min

MEMORANDUM

DATE: December 10, 2013

TO: The Board of Supervisors

FROM: W. Scott Whyte, Senior Landscape Planner II

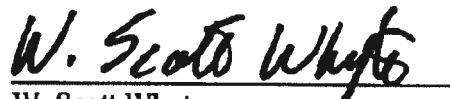
SUBJECT: Initiation of Consideration of an Amendment to the Zoning Ordinance Case No. ZO-0007-2013 – Chicken Keeping in Residential Areas

In early 2013, the concept of creating a chicken keeping ordinance was considered by the Policy Committee and Planning Commission. At their joint work session with the Board in May 2013, the Planning Commission recommended that the Board not pursue the creation of a chicken keeping ordinance at that time. On July 23, 2013, the Board chose not to take up consideration of an ordinance on this topic.

At its November 12, 2013, meeting, the Board of Supervisors requested staff revisit a residential chicken keeping ordinance that would define policy and specify development standards within the Zoning Ordinance. Currently, general agriculture is allowed in A-1, General Agricultural, and R-6, Low Density residential, and R-8, Rural Residential. Approximately 49 percent of the County is zoned A-1, R-6, or R-8, meaning that chickens can be kept by-right with no special regulations and no special permits are needed.

Staff will engage citizens and key stakeholder groups, evaluate adjacent locality ordinances, and provide recommendations for keeping chickens in residential zoned areas of the County.

Staff recommends the Board of Supervisors adopt the attached resolution to initiate consideration of this amendment to the Zoning Ordinance and to refer this matter to the Policy Committee.



W. Scott Whyte

CONCUR:

Allen J. Murphy, Jr.

WSW/nb
ZO-07-13ChickRes_mem

Attachment

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 10TH DAY OF DECEMBER 2013, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

ADOPTED

JAN 14 2014

Board of Supervisors
James City County, VA

A. CALL TO ORDER

B. ROLL CALL

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

Doug Powell, Assistant County Administrator
Leo P. Rogers, County Attorney

Ms. Jones stated that Mr. Kennedy would be absent from the meeting this evening due to a death in his family.

C. MOMENT OF SILENCE

D. PLEDGE OF ALLEGIANCE – Isaac Skeeter an 11th grade student at Lafayette High School and a resident of the Berkeley District, led the Board and citizens in the Pledge of Allegiance.

Ms. Jones recessed the Board of Supervisors meeting at 7:03 p.m. to conduct the James City Service Authority (JCSA) Board of Directors meeting.

At 7:05 p.m., Ms. Jones reconvened the Board of Supervisors meeting.

E. PRESENTATIONS

1. Lifesaving Recognition – James City County Recreation Center

Ms. Jones read the Lifesaving Recognition Resolution to the citizens and presented copies to Ms. Becky Duncan, Mr. Alister Perkinson, and Mr. Justin Taylor.

2. Resolution of Appreciation – John Moorman

Ms. Jones read the Resolution of Appreciation to citizens and presented it to Mr. John Moorman.

Mr. Moorman stated that it has been his pleasure to serve as Director of the Williamsburg Regional Library and commended the Board of Supervisors for its support of the Library over the years.

3. Resolution of Appreciation – Emmett Harmon

Ms. Jones read the Resolution of Appreciation to the citizens and presented it to Police Chief Emmett Harmon.

Chief Harmon stated that it has been his pleasure and highest honor to serve the citizens of James City County as Chief of Police. He thanked the Board of Supervisors for its continued support of police officers and the Department.

4. The Comprehensive Annual Financial Report – Dixon Hughes Goodman, LLP

Ms. Leslie Roberts, a representative of Dixon Hughes Goodman, LLP, gave a brief summary of the Annual Financial Report included in the Agenda Packet.

Mr. McGlennon thanked Ms. Roberts for highlighting the important aspects of the Financial Report.

F. PUBLIC COMMENTS

1. Mr. T. J. Cavaliero, 7648 Crestview Drive, addressed the Board in regard to amending the County Code and the Food Truck Ordinance.

2. Mr. Keith White, 6309 Adam's Hunt Drive, addressed the Board in regard to discrepancies on the County website in regard to expiration dates on Board/Commissions/Committees.

3. Ms. Sue Sadler, 9929 Mountain Berry Court, addressed the Board in regard to the newspaper accounts of a petition calling for the recall of some of the Supervisors.

4. Mr. Walker Ware, 5004 River Drive, addressed the Board congratulating the newly elected members of the Board of Supervisors and for making immediate changes for the good of the citizens.

5. Mr. Joseph Swanenburg, 3026 The Pointe Drive, addressed the Board in support of keeping personnel matters in Closed Session.

6. Ms. Carol Anderson, 34 Kirkland Court, addressed the Board stating her interest in running for public office.

7. Pastor Mark Marrow, 124 Yule Place, addressed the Board offering an invocation.

8. Mr. John Tusten, 5526 Riverview Road, addressed the Board introducing himself as the new park manager at York River State Park.

9. Mr. Ed Oyer, 139 Indian Circle, addressed the Board stating that he continues to ask for better traffic flow along Route 60.

10. Mr. Keith Sadler, 9929 Mountain Berry Court, addressed the Board stating that fiscal policy of the previous County Administrator was not appreciated by citizens.

11. Ms. Rosanne Reddin, 4700 President's Court, addressed the Board stating that Mr. Hipple and Mr. Onizuk should be applauded for taking action and following through on campaign promises for instituting change.

12. Mr. Eric Danuser, 4091 South Riverside Drive, addressed the Board in support of the zoning ordinance initiation for backyard chicken keeping.

G. BOARD REQUESTS AND DIRECTIVES

Mr. McGlennon noted that there have been passings of several citizens recently in the area including Mr. Stan Brown, who after working for the College of William and Mary spent many years working with the Williamsburg Land Conservancy and the Jamestown Rediscovery Project. He offered his condolences to Mr. Brown's family.

Mr. Icenhour stated that on December 6, he attended the Virginia Coalition for Open Government Annual Meeting held here in Williamsburg. He stated that the event was sponsored by the City of Williamsburg, the Virginia Gazette, and a local business, Johnny Timbers Tree Service. He stated that he was disappointed that the County was not involved with the event.

Ms. Jones requested that staff follow up on the citizen comment regarding the Food Truck Ordinance. She stated that she has received some comments and concerns from citizens out in the Peleg's Point area in regard to water issues. She stated that the Development Management staff was out in the area today looking at ways to mitigate the run-off issues. She stated that she has heard the citizen's concerns about the cost of the new fire station and requested to have a work session discussion about the details of the fire station build.

H. CONSENT CALENDAR

Mr. McGlennon made a motion to approve the Consent Calendar with the amended minutes that were placed on the dais this evening.

On a roll call vote, the vote was: AYE: Mr. McGlennon, Mr. Icenhour, Mr. Hipple, Ms. Jones (4). NAY: (0). ABSENT: Mr. Kennedy (1).

1. Minutes –
 - a. November 26, 2013, Regular Meeting
2. Lifesaving Recognition – James City County Recreation Center

RESOLUTION

LIFESAVING RECOGNITION – JAMES CITY COUNTY RECREATION CENTER

WHEREAS, a patron suffered a lethal heart arrhythmias on November 18, 2013, while entering the racquetball court at the James City County Recreation Center; and

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

WHEREAS, Mrs. Becky Duncan, Mr. Alister Perkinson, and Mr. Justin Taylor together performed Cardiopulmonary Resuscitation (CPR) in conjunction with the use of an Automated External Defibrillator (AED); and

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

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

3. Resolution of Appreciation – John A. Moorman, Director of Williamsburg Regional Library

RESOLUTION

RESOLUTION OF APPRECIATION - JOHN A. MOORMAN,

DIRECTOR OF WILLIAMSBURG REGIONAL LIBRARY

WHEREAS, at the age of eleven, John A. Moorman launched his career in library science, shelving books and moving a college library collection; and

WHEREAS, John used this experience to fuel a passion which resulted in his obtaining a Master's Degree and a Ph.D. in Library Science; and

WHEREAS, John has worked in libraries since 1972, served as a library director since 1975, and has served as Library Director for Williamsburg Regional Library since 2000; and

WHEREAS, during John's tenure as Library Director, Williamsburg Regional Library has received many honors, including four-star and five-star ratings from *Library Journal* and becoming a finalist for the National Medal for Museum and Library Services; and

WHEREAS, John has worked with elected officials and staff to establish trust with local governments through fiscally responsible stewardship of public resources; and

WHEREAS, John shepherded Williamsburg Regional Library through the Great Recession as a leader and role model, managing reductions in Williamsburg Regional Library's budget while maintaining levels of service and without laying-off staff; and

WHEREAS, John worked closely with the Williamsburg Regional Library Board of Trustees, the Williamsburg Regional Library Foundation Board, and the Friends of Williamsburg Regional Library Board to ensure the library offers excellent collections, programs, and services that inform, enrich, and strengthen our community; and

WHEREAS, John has served library users in the Williamsburg area and across the state as President of the Virginia Library Association and libraries across the country as a member of the American Library Association's Executive Board; and

WHEREAS, John will be retiring on December 31, 2013; and

WHEREAS, John's leadership and collaboration with the library's Boards and staff members have allowed Williamsburg Regional Library to advance and grow, leaving it with great potential and viability for the future.

NOW THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia hereby recognizes John A. Moorman for his outstanding contributions to the Williamsburg Regional Library and the library profession and extends appreciation for his legacy of leadership and service.

NOW BE IT FURTHER RESOLVED that the Board of Supervisors hereby expresses its best wishes to John A. Moorman in his retirement.

4. Resolution of Appreciation – Police Chief Emmett H. Harmon

RESOLUTION OF APPRECIATION

POLICE CHIEF EMMETT H. HARMON

WHEREAS, Police Chief Emmett H. Harmon is retiring from James City County after serving the citizens of James City County from December, 1979 through December, 2013; and

WHEREAS, Emmett was the first Police Officer hired by James City County when the County formed its new Police Department in 1979; and

WHEREAS, Emmett rose through the ranks serving as Patrol Officer, Sergeant, Lieutenant, Major, Deputy Chief, and Chief of Police; and

WHEREAS, Emmett has been the Chief of Police since September 2005; and

WHEREAS, under Emmett's leadership, the requirements for Senior and Master Officers were adjusted so that significantly more officers were able to move up and improve their standard of living; as well as, instituted another career ladder step (POII) to help address retention issues at the two and three year mark; and

WHEREAS, Emmett served as the Department's Accreditation Manager and helped the Department to obtain its first State accreditation, and has served as a Board member for the Virginia Law Enforcement Professional Standards Commission since 2007; and

WHEREAS, Emmett served as Treasurer for both the Hampton Roads Association of Chiefs of Police and the Virginia Law Enforcement Professional Standards Commission; and

WHEREAS, Emmett helped to ensure that our school system implemented the Rapid Responder System for emergency situations and helped to ensure that latest technology is available to the department, such as eSummons, Live Scan, AFIS, MDTs, in-car cameras; and

WHEREAS, under Emmett's leadership, the Department received the U.S. Coast Guard Admiral's Award for best Marine Patrol Unit in Hampton Roads area, received 1st place award in the National Law Enforcement Challenge for traffic safety for similar sized agencies, and received the State's Commonwealth Award for best traffic safety programs in Virginia for any sized agency.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby thanks and honors Emmett H. Harmon for his 34 years of service to the citizens of James City County.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, hereby expresses its best wishes to Emmett in all of his future endeavors.

I. PUBLIC HEARINGS

Ms. Jones noted that the Board is looking to defer Item Nos. 1, 4, and 5, but that the Public Hearings would be opened and citizens would have the opportunity to speak to these items.

1. Ordinance Amendment to Chapter 2, Administration, Section 2-3, Designation, Population, and Election Cycle of Districts

Mr. Rogers addressed the Board giving a summary of the memorandum included in the Agenda Packet.

Ms. Jones stated that in recognition of Mr. Kennedy's absence, she recommends that the Board defer this action until the next Board meeting.

As there were no questions for staff, Ms. Jones opened the Public Hearing.

1. Mr. Keith White, 6309 Adam's Hunt Drive, addressed the Board stating his opposition to the changes to this ordinance that keeps happening every time that there is a shift in the political majority on the Board. He requested that this item be put to the citizens as a referendum and allow the citizens to decide this issue.

2. Ms. Carol Anderson, 34 Kirkland Court, addressed the Board stating her agreement with the previous citizen that this item should be put on the ballot as a referendum.

As no one else wished to speak at this time, Ms. Jones stated that the item would be deferred until the meeting on January 14, 2014.

2. Case No. SUP-0012-2013. Olde Towne Road Human Services Building Communications Tower

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

Mr. McGlennon stated that it is his understanding that the proposal was amended earlier today to offer a payment to the County for the space on County property.

Mr. Powell stated that is correct; however, that is probably more germane to the Lease which is listed on the Agenda as Item No. 3. He stated that the applicant has offered to provide a payment in the amount of \$250 per month to the County, which is new information received today.

On the advice of Counsel, Mr. Powell stated that it would be appropriate to open the public hearings for Item Nos. 2 and 3 since the cases are linked.

3. Lease of County Property Located at 5249 Olde Towne Road

Mr. Rogers stated that staff has not yet drafted the terms of this lease, but these types of leases have been drafted in the past. He stated that this lease is somewhat unusual in that it is a lease for a microwave tower, not a cellular tower. He stated that the applicant offered today to pay the County rent in the amount of \$250 per month for the space that would be used back behind the Human Services Building.

As there were no other questions for staff, Ms. Jones opened the Public Hearing.

1. Mr. Tom Davis, President and CEO of Davis Media, addressed the Board as the applicant for the Special Use Permit (SUP). He stated that Davis Media is the license holder for two FM radio stations in the area, WTYD-FM (The Tide) and WBQK-FM (Bach-FM). He stated that Davis Media has been broadcasting in Williamsburg since 2003 and began providing emergency services support for the County in 2006. He stated that in the event of an emergency, the radio station communicates with the Emergency Operations Center to deliver vital information out to the residents of the County. In the event that there is no staff in the radio station office, County officials have the ability to dial in via phone and take over the radio station broadcast to deliver emergency information. He stated that in 2006, a generator was purchased with funds from the Williamsburg Community Health Foundation Grant that was placed at the transmitter site to maintain the transmission of the radio station in the event of power outages. He stated that the generator remains the property of the County, but Davis Media provides the fuel and maintenance upkeep. He noted that private funds, in the form of the grant were used to purchase the generator and that no public tax dollars were used. He stated that the issue that has come up is that the transmission line, which is a T1 hard line through Verizon, has failed during every major weather event that has struck the County. He stated that during severe weather events, Verizon has no interest in going out to fix the failure in the T1 line. Davis Media's proposal is to fund a microwave tower to transmit information to the tower and not have to rely on the T1 line. He stated that the monopole would be located on land that is not usable or able to be developed by the County. He stated that Davis Media is willing to pay the County rent in the amount of \$250 per month for use of the County land and the County is welcome to place other communications equipment on the monopole if they wish. He stated that Davis Media is trying to cure the problems with T1 line so that the radio stations can stay on the air to provide emergency information out to citizens.

Ms. Jones stated that she had read that Davis Media had not been able to locate the maintenance records for the generator.

Mr. Davis stated that the records had been located. He stated that the maintenance agreement is \$270 per year and then any repairs are taken care of by Davis Media directly.

Mr. Hipple asked how many citizens listen to the stations, is there a way to quantify that.

Mr. Davis stated that the last time a survey was done by an independent group in New Town, about 65 percent of the citizens of the County were listeners.

Ms. Jones asked if the Federal Communications Commission (FCC) has approved this tower.

Mr. Davis stated that the FCC does not get involved with microwave links or microwave towers. He stated that Davis Media has a microwave license already. The FCC only gets involved with the FM transmitter and that license was just renewed last year.

Ms. Jones asked where the generator is specifically.

Mr. Davis stated that the generator is at the FM transmitter site in Barhamsville. He stated that the problem is that his engineers cannot fix the T1 line because it belongs to Verizon. He stated that his engineers can go out and fix the transmitter tower if there is a failure to keep the radio station on the air, but they have no control over Verizon and the T1 line.

Ms. Jones asked how common it is for radio stations to have agreements with local jurisdictions to allow the local government to take over their radio stations during emergencies.

Mr. Davis stated that in his years of media and broadcasting he has never seen it. He stated that his company has stations in North Carolina and they are in the process of setting up an agreement there as well. He stated that these agreements should be in place in his opinion. He stated that it is great for the station to be there to play music and to make money, but the original purpose back when the FCC began was to provide emergency communication to people.

Ms. Jones stated that she admires his willingness to serve the public. She stated that her concern and the concern that has been voiced by citizens is that you are promoting a specific news media outlet. By allowing this, the County would be advertising for a specific radio station. She stated that WYTD-FM (The Tide) is a news radio station, which means that the only news that would be heard would be from WY Daily, which would mean that the County is promoting one news media outlet.

Mr. Davis stated that he understands that concern. He stated that if this is not approved, then Davis Media will continue to operate as they have been for years. He stated that the problem will be that the time when Davis Media is not promoting their station, not promoting their business, is when the County will need them the most and they will not be on the air if the T1 line fails again.

Ms. Jones asked if other locations were considered.

Mr. Davis stated yes, but the problem is that the microwave tower needs line of sight with the transmitter tower. So it needs to be able to high enough to be seen over the trees, which is why the sight proposed is on a hill. He stated that putting the tower in the business park where Davis Media's office is located would have required a variance to the zoning.

Mr. Hipple asked for clarification on the agreement that the County could allow other co-locations on the tower and generate revenue from that.

Mr. Davis stated that if other groups wanted to place a repeater on the tower and pay the County for it, then that would be fine. He stated that Davis Media does not have a problem with the County generating other revenue from the tower. He stated that if the County wanted to extend the height of the pole to increase the opportunity for other revenue, then the Board could do that.

Mr. Hipple asked if extending the height is something that Davis Media would be willing to do and fund. He also asked the County Attorney about how high a tower could be in this area.

Mr. Rogers stated that the zoning ordinance allows towers of 120 feet in this area. He stated that a height limit waiver might be necessary. He stated that the agreement has not been worked out yet; however, his understanding is that Davis Media would build the tower to 100 feet with a four-foot antenna, then if the County or someone else wanted to extend the tower higher the County would pay for the extension and receive those revenues from it.

Mr. Davis stated that the proposed tower is a pole that is built in 10-foot sections, so if someone wanted to make it higher, then it would be easy to do so.

Mr. Rogers stated that if someone else wanted to extend the tower higher, then that would have to come back before the Board for approval. Mr. Davis would be guaranteed his 104 feet by the terms of the lease. He stated that while another user is not in the market right now, it would be stated in the lease that co-location is available and that those revenues would come to the County.

Ms. Jones stated that she would like more time to consider the proposal considering the new information provided tonight regarding a rent payment. She stated that she would like more information on what market rent is for a microwave tower. She stated that she would also like the input of Mr. Kennedy.

Mr. McGlennon asked if there is any plan for the use of this land that is owned by the County.

Mr. Powell stated that there is no future plan for the development of this land.

Mr. Davis stated that to clarify, there is no way for Davis Media to generate revenue by this proposed tower. All it will do is keep the radio station on the air during major weather events.

Ms. Jones asked if the tower would be taxed since it is on County property.

Mr. Rogers stated that it would not be taxed a real estate tax.

Mr. McGlennon asked Mr. Davis if there was a time constraint involved.

Mr. Davis stated that the cost estimate is not guaranteed indefinitely.

Mr. McGlennon stated that he is in favor of the proposal. He stated that if the Board feels it should defer action until the first regular meeting in January, then so be it, but he is in favor of moving forward. He stated that he would hope that the final lease agreement would be done by then as well.

Mr. Hipple stated that he appreciates the service provided by Davis Media. He stated that the concern he has heard has been regarding a private business utilizing public land. He stated that the offer of a rental payment has helped and citizens need to be made aware of that offer as well. He stated that he would like to hear from citizens regarding the new information brought forward this evening.

Mr. Davis stated that it is important to remember that Davis Media is building the tower and then offering to pay rent for that tower. He stated that he understands that the Board is being very mindful of spending tax dollars, which is why they offered to build and pay for the tower.

Ms. Jones asked how WMBG-AM in Williamsburg stays on the air.

Mr. Davis stated that he is not sure that they do stay on-air during major weather events. He stated that that station is only seven watts, so they do not reach anyone in the County. He stated that Davis Media stations are 6,000 watts and can reach everyone in the County.

Ms. Jones stated for clarification that the County has numerous ways of getting information out to residents including the County website, Twitter, and Facebook.

Mr. McGlennon stated that this kind of redundancy is important, because during an emergency a lot of the ways of getting information out will not be available.

2. Ms. Carol Anderson, 34 Kirkland Court, addressed the Board regarding concerns over microwave

radiation and the effects on citizens.

3. Ms. Sue Sadler, 9929 Mountain Berry Court, addressed the Board in opposition to the proposal. She stated that if they want a new tower, then they should buy their own land.

4. Mr. Joseph Swanenburg, 3026 The Pointe Drive, addressed the Board stating that this deal seems like crony capitalism.

5. Mr. Bobby Hornsby, 2 Kennington Court, addressed the Board stating that his family donated that property to the County and his father was a big proponent of working with the County.

6. Mr. Walker Ware, 5004 River Drive, addressed the Board in opposition to any public-private partnerships stating that government does not belong in business.

As no one else wished to speak at this time, Ms. Jones stated that she would be supportive of a deferral on these two items to allow for clarification on the new information provided and to allow citizens time to offer feedback. She stated that the Public Hearings would be left open for both items until the January 14, 2014, meeting.

Mr. Rogers stated that if the Board is in agreement then there is no need for a vote.

The Board members nodded their agreement to the deferral.

Mr. McGlennon requested a short recess.

At 9:09 p.m., Ms. Jones recessed the Board.

At 9:15 p.m., Ms. Jones reconvened the Board.

4. Authorization of the Sale of 225 Meadowcrest Trail

5. Case No. Z-0002-2013/SUP-0005-2013. Wellington, Windsor Ridge, Section 4

Mr. Powell stated that staff is recommending deferral on both Item Nos. 4 and 5, but the Public Hearings need to be opened for both items.

Ms. Jones asked if there were any questions for staff.

As there were none, Ms. Jones opened the Public Hearings for Item Nos. 4 and 5 stating that citizens were welcomed to speak, but these items would be deferred till the January 14, 2014, meeting.

1. Mr. Heath Richardson, Wellington Homeowners Association (HOA) President, addressed the Board requesting the deferral to allow time for the HOA Board to meet with Ryan Homes. He stated that the HOA Board remains generally in favor of residential development of this parcel.

2. Mr. Tim Cleary, 103 Lands' End Drive, addressed the Board in opposition to residential development on this land that is currently designated for greenspace.

3. Ms. Carol Anderson, 34 Kirkland Court, addressed the Board questioning why Ryan Homes does not invest in more affordable homes in their developments.

4. Mr. Walker Ware, 5004 River Drive, addressed the Board stating that if the County does not want this property than it should be advertised and sold at public auction.

5. Mr. Chris Craft, 8400 Beckenham Court, addressed the Board in opposition to affordable housing being built in Wellington.

6. Mr. Linwood Smith, 3919 Bournemouth Bend, addressed the Board in opposition to affordable housing being built in Wellington.

7. Ms. Patricia Craft, 8400 Beckenham Court, addressed the Board stating that the homeowners would like the opportunity to talk to Ryan Homes to see what their plans are for the build out if this case is approved.

Ms. Jones questioned the staff report referring to this 15-acre parcel as being raw, yet some parts of it adjoin existing roadway which means that there is existing infrastructure. She asked if this was factored in to the offer price.

Mr. Powell stated that staff would clarify that before the meeting on January 14, 2014.

Ms. Jones stated that the Public Hearing would be left open for Item Nos. 4 and 5 until the regular meeting on January 14, 2014.

J. BOARD CONSIDERATIONS

1. Initiation of Consideration of an Amendment to the Zoning Ordinance Case No. ZO-0007-2013 – Chicken Keeping in Residential Areas

Mr. Scott Whyte, Planner III, addressed the Board giving a summary of the memorandum included in the Agenda Packet.

Ms. Jones stated that she fully supports this initiation. She stated that there are several good model ordinances out there for consideration when working on a possible ordinance for the County. She requested that citizens be engaged fully in the process.

Mr. McGlennon stated that he is fine with this item going to the Policy Committee of the Planning Commission, but wonders if it would be helpful to give some guidance.

Ms. Jones stated that involving the citizens is important and to look at existing ordinances that are in other jurisdictions and might be applicable.

Mr. McGlennon stated that this issue arose because there were complaints about chicken keeping in residential neighborhoods, so he would be interested in hearing what zones that the Planning Commission would deem appropriate. He stated that he would also be interested in hearing how the Planning Commission would address the inherent problem of restrictive covenants in neighborhoods.

Mr. Icenhour stated that this issue arose because people filed complaints. He stated that he wonders how this is going to work for people currently living a neighborhood that do not want chickens around them. Giving them no say in the matter is just as egregious. He stated that there are expectations of homeowners with HOAs and then for the County to overrule that does not seem right.

Mr. Powell stated that staff has developed a draft public input process. He stated that staff would be contacting advocates, HOAs, and people that have complained. He stated that as this moves through the process, the hope is that there will be considerably more public input.

Mr. Hipple stated that there are areas of the County that are rural, but chickens are not allowed. He stated that he would like to see what has been done in other areas, what their problems are, and what their solutions were.

Ms. Jones made a motion to approve the resolution.

On a roll call vote, the vote was: AYE: Mr. McGlennon, Mr. Hipple, Ms. Jones (3). NAY: (0). ABSTAIN: Mr. Icenhour (1). ABSENT: Mr. Kennedy (1).

RESOLUTION

INITIATION OF CONSIDERATION OF AN AMENDMENT TO THE ZONING ORDINANCE

CASE NO. ZO-0007-2013 – CHICKEN KEEPING IN RESIDENTIAL AREAS

WHEREAS, in order to make the Zoning Ordinance more conducive to proper development, public review and comment of draft amendments is required pursuant to Virginia Code §15.2-2286; and

WHEREAS, the Board of Supervisors is of the opinion that the public necessity, convenience, general welfare, or good zoning practice warrant the consideration of amendments.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby initiate review of the Zoning Ordinance to consider adding to the language of Section 24-2, *Definitions* of Article 1, *In General* by adding definitions, Article II *Special Regulations*, by adding provisions and procedures relating to the raising of chickens in residential areas of James City County, and amending the language of Article V, *Districts* to add one or more of these uses as one(s) permitted as a matter of right along with appropriate regulations in one or more districts.

The Board of Supervisors shall hold at least one public hearing on the consideration of amendments of said ordinance.

2. **Virginia Peninsula Public Service Authority (VPPSA) Curbside Recycling Program- Service Agreement**

Mr. John Horne, Director of General Services, addressed the Board giving a summary of the memorandum included in the Agenda Packet. Mr. Horne stated that there is a small change to the memorandum involving the size of the smaller cart available. He stated that the size of the smaller cart would be 35 gallons rather than the 48 gallons which was listed.

Mr. McGlennon stated that he appreciates that the County will be able to accomplish this recycling service at a reduced cost to the County.

Mr. Icenhour asked how the cost of the different sized carts will affect the various households.

Mr. Horne stated that the standard cart would be issued to the homeowner at no cost. He stated that if a homeowner would like to switch out their cart from the standard size cart to either the larger or smaller cart, then that would be at no cost to the homeowner. The cost comes when there is a request for an additional cart.

Mr. Icenhour asked the effective date of the agreement if approved.

Mr. Horne stated the agreement would be effective July 1, 2014.

Mr. Icenhour asked what timeframe the Virginia Peninsulas Public Service Authority (VPPSA) will be looking at for distributing the new size carts.

Mr. Horne stated that probably in the June timeframe. He stated that a lot of publicity and public outreach will be involved to make sure citizens are aware of the transition to the new roll-out carts.

Mr. Icenhour asked how this change to the recycling program will impact the County's recycling participation rate that is required under the State recycling mandate.

Mr. Horne stated that there is some research to show that roll-out bins do provide more popular access for people and does tend to bring up the participation rates.

Mr. McGlennon made a motion to approve the resolution on Page 129 of the Agenda Packet.

On a roll call vote, the vote was: AYE: Mr. McGlennon, Mr. Icenhour, Mr. Hipple, Ms. Jones (4). NAY: (0). ABSENT: Mr. Kennedy (1).

RESOLUTION

VIRGINIA PENINSULAS PUBLIC SERVICE AUTHORITY (VPPSA)

CURBSIDE RECYCLING PROGRAM – SERVICE AGREEMENT

WHEREAS, the Virginia Peninsulas Public Service Authority (VPPSA) provides services to James City County for curbside collection of recycling materials; and

WHEREAS, VPPSA has solicited proposals and is ready to award a contract for curbside recycling services in James City County; and

WHEREAS, VPPSA provides these services through a service agreement with the County; and

WHEREAS, it is necessary to approve a service agreement to allow access to this service in James City County.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to sign the curbside recycling service agreement between the County and VPPSA.

3. 2014 Legislative Program

Mr. Rogers addressed the Board giving a summary of the memorandum included in the Agenda Packet. He stated that the draft Legislative Program was included in the Packet and includes the amendments that were discussed during the last Work Session. He stated that Item Nos. 1-2 was amended and after doing some preliminary research, the \$10,000 exclusion limit would equal roughly \$35,000 today if adjusted for inflation over the past 30 years.

Mr. McGlennon made a motion to approve the resolution on Page 145 of the Agenda Packet.

On a roll call vote, the vote was: AYE: Mr. McGlennon, Mr. Icenhour, Mr. Hipple, Ms. Jones (4). NAY: (0). ABSENT: Mr. Kennedy (1).

RESOLUTION

2014 LEGISLATIVE PROGRAM

WHEREAS, James City County has developed a Legislative Program for the consideration of the 2014 session of the General Assembly which outlines certain legislative policies which the Board believes ought to guide the General Assembly and proposes certain legislation that would benefit the County; and

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

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the County's 2014 Legislative Program and commends it to the County's representatives in the General Assembly for action.

BE IT FURTHER RESOLVED that a copy of the County's 2014 Legislative Program be forwarded to the County's elected representatives to the General Assembly.

K. PUBLIC COMMENTS

1. Ms. Heather Cordasco, 113 Alexanders Place, addressed the Board wishing the Board and citizens a Merry Christmas.

2. Mr. Joseph Swanenburg, 3026 The Pointe Drive, addressed the Board wishing Mr. Icenhour well in his future endeavors as he leaves the Board.

3. Ms. Sue Sadler, 9929 Mountain Berry Court, addressed the Board wishing everyone a Merry Christmas.

4. Ms. Carol Anderson, 34 Kirkland Court, addressed the Board in regard to treating each other fairly and equally.

5. Mr. Jay Everson, 103 Branscome Boulevard, addressed the Board stating that the stormwater management system in Peleg's Point is overflowing and running into the yards of the residents on Branscome Boulevard.

6. Mr. Keith Sadler, 9929 Mountain Berry Court, addressed the Board wishing everyone a Merry Christmas and wished Mr. Icenhour well in his future endeavors.

7. Mr. Ed Oyer, 139 Indian Circle, addressed the Board in regard to the cost per student in this County and how the County spends more money on education per capita than any other jurisdiction in the region.

L. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Powell stated that if citizens missed their date for the curb-side leaf pickup, they can take their leaves to the County Convenience Center for free from January 2, 2014, through January 13, 2014. He also stated that the adjournment time listed on the agenda is incorrect and should state 4 p.m. on January 2, 2014.

M. BOARD REQUESTS AND DIRECTIVES

Mr. McGlennon stated that he requested the County Attorney to draft and send a resolution to the rest of the Board regarding the appointment of an Acting County Administrator. He stated that he believes the Board should designate someone that has the full authority of the office of the County Administrator. He stated that it is his understanding is that this request does not have the full support of the Board this evening. If that is the case, then he would like the Board's acknowledgement that the Assistant County Administrator, acting in the absence of a County Administrator, has the full authority of the County Administrator. He questioned if the reason the Board does not want to appoint an Acting County Administrator is because the Board feels that the Assistant County Administrator, in the absence of the County Administrator, has the full authority of that office.

Ms. Jones stated that she has no problem granting Mr. Powell signing authority if that is necessary, or if there is something that he needs authorization to sign, then the Board can certainly accommodate that. She stated that Mr. Powell serves in this capacity as part of his job description and as stated in the County Charter. She stated that if there is some question, legally, that arises then the Board can be available to accommodate.

Mr. McGlennon stated that he would ask that if there are discussions going on some alternative plan then please inform the Board fully. He asked if Board members had someone else in mind.

Ms. Jones stated that that would be discussed when the Chairman, Mr. Kennedy, returns from Connecticut.

Mr. McGlennon stated that it was his understanding that the Chairman is the one that proposed this resolution to appoint the Assistant County Administrator as the Acting County Administrator.

Ms. Jones stated that the Board could have this discussion when the full Board is seated.

Mr. McGlennon expressed his appreciation for Mr. Icenhour's eight years of service to the Board. He also expressed his appreciation for the service of Mr. Middaugh to the County.

Mr. Icenhour asked Mr. Rogers what possible litigation the Board could face over disclosing the reason behind the termination of Mr. Middaugh.

Mr. Rogers stated that he is answering a hypothetical question and will try to refrain from giving legal advice outside of a Closed Session. He stated that Mr. Middaugh could have an action against the County if the actions of the Board were hurting his possibilities for future employment. He stated that when employers call for a reference regarding former County employees, it is the County's practice to confirm their past employment with the County and the dates, but no other information. He stated that the County is very careful not to give out too much information that might affect the future employment of a former employee. He stated that he could not see any action coming from any outside source; however, that is not to say that it could not happen.

Mr. Icenhour stated that he still finds it incomprehensible that the Board cannot articulate the reasoning behind his termination. Mr. Icenhour asked, in regard to Fire Station 1, have there been any cost overruns to date.

Mr. Powell and Mr. Rogers both stated no. Mr. Rogers stated that it is still too early in the process, as the build has not even been put out to bid yet.

Mr. Icenhour asked if the bids come back over the budgeted amount can the Board refuse to award the contract and stick with the \$6 million that has been budgeted.

Mr. Rogers stated yes.

Mr. Icenhour stated, then for clarification, the Board has not taken an action that has taken the cost of Fire Station 1 over the amount that has been previously budgeted.

Mr. Rogers stated correct.

Mr. Icenhour stated that his understanding of the glass in the County Administration building is a decal not etched glass as citizens have been stating.

Mr. Powell stated that he believes that is correct.

Mr. McGlennon stated that there is no shower in the County Administrator's office either as was mentioned by a citizen earlier this evening.

Mr. Icenhour stated that this Board is a policy making body and it is really ineffective without a good quality staff.

Mr. Hipple asked Mr. Rogers if personnel matters, including hiring and firing of employees, are something that is normally discussed in public and in the newspapers.

Mr. Rogers stated no.

Mr. Hipple asked if Mr. Rogers would recommend that Board members discuss the termination of an employee.

Mr. Rogers stated no and he has previously given the Board the advice the less that is said the better.

Mr. Hipple asked if that recommendation is a protection for both parties involved.

Mr. Rogers stated that is accurate.

Mr. McGlennon asked if the terminated employee is the one requesting that the reason be made public is it then acceptable.

Mr. Rogers stated that yes it could. He stated that he does not believe that it would remove the liability from the County though.

Mr. Icenhour stated that during the Closed Session and in the Open Session he asked for a reason for the Board's action and he was not given one.

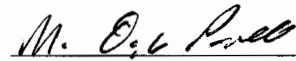
Ms. Jones wished Mr. Icenhour well in his future endeavors and wished all the citizens a Merry Christmas and a Happy New Year.

N. ADJOURNMENT – to 4 p.m. on January 2, 2014, for the Organizational Meeting.

Mr. Hipple made a motion to adjourn.

On a roll call vote, the vote was: AYE: Mr. McGlennon, Mr. Icenhour, Mr. Hipple, Ms. Jones (4). NAY: (0). ABSENT: Mr. Kennedy (1).

At 10:33 p.m., Ms. Jones adjourned the Board of Supervisors.



Doug Powell
Deputy Clerk to the Board

AGENDA

POLICY COMMITTEE

January 16, 2014
3:00 p.m.

JAMES CITY COUNTY GOVERNMENT COMPLEX

Building D Conference Room

1. Roll Call
2. Minutes
 - a. December 2, 2013
 - b. December 3, 2013
 - c. December 5, 2013
3. Old Business
 - a. Case No. Z0-0007-2013, Zoning Ordinance Amendment to Consider the Keeping of Chickens in Residentially Zoned Areas of the County
4. New Business
 - a. Planning Commission Organizational Items for 2014
5. Adjournment

MEMORANDUM

DATE: January 16, 2014
TO: The Policy Committee
FROM: W. Scott Whyte, Senior Landscape Planner II
SUBJECT: ZO-0007-2013-Chicken Keeping in Residential Areas

In early 2013, the concept of creating a chicken keeping ordinance was considered by the Policy Committee and Planning Commission. At a joint work session with the Board of Supervisors in May 2013, the Planning Commission recommended that the Board not pursue the creation of a chicken keeping ordinance at that time. On July 23, 2013, the Board chose not to take up consideration of an ordinance on this topic.

At its December 11, 2013 meeting, the Board of Supervisors approved an initiating resolution and requested staff revisit the creation of a residential chicken keeping ordinance that would define policy and specify development standards within the Zoning Ordinance. Currently, chicken keeping is permitted by-right in A-1, General Agricultural, R-6, Low Density Residential, and R-8, Rural Residential zoning districts. Approximately 49% of the county is zoned A-1, R-6, or R-8, meaning that chickens can be kept by-right with no special regulations and no special permits are needed.

As a precursor to any ordinance changes, staff has (1) engaged interested citizens, HOAs and other key stakeholder groups and (2) evaluated adjacent locality ordinances to help determine best practices for keeping chickens in residentially zoned areas of the county. Staff reviewed several localities in the area that allow chickens in residential areas including York, Poquoson, Charlottesville, Albermarle, Loudon, and New Kent. Many have limits on the number of birds, as well as regulations for the construction of the coops and pens. Most restrict roosters, and York, Poquoson, and Loudoun require setbacks for coops as well as a permitting process. Ordinance examples from York and Poquoson have been attached for your information.

A survey has been posted on the County's website since December 19th, 2013, which seeks to gather opinions on chicken keeping in residential areas. The results will help determine how the Zoning Ordinance should be amended to allow for the keeping of chickens on residentially zoned property in the County. The survey results will be tabulated and provided to the committee by January 14, 2014, giving the committee a few days to analyze the materials before the meeting on January 16, 2014.

The purpose of this committee meeting will be to gather input from interested citizens, answer questions about other jurisdictions' regulations, and use the survey results to determine the initial direction and next steps for staff to take concerning creating a residential chicken keeping ordinance.


W. Scott Whyte, Senior Landscape Planner

Attachments:

1. York County ordinance
2. Poquoson ordinance

York County

Sec. 24.1-414.1 Standards for Domestic Chicken-keeping as an Accessory Activity on Residential Property

Keeping and housing domestic chickens on residentially-zoned and occupied property in the R20, R13 and WCI Districts shall be solely for purposes of household consumption and shall be permitted only in accordance with the following terms and conditions. These provisions shall not be construed to allow the keeping of game birds, ducks, geese, pheasants, guinea fowl, or similar fowl/poultry.

- (a) Chickens allowed pursuant to this section shall be kept and raised only for domestic purposes and no commercial activity such as selling eggs or selling chickens for meat shall be allowed unless authorized as a home occupation through the issuance of a special use permit by the board of supervisors pursuant to the terms of Section 24.1-283(b) of this chapter.
- (b) The maximum number of chickens permitted on a residential lot shall be one (1) hen per 2,500 square feet of lot area, not to exceed a maximum of sixteen (16) hens.
- (c) No chickens shall be allowed on townhouse, duplex, condominium, apartment or manufactured housing park properties.
- (d) No roosters shall be allowed.
- (e) Pens, coops, or cages shall not be located in any front or side yard area.
- (f) All pens, coops, or cages shall be situated at least ten (10) feet from adjoining property lines and twenty-five (25) feet from any dwelling located on a property not owned by the applicant. Pens, coops, or cages shall not be located in a storm drainage area that would allow fecal matter to enter any storm drainage system or stream.
- (g) All chickens shall be provided with a covered, predator-proof shelter that is thoroughly ventilated, provides adequate sun and shade and protection from the elements, is designed to be easily accessed and cleaned. Such structures shall be enclosed on all sides and shall have a roof and at least one access door. Coops shall provide adequate space for free movement and a healthy environment for birds.
- (h) All pens, coops, or cages shall be kept in a neat and sanitary condition at all times, and must be cleaned on a regular basis so as to prevent odors perceptible at the property boundaries. All feed for the chickens shall be kept in a secure container or location to prevent the attraction of rodents and other animals.
- (i) No person shall store, stockpile or permit any accumulation of chicken litter and waste in any manner whatsoever that, due to odor, attraction of flies or other pests, or for any other reason diminishes the rights of adjacent property owners to enjoy reasonable use of their property. .
- (j) In the case of proposals for backyard chicken-keeping in the R20, R13 and WCI Districts, the property owner must file an application with the Division of Development and Compliance, Department of Environmental and Development Services, on such forms as the Division provides. Such application shall be accompanied by a \$15.00 processing fee. The application shall include

a sketch showing the area where the chickens will be housed and the types and size of enclosures in which the chickens shall be housed. The sketch must show all dimensions and setbacks. Upon review and determination that the proposed chicken-keeping complies with the standards set forth above, the Division of Development and Compliance shall issue a permit to document that the proposed activity has been reviewed and is authorized pursuant to the terms of this chapter. Accessory residential chicken-keeping operations shall be subject to periodic inspection to assure compliance with the performance standards established in this section.

- (k) Proposals for keeping more chickens than allowed by subsection (b) above, for observing setbacks of a lesser dimension than any of those set forth above, or for keeping roosters, may be considered and approved by Special Use Permit in accordance with all applicable procedural requirements.

City of Poquoson

Section 1-17. - Keeping of farm animals.

(a)

Farm animals, i.e., horses, cows, pigs, chickens, etc., may be kept in the city, subject to obtaining a use permit and subject to the following conditions:

(1)

Farm animals will be allowed only in conservation districts and in single-family residential districts. They will not be allowed in any other districts.

(2)

The following shall apply to hooved animals, i.e., horses, cows, goats, etc., except pigs:

a.

There shall be required a minimum of two acres, for one animal, and one acre, per each additional animal, of open space (pasture) in addition to the lot size requirements of the residential zone in which the animals will be kept. Properties belonging to another party cannot be used in meeting area and setback requirements, unless a copy of a written agreement, valid for the duration of the time the animal will be kept, is presented at the time of application for issuance or renewal of a use permit.

b.

All stables and pastures shall be kept in a sanitary condition. No storage or accumulation of manure shall be kept on the premises except in completely enclosed and screened structures. Stables and pasture areas must be kept in a dry and well drained condition in order to prevent bog or muddy areas.

c.

Stables adequate as to size and physical condition must be provided for all animals. Stables must not be allowed to fall into disrepair or to become unsightly. All stables shall be at least 300 feet from any residence belonging to a person other than an applicant and at least 50 feet from any adjoining property line. Pasture fencing shall be at least 50 feet from any property line (other than city right-of-way) and at least 100 feet from any residence. No stable shall be nearer than 200 feet to any public right-of-way or thoroughfare. All stables and fencing must be completed prior to an animal being placed on the property.

(3)

The following shall apply to pigs:

a.

Pigs shall be maintained in pens with at least a 36-inch high perimeter fence enclosed with wire mesh or wooden boards close enough to prevent small animals from escaping according to the following footage allowances:

Sows:

25—40 pounds: 12 square foot allowance per animal

40—100 pounds: 16 square foot allowance per animal

100—150 pounds: 25 square foot allowance per animal

150—200 pounds: 68 square foot allowance per animal

Boars require the same footage per animal until 150 pounds

150—210 pounds: 32 square foot allowance per animal

Boars with sows: 100 square foot allowance per animal

Pigs per pen while weaning: 75 pounds: 16 animals maximum; 16 square foot allowance per animal

Pigs per pen from weaning to market: Over 75 pounds: 8 animals maximum; 24 square foot allowance per animal

b.

All pens and yards shall be kept in a sanitary condition. No storage or accumulation of manure shall be kept on the premises, except in completely enclosed and screened structures. Pens and yard areas must be kept in a dry and well drained condition in order to prevent bog or muddy areas.

c.

Pens shall not be allowed to fall into disrepair or to become unsightly. All such pens shall be at least 300 feet from any residence belonging to a person other than the applicant and at least 50 feet from any adjoining property line. Fencing for such pens shall be at least 50 feet from any property line (other than city right-of-way) and 100 feet from any residence. No pen shall be nearer than 200 feet to any public

right-of-way or thoroughfare. All pens and fencing shall be completed prior to an animal being placed on the property. If concrete is used in the pens, it should slope one-half inch per foot and include bedding.

(b)

All use permits for the keeping of farm animals shall be issued for a period of one year from January 1 to December 31. All use permits shall be subject to revocation upon violation of any of the conditions set forth in the permit. The grant of a use permit shall not vest in the recipient an unqualified right of renewal for the permit. Renewal of all use permits issued shall be subject to the imposition of additional restrictions as land uses in the area change. Individuals wishing to keep farm animals shall make application for a use permit on such forms as the city manager may require. A nonrefundable fee of \$15.00 shall accompany the initial application. Prior to issuance of a use permit, the city manager shall notify all property owners adjacent to and across the street from the location at which the animals are proposed to be kept of the request for a permit and shall ensure that the applicant is capable of meeting all of the requirements imposed by this section. Each year, prior to renewal of the use permit, the city manager shall notify all adjacent property owners of the renewal and shall review the permit for compliance with all conditions imposed either by ordinance or by the terms of the permit itself. No fee shall be charged for the renewal permit.

(c)

For the keeping of nonhooved animals, i.e., chickens, fowl, the application and renewal procedures and sanitary conditions used for keeping hooved animals will be followed. However, the zoning administrator shall establish appropriate setbacks and other stipulations as necessary to preserve the residential nature and tranquility of the neighborhood.

POLICY COMMITTEE MEETING

January 16, 2014

3:00 p.m.

County Government Center, Building D

1.) Roll Call

Present

Ms. Robin Bledsoe
Mr. Rich Krapf
Mr. Al Woods
Mr. Tim O'Connor

Staff Present

Mr. Jason Purse
Mr. Scott Whyte
Mr. Chris Johnson
Ms. Beth Klapper

Ms. Robin Bledsoe called the meeting to order at 3:00 p.m.

Ms. Bledsoe welcomed the citizens who were in attendance to participate in the discussion.

Ms. Bledsoe stated that the purpose of the meeting was to learn more about urban chicken keeping and receive input from the community.

2.) Minutes

- a. December 2, 2013
- b. December 3, 2013
- c. December 5, 2013

Mr. Al Woods moved to approve the minutes.

In a unanimous voice vote the minutes were approved as submitted (4-0).

3.) Old Business

Case No. Z0-0007-2013, Zoning Ordinance Amendment to Consider the Keeping of Chickens in Residentially Zoned Areas of the County

Mr. Scott Whyte, Planner, stated that in early 2013, the concept of creating a chicken keeping ordinance was considered by the Policy Committee; however, the Board of Supervisors ultimately chose not pursue the creation of a chicken keeping ordinance at that time. At its December 11, 2013 meeting, the Board of Supervisors approved an initiating resolution and requested that staff revisit the creation of a residential chicken keeping ordinance that would define policy and specify development standards within the Zoning Ordinance.

Mr. Whyte further stated that currently, chicken keeping is permitted by-right in A-1, General Agricultural, R-6, Low Density Residential, and R-8, Rural Residential zoning districts. Mr. Whyte noted that this accounts for approximately 49% of the County.

Mr. Whyte stated that as a precursor to any ordinance changes, staff has (1) engaged interested citizens, HOAs and other key stakeholder groups. Mr. Whyte stated that a survey has been available on the County's website from December through January 13 which sought to gather opinions on chicken keeping in residential areas. Mr. Whyte noted that 600 responses had been

received and tabulated. Mr. Whyte stated that the results will be used to help determine how the Zoning Ordinance should be amended to allow for the keeping of chickens on residentially zoned property in the County.

Mr. Whyte further stated that Staff reviewed ordinances from several localities in the area that allow chickens in residential areas. Many have limits on the number of birds, as well as regulations for the construction of the coops and pens. Most restrict roosters, and some require setbacks for coops as well as a permitting process.

Mr. Whyte stated that the purpose of this committee meeting will be to gather input from interested citizens, answer questions about other jurisdictions' regulations, and use the survey results to determine the initial direction and next steps for staff to take concerning creating a residential chicken keeping ordinance.

Ms. Bledsoe opened the floor to questions from citizens.

Mr. Piotr Swietuchowski stated that he would like to see the Zoning Ordinance amended to allow the keeping of chickens in the R-1, General Residential district. Mr. Swietuchowski stated that approximately five other families in his neighborhood are interested in being able to have chickens. Mr. Swietuchowski noted that there should be a limit place on the number of chickens. Mr. Swietuchowski further noted that he favored setbacks for the coops.

Mr. Bob Moore stated that he represented the Fords Colony Home Owners Association (HOA) Board of Directors. Mr. Moore stated that the HOA Restrictive Covenants prohibits chickens and other livestock. Mr. Moore stated that the Board of Directors is concerned that changing the Zoning Ordinance to allow chickens in residential areas may create a conflict between with the Restrictive Covenants and subject the HOA to litigation. Mr. Moore requested that the ordinance include an affirmative statement that restrictions set by the HOA supersede the ordinance. Mr. Moore further stated that the concern was especially important for the Westport section of Fords Colony which had experienced a series of difficulties.

Mr. Jason Purse noted that Westport is currently zoned A1, General Agricultural, which already allows chickens by-right.

Mr. Moore stated that he believes that the HOA Restrictive Covenants currently supersede what is allowed by the zoning district.

Mr. Rich Krapf noted that the Deputy County Attorney has stated that when there is a conflict between County ordinances and private restrictions, the more restrictive regulation prevails.

Mr. Jim Doebler stated that he also serves on the Fords Colony HOA Board of Directors. Mr. Doebler further stated that the Declaration of Protective Covenants had been updated in March 2013. Mr. Doebler noted that there is a statement within the Declaration of Protective Covenants which prohibits livestock and that the Covenants apply to both Fords Colony and Westport. Mr. Doebler requested that the ordinance be absolutely clear that more restrictive HOA covenants would supersede the ordinance.

Ms. Bledsoe stated that the County had no desire to tell HOAs what they can and cannot do.

Mr. Woods inquired whether Mr. Doebler was requesting inclusive language in the ordinance regarding HOA covenants.

Mr. Doebler confirmed that he hoped the ordinance would speak to the issue of more restrictive HOA covenants superseding the ordinance in order to avoid potential for litigation.

Ms. Bledsoe stated that this particular concern had been an ongoing subject of discussion with the Policy Committee and the Planning Commission.

Mr. Dobeler stated that enforcement of the Restrictive Covenants would still be the responsibility of the HOA.

Mr. Jim Smith, Vice President of the Drummond's Field HOA, stated that a County ordinance cannot supersede the HOA covenants.

Ms. Pauline Price stated that she had been a chicken keeper in a different locality and wanted to speak in favor of backyard chickens. Ms. Price further stated that chickens are not a nuisance in residential areas if they are properly kept.

Mr. Eric Danuser stated that he has done substantial research on chicken keeping ordinances. Mr. Danuser further stated that his research confirms that a local ordinance cannot supersede restrictive covenants. Mr. Danuser noted that there are already instances where the County's Zoning Ordinance and HOA covenants conflict with each other.

Ms. Bledsoe inquired whether there were any chicken keepers present.

Mr. Roy Condrey stated that he previously kept chickens but does not have any at this time. Mr. Condrey stated that chickens are generally clean as long as they are properly cared for and are not noisy unless there is a rooster. Mr. Condrey further stated that a number of years ago chicken keeping was encouraged so that there would be an ample supply of eggs.

Ms. Joyce Felix stated that a number of neighboring localities have good ordinances to model on. Ms. Felix further stated that she would be agreeable to any fee required and to having her coop inspected.

Mr. Donny Martin stated that he is in favor of permitting backyard chickens. Mr. Martin stated that other domestic animals were often more of a nuisance than the chickens. Mr. Martin stated that he was opposed to fees unless the chicken keepers would be receiving something beneficial in return. Mr. Martin further stated that keeping chickens requires a substantial financial investment, therefore, they would be well cared for.

Mr. Arthur Sobolewski inquired what the major objections were to allowing chickens in residential areas.

Mr. Whyte responded that the concerns include odor, noise, chickens running at large and promoting more predators in the neighborhoods.

Mr. Purse noted that the County was considering how to mitigate these concerns if the Zoning Ordinance is amended to allow chickens in residential areas.

Mr. Sobolewski inquired whether any of these concerns were insurmountable.

Ms. Bledsoe stated that the results of the survey would help define what the concerns are so that options can be developed to mitigate the concerns.

Mr. Sobolewski inquired whether there were any preliminary results from the survey.

Mr. Whyte stated that while the results had been tabulated, staff had not yet pulled any conclusions from those results.

Ms. Deborah Rockafellow stated that it would be important to consider setbacks; especially where zoning districts that permit chicken keeping are adjacent to zoning districts that do not permit chickens. Ms. Rockafellow further stated that the proposed 10-foot setback did not seem adequate.

Ms. Bledsoe stated that most of the ordinances reviewed included a nuisance clause to address concerns related to noise and odor. Ms. Bledsoe stated that a large part of her goal for the ordinance was to ensure that it would reduce the potential for nuisances.

Mr. Daniel Malone noted that a study done in Columbia, South Carolina found that the sound of chickens registered at 70 decibels, the same level as a normal human conversation. Mr. Malone further stated that it was determined that barking dogs and lawnmowers registered between 90 and 100 decibels.

Mr. Tim Hogan stated that chickens are very quiet, easy to care for and do not stray far from their coop. Mr. Hogan further stated that chickens are very social creatures and can become good pets.

Mr. Jim Icenhour suggested that if an ordinance with some type of permit application process were adopted, there could be language included to clarify that a permit would not be issued if the property fell under the jurisdiction of a HOA that prohibited chickens. Mr. Icenhour stated that consideration should also be given to establishing a process for handling complaints.

Mr. John Hunt noted that chickens can be a nuisance if the owners are not willing to care for them responsibly.

Mr. Danuser stated that it should not be the County's responsibility to confirm whether there are restrictive covenants governing the use of a property; rather, it should be the responsibility of the individual applying for a chicken keeping permit to provide that documentation. Mr. Danuser suggested that a requirement might be included to obtain consent from adjacent property owners when applying for a chicken keeping permit.

Ms. Bledsoe opened the floor to questions from the Commissioners.

Mr. Rich Krapf inquired whether keeping chickens attracted rodents which would in turn attract other predators such as snakes, foxes and other predators which might not have been prevalent before.

Ms. Joyce Felix stated that in addition to keeping chickens, she also maintains a compost pile and has not noticed any increase in the number of natural predators that already exist. Ms. Felix noted that the feed is kept in predator proof containers.

Ms. Bledsoe stated that the ordinances the Committee has reviewed include a requirement for the coops to be predator proof. Ms. Bledsoe inquired whether Ms. Felix's coop was predator proof.

Ms. Felix stated that she has taken measures to make the enclosure predator proof.

In response to a question from Ms. Bledsoe, Mr. Icenhour noted that his coops had not been predator proof because at that time he lived in the country. Mr. Icenhour also stated that when his wife kept chickens for the Jamestown Fort, predators were a great problem.

Ms. Felix stated that she has not lost even one chicken to a predator in the six years she has been keeping chickens. Ms. Felix further stated that keeping chickens is not a casual hobby and is expensive and an investment if done properly.

Mr. Rich Krapf inquired whether it seemed that predators were attracted by the chickens but would move on to easier targets in neighboring yards when unable to get to the chickens.

Ms. Price stated that predators already exist throughout the County. Ms. Price further noted that predators might be attracted by what they perceive a food source but will move on if the food source is unavailable.

Mr. Danuser stated that he has not seen any increase in predators; however he has noticed an increase in buzzards which seem to be attracted by food for dogs on an adjacent property.

Ms. Bledsoe inquired how the chicken keepers control odor from the chicken waste.

Mr. Malone stated that proper ventilation and routine maintenance of the coop are enough to control odor.

Ms. Bledsoe stated that most ordinances prohibited stockpiling of litter and inquired how the chicken keepers disposed of the waste.

The chicken keepers responded unanimously that they used the waste as fertilizer for gardens.

Mr. Malone stated that he used lime to neutralize ammonia odor.

Mr. Danuser stated that his neighbors often ask for the litter to use in their gardens so he never has a stockpile.

Ms. Bledsoe stated that her reason for asking certain questions is to determine what is fair and reasonable to include in an ordinance.

Ms. Price stated that there should definitely be a limit to the number of chickens and roosters should be prohibited.

Mr. John Hunt stated that there should be restriction related to selling the eggs, noting that this had been a problem in Drummond's Field.

Mr. Al Woods inquired why the chicken keepers felt that a restriction on number was beneficial and requested an idea of what the limit should be.

Ms. Price noted that four seemed to be sufficient for egg production; chickens generally produce one egg a day. Ms. Price further noted that chickens require approximately three square feet of space each. Ms. Price also noted that the waste produced by four chickens could easily be absorbed as fertilizer if one had a garden.

Mr. John Wright inquired if a special use permit would be possible if someone wished to do commercial egg production in a residential area.

Mr. Purse stated that a special use permit would not be an option.

Mr. Danuser stated that setbacks would be important.

Mr. Tim O'Connor inquired about the average size of a coop and a run.

Mr. Danuser stated that the recommendation is approximately three square feet per chicken.

Mr. O'Connor stated that based on the size and configuration some lots, particularly corner and flag lots, it might be possible that the coop would be closer to an adjacent home than the chicken keeper's home. Mr. O'Connor inquired whether that was fair and how that should be mitigated.

Ms. Bledsoe stated that many of the ordinances provide guidance for where the coop is place depending on the location of the chicken keeper's house or the location of the neighbor's house. Ms. Bledsoe inquired whether there might be a situation where a lot would not qualify for chicken keeping.

Mr. Whyte responded that it would depend on what restrictions were established.

Staff and the Committee concurred that it was possible that a lot might not qualify for a number of reasons including size, configuration and location of the drainfields.

Ms. Bledsoe noted that some ordinances require the coops to be mobile to avoid eroding the ground underneath.

Ms. Price stated that her coop was not open to the ground. Ms. Price further noted that she used diatomaceous earth to eliminate pests.

Mr. Malone requested clarification on the concerns the size of the lot and the potential for the coop to be closer to a neighbor's home than the chicken keeper's home.

Ms. Bledsoe clarified that it was two separate matters. Ms. Bledsoe stated that there was a potential for the size or configuration of a lot to make it unsuitable. Ms. Bledsoe further stated that there was also the possibility that in some situations the coop could be placed closer to a neighboring home than the chicken keeper's home.

Mr. O'Connor stated that he was looking for ways to craft an ordinance that would allow adequate buffers to mitigate adjacent property owner concerns.

Mr. Danuser stated that chicken keepers should be engaging in dialogue with their neighbors to ensure that concerns are addressed satisfactorily.

Ms. Price suggested that research be done on what complaints are filed in other jurisdictions where chickens are allowed in residential districts.

Mr. Woods requested staff provide a brief overview of the ordinance revision process. Mr. Woods noted that emphasis was being placed on the survey; however, the survey was only one data point among many.

Mr. Whyte stated that to date staff has reviewed the results of the survey which had been distributed to a number of stakeholders and reviewed large number of local ordinances to determine what regulations are in place in those localities.

Ms. Price inquired about next steps.

Mr. Woods stated that as a subcommittee of the Planning Commission, the Policy Committee would review draft regulations and make a recommendation to the Planning Commission. Mr. Woods stated that the ordinance would then be presented to the Board of Supervisors with a recommendation from the Planning Commission. Mr. Woods further stated that there would be a number of opportunities for citizens to provide input on the draft ordinance.

Mr. Purse noted that this matter would be the subject of at least two more Policy Committee meetings.

Ms. Felix inquired whether any of the petitions previously filed on behalf of the chicken keepers would be considered.

Mr. Purse stated that the work done by the chicken keepers is what has brought the matter forward for consideration.

The chicken keepers noted that any limit on the number of chickens should not be overly restrictive because of the laying cycles and life cycles. It was noted that the laying cycle of chickens is approximately three years and the life span is approximately ten years.

Ms. Bledsoe thanked the citizens for attending and participating in the discussion. Ms. Bledsoe stated that the Committee's goal is to ensure that any regulations will address the needs of all stakeholders.

4.) New Business

Planning Commission Organizational Items for 2014

Mr. Chris Johnson, Principal Planner, stated that the bulk of the calendar information provided was for informational purposes and discussion among the full Commission at its organizational meeting. Mr. Johnson stated that the one decision point for this meeting was to determine from the list of meeting dates provided whether there was a preference for holding the April 2014 Policy Committee and CPT meeting on the 10th or 14th.

The Committee discussed the options and agreed to the holding the meetings on April 14.

Mr. Johnson requested that the Commissioners review the remaining proposed meeting dates and advise staff if there were any conflicts or concerns. Mr. Johnson stated that the calendar would be voted on at the Planning Commission organizational meeting.

Mr. Johnson stated that copies of the Planning Commission By Laws, Guidelines for Outside Communication and the Public Hearing Speaker Policy were provided for review. Mr. Johnson stated that these items should be reviewed annually and adjustments can be considered. Absent any adjustments the By Laws should be re-adopted by resolution each year.

Mr. Johnson noted the Commission may wish to consider whether to keep the public comment period on the Planning Commission agenda. Mr. Johnson noted that even if there is no public comment period, the chairman has the option to call for public comments.

Ms. Bledsoe inquired where this matter will be discussed.

Mr. Johnson stated that it would be discussed at the Planning Commission organizational meeting.

Mr. Johnson stated that there would also be consideration of the desire or need for a half-day retreat for training in advance of the Comprehensive Plan Review process.

Ms. Bledsoe inquired if any of the Commissioners had additional items for discussion.

Mr. O'Connor noted that he should have asked the chicken keepers why the 49% of the County that does permit chicken keeping is not adequate.

Mr. Woods noted that if everyone who lives where chicken keeping is prohibited wanted to move to where chickens are permitted, there would not be enough parcels available to accommodate them.

Mr. O'Connor noted that not everyone wants to keep chickens.

Mr. Woods stated that he was surprised by the interest generated among citizens by this issue.

Mr. Krapf stated that the County needed to consider the effect of setting a precedent for changing the uses permitted in a residential district.

Mr. O'Connor noted that he was concerned about the effect of allowing the use in areas where participation in a HOA is voluntary.

Mr. Woods noted that he had concerns about areas where there are mandatory HOAs but the HOAs are very small and would not have the resources to enforce restrictive covenants.

Mr. O'Connor noted that there are also areas where there are restrictive covenants recorded with the land records but there is no HOA.

Ms. Bledsoe noted that the responsibility was not only to create the regulations but to consider how the regulations would be enforced.

5.) Adjournment

The meeting was adjourned at 4:49 p.m.

Robin Bledsoe, Chair of the Policy Committee

AGENDA

POLICY COMMITTEE

February 13, 2014

3:00 p.m.

JAMES CITY COUNTY GOVERNMENT COMPLEX

Building D Conference Room

1. Roll Call
2. Minutes
 - a. January 16, 2014
3. Old Business
 - a. Case No. ZO-0007-2013, Zoning Ordinance Amendment to Consider the Keeping of Chickens in Residentially Zoned Areas of the County
4. New Business
 - a. Case No. ZO-0008-2013, Accessory Apartments
4. Adjournment

MEMORANDUM

DATE: February 13, 2014

TO: The Policy Committee

FROM: W. Scott Whyte, Senior Landscape Planner II

SUBJECT: Case No. ZO-0007-2013. A Zoning Ordinance Amendment to Consider the Keeping of Chickens in Residential Zoned Areas of the County.

At its January 16, 2014 meeting the Policy Committee conducted a public input session on this matter. The committee reviewed results from a survey of over 600 interested citizens and parties. Ordinances from neighboring localities that have recently adopted chicken keeping ordinances were reviewed and the committee heard from interested citizens on many issues that they felt were important considerations for a chicken keeping ordinance. The issues included HOA and neighborhood covenants and restrictions, whether the County should consider chicken keeping in all residential areas, how many chickens should be allowed, coop construction and placement, and possible nuisances caused by chickens.

The primary issue of whether or not the County should consider allowing chickens in residentially zoned areas was a split issue on the survey with 44% agreeing and 54% opposed; however, it should be noted that over 200 of the 329 responses in opposition to chicken keeping were from one subdivision. Eighty six percent of the people who responded felt that if the county does allow chickens in residential areas certain restrictions should be applied. The types of restrictions that other localities have applied, and were suggested by the respondents, included the number of birds allowed, coops and construction standards, location and setbacks for coops, sanitation, and regulations to mitigate possible nuisance complaints from neighbors.

Citizens felt that the number of birds should be restricted, usually by lot size. For instance York County allows one bird for every 2,500 square feet of lot area, not to exceed sixteen birds. In Poquoson the Zoning Administrator determines the number of birds and setbacks that he feels is appropriate to maintain the residential nature and tranquility of the neighborhood. Most localities have requirements for coops and construction standards, usually requiring an enclosure with a roof to keep the birds contained and safe from the elements and predators. The location of the coop is often regulated, usually restricted to the back yard with setback regulations to keep the coops away from property lines and adjacent structures. Sanitation and rooster restrictions are often applied to mitigate possible nuisance complaints about noise and odor.

With respect to this particular case, the county attorney's office has issued the following opinion on HOA covenants and restrictions;

There are two sets of restrictions to consider – County ordinances and private restrictions. Private restrictions may be in the form of an HOA regulation or may be a covenant. Covenants may be imposed on parcels inside or outside an HOA, but are most often found in older, non-HOA neighborhoods. The County is not a party to these private restrictions, so by necessity they must be privately enforced, usually by the neighbors or the HOA. Staff will usually recommend against approving a specific legislative action on a specific parcel (i.e., an SUP or rezoning) that directly conflicts with an HOA condition or a neighborhood covenant (e.g., an SUP application for a day care business on a parcel that is encumbered by a covenant that prohibits business use of that

parcel). Such a conflict does not prevent the Board of Supervisors from approving the application, however. In those situations, the applicant will have obtained County permission for the proposed use, but must then reconcile the private restriction conflict with their neighbors or HOA.

In this case, if the County adopted a change to the zoning ordinance that permitted chickens in every residential district, citizens in residential districts would only have the County's permission to keep chickens. If there are private restrictions that prohibit the keeping of chickens on property in a residential district, they would be privately enforced. This is not uncommon – for example, the County generally permits certain low-impact home occupations as a matter of right, but there are many HOA and covenant restrictions that prohibit commercial uses on residentially zoned property. Due to the varied nature of private restrictions and their tendency to change; Staff finds that it would be difficult to craft a zoning regulation that did not conflict with many existing neighborhood covenants and restrictions. Staff recommends that the committee review each residential district independently and determine whether this is a use that would be generally acceptable in that district. Individual HOAs and neighborhoods must then determine whether they wish to further restrict that use.

In cases where a conflict exists between zoning and private covenants, the more restrictive law prevails. If the more restrictive law is a County ordinance, then it would be enforced by the County. If the more restrictive law is private, it would be privately enforced.

Based on the previously provided survey results and in consideration of adopted ordinances from other localities and public input received to date, staff seeks feedback and direction from the Policy Committee to move forward. With the benefit of this input and direction, the next steps for staff would include preparing draft ordinance language options for your review at the March Policy Committee Meeting.

Attachments:

1. York County ordinance
2. City of Poquoson ordinance

Chapter 24

ARTICLE II. SPECIAL REGULATIONS

DIVISION 1. IN GENERAL

Sec. 24-47.

Keeping and housing domestic chickens on residentially-zoned and occupied property shall be solely for purposes of household consumption and shall comply with the following requirements:

- (a) Chickens allowed pursuant to this section shall be kept and raised only for domestic purposes and no commercial activity such as selling eggs or selling chickens for meat shall be allowed. Harvesting or dispatching of chickens is not permitted.
- (b) The maximum number of chickens permitted on a residential lot shall be two (2) hens per the first 5,000 square feet of lot area, and one additional bird for each additional 5,000 square feet of total lot area thereof. The total number of birds is not to exceed a maximum of twelve (12) hens.
- (c) Chickens shall only be allowed on properties consisting of single family homes and which are on lots of at least 15,000 square feet in size.
- (d) No roosters shall be allowed.
- (e) Coops or cages and runs shall only be located in the rear yard area. The Zoning Administrator may grant an exception to this requirement in cases where due to unusual lot configuration, topography, or proximity of neighbors, another area of the yard is more suitable for such an activity.
- (f) Coops or cages and runs shall be situated at least five (5) feet from adjoining property lines and twenty-five (25) feet from any dwelling located on a property not owned by the applicant. On corner lots all pens coops or cages shall be situated no closer than 35 feet from the side street.
- (g) Coops or cages and runs shall be located outside of Resource Protection Areas and Conservation Easements.
- (h) Coops or cages and runs shall be required. Such coops, cages and runs shall be enclosed with a minimum four (4) feet high chicken wire fence. All coops, cages or runs shall provide at least three (3) square feet of area per bird for free movement and a healthy environment.
- (i) All chickens shall be provided with a covered and enclosed shelter. Such structures shall be enclosed on all sides and shall have a roof and at least one access door.
- (j) In the case of proposals for backyard chicken-keeping, the property owner shall file an application with the James City County Zoning office. Such application shall be accompanied by a \$20.00 processing fee. The application shall include a sketch showing the area where the chickens will be housed and the types and size of enclosures in which the chickens shall be housed. The sketch must show all dimensions and setbacks. Upon review and determination that the proposed chicken-keeping complies with the standards set forth above, the zoning office shall issue a permit to document that the proposed activity has been reviewed and is authorized

pursuant to the terms of this chapter. Any permit that is found in violation or not in compliance with this section may be revoked.

ARTICLE V. DISTRICTS

DIVISION 3. LIMITED RESIDENTIAL DISTRICT, R-1

Sec. 24-232. Use list.

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Residential Uses	Keeping of chickens in accordance with Section 24-47	P	

Section 1-17. - Keeping of farm animals.

(a)

Farm animals, i.e., horses, cows, pigs, chickens, etc., may be kept in the city, subject to obtaining a use permit and subject to the following conditions:

(1)

Farm animals will be allowed only in conservation districts and in single-family residential districts. They will not be allowed in any other districts.

(2)

The following shall apply to hooved animals, i.e., horses, cows, goats, etc., except pigs:

a.

There shall be required a minimum of two acres, for one animal, and one acre, per each additional animal, of open space (pasture) in addition to the lot size requirements of the residential zone in which the animals will be kept. Properties belonging to another party cannot be used in meeting area and setback requirements, unless a copy of a written agreement, valid for the duration of the time the animal will be kept, is presented at the time of application for issuance or renewal of a use permit.

b.

All stables and pastures shall be kept in a sanitary condition. No storage or accumulation of manure shall be kept on the premises except in completely enclosed and screened structures. Stables and pasture areas must be kept in a dry and well drained condition in order to prevent bog or muddy areas.

c.

Stables adequate as to size and physical condition must be provided for all animals. Stables must not be allowed to fall into disrepair or to become unsightly. All stables shall be at least 300 feet from any residence belonging to a person other than an applicant and at least 50 feet from any adjoining property line. Pasture fencing shall be at least 50 feet from any property line (other than city right-of-way) and at least 100 feet from any residence. No stable shall be nearer than 200 feet to any public right-of-way or thoroughfare. All stables and fencing must be completed prior to an animal being placed on the property.

(3)

The following shall apply to pigs:

a.

Pigs shall be maintained in pens with at least a 36-inch high perimeter fence enclosed with wire mesh or wooden boards close enough to prevent small animals from escaping according to the following footage allowances:

Sows:

25—40 pounds: 12 square foot allowance per animal

40—100 pounds: 16 square foot allowance per animal

100—150 pounds: 25 square foot allowance per animal

150—200 pounds: 68 square foot allowance per animal

Boars require the same footage per animal until 150 pounds

150—210 pounds: 32 square foot allowance per animal

Boars with sows: 100 square foot allowance per animal

Pigs per pen while weaning: 75 pounds: 16 animals maximum; 16 square foot allowance per animal

Pigs per pen from weaning to market: Over 75 pounds: 8 animals maximum; 24 square foot allowance per animal

b.

All pens and yards shall be kept in a sanitary condition. No storage or accumulation of manure shall be kept on the premises, except in completely enclosed and screened structures. Pens and yard areas must be kept in a dry and well drained condition in order to prevent bog or muddy areas.

c.

Pens shall not be allowed to fall into disrepair or to become unsightly. All such pens shall be at least 300 feet from any residence belonging to a person other than the applicant and at least 50 feet from any adjoining property line. Fencing for such pens shall be at least 50 feet from any property line (other than city right-of-way) and 100 feet from any residence. No pen shall be nearer than 200 feet to any public right-of-way or thoroughfare. All pens and fencing shall be completed prior to an animal being placed on the property. If concrete is used in the pens, it should slope one-half inch per foot and include bedding.

(b)

All use permits for the keeping of farm animals shall be issued for a period of one year from January 1 to December 31. All use permits shall be subject to revocation upon violation of any of the conditions set forth in the permit. The grant of a use permit shall not vest in the recipient an unqualified right of renewal for the permit. Renewal of all use permits issued shall be subject to the imposition of additional restrictions as land uses in the area change. Individuals wishing to keep farm animals shall make application for a use permit on such forms as the city manager may require. A nonrefundable fee of \$15.00 shall accompany the initial application. Prior to issuance of a use permit, the city manager shall notify all property owners adjacent to and across the street from the location at which the animals are proposed to be kept of the request for a permit and shall ensure that the applicant is capable of meeting all of the requirements imposed by this section. Each year, prior to renewal of the use permit, the city manager shall notify all adjacent property owners of the renewal and shall review the permit for compliance with all conditions imposed either by ordinance or by the terms of the permit itself. No fee shall be charged for the renewal permit.

(c)

For the keeping of nonhooved animals, i.e., chickens, fowl, the application and renewal procedures and sanitary conditions used for keeping hooved animals will be followed. However, the zoning administrator shall establish appropriate setbacks and other stipulations as necessary to preserve the residential nature and tranquility of the neighborhood.

Sec. 24.1-414.1 Standards for Domestic Chicken-keeping as an Accessory Activity on Residential Property

Keeping and housing domestic chickens on residentially-zoned and occupied property in the R20, R13 and WCI Districts shall be solely for purposes of household consumption and shall be permitted only in accordance with the following terms and conditions. These provisions shall not be construed to allow the keeping of game birds, ducks, geese, pheasants, guinea fowl, or similar fowl/poultry.

- (a) Chickens allowed pursuant to this section shall be kept and raised only for domestic purposes and no commercial activity such as selling eggs or selling chickens for meat shall be allowed unless authorized as a home occupation through the issuance of a special use permit by the board of supervisors pursuant to the terms of Section 24.1-283(b) of this chapter.
- (b) The maximum number of chickens permitted on a residential lot shall be one (1) hen per 2,500 square feet of lot area, not to exceed a maximum of sixteen (16) hens.
- (c) No chickens shall be allowed on townhouse, duplex, condominium, apartment or manufactured housing park properties.
- (d) No roosters shall be allowed.
- (e) Pens, coops, or cages shall not be located in any front or side yard area.
- (f) All pens, coops, or cages shall be situated at least ten (10) feet from adjoining property lines and twenty-five (25) feet from any dwelling located on a property not owned by the applicant. Pens, coops, or cages shall not be located in a storm drainage area that would allow fecal matter to enter any storm drainage system or stream.
- (g) All chickens shall be provided with a covered, predator-proof shelter that is thoroughly ventilated, provides adequate sun and shade and protection from the elements, is designed to be easily accessed and cleaned. Such structures shall be enclosed on all sides and shall have a roof and at least one access door. Coops shall provide adequate space for free movement and a healthy environment for birds.
- (h) All pens, coops, or cages shall be kept in a neat and sanitary condition at all times, and must be cleaned on a regular basis so as to prevent odors perceptible at the property boundaries. All feed for the chickens shall be kept in a secure container or location to prevent the attraction of rodents and other animals.
- (i) No person shall store, stockpile or permit any accumulation of chicken litter and waste in any manner whatsoever that, due to odor, attraction of flies or other pests, or for any other reason diminishes the rights of adjacent property owners to enjoy reasonable use of their property. .
- (j) In the case of proposals for backyard chicken-keeping in the R20, R13 and WCI Districts, the property owner must file an application with the Division of Development and Compliance, Department of Environmental and Development Services, on such forms as the Division provides. Such application shall be accompanied by a \$15.00 processing fee. The application shall include a sketch showing the area where the chickens will be housed and the types and size of enclosures in which the chickens shall be housed. The sketch must show all dimensions and setbacks. Upon review and determination that the proposed chicken-keeping complies with the

standards set forth above, the Division of Development and Compliance shall issue a permit to document that the proposed activity has been reviewed and is authorized pursuant to the terms of this chapter. Accessory residential chicken- keeping operations shall be subject to periodic inspection to assure compliance with the performance standards established in this section.

- (k) Proposals for keeping more chickens than allowed by subsection (b) above, for observing setbacks of a lesser dimension than any of those set forth above, or for keeping roosters, may be considered and approved by Special Use Permit in accordance with all applicable procedural requirements.

POLICY COMMITTEE MEETING

February 13, 2014

3:00 p.m.

County Government Center, Building D

1.) Roll Call

Present

Ms. Robin Bledsoe

Mr. Rich Krapf

Mr. Tim O'Connor

Staff Present

Mr. Paul Holt

Mr. Adam Kinsman

Mr. Jason Purse

Mr. Scott Whyte

Ms. Jennifer VanDyke

Mr. John Rogerson

Ms. Beth Klapper

Ms. Robin Bledsoe called the meeting to order at 3:00 p.m.

2.) Minutes

a. January 16, 2014

Mr. Tim O'Conner requested that his statement on page six regarding the size and configurations of lots be amended to specifically include corner and flag lots.

Mr. Rich Krapf moved to approve the minutes as amended.

In a unanimous voice vote the minutes were approved as submitted (3-0).

3.) Old Business

Case No. Z0-0007-2013, Zoning Ordinance Amendment to Consider the Keeping of Chickens in Residentially Zoned Areas of the County

Mr. Scott Whyte, Planner, stated that to date, results from a survey of over 600 interested citizens and parties have been reviewed and tabulated and that ordinances from neighboring localities that have recently adopted chicken keeping ordinances have also been reviewed. Mr. Whyte stated that the survey was a good sampling of interested citizens who informed the County about the issues they felt were important to consider in creating a chicken keeping ordinance. The issues included HOA and neighborhood covenants and restrictions, whether the County should consider chicken keeping in all residential areas, how many chickens should be allowed, coop construction and placement, and mitigation of possible nuisances caused by chickens.

Mr. Whyte stated that the primary issue of whether or not the County should consider allowing chickens in residentially zoned areas was a split issue on the survey with 44% agreeing and 54% opposed. Mr. Whyte further stated that 86 percent of the responses favored establishing some restrictions. Citizens felt that the number of birds should be restricted, usually by lot size. Mr. Whyte noted that most localities have requirements for coops and construction standards,

usually requiring an enclosure with a roof to keep the birds contained and safe from the elements and predators. Mr. Whyte further noted that the location of the coop is often regulated, usually restricted to the back yard with setback regulations to keep the coops away from property lines and adjacent structures. Sanitation and rooster restrictions are often applied to mitigate possible nuisance complaints about noise and odor.

Mr. Whyte stated that the County Attorney's office has issued an opinion on HOA covenants and restrictions, basically stating that the more restrictive regulation would prevail.

Mr. Whyte requested that the Committee provide feedback and guidance regarding any next steps.

Mr. Krapf noted that he had compiled a document with the Statement of Intent for each of the residential districts. Mr. Krapf noted that two of the residential districts R-6 and R-8 already permit chickens. Mr. Krapf stated that because of lot size and density, there were some districts where chicken keeping would not be appropriate.

Ms. Bledsoe recommended that the Committee review each district and determine if it would be appropriate to allow chickens in that district.

The Committee and staff concurred.

Ms. Bledsoe stated that R-1, Limited Residential, is primarily low density. Ms. Bledsoe inquired whether staff could provide an example neighborhood for that zoning.

Mr. Purse stated that Berkeley's Green, Fieldcrest, First Colony and Kingspoint among many others are zoned R-1.

Mr. Krapf noted that while many of these subdivisions were in more rural areas, many were not.

Mr. O'Connor inquired what the minimum lot size is for R-1.

Mr. Purse stated that with public water and sewer, the minimum lot size is 15,000 square feet; with private well and septic system, the minimum lot size is 30,000 square feet. Mr. Purse further stated that the majority are on public water and sewer.

Ms. Bledsoe stated that R-2, General Residential, is primarily low-density where the clustering of residential developments is encouraged to maximize shared and purposeful open space.

Mr. Purse provided a list of the larger subdivisions in this zoning district which includes Brookhaven, Burlington Woods, Chickahominy Haven and Season's Trace among many others.

Ms. Bledsoe noted that many of the subdivisions listed include apartments or townhomes.

Mr. Whyte noted that other localities restricted chicken keeping in multifamily areas.

Mr. O'Connor noted that some of the subdivisions have patio homes where the structures are detached but the lots are smaller.

Ms. Bledsoe inquired what the lot sizes are for R-2.

Mr. Purse stated that Lots served by public water and public sewage disposal systems have a minimum area of 10,000 square feet; lots served by individual water and sewage disposal system shall have a minimum area of 30,000 square feet.

Ms. Bledsoe stated that it seemed that R-3, Residential Redevelopment, should be ruled out.

Mr. Krapf provided a summary of the district stating that the purpose of the residential redevelopment district is to encourage the replacement or reuse of existing buildings or previously developed sites to accommodate new residential development.

Mr. Purse stated that there are no example neighborhoods for this zoning district. Mr. Purse further stated that if the R-3 district had been in existence at the time, the Ironbound Square Redevelopment would have been considered for inclusion. Forrest Heights/Neighbors Drive is another redevelopment project that might have been considered. Mr. Purse noted that typically the redevelopment projects would be on small lots.

The Committee concurred that the R-3 zoning district would not be a good candidate for chicken keeping.

Mr. Krapf stated that R-4, Residential Planned Community, is intended to permit development, in accordance with a master plan, of large, cluster-type communities in a manner that will protect and preserve the natural resources, trees, watersheds, contours and topographic features.

Mr. Purse stated that examples of this zoning district include Kingsmill, Fords Colony, Governors Land and Powhatan Secondary.

Mr. Krapf noted that these large communities are likely to have restrictive covenants.

Mr. Purse confirmed.

Ms. Bledsoe stated that since these are cluster developments, it would not be appropriate to consider allowing chickens.

The Committee concurred.

Mr. O'Connor stated that these developments would have a range of housing types from single family to townhomes to condominiums.

Mr. Krapf stated that R-5, Multifamily Residential, is composed of moderate to high-density residential areas and other such areas where similar development is likely to occur.

Mr. Purse stated that a number of the areas zoned R-5 are located within neighborhoods previously mentioned. Other examples include Michelle Point, Pocahontas Square and the Mews. Mr. Purse noted that these are usually very small lots.

Ms. Bledsoe inquired whether small lots would preclude keeping chickens.

Mr. Whyte stated that it would depend on what restrictions the Committee might recommend.

Mr. Purse noted that the York County ordinance set a restriction for one chicken for every 2,500 square feet. Mr. Purse further noted that even with that restriction, a small parcel could have chickens.

Ms. Bledsoe inquired about lot size for the R-5 district.

Mr. Purse responded that there was no lot size specified because the district is for apartments, townhomes and condominiums.

The Committee concurred that this district would not be considered for chicken keeping.

Ms. Bledsoe noted that R-6, Low-Density Residential, and R-8, Rural Residential, already permit chickens by right.

Mr. Krapf stated that the R-6 district is composed of those portions of the county where a quiet, low density residential character has already been established and where limited agricultural operations function concurrently with low-density residential uses.

Mr. Krapf stated that the R-8 District is intended for application to rural areas of the county which remain inside the primary service area where utilities and urban services are planned but not yet fully available and where urban development may be expected in the near future. The district may also be applied to certain. Mr. Krapf further stated that intended to maintain a rural environment suitable for farming, forestry and low-density rural residence.

Ms. Bledsoe stated that the discussion had ruled out R-3, R-4 and R-5; leaving R-1 and R-2 for consideration.

Ms. Bledsoe stated that R-1 included such neighborhoods as Berkeley's green, Kingspoint and Fieldcrest. Ms. Bledsoe stated that the minimum lot size is 15,000 square feet.

Ms. Bledsoe stated that R-2 included such neighborhoods as Season's Trace, Baron Woods and Chickahominy Haven.

Mr. Krapf noted that the R-2 district encouraged clustering and that minimum lot size is smaller at 10,000 square feet.

Mr. Krapf noted that one of his concerns in crafting an ordinance is the impact on staff of enforcing the regulations and responding to complaints.

Mr. Purse stated that there are two zoning officers on staff to respond to complaints. Mr. Purse further stated that the impact would depend on the volume of complaints. Mr. Purse stated that subjective complaints such as noise and odor would need to be egregious for a notice of violation to be issued.

Ms. Bledsoe inquired how chicken complaints are handled in the districts where they are currently allowed.

Mr. Purse stated that chickens are allowed by-right and there are no regulations to enforce.

Mr. Adam Kinsman stated that when crafting an ordinance, it is important to look at requirements that can be measured quantitatively at the property line, particularly when there is the potential for enforcement to result in legal action. Mr. Kinsman noted that it would be very difficult to do that with odors.

Mr. Kinsman further noted that it would be difficult to enforce the number of chickens because it is possible to temporarily relocate or hide chickens.

Mr. Kinsman stated that it would also be difficult to enforce regulations for adequate upkeep. Mr. Kinsman further stated that in the districts that currently permit chickens, those concerns are referred to Animal Control.

Mr. O'Connor posed a question on how a nuisance would be defined.

Mr. Kinsman stated that it was different in every case. Mr. Kinsman stated that there are also distinctions between public and private nuisances. Mr. Kinsman stated that the conditions would need to be egregious to rise to the level of a public nuisance.

Ms. Bledsoe inquired whether chicken keeping could be added to the R-1 and R-2 districts as a by-right use without restrictions.

Mr. Kinsman stated that it was an option or the Committee could recommend reasonable restrictions.

Ms. Bledsoe inquired whether it was appropriate to put restrictions on two districts when there are no restrictions on the districts where chickens are currently permitted.

Mr. Kinsman responded that it would be appropriate if it is deemed that the districts vary sufficiently in their character that restrictions are necessary to make it workable for the district.

Mr. Purse noted that "residential chicken keeping" could be added as a use in R-1 and R-2 with the restrictions being enumerated under Article 2, Special Regulations.

Mr. Krapf inquired whether there were significant hurdles associated with the SUP process.

Mr. Holt stated that it would make every application unique and each one would be subject to the public hearing process. Mr. Holt further stated that it would lead to situations where some are approved and others are not, which would make the process less consistent.

Mr. O'Connor noted that the York County ordinance includes a statement that "... or for any other reason diminishes the rights of adjacent property owners to enjoy reasonable use of their

property” and inquired if Mr. Kinsman would prefer that such a statement would not be included in the James City County ordinance.

Mr. Kinsman stated that the ordinance is working well for York County. Mr. Kinsman further stated that there have been minimal complaints and none have been prosecuted in court. Mr. Kinsman further stated that relying solely on that statement in a court case would be difficult.

Mr. O’Connor inquired what would be required for enforcement purposes to create an ordinance that is not subjective. Mr. O’Connor further stated that it was a question of how to regulate the behavior of the owners.

Ms. Bledsoe noted that Poquoson has issued 31 permits for chicken keeping and York County has issued 34. Ms. Bledsoe further noted that the Peninsula Chicken Keepers are aware of approximately 5 people in James City County who have chickens. Ms. Bledsoe inquired if the County had a better idea of the number of chicken keepers.

Mr. Holt stated that based on the survey responses, there might be 30.

Ms. Bledsoe opened the floor to comments from the public.

Mr. Eric Danuser noted that it seemed as though the County was approaching the ordinance as though everyone in the County would have chickens.

Ms. Bledsoe stated that the goal was to draft an ordinance that would serve everyone.

Mr. O’Connor noted that the ordinance would potentially allow everyone in the affected district(s) to have chickens.

Ms. Carol Bartram, Peninsula Chicken Keepers, inquired whether the Committee has done a site visit to see a small flock. Ms. Bartram noted that her neighbors were only aware of her flock because she notified them. Ms. Bartram stated that what is needed is to change the perception of backyard chickens from agriculture to pets. Ms. Bartram further stated that the waste and noise produced by chickens was far less than most domestic animals. Ms. Bartram noted that the consideration and discussion by the Policy Committee is identical to the discussions in other localities.

Ms. Michelle Fitzgerald stated that where there are chickens on small lots in Chanco’s Grant, there have been no complaints. Ms. Fitzgerald further stated that the one restriction should be on roosters because of the noise.

Ms. Bledsoe closed the public comment.

Ms. Bledsoe asked the Committee if it was feasible to have staff draft ordinance language for the two districts that have not been ruled out.

Mr. Krapf stated that he was still on the fence about the issue. Mr. Krapf further stated because chicken keeping is a use that has not been introduced in the majority of the residential districts,

it is important to look at the potential impacts thoroughly rather than rushing to put an ordinance in place and finding that there are significant issues that have not been addressed.

Mr. Krapf noted that his concerns include: whether zoning regulations should be changed to allow chicken keeping in residential districts when half of the County's land is zoned to allow chickens; the impact on adjacent property owners if there is not a requirement that chickens be kept in an enclosure that prevents escape; whether introducing a new food source such as chickens will draw predators to the area that might not typically be found that district; and the impact on staff of enforcing the ordinance.

Mr. Krapf stated that, despite his concerns, he would be willing to look at a draft ordinance to amend the zoning regulations for the R-1 district. Mr. Krapf noted that he was not in favor of amending the zoning regulations for the R-2 district.

Mr. O'Connor stated that his concerns included minimum lot sizes; the impact of placement of coops where there are flag and corner lots; and the impact on the County of enforcing the ordinance.

Ms. Bledsoe suggested moving forward with a draft ordinance only for the R-1 district.

Ms. Bledsoe noted for the public, that the role of the Policy Committee is to vet the information and to make recommendations to the full Planning Commission. Ms. Bledsoe further noted that the Planning Commission would then forward a recommendation to the Board of Supervisors where the change would ultimately be ratified.

Mr. Holt confirmed that staff would bring back to the Committee draft ordinance language with options to be considered for the R-1 district.

Ms. Bledsoe stated that the Committee would like to make a recommendation at its March meeting.

Mr. O'Connor stated that if there were an application process, he would recommend that the applicant be required to provide proof that there are no deed restrictions or restrictive covenants prohibiting chickens affecting their property.

Mr. Holt noted that staff would work with the County Attorney's office to consider options that a reasonable and enforceable.

4.) New Business

Case No. ZO-0008-2013, Accessory Apartments

Ms. Jennifer VanDyke, Planner, stated that at its January 8, 2014, meeting the Planning Commission approved an initiating resolution to consider revisions to the Zoning Ordinance pertaining to the definition, provisions and procedures relating to accessory apartments.

Ms. VanDyke stated that current ordinance provisions require accessory apartments be: substantially contained within the single family dwelling; may not occupy more than 35% of the floor area of the dwelling; new entrances must be located on the side or rear of the building; and all setback, yard and height regulations applicable to main structures in the zoning district must be met.

Ms. VanDyke stated that currently, accessory apartments are allowed by-right on property that is zoned A-1, R-2, R-3, R-4, R-8, MU and PUD and are allowed as a specially permitted use on land that is zoned R-1 and R-6.

Ms. VanDyke stated that staff requests that the Committee provide input on the possibility of allowing accessory apartments as a matter of right or maintain that they be specially permitted in R-1 and R-6.

Mr. O'Connor stated that he might be willing to consider expanding where accessory apartments are allowed by-right.

Mr. Krapf noted that he would like to see the restrictions on accessory apartments reduced; such as the requirements for sharing a common wall. Mr. Krapf noted that he did not have concerns with accessory apartments located above a detached garage.

Mr. John Rogerson, Zoning Officer, stated that currently accessory structures such as garages could not be used for housekeeping purposes.

Ms. Bledsoe inquired why accessory structures could not be used for an accessory apartment.

Ms. VanDyke by allowing accessory apartments in a separate structure the character of the neighborhood could be impacted.

Ms. Bledsoe inquired if there were ways to allow the accessory apartments in a separate structure without affecting the look of the community.

Ms. VanDyke noted that certain localities require architectural elevations to be submitted; however, that increases the cost to the homeowner.

Mr. O'Connor noted that he would support requirements that the accessory apartment in a separate structure be harmonious with the main structure. Mr. O'Connor also suggested that a sunset clause should be included to avoid the potential for rental use.

Mr. Krapf inquired whether it could be stipulated that the occupant is a family member.

Mr. Holt noted that the Fair Housing Act would prohibit that type of stipulation.

Mr. Krapf noted that restrictions could be included for the location of the entrance and adequate parking.

Ms. VanDyke noted that a stipulation could be added to require the property owner reside in either the main structure or the accessory apartment.

Mr. Holt suggested that staff bring back ordinance options to the March Policy Committee meeting for consideration.

The Committee members confirmed that they would like to review a draft ordinance at the next meeting.

5.) Adjournment

The meeting was adjourned at 4:09 p.m.

Robin Bledsoe, Chair of the Policy Committee

AGENDA

POLICY COMMITTEE

March 13, 2014

3:00 p.m.

JAMES CITY COUNTY GOVERNMENT COMPLEX

Building D Conference Room

1. Roll Call
2. Minutes
 - a. February 13, 2014
3. Old Business
 - a. Case No. Z0-0007-2013, Zoning Ordinance Amendment to Consider the Keeping of Chickens in Residentially Zoned Areas of the County
 - b. Case No. ZO-0008-2013, Accessory Apartments
4. New Business
 - a. Longhill Road Corridor Study Update
 - b. Agricultural and Forestry Industries (AFID) Grant Update
5. Adjournment

MEMORANDUM

DATE: March 13, 2014

TO: The Policy Committee

FROM: W. Scott Whyte, Senior Landscape Planner II

SUBJECT: Case No. ZO-0007-2013. Chicken Keeping in Residentially Zoned Areas of the County.

At its meeting on February 13, 2014, the Policy Committee conducted a public input session on this matter. The committee reviewed results from a survey of over 600 interested citizens and parties. Ordinances from neighboring localities that have recently adopted chicken keeping ordinances were reviewed and the committee heard from interested citizens on many issues that they felt were also important considerations for a chicken keeping ordinance. The issues included HOA and neighborhood covenants and restrictions, whether the County should consider chicken keeping in all residential areas, how many chickens should be allowed, coop construction and placement, and possible nuisances caused by chickens.

After discussing the issues raised, the Policy Committee instructed staff to draft two ordinance options for their review at the next meeting. Two draft ordinances have been prepared which are attached for committee consideration. Staff has left out any language regarding HOA covenants and restrictions in response to the County Attorney's comments that such language is a civil matter between HOA's and neighborhood residents which county staff cannot enforce. Language regarding nuisances, which are hard to define and measure, were also omitted. The attached draft ordinances would restrict the use to domestic purposes, single family residents, and permit only the keeping of hens. The attached draft ordinances would also include regulations for coops and their location and construction. Both drafts include a permitting process. The two drafts differ in the number of birds allowed and one requires a processing fee and the other does not.

Staff is looking for the Policy committee to provide guidance on revisions to the proposed draft ordinance.

Attachments:

1. Draft ordinance #1
2. Draft ordinance #2

Chapter 24

ARTICLE II. SPECIAL REGULATIONS

DIVISION 1. IN GENERAL

Sec. 24-47. Keeping of chickens in residentially-zoned areas

Keeping and housing domestic chickens on residentially-zoned and occupied property shall be solely for purpose of household consumption and shall comply with the following requirements:

- (a) Chickens allowed pursuant to this section shall be kept and raised only for domestic purposes. No commercial activity, such as selling eggs or selling chickens for meat shall be allowed.
- (b) Chickens may be kept on lots consisting of one (1) acre in size or more. The maximum number of chickens permitted on a residential lot shall be eight (8) for the first acre, and one (1) more for each additional 5,000 square feet of lot area thereof. The total number is not to exceed a maximum of twelve (12) hens.
- (c) Chickens shall only be allowed on properties consisting of single family homes.
- (d) No roosters shall be allowed.
- (e) Pens, coops, or cages shall only be located in the rear yard area of the property.
- (f) All pens, coops, or cages shall be situated at least five (5) feet from adjoining property lines and twenty-five (25) feet from any dwelling other than that owned by the applicant.
- (g) All chickens shall be provided with a covered and enclosed shelter. Such structures shall be enclosed on all sides and shall have a roof and at least one access door. Coops shall provide at least 3 square feet of area per bird for free movement and a healthy environment.
- (h) The property owner shall file an application with the James City County zoning enforcement division. The application shall include a sketch showing the area where the chickens will be housed and the types and sizes of enclosures in which the chickens shall be housed. The sketch must show all relevant dimensions and setbacks on the property. Any permit that is found in violation or not in compliance with this section may be revoked.

ARTICLE V. DISTRICTS

DIVISION 3. LIMITED RESIDENTIAL DISTRICT, R-1

Sec. 24-232. Use list.

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Residential Uses	Keeping of chickens in accordance with Section 24-47	P	

Chapter 24

ARTICLE II. SPECIAL REGULATIONS

DIVISION 1. IN GENERAL

Sec. 24-47. Keeping of chickens in residentially-zoned areas

Keeping and housing domestic chickens on residentially-zoned and occupied property shall be solely for purposes of household consumption and shall comply with the following requirements:

- (a) Chickens allowed pursuant to this section shall be kept and raised only for domestic purposes. No commercial activity, such as selling eggs or selling chickens for meat shall be allowed.
- (b) The maximum number of chickens permitted on a residential lot shall be two (2) hens per the first 5,000 square feet of lot area, and one more for each additional 5,000 square feet of total lot area thereof. The total number of birds is not to exceed a maximum of twelve (12) hens.
- (c) Chickens shall only be allowed on properties consisting of single family homes and which are on lots of at least 15,000 square feet in size.
- (d) No roosters shall be allowed.
- (e) Pens, coops, or cages shall only be located in the rear yard area of the property.
- (f) All pens, coops, or cages shall be situated at least five (5) feet from adjoining property lines and twenty-five (25) feet from any dwelling other than that owned by the applicant.
- (g) All chickens shall be provided with a covered and enclosed shelter. Such structures shall be enclosed on all sides and shall have a roof and at least one access door. Coops shall provide at least 3 square feet of area per bird for free movement and a healthy environment.
- (h) The property owner shall file an application with the James City County zoning enforcement division. Such application shall be accompanied by a \$20.00 processing fee. The application shall include a sketch showing the area where the chickens will be housed and the types and sizes of enclosures in which the chickens shall be housed. The sketch must show all relevant dimensions and setbacks on the property. Any permit that is found in violation or not in compliance with this section may be revoked.

ARTICLE V. DISTRICTS

DIVISION 3. LIMITED RESIDENTIAL DISTRICT, R-1

Sec. 24-232. Use list.

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Residential Uses	Keeping of chickens in accordance with Section 24-47	P	

POLICY COMMITTEE MEETING

March 13, 2014

3:00 p.m.

County Government Center, Building D

1.) Roll Call

Present

Mr. Tim O'Connor
Mr. Rich Krapf
Ms. Robin Bledsoe
Mr. John Wright

Staff Present

Mr. Paul Holt
Ms. Ellen Cook
Mr. Jason Purse
Ms. Leanne Pollock
Ms. Kate Sipes
Mr. Scott Whyte
Ms. Jennifer VanDyke
Mr. John Rogerson
Ms. Beth Klapper

Mr. Tim O'Connor called the meeting to order at 3:00 p.m.

2.) Minutes

a. February 13, 2014

Mr. Rich Krapf moved to approve the minutes.

In a unanimous voice vote the minutes were approved as submitted (4-0).

3.) New Business

a. Agricultural and Forestry Industries (AFID) Grant Update

Ms. Leanne Pollock, Senior Planner II, stated that the County applied for and received a \$20,000 state grant for rural economic development planning. She stated that they have been working in partnership with the Office of Economic Development and the Rural Economic Development Committee.

Ms. Pollock stated that the state grant supports the Economic Development and Land Use Goals, Strategies, and Actions that are in the Comprehensive Plan. Ms. Pollock stated that the purpose of the project is how to support the viability of agriculture and timbering industries; how to encourage business growth; diversification of the tax base through rural economic development; and how to foster new business enterprises that are compatible with or support rural lands goals in the comprehensive plan.

Ms. Pollock further stated that they have been working with a consultant to complete the process and have held stakeholder interviews which included rural land holders, Agricultural and Forestal District and Purchase of Development Rights participants, participants in previous rural lands discussions, local chefs, existing rural businesses, and leaders in the health, institutional and school industries, among many others. Ms. Pollock further stated that they completed a

fiscal assessment of rural activity which is intended to complement the stakeholder interviews in developing a list of actions and projects that promote rural economic development goals.

Ms. Pollock stated that a draft list of actions and projects has been developed ranging from marketing, rural recreation and agri-tourism to infrastructure projects such as food hubs and community gardens. Ms. Pollock stated the Rural Economic Development Committee is in the process of evaluating the projects to narrow the focus and more fully develop the scope of the projects. Ms. Pollock stated that the next steps would entail hosting a workshop and gathering public comment with a goal of having the information ready for inclusion in the Comprehensive Plan.

Ms. Robin Bledsoe inquired how staff would determine which projects were feasible and/or of interest to the community.

Ms. Pollock stated that many of the projects were developed from public input gathered during the stakeholder interviews. Ms. Pollock further stated that ultimately the consultants would flesh out the projects, determine the feasibility and develop a timeframe for implementation.

Ms. Bledsoe inquired whether the County would be implementing the projects or whether the idea was to develop a tool kit so that other entities could implement some of the projects.

Ms. Pollock stated that it would depend on the nature of the project. Some projects would be geared toward a private investment; however, staff would be available to support the effort in the community.

Mr. John Wright inquired whether the criteria for evaluating the projects included a measure to determine how successful a project would be.

Ms. Pollock responded that the Rural Economic Development Committee would provide feedback on the potential success of a project; however, the initial evaluation criteria were geared more toward timeframe, cost and resources required.

Ms. Kate Sipes, Business Development and Retention Coordinator, stated that criteria for the second round of evaluations would be refined and weighted.

Ms. Pollock noted that one of the criteria is how well a project furthered the goals for rural economic development and the benefit to rural property owners.

Mr. Tim O'Connor inquired whether the feedback from rural property owners indicated that they wanted to continue to farm their land.

Ms. Sipes stated that the responses had varied greatly. Ms. Sipes further stated that one of the study goals was to ensure that continuation of productive farming and timbering would be made practically possible by developing options that have a reasonable chance of success.

Mr. O'Connor inquired what the response was from local chefs and restaurants.

Ms. Sipes responded that there is a large demand for locally sourced products. Ms. Sipes noted that the response included not only restaurants but also institutions such as the schools, continuing care facilities and the jail.

Mr. Krapf noted that he was impressed with the consultant's efforts and believed they brought a valuable perspective to the project.

b. Longhill Road Corridor Study - Update

Mr. Carroll Collins, Kimley Horn and Associates provided a presentation on the status of the Longhill Road Corridor Study. The presentation covered feedback from the Project Advisory Committee, the Technical Advisory Committee and public meetings. The presentation also covered recommendations for typical road sections and access management at the various intersections.

Mr. Krapf inquired if it was possible to determine at this stage what percentage of privately owned property would be impacted by roadbed changes.

Mr. Collins responded that this not been part of the considerations to date.

Mr. Krapf inquired if that would be done prior to the final report.

Mr. Collins stated that it could be touched on briefly for the final report but that the effect on properties would not be fully determined until the project was in the design phase.

Mr. Krapf noted that his question related not only to impact on the properties but also to what the effect of acquiring property would be on the project cost.

Ms. Bledsoe inquired if the process would be to purchase the property.

Mr. Collins responded that in most cases it would only require purchasing the portion of the property required for the project.

Mr. Wright inquired about the costs associated with relocation of utilities.

Mr. Collins responded that an estimate of utilities costs would be included in the final report.

Mr. O'Connor inquired what the recommendation is for the intersection at the Warhill Sports Complex.

Mr. Collins stated that the recommendation is a signalized intersection; however, it will require a further study to determine if the warrants are met.

Mr. O'Connor inquired if the speed limit would remain at 45 mph.

Mr. Collins confirmed.

Mr. O'Connor inquired about the plans for the segment of the road between Rt. 199 and Williamsburg West/Lane Place.

Mr. Collins stated that the intention would be two lanes with an exclusive right turn lane at Lane Place.

Mr. O'Connor inquired about the effect of the wetlands between Longhill Grove and Fords Colony on the project; whether there would be sufficient space to construct the typical three lane section.

Mr. Collins stated that one of the benefits of the realignment option is that it would shift the road away from the wetlands as well as away from the pond and the cemetery.

Mr. O'Connor thanked Mr. Collins for his presentation and stated that he was pleased with the way the improvement options are shaping up.

4.) **Old Business**

a. Case No. ZO-0007-2013, Zoning Ordinance Amendment to Consider the Keeping of Chickens in Residentially Zoned Areas of the County

Mr. Scott Whyte, Senior Landscape Planner, II stated that at its February meeting, the Policy Committee instructed staff to prepare draft ordinance options for consideration. Mr. Whyte stated that both draft ordinances would restrict the use to domestic purposes, single family residences and permit only the keeping of hens. Mr. Whyte further stated that both draft ordinances also include regulations for coops and their location and construction and a permitting process. Mr. Whyte noted that where the draft ordinances differ is in the number of birds allowed based on lot size and one requires a permit processing fee where the other does not.

Mr. Krapf noted that the sample ordinance from Prince William County addressed the proximity of chicken coops to the RPA streams and non RPA streams and inquired whether that was a concern that should be considered.

Mr. Jason Purse, Zoning Administrator, stated that staff could bring the question to the attention of the Engineering and Resource Protection division for feedback.

Mr. Krapf noted that his concerns were related to chicken waste leaching into a stream.

Mr. Whyte stated that if the number of birds was restricted to a maximum of 12, the amount of waste produced would be less than the amount of fertilizer generally used on lawns.

Ms. Bledsoe requested clarification on whether section 3.1-796.116 of the Code of Virginia, Dogs killing, injuring or chasing livestock or poultry applied to backyard chickens.

Mr. Paul Holt, Planning Director, stated that there is no distinction in this section or its matching section in the County Code for the various zoning districts. Mr. Holt stated that in County Code there are, however, prohibitions on the discharge of firearms based on the specific neighborhood. Mr. Holt stated that further review would be required to determine on which regulation takes precedence.

Mr. O'Connor inquired whether the recommendation was for three or four square feet of space per bird.

Mr. Holt noted that this portion was to define the inside portion and not the outside run area.

Mr. Wright inquired whether the recommendation was for the birds to always be confined.

Mr. Holt responded that the birds were not limited to the coop only but could have an outside run area.

Mr. O'Connor noted the Prince William County ordinance included a prohibition on dispatching chickens on the property.

Mr. Krapf inquired what the purpose of such a prohibition might be.

Mr. O'Connor noted that the sight of a chicken being dispatched might be upsetting to neighbors.

Mr. O'Connor noted that the Prince William County ordinance also prohibited chicken coops near wellheads.

Mr. Holt stated that he could inquire what the Health Department regulations might be.

Mr. O'Connor inquired whether the Committee had a preference between the two ordinances.

Mr. Holt noted that the Committee would want to choose between the options for minimum lot size as well as the option for a permit fee.

Mr. O'Connor noted that the Committee would want to review the ordinance once more before forwarding a recommendation to the Planning Commission.

Mr. Krapf concurred, noting that there were still several outstanding questions and concerns.

The Committee concurred that they would choose item (b) from draft ordinance option #1. The Committee recommended including a setback restriction that addresses flag lots and corner lots. The Committee also concurred that a permit processing fee should be included.

Mr. Holt stated that staff would bring back a revised ordinance for review at the Committee's April meeting along with answers to the several questions noted.

5.) Adjournment

The meeting was adjourned at 3:55 p.m.

Tim O'Connor, Chair of the Policy Committee

AGENDA

POLICY COMMITTEE

April 14, 2014
3:00 p.m.

JAMES CITY COUNTY GOVERNMENT COMPLEX

Building D Conference Room

1. Roll Call
2. Minutes
 - a. March 13, 2014
3. Old Business
 - a. Case No. Z0-0007-2013, Zoning Ordinance Amendment to Consider the Keeping of Chickens in Residentially Zoned Areas of the County
 - b. Case No. ZO-0008-2013, Accessory Apartments
4. New Business
5. Adjournment

MEMORANDUM

DATE: April 14, 2014
TO: The Policy Committee
FROM: W. Scott Whyte, Senior Landscape Planner II
SUBJECT: Case No. ZO-0007-2013. Chicken Keeping in Residentially Zoned Areas of the County.

At its meeting on March 13, 2014, the Policy Committee continued its discussion and public input sessions on this matter. The Committee reviewed two draft ordinances and indicated the area requirements, number of birds allowed, and the associated fee in option No. 2 was the most desirable. The Committee directed staff to redraft an ordinance with the selected issues in option No. 2. The Committee also directed staff to explore the newly raised issues of State code allowing the shooting of dogs killing chickens, chicken coops located adjacent to well heads, and coops situated within Resource Protection Areas (RPAs). The committee also requested that an exception to allowing chickens only in rear yards be made for lots that are unusually shaped or when the rear yard is situated in a way that increases the likelihood the chickens could become a nuisance to the neighbors.

Staff has prepared a draft ordinance for the Committee's review. State code language was not included because the County Attorney's office has reviewed the State Code, as well as animal control ordinances, and concluded that these provisions can continue to work well with the adoption of a residential chicken keeping ordinance. After consulting with the county's Engineering and Resource Protection Division staff has included language that prohibits chicken keeping within Resource Protection and Conservation Easement areas on the basis that these areas prohibit clearing and run-off of chicken waste would be considered non-point source pollution. Staff also consulted with the Virginia Department of Health on whether or not chicken facilities should be allowed within the same area that a well head is located. The Health Department did advocate the separation of the chicken keeping and well heads as a best management practice; however they did not advocate the enforcement of such a regulation citing that they do not restrict dog pens or horse stables adjacent to well heads. Therefore staff did not include language on this issue. An exception to the keeping of chickens in the back yard only has been included.

Staff is seeking Policy Committee guidance on revisions to the proposed draft ordinance or the committee's approval to send the draft on to the Planning Commission for their consideration.



W. Scott Whyte
Senior Landscape Planner II

Attachments:

1. Draft ordinance

Chapter 24

ARTICLE II. SPECIAL REGULATIONS

DIVISION 1. IN GENERAL

Sec. 24-47.

Keeping and housing domestic chickens on residentially-zoned and occupied property shall be solely for purposes of household consumption and shall comply with the following requirements:

- (a) Chickens allowed pursuant to this section shall be kept and raised only for domestic purposes and no commercial activity such as selling eggs or selling chickens for meat shall be allowed. Harvesting or dispatching of chickens is not permitted.
- (b) The maximum number of chickens permitted on a residential lot shall be two (2) hens per the first 5,000 square feet of lot area, and one additional bird for each additional 5,000 square feet of total lot area thereof. The total number of birds is not to exceed a maximum of twelve (12) hens.
- (c) Chickens shall only be allowed on properties consisting of single family homes and which are on lots of at least 15,000 square feet in size.
- (d) No roosters shall be allowed.
- (e) Coops or cages and runs shall only be located in the rear yard area. The Zoning Administrator may grant an exception to this requirement in cases where due to unusual lot configuration, topography, or proximity of neighbors, another area of the yard is more suitable for such an activity.
- (f) Coops or cages and runs shall be situated at least five (5) feet from adjoining property lines and twenty-five (25) feet from any dwelling located on a property not owned by the applicant. On corner lots all pens coops or cages shall be situated no closer than 35 feet from the side street.
- (g) Coops or cages and runs shall be located outside of Resource Protection Areas and Conservation Easements.
- (h) Coops or cages and runs shall be required. Such coops, cages and runs shall be enclosed with a minimum four (4) feet high chicken wire fence. All coops, cages or runs shall provide at least three (3) square feet of area per bird for free movement and a healthy environment.
- (i) All chickens shall be provided with a covered and enclosed shelter. Such structures shall be enclosed on all sides and shall have a roof and at least one access door.
- (j) In the case of proposals for backyard chicken-keeping, the property owner shall file an application with the James City County Zoning office. Such application shall be accompanied by a \$20.00 processing fee. The application shall include a sketch showing the area where the chickens will be housed and the types and size of enclosures in which the chickens shall be housed. The sketch must show all dimensions and setbacks. Upon review and determination that the proposed chicken-keeping complies with the standards set forth above, the zoning office shall issue a permit to document that the proposed activity has been reviewed and is authorized

pursuant to the terms of this chapter. Any permit that is found in violation or not in compliance with this section may be revoked.

ARTICLE V. DISTRICTS

DIVISION 3. LIMITED RESIDENTIAL DISTRICT, R-1

Sec. 24-232. Use list.

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Residential Uses	Keeping of chickens in accordance with Section 24-47	P	

POLICY COMMITTEE MEETING

April 14, 2014

3:00 p.m.

County Government Center, Building D

1.) Roll Call

Present

Mr. Tim O'Connor

Mr. Rich Krapf

Ms. Robin Bledsoe

Mr. John Wright

Staff Present

Mr. Paul Holt

Mr. Jason Purse

Mr. Scott Whyte

Ms. Jennifer VanDyke

Ms. TC Cantwell

Mr. Tim O'Connor called the meeting to order at 3:07 p.m.

2.) Minutes

a. March 13, 2014

Mr. Rich Krapf moved to approve the minutes.

In a unanimous voice vote the minutes were approved as submitted (4-0).

3.) Old Business

Case No. Z0-0007-2013, Zoning Ordinance Amendment to Consider the Keeping of Chickens in Residentially Zoned Areas of the County

Mr. Scott Whyte, Planner, addressed the Policy Committee giving a summary of the staff report included in the Agenda Packet.

Ms. Bledsoe moved to forward the case to the Planning Commission.

Mr. O'Connor stated that the case should go before the Planning Commission to consider and to have a public hearing.

Mr. Paul Holt stated that the Planning Commission may request additional changes.

In a unanimous voice vote the draft Ordinance was forwarded to the Planning Commission for consideration (4-0).

Mr. Roy Hartley of the Powhatan Crossing Home Owner's Association (HOA), inquired if a house is located in the center of a 15,000 square foot lot in R-1, Limited Residential, would they be permitted to keep chickens in the back yard.

Mr. Scott Whyte stated that is total lot area and that chickens would be permitted on lots that are 15,000 square feet or more in R-1, Limited Residential.

Mr. Holt stated that the chickens, coops and runs would remain in the back yard.

Mr. Hartley inquired if a back yard of 6,000 square feet would be sufficient.

Mr. Whyte stated yes that is sufficient.

Mr. O'Connor stated that is their understanding that a Homeowner's Association may have declarations of covenants and restrictions or rules that have been adopted that preclude chickens or any other domestic animals.

Mr. Hartley inquired if the approval of the ordinance would have any effect on the HOA and if the County overrules.

Mr. Krapf stated no.

Mr. Hartley inquired if the HOA would have to change their covenants to accommodate the change in ordinance.

Mr. Holt stated that the HOA has the option to leave the covenants in place and be more restrictive and not permit chickens at all.

Mr. Hartley stated that the HOA could ignore the ordinance.

Mr. Holt stated that it would not be applicable under the neighborhood association rules.

Mr. O'Connor stated that another opportunity to speak on behalf of this ordinance would be during the public hearing section of the May 7, 2014, Planning Commission meeting.

Mr. Krapf stated that if the HOA covenants or rules do not address the issue of chickens and the ordinance were to be approved then the residents would be allowed to have chickens.

Mr. Hartley stated that their covenants specify cats and dogs only.

Mr. Wright stated that the ordinance does not apply.

Mr. Hartley stated that the HOA would have to change the covenants to permit chickens.

Mr. Krapf stated that is correct if the residents are interested in keeping chickens.

Mr. Jason Purse stated that the County would not enforce the HOA covenants and that would be up to the Association.

Case No. ZO-0008-2013, Accessory Apartments

Ms. Jennifer VanDyke, Planner, addressed the Policy Committee giving a summary of the staff report included in the Agenda Packet.

Mr. Krapf requested that staff elaborate on the A-1, General Agricultural District. He requested information regarding both detached and attached apartments as specially permitted uses in A-1 District.

Mr. Krapf stated that the lot size in A-1 is a minimum of 3 acres which means the neighborhood criteria isn't as applicable as other districts. He inquired if staff had an internal discussion regarding the detached accessory apartments in A-1 District.

Ms. VanDyke stated that staff had not discussed the A-1 District in isolation and the proposed ordinance would allow attached apartments by-right uses within the residential districts with the exception of R-5, Multi-family Residential. She stated that the ordinance would allow detached apartments as a legislative review process with the exception of PUD, Planned Unit Development, MU, Mixed Use, and R-5.

Mr. Wright inquired if the MU, Mixed Use District would not allow detached accessory apartments.

Ms. VanDyke stated that is correct and there were more in depth discussions on MU and R-5 due to the nature of those neighborhoods.

Mr. O'Connor asked if in some districts, the entire accessory structure could be converted into an accessory apartment.

Mr. Holt stated that the purpose for limiting the size of an apartment within an accessory structure is due to the potential of creating a non-conforming lot.

Mr. O'Connor inquired if the ordinance allows the garage to be doubled in size to accommodate an accessory apartment.

Mr. Purse stated that the size of the structure could be doubled in size dependent on total size.

Mr. O'Connor inquired if the floor plan for the detached accessory structure could be doubled in size since there is a 3 acre minimum lot size in the A-1 zoning district.

Ms. VanDyke stated that the proposed special regulations language would allow cases to be reviewed based on the size and scale of the primary residence.

Mr. O'Connor stated that the size, scale, and architecturally compatible should be a condition in the ordinance instead of the SUP.

Mr. Holt stated that in agricultural zoned districts accessory structures such as barns, sheds, garages, etc. can be quite large and the SUP would assist with regulating the size of accessory apartments within that district.

Mr. Wright inquired if the detached garages within New Town that could be used as accessory apartments would be precluded from the draft ordinance.

Mr. Purse stated that the definition of dwelling units excludes full baths and kitchens.

Mr. Holt stated that the college students could reside in those units but they would have to utilize the full bath and full kitchen within the principal structure.

Mr. Holt stated that these units could be utilized as an art studio, a work shop, and a bedroom. He stated a 220 service to accommodate a full size stove or oven is not permitted, however, a microwave or hotplate is permitted.

Mr. O'Connor inquired if parking calculations in mixed use districts included garages.

Mr. Wright stated that New Town area provides approximately one parking space per residential unit.

Ms. Bledsoe stated that parking has become an issue within residential areas.

Mr. Purse stated that residential neighborhoods usually have longer driveways and garages which accommodates for more parking, however, multi-family areas are typically not equipped with those options.

In a unanimous voice vote the draft Ordinance was forwarded to Planning Commission for consideration (4-0).

5.) Adjournment

The meeting was adjourned at 3:34 p.m.

Tim O'Connor, Chair of the Policy Committee

AGENDA
JAMES CITY COUNTY PLANNING COMMISSION
May 7, 2014 – 7:00 p.m.

1. ROLL CALL
2. PUBLIC COMMENT
3. CONSENT AGENDA
 - A. Minutes from the April 2, 2014 Regular Meeting
 - B. Development Review Committee
 - i. SUP-0014-2013, Lightfoot Marketplace
4. REPORTS OF THE COMMISSION
 - A. Policy Committee
 - B. Regional Issues Committee/Other Commission Reports
5. PUBLIC HEARINGS
 - A. Case No. Z-0003-2013/MP-0001-2013, Rezoning and Master Plan amendment for Kingsmill
 - B. Case No. SUP-0003-2014, Amerigas Propane Tank Installation
 - C. Case No. ZO-0007-2013, Chicken Keeping in Residential Areas
 - D. Case No. ZO-0008-2013, Accessory Apartments
 - E. Case No. SUP-0002-2014, HRSD Microwave Tower – 300 Ron Springs Dr.
6. PLANNING COMMISSION CONSIDERATIONS
7. PLANNING DIRECTOR'S REPORT
8. COMMISSION DISCUSSIONS AND REQUESTS
9. ADJOURNMENT

MEMORANDUM

DATE: May 7, 2014

TO: The Planning Commission

FROM: W. Scott Whyte, Senior Landscape Planner II

SUBJECT: ZO-0007-2013, Chicken Keeping in Residentially Zoned Areas of the County

At its November 12, 2013 meeting, the Board of Supervisors requested staff revisit a residential chicken keeping ordinance that would define policy and specify development standards within the Zoning Ordinance. Currently, general agriculture is allowed in A-1 General Agricultural and R-6, Low Density residential, and R-8, Rural Residential. Approximately 49% of the county is zoned A-1, R-6, or R-8, meaning that chickens can be kept by-right with no special regulations and no special permits are needed.

At its January 16, 2014 meeting, the Policy Committee conducted a public input session on this matter. The committee reviewed results from a survey of over 600 interested citizens and parties. Ordinances from neighboring localities that have recently adopted chicken keeping ordinances were reviewed and the committee heard from interested citizens on many issues that they felt were important considerations for a chicken keeping ordinance. The issues included HOA and neighborhood covenants and restrictions, whether the County should consider chicken keeping in all residential areas, how many chickens should be allowed, coop construction and placement, and possible nuisances caused by chickens.

The primary issue of whether or not the County should consider allowing chickens in residentially zoned areas was a split issue on the survey with 44% agreeing and 54% opposed; however, it should be noted that over 200 of the 329 responses in opposition to chicken keeping were from one subdivision. Eighty six percent of the people who responded felt that if the county does allow chickens in residential areas certain restrictions should be applied. The types of restrictions that other localities have applied, and were suggested by the respondents, included the number of birds allowed, coops and construction standards, location and setbacks for coops, sanitation, and regulations to mitigate possible nuisance complaints from neighbors.

Citizens felt that the number of birds should be restricted, usually by lot size. For example, York County allows one bird for every 2,500 sq are feet of lot area, not to exceed sixteen birds. In Poquoson the Zoning Administrator determines the number of birds and setbacks that he feels is appropriate to maintain the residential nature and tranquility of the neighborhood. Most localities have requirements for coops and construction standards, usually requiring an enclosure with a roof to keep the birds contained and safe from the elements and predators. The location of the coop is often regulated, usually restricted to the rear yard with setback regulations to keep the coops away from property lines and adjacent structures. Sanitation and rooster restrictions are often applied to mitigate possible nuisance complaints about noise and odor.

With respect to this particular case, the County Attorney's office has issued the following opinion on HOA covenants and restrictions:

There are two sets of restrictions to consider – County ordinances and private restrictions. Private restrictions may be in the form of an HOA regulation or may be a covenant. Covenants may be imposed on parcels inside or outside an HOA, but are most often found in older, non-HOA neighborhoods. The County is not a party to these private restrictions, so by necessity they must be privately enforced, usually by the neighbors or the HOA. Staff will usually recommend against approving a specific legislative action on a specific parcel (i.e., an SUP or rezoning) that directly conflicts with an HOA condition or a neighborhood covenant (e.g., an SUP application for a day care business on a parcel that is encumbered by a covenant that prohibits business use of that parcel). Such a conflict does not prevent the Board of Supervisors from approving the application, however. In those situations, the applicant will have obtained County permission for the proposed use, but must then reconcile the private restriction conflict with their neighbors or HOA.

In this case, if the County adopted a change to the zoning ordinance that permitted chickens in every residential district, citizens in residential districts would only have the County's permission to keep chickens. If there are private restrictions that prohibit the keeping of chickens on property in a residential district, they would be privately enforced. This is not uncommon – for example, the County generally permits certain low-impact home occupations as a matter of right, but there are many HOA and covenant restrictions that prohibit commercial uses on residentially zoned property. Due to the varied nature of private restrictions and their tendency to change; Staff finds that it would be difficult to craft a zoning regulation that did not conflict with many existing neighborhood covenants and restrictions. Staff recommends that the committee review each residential district independently and determine whether this is a use that would be generally acceptable in that district. Individual HOAs and neighborhoods must then determine whether they wish to further restrict that use.

In cases where a conflict exists between zoning and private covenants, the more restrictive law prevails. If the more restrictive law is a County ordinance, then it would be enforced by the County. If the more restrictive law is private, it would be privately enforced.

After discussing the issues raised, the Policy Committee instructed staff to prepare a draft ordinance. The draft ordinance restricts the use to domestic purposes, single family residences, and permits only the keeping of hens. The draft ordinance also includes regulations for coops. The committee concluded that chicken keeping should be added as a permitted use in the R-1 zoning district only. The committee reviewed R-2 and other residential districts. The committee felt that the higher density and smaller lot sizes in these districts was not compatible with the keeping of chickens.

After consulting with the county's Engineering and Resource Protection Division, staff has also included language that prohibits chicken keeping within Resource Protection and Conservation Easement areas on the basis that these areas prohibit clearing and run-off of chicken waste would be considered non-point source pollution. Staff also consulted with the Virginia Department of Health on whether or not chicken facilities should be allowed within the same area that a well head is located. The Health Department did advocate the separation of the chicken keeping and well heads as a best management practice; however they did not advocate the enforcement of such a regulation citing that they do not restrict dog pens or horse stables adjacent to well heads. Therefore staff did not include language on this issue.

Currently approximately 49% of the county is zoned A-1, R-6, or R-8, meaning that chickens can be kept by-right with no special regulations and no special permits are needed. With the addition of the R-1, Limited Residential district, the percentage increases to slightly above 54% of the total area of the county.

At the April 14, 2014 Policy Committee meeting, the Committee recommended advancing the draft ordinance to the full Planning Commission by a vote of 4-0. A copy of the draft ordinance is attached for your review.

Staff Recommendation:

Staff recommends that the Planning Commission recommend approval of the attached draft zoning ordinance amendments to the Board of Supervisors.



W. Scott Whyte

W. Scott Whyte

Attachments:

Policy Committee Minutes

1. January 16, 2014
2. February 13, 2014
3. March 13, 2014
4. April 14, 2014
5. Draft Ordinance(s)
6. Survey response summary
7. Survey response spreadsheet
8. Miscellaneous correspondents

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE SEVENTH DAY OF MAY, TWO-THOUSAND AND FOURTEEN, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101-F MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

1. ROLL CALL

Planning Commissioners

Present:

Rich Krapf
Tim O'Connor
Chris Basic
Robin Bledsoe
John Wright, III
Heath Richardson

Staff Present:

Paul Holt, Planning Director
Jose Ribeiro, Planner
Scott Whyte, Planner
Jennifer VanDyke, Planner
Leanne Pollock, Planner
Lola Perkins, Assistant County Attorney

Planning Commissioners

Absent:

George Drummond

Mr. Rich Krapf called the meeting to order at 7:00 p.m.

2. PUBLIC COMMENT

Mr. Krapf opened the public comment.

Mr. John Niland, 503 Rivers Bluffs, addressed the Planning Commission to express his concern regarding Xanterra and the Kingsmill Community Service Association (KCSA).

Mr. Howard Ware, 46 Whittakers Mill Rd., addressed the Planning Commission to express his concern regarding Xanterra and KCSA.

Mr. Lenny Berl, 105 William Richmond, addressed the Planning Commission to express his concern regarding Xanterra and KCSA.

There being no other speakers, Mr. Krapf closed the public comment.

3. CONSENT AGENDA

A. Minutes from April 2, 2014, Planning Commission meeting.

B. Development Review Committee

i. Case No. SUP-0014-2013, Lightfoot Marketplace

Mr. Krapf inquired if the Commissioners had any comments.

Mr. Chris Basic moved to approve the Consent Agenda.

In a unanimous vote, the Commission approved the Consent Agenda 6-0; Mr. George Drummond being absent.

4. REPORTS TO THE COMMISSION

A. Policy Committee

Mr. Tim O'Connor reported that the Policy Committee met on April 14, 2014, with all members attending.

i. Case No. ZO-0007-2013, Chicken Keeping in Residential Districts

Mr. O'Connor stated that the Policy Committee reviewed the draft ordinance to be presented to the Planning Commission for consideration. Issues reviewed and considered in the final draft included language allowing exceptions to the rear yard requirements for unusual shaped lots and prohibition of chicken keeping in resource protection areas and conservation easements. The Policy Committee voted unanimously to move the draft ordinance forward to the Planning Commission for the benefit of a public hearing.

ii. ZO-0008-2013, Accessory Apartments

Mr. O'Connor stated that the Policy Committee also reviewed the draft ordinance for detached and attached apartments. The draft ordinance allows for attached apartments to be permitted uses in all districts, with the exception of R-5 due to its density, and it also allows for detached apartments in the same districts as a specially permitted use in order to have a public hearing to allow neighbors the opportunity to comment. The Policy Committee voted unanimously to move the draft ordinance forward to the Planning Commission for the benefit of a public hearing.

B. Regional Issues Committee

Ms. Robin Bledsoe stated that the Regional Issues Committee met on April 22, 2014. Topics of discussion included an update on Eastern State Hospital's 500 acres of undeveloped property as well as information about upcoming tourism events. In addition, a partnership between the Historic Triangle Collaborative and VDOT will result in VDOT posting signs in common areas of traffic congestion showing alternate routes and the time involved in taking them, much like those seen when driving to Norfolk or Virginia Beach.

5. PUBLIC HEARING CASES

A. Case Nos. Z-0003-2013/MP-0001-2013, Rezoning and Master Plan Amendment for Kingsmill

Mr. Tim O'Conner recused himself from consideration of the case.

Mr. Jose Ribeiro, Planner, addressed the Planning Commission giving a summary of the staff report included in the Agenda Packet.

Ms. Bledsoe disclosed that she and Mr. Vernon Geddy exchanged voicemail messages.

Mr. John Wright, Mr. Basic and Mr. Krapf all disclosed that they also had brief conversations with Mr. Geddy in preparation for the meeting.

Mr. Geddy of Geddy, Harris, Franck and Hickman LLP, addressed the Planning Commission giving a summary of the proposed project.

Mr. Heath Richardson stated that he had a question regarding the Housing Opportunities Policy. Mr. Richardson noted that four units must be provided that fall under the “workforce affordable” housing category and inquired when the building those units will be determined.

Mr. Geddy replied that the timeframe has been built into the proffers. Mr. Geddy noted that two units must be provided after six certificates of occupancy have been issued, and the other two must be provided upon twelve certificates of occupancy being issued.

Mr. Wright asked if those units will be within Kingsmill.

Mr. Geddy confirmed.

Mr. Krapf noted that the public hearing has remained open since the March 5, 2014 meeting and will be closed at the present meeting following all speakers in anticipation of future applications.

Mr. John Niland, 503 Rivers Bluffs, addressed the Planning Commission stating his belief that the residents of Kingsmill should vote on the issue.

Ms. Lenny Berl, 105 William Richmond, addressed the Planning Commission regarding his concern for the Cottage’s setback from the bluff and inconsistencies with James City County’s single-family dwelling regulations. He also stated his concern with the lock-out design of the units, and the requirement for affordable housing to be added to an existing community.

Mr. Michael McGurk, 117 Jefferson’s Hundred and representing Preserve the Carter’s Grove Country Road, addressed the Planning Commission providing a PowerPoint presentation regarding the groups concerns with Xanterra.

Mr. Howard Ware, 46 Whittakers Mill Road, addressed the Planning Commission stating that he believes Xanterra’s proposal should be a part of the resort, not the residential Kingsmill community.

Mr. Scott Barner, 17 Braywood, addressed the Planning Commission stating that he does not believe the proposed units should become a part of the Kingsmill community without a two-thirds vote from the residents, as required by the declarations.

There being no others wishing to speak, Mr. Krapf closed the public hearing.

Mr. Krapf stated that he would like clarification regarding the contractual issues between the owners of Kingsmill and its residents. Mr. Krapf noted that it is his understanding that it is a private matter, and the applicant has the right to continue with the application.

Ms. Lola Perkins confirmed that it is a private legal matter. Ms. Perkins stated that the County is merely evaluating the proposed use for the property.

Mr. Krapf stated that he heard several comments regard the density of Kingsmill, and noted that Kingsmill does not have a density cap. Mr. Krapf asked Mr. Paul Holt to address the concerns brought forward regarding the four units that already exist.

Mr. Holt stated that there are no minimum lot sizes or setback requirements set forth in the County Zoning Ordinance for the R-4 District.

Mr. Wright asked if the intention is for the units to be transferred from the resort to the residential community and will then be governed by the declarations and covenants.

Mr. Geddy stated that a condominium association will be initially created to control the units, which may or may not ever be brought under KCSA control.

Mr. Wright noted that a speaker had stated that renting is not permitted in the residential area.

Mr. Geddy replied that the declaration states that people can only rent with a minimum lease of one year, and noted that this property is not subject to those declarations.

Mr. Richardson stated that he believes it is important for the Housing Opportunities and School Proffer policies to be enacted across the county. Mr. Richardson noted that he would personally prefer to see the entire Kingsmill proposal brought forward at one time, instead of piece by piece. Mr. Richardson also stated that although he understands the separation between the County's considerations and private legal issues, he believes it is important for homeowners to be consulted regarding what is going on in their neighborhood.

Mr. Basic stated that although he dislikes that the County cannot consider this private legal matter, he must respect those boundaries. Mr. Basic noted that although the applicant has provided for the cash proffer policy, he believes he has not yet reached full participation and requested that Board to consider that issue. Mr. Basic made a motion to recommend approval of the application.

Mr. Krapf stated that is the role of the Planning Commission to make decisions based solely on the Comprehensive Plan. Mr. Krapf noted that this application is a straightforward rezoning from an R-4 designation to an R-4 with Proffers designation.

On a roll call vote, the Planning Commission voted to recommend approval of the application with the conditions listed in the staff report by a vote of 5-0-1; Mr. O'Conner abstaining and Mr. George Drummond being absent.

B. Case No. SUP-0003-2014, Amerigas Propane Tank Installation

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

Ms. Bledsoe asked if proposals for further expansion would still be required to be reviewed by the County.

Mr. Vinciguerra stated that future expansions would only require site plan review.

Mr. Holt stated that any expansion outside of the currently fenced area would be required to come back to the Planning Commission.

Ms. Bledsoe asked how many storage tanks they will be allowed to have.

Mr. Vinciguerra replied that there is no limit on the number, but they must all fit within the currently fenced area, 50 feet away from the property line and 5 feet away from each other.

Mr. Wright asked how the County has ensured that this will not be a safety hazard.

Mr. Vinciguerra stated that each new tank will require a building permit and inspection.

Mr. Krapf opened the public hearing.

There being none, Mr. Krapf closed the public hearing.

Mr. Richardson made a motion to recommend approval of the application.

On a roll call vote, the Planning Commission voted to recommend approval of the application with the conditions listed in the staff report by a vote of 6-0; Mr. Drummond being absent.

C. Case No. ZO-0007-2013, Chicken Keeping in Residential Areas

Mr. Scott Whyte, Planner, addressed the Planning Commission giving a summary of the staff report included in the Agenda Packet.

Mr. Krapf opened the public hearing.

Ms. Carol Bartram, 102 Pageland Drive, Yorktown and representing Peninsula Chicken Keepers, addressed the Planning Commission in support of keeping chickens.

Ms. Barbara Scherer, 114 King William Drive, addressed the Planning Commission in support of keeping chickens, citing them as pets.

Mr. Eric Danuser, 4091 S. Riverside Drive, addressed the Planning Commission in support of keeping chickens.

Ms. Joyce Felix, 115 King William Drive, requested that chickens also be permitted in the R-2 District.

Ms. Kelly Lockeman, 121 Kingspoint Drive, addressed the Planning Commission in support of keeping chickens in all single-family residential areas.

Ms. Susan Hoffman, 107 Edgewood Lane, addressed the Planning Commission in support of keeping chickens as pets.

Mr. Leland Chandler, 3305 Durham Court, addressed the Planning Commission in support of keeping chickens.

There being no one else wishing to speak, Mr. Krapf closed the public hearing.

Ms. Bledsoe thanked Ms. Bartram for her communications with the Commission members. Ms. Bledsoe stated that she is concerned that if the ordinance is expanded to allow chicken keeping, people will not abide by the regulations and homeowners' associations (HOA's) will have to litigate. Ms. Bledsoe noted that she has received several phone calls stating that these neighborhoods will not be able to afford such litigations. Ms. Bledsoe stated that she does not believe chickens are compatible with neighborhood experiences, and she can no longer support the ordinance amendment.

Mr. Richardson stated that he grew up with chickens and supports the sustainability argument. Mr. Richardson also stated that the regulations could be very difficult to enforce and agreed with Ms. Bledsoe that it could cause issues within HOA's. Mr. Richardson stated that he cannot support the ordinance amendment.

Mr. Wright stated that he also grew up on a large farm. Mr. Wright stated that the proposed ordinance provides a good balance of permission and restriction.

Mr. Basic reviewed the Policy Committee's discussions regarding chicken keeping in each district. Mr. Basic stated that the Commission can not simply tally votes for or against chickens and that he did not see chickens as a nuisance upon the site visits that he made. Mr. Basic also noted that Ms. Bledsoe and Mr. Richardson raised valid considerations.

Mr. O'Connor stated that although most of the survey responses against chickens came from one neighborhood, those responses should not be discounted because those citizens could move to other parts of the County in the future. Mr. O'Connor stated that he is also concerned with the impact the ordinance could have on HOA's, as well as the impact on residents who purchased

homes in a particular area with the understanding that chickens would not be allowed, and he cannot support the ordinance amendment.

Mr. Krapf stated that he believes R-1 is a good location to begin allowing chickens because it is low density, and the restrictions should protect any neighbors from impacts. Mr. Krapf stated that he is supportive of the ordinance amendment moving forward.

Mr. Basic noted that covenants are being discussed in this case because the ordinance change will affect everyone across the county, as opposed to a single private issue.

Ms. Bledsoe stated that the phone calls she received were from residents in the R-1 District.

Ms. Perkins noted that HOA's can be discussed in this case because the Commission is factoring in the citizens' positions on actions the HOA's could have to take due to the County's decision, as opposed to stating an opinion on the validity of a covenant or declaration.

Mr. Basic stated that he believes the Commissioners are not concerned with the "good" chicken keepers, but instead are concerned with how difficult it could be to govern the "bad" chicken keepers.

Mr. Richardson stated that it is also impossible to tell which chicks will grow to be roosters or hens until they are several months old.

Mr. Basic stated that he has still not determined his stance, and noted that a rooster would be much easier to identify by the County than other violations, such as odor.

Ms. Bledsoe stated that she believes the proposed ordinance does contain a number of safe guards, but those only apply to those who would adhere to them.

Mr. Krapf moved to approve the ordinance.

On a roll call vote, the motion to approve the ordinance failed by a vote of 2-4; Mr. Richardson, Mr. Basic, Mr. O'Connor and Ms. Bledsoe voting Nay, and Mr. George Drummond being absent.

D. Case No. ZO-0008-2013, Accessory Apartments

Ms. Jennifer VanDyke, Planner, addressed the Planning Commission giving a summary of the staff report included in the Agenda Packet.

Mr. Wright asked if buildings within 10 feet of the main structure will be considered attached.

Ms. VanDyke responded that any building within 10 feet of the house are considered to be part of the primary structure and must follow the more stringent setback requirement, as opposed to accessory structures, which only have a five foot setback requirement.

Mr. Wright asked if a home with a deck and additional structure within ten feet would be considered attached or detached.

Ms. VanDyke responded that because there is no separation of 10 feet or greater, it would be held to the primary structure's requirements, and confirmed that there must be a gap of 10 feet for determination of an accessory structure.

Mr. Krapf opened the public hearing.

There being none, Mr. Krapf closed the public hearing.

Ms. Bledsoe moved to approve the ordinance.

On a roll call vote, the Planning Commission voted to recommend approval of the ordinance by a vote of 6-0; Mr. Drummond being absent.

E. Case No. SUP-0008-2013, HRSD Microwave Tower – 300 Ron Springs Dr.

Ms. Leanne Pollock, Planner, addressed the Planning Commission giving a summary of the staff report included in the Agenda Packet.

Mr. Basic asked the diameter of the two microwave dishes.

Ms. Pollock responded that they are six feet.

Mr. Wright asked if she has received any comment from Kingsmill or Xanterra.

Ms. Pollock stated that applicant hosted a public meeting and no one attended.

Mr. Richardson stated that he a conversation with Mr. Romine regarding possible colocations on the tower. Mr. Richardson asked if revenue generated from a colocation could offset costs to the County for sewage treatment.

Ms. Pollock stated that she will defer to the applicant.

Mr. Krapf and Mr. Richardson disclosed that they had telephone conversations with Mr. Romine.

Mr. Krapf opened the public hearing.

Mr. Stephen Romine, of LeClairRyan, addressed the Planning Commission giving a summary of the proposed project. Mr. Romine stated that any revenue from a colocation would decrease the operating costs for HRSD and thus provide a benefit to all rate payers.

Ms. Bledsoe asked if the colicators will be cell providers.

Mr. Romine confirmed.

Mr. O'Connor asked if there would be any impact to Carter's Gove.

Mr. Romine deferred to Mr. Tim Dennis of Milestone Communications.

Mr. Dennis stated that balloon tests, during leaf-less conditions, have determined that there were no impacts to Carter's Gove.

Mr. Wright asked if the top of the tower could be camouflaged.

Mr. Dennis stated that it could be painted or concealed with a wrap to cut down on reflections.

Mr. Wright noted that there is a tower near New Town that is visible on clear days.

Mr. O'Connor asked at what heights colocations could occur and whether they would be internally or externally mounted.

Mr. Dennis stated that the proposed structure is a monopole, and can carry up to four additional colocations that would be placed inside. Mr. Dennis also noted that there is room for a second monopole.

Mr. O'Connor asked the height at which a colocation could occur.

Mr. Dennis stated that it could occur anywhere from one foot high to the very top.

Mr. O'Connor noted that there are not any companies that would want to located below 100 feet.

Mr. Dennis confirmed and stated that the ideal range falls from the top down to as low as 82 feet, depending on the tree cover

There being no one else wishing to speak, Mr. Krapf closed the public hearing.

Mr. Basic asked the diameter of the balloon used in the tests.

Ms. Pollock responded that it is a four to five feet diameter balloon.

Mr. Basic made a motion to approve.

On a roll call vote, the Planning Commission voted to recommend approval of the application with the conditions listed in the staff report by a vote of 6-0; Mr. Drummond being absent.

6. PLANNING COMMISSION CONSIDERATIONS

Mr. Krapf stated that Mr. Basic would be covering the Board of Supervisors meeting for the month of May.

Mr. Krapf stated that the Rural Economic Development Committee is sponsoring a presentation on May 12, 2014 from 4 – 6 pm.

Ms. Bledsoe stated that the County is currently updating the Comprehensive Plan, and recommended that everyone encourage their friends and neighbors to participate in the process.

Mr. O'Connor stated that he is concerned that the Commission has been applying the Wireless Communications Facility (WCF) standards to proposals that are not for WCF's. Mr. O'Connor suggested that the Commission examine this in the future.

Ms. Bledsoe agreed and asked how this can be accomplished.

Mr. Holt stated that the Policy Committee could consider this following the Comprehensive Plan update.

Mr. O'Connor stated that tower outside of New Town provides a good example of the WCF policies, as most recently amended. Mr. O'Connor noted that it is not very noticeable from Route 199.

Ms. Bledsoe noted that it depends on the location from which it is viewed.

7. PLANNING DIRECTOR'S REPORT

Mr. Holt stated that he did not have anything to add to the material in the Agenda Packet.

8. COMMISSION DISCUSSION AND REQUESTS

Mr. Basic stated that he did not have any issues with the text of the Accessory Apartments ordinance, but did want to consider whether the Special Use Permit application should be revised.

Mr. Holt stated that there are some parts of the application that would not apply. Mr. Holt stated that he would not want confusion to prevent someone from applying, and noted that staff is always willing to meet with and assist anyone interested in applying.

Mr. Basic agreed that staff is always very helpful, but is mostly concerned with the proactive citizens downloading the application online.

Mr. Holt confirmed that those comments have been noted.

9. ADJOURNMENT

Mr. Wright moved to adjourn the meeting.

The meeting was adjourned at approximately 9:30 p.m.

Richard Krapf, Chairman

Paul D. Holt, III, Secretary