

A G E N D A

JAMES CITY COUNTY BOARD OF SUPERVISORS

County Government Center Board Room

October 26, 2010

7:00 P.M.

A. CALL TO ORDER

B. ROLL CALL

C. MOMENT OF SILENCE

D. PLEDGE OF ALLEGIANCE – Anderson Lee, a fourth-grade student at Rawls Byrd Elementary School

E. PRESENTATIONS

1. Williamsburg Regional Library Recognition
2. Review of FY 2010 Strategic Management Plan Actions and Measures

F. PUBLIC COMMENT

G. BOARD REQUESTS AND DIRECTIVES

H. CONSENT CALENDAR

1. Minutes –
 - a. September 28, 2010, Regular Meeting
 - b. October 12, 2010, Regular Meeting
2. Rescind Declaration of a Local Emergency
Supports County's Strategic Pathway 2.a - address the needs of the underserved and protect the vulnerable
3. Grant Award – Bulletproof Vest Partnership (BVP) – \$29,960
Supports County's Strategic Pathway 1.d - develop and promote revenue alternatives to property taxes
4. Budget Adjustment – Asphalt Overlay Projects
Supports County's Strategic Pathway 3.d - invest in the capital project needs of the community
5. Virginia Peninsulas Public Service Authority (VPPSA) Special Project Agreement for Landfill Monitoring – \$52,000
Supports County's Strategic Pathway 4.d - seek partnerships, citizen committees, trusts and donations to protect the environment

I. PUBLIC HEARING

1. Pre-Cable Franchise Public Hearing

-CONTINUED-

J. PUBLIC COMMENT

K. REPORTS OF THE COUNTY ADMINISTRATOR

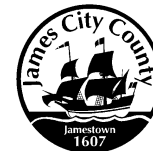
L. BOARD REQUESTS AND DIRECTIVES

M. CLOSED SESSION

1. Consideration of a personnel matter, the appointment of individuals to County boards and/or commissions pursuant to Section 2.2-3711(A)(1) of the Code of Virginia
 - a. Board of Equalization

N. ADJOURNMENT to 7:00 p.m. on November 9, 2010

102610bos_age



MEMORANDUM COVER

Subject: Review of FY 2010 Strategic Management Plan Actions and Measures

Strategic Management Plan Pathway: N/A

Action Requested: None

Summary: Review of selected FY 2010 Strategic Management Plan Actions and County performance measures.

No action is required.

Fiscal Impact: N/A - already occurred

FMS Approval, if Applicable: Yes ☐ No ☐

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:

1. Memorandum
2. Presentation

Agenda Item No.: E-2

Date: October 26, 2010

MEMORANDUM

DATE: October 26, 2010

TO: The Board of Supervisors

FROM: Rona Vrooman, Training and Quality Performance Coordinator

SUBJECT: Review of FY 2010 Strategic Management Plan Actions and Measures

The attached presentation provides a review of selected County FY 2010 Strategic Management Plan Actions and Measures.

No Board action is needed.

Rona Vrooman

Rona Vrooman

RV/nb
StratMgmtPl_mem

Attachment

FY 2010 Looking Back, Looking Forward



Presented by Rona Vrooman
Training & Quality Performance Coordinator
October 26, 2010

Looking Back

- Like our businesses and citizens, County was impacted by stressful economic conditions



Looking Back

- Reduced funding
 - \$2.5m decrease in budget from FY09
- Reduced staffing
 - net elimination of 34 positions

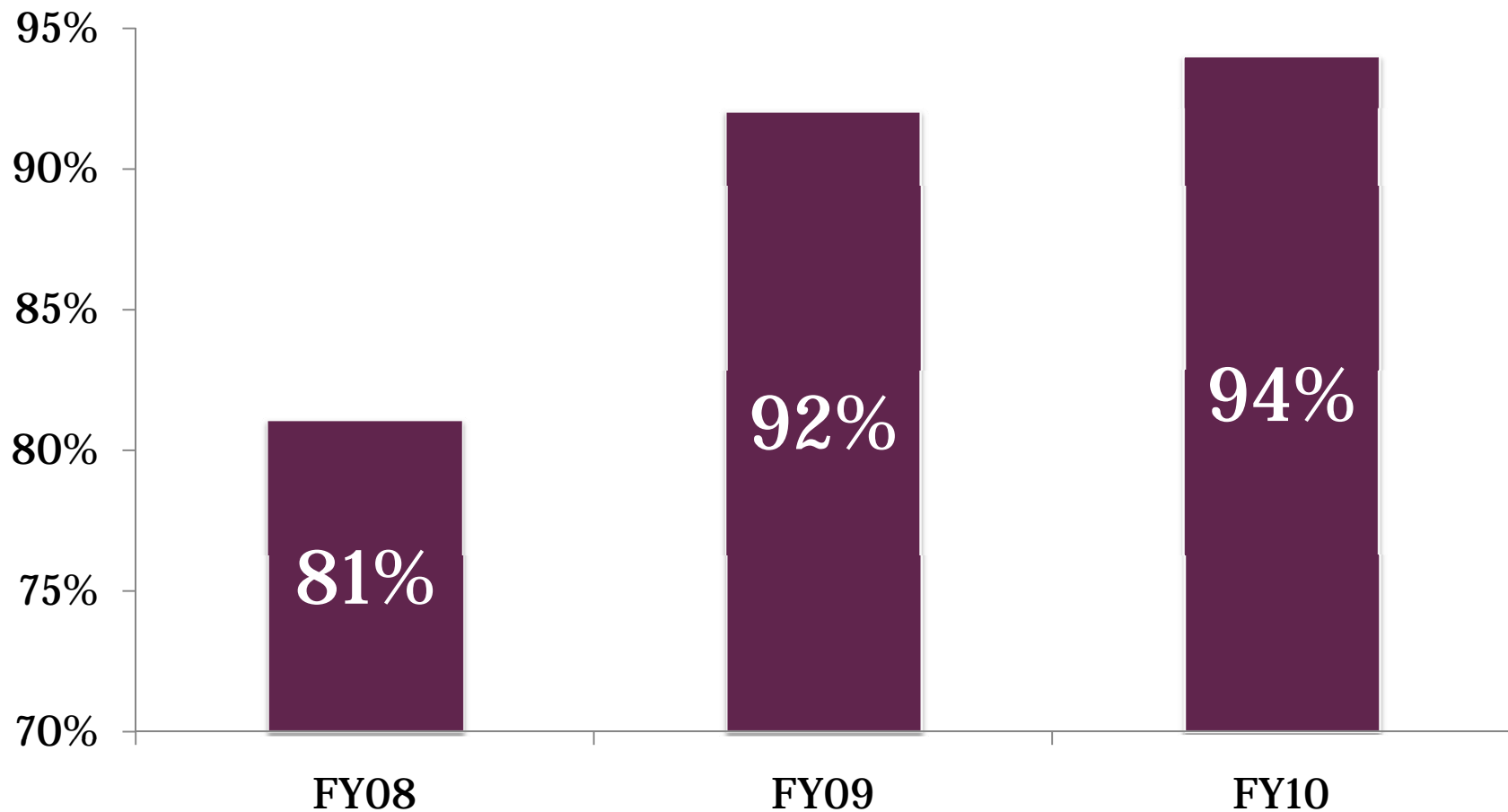


Continued Progress

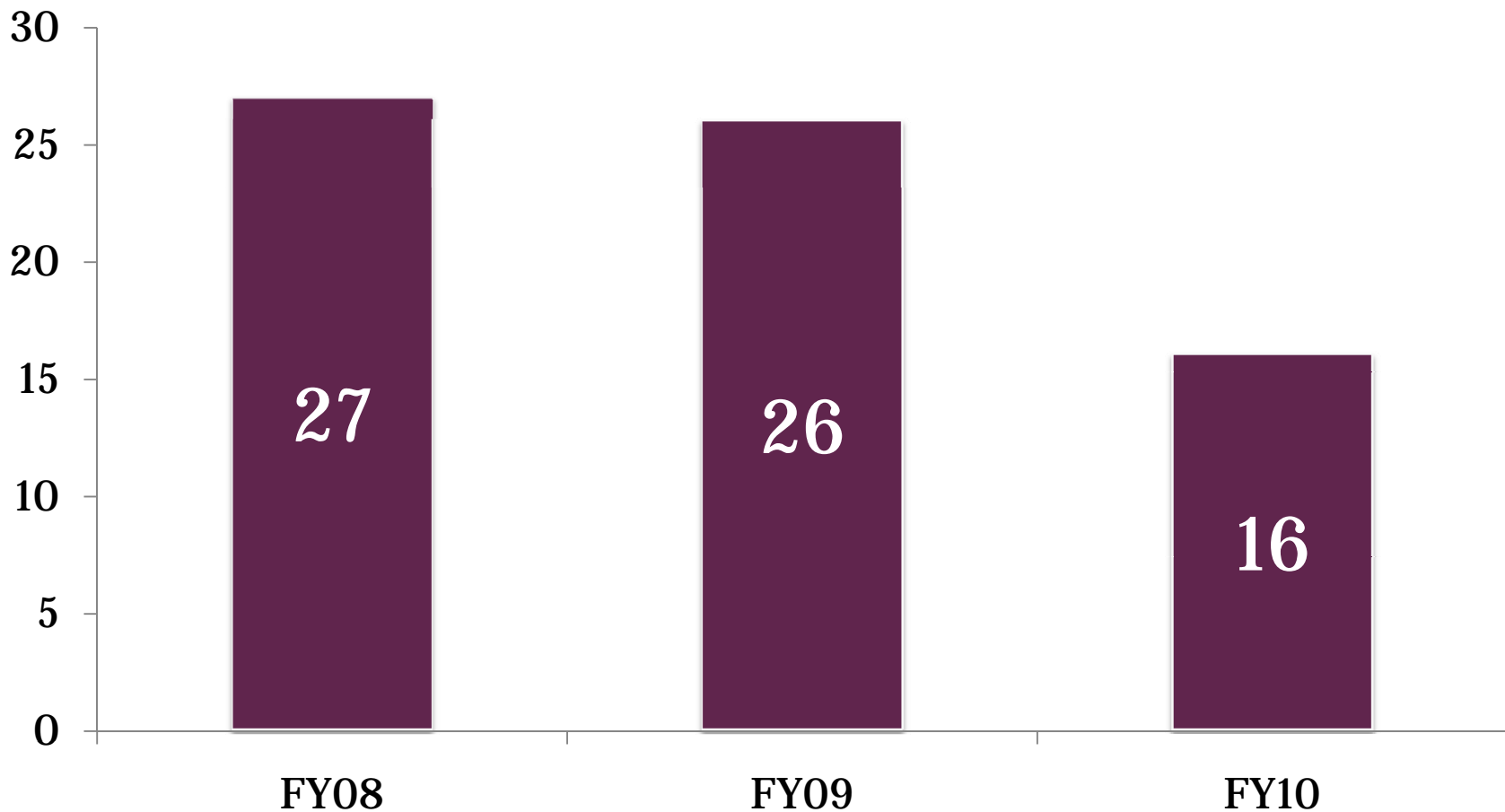
Yardsticks to Measure Progress

- Strategic Management Plan Accomplishments
- County Performance Measures

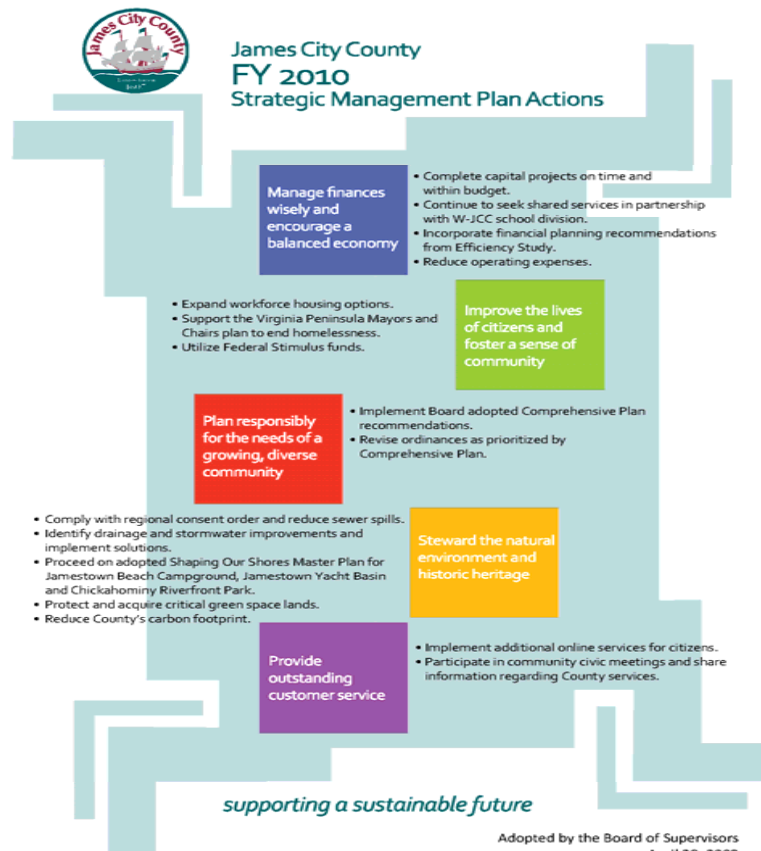
Trend: Increase in % Strategic Management Plan Actions Completed/Progress



Trend: Decrease in # of Proposed Strategic Management Plan Actions



Examples of Strategic Management Plan Actions Completed/Progress



- Utilize Federal Stimulus funds
- Reduce County's carbon footprint

Utilize Federal Stimulus Funds

- Awarded more than \$1.4m



Reduce County's Carbon Footprint

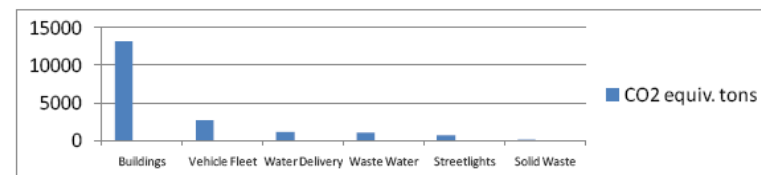
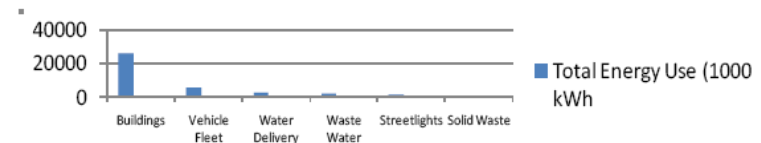


James City County Greenhouse Gas Emissions Inventory Baseline Summary Report

November 24, 2009
General Services Department

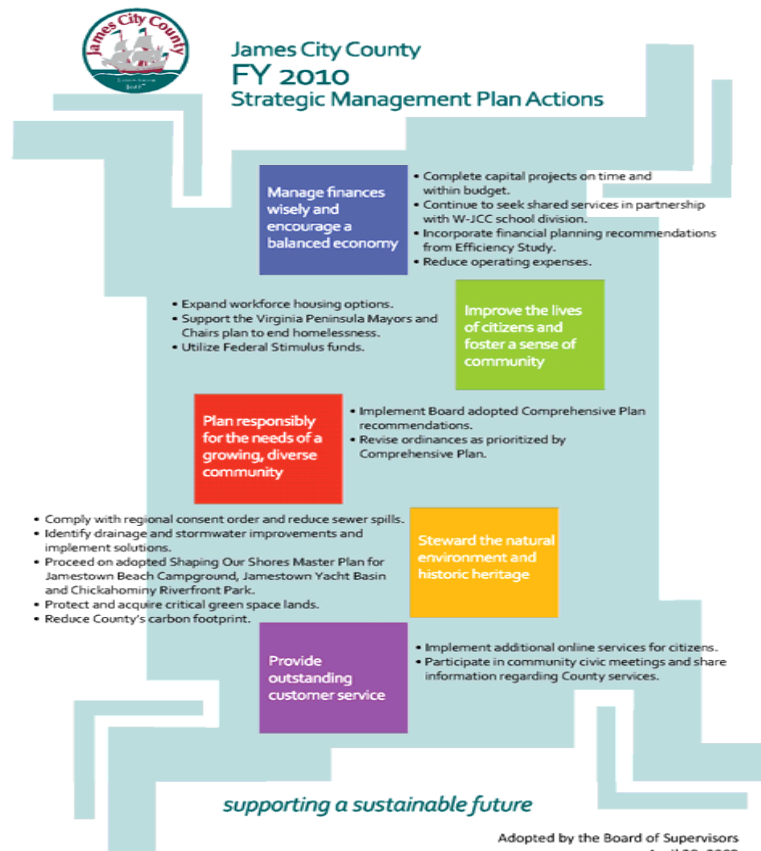


James City County Government Baseline Results



Strategic Management Plan Actions Delayed/Changes

- Revise ordinances



More online at
www.jccegov.com/progress-2010

FY2010 James City County Progress Report



Welcome

[Economy](#)

[Community](#)

[Planning](#)

[Heritage](#)

[Service](#)

[2010 Progress
Report Printer
Friendly Version](#)

Welcome

James City County Fiscal Year 2010, a Year Where the Glass was Truly More than Half Full

James City County has just closed a successful 2010 fiscal year in spite of the economic downturn. We were able to deliver quality services to our citizens while continuing to reduce operating expenditures and County staff. Thanks to the staff and the leadership of the County Administrator and the Board of Supervisors, we were able to do a lot with less.

Let me highlight for you some of the accomplishments of this past year:

We continued to manage our finances wisely resulting in the County's first AAA bond rating from Fitch Ratings. High bond ratings are determined through a recalibration of public finance credit ratings that can result in lower borrowing costs on future loans. In addition, we received a significant number of grants totaling over \$5 million for improvements in public safety, environmental protection and homeownership.

We worked to improve the lives of citizens by addressing the Chinese drywall issue that affected many of our citizens through no fault of their own. The County provided both information and action through the reassessment process and the citizen Board of Equalization.



Examples of County Performance Measures

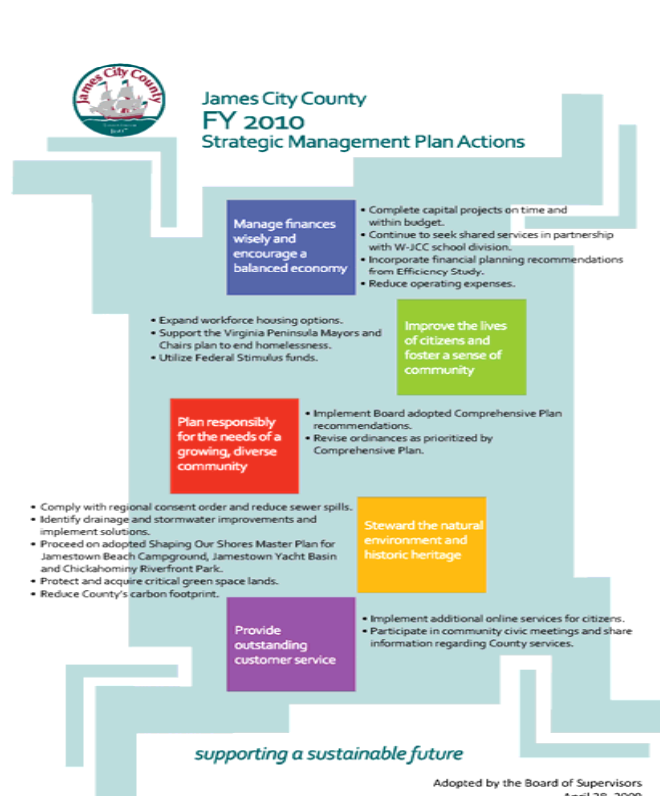


- Structure fires
- Clearance rate
- Foster care placements
- Zoning violations resolved
- Public meetings viewed

Measures		FY08	FY09	F10	△
Communi- cations	# of times public meetings viewed online	-	12,213	40,302	↑
Fire	# of structure fires	118	88	84	↓
Police	% crimes against people cleared	79%	71%	75%	→
Planning	% violations resolved within 6 mo.	94% Zoning only	75% Added proffer & SUP conditions	84%	↑
Social Services	# placed to permanent home prior to age 18	100%	100%	100%	→

Looking Forward

47% Continued - 53% New



Manage finances wisely and encourage a balanced economy	Improve the lives of citizens and foster a sense of community	Plan responsibly for the needs of a growing, diverse community	Steward the natural environment and historic heritage	Provide outstanding customer service
Complete capital projects on time and within budget	Assist elderly and disabled persons to maintain safe and sanitary housing	Improve affordable housing energy performance	Comply with Department of Environmental Quality regional consent order	Foster principles of civic engagement through productive collaboration between citizens and government
Continue to seek shared services with W-JCC school division	Expand workforce housing options	Revise the County's Hazard Mitigation Plan	Develop Freedom Park in accordance with approved master plan	Improve performance of regional 800 MHz radio system
Reduce operating expenses	Support the Virginia Peninsula Mayors and Chairs plan to end homelessness	Update zoning ordinances as prioritized by Board	Partner with others to educate and engage Historic Triangle residents and visitors about the story of the American Civil War	Promote two-way communication with citizens through electronic mediums
Retain companies that graduate from the technology business incubator		Use sustainable practices that consider the long-term social, economic and environmental health of the community	Protect and acquire critical land for green space	
			Reduce County's carbon footprint	

**Adopted Strategic Management Plan Actions
FY 2011**

Looking Forward

FY 11 New Actions

1. Retain companies that graduate from the technology business incubator
2. Assist elderly and disabled persons to maintain safe and sanitary housing
3. Improve affordable housing energy performance
4. Revise the County's Hazard Mitigation Plan
5. Use sustainable practices that consider the long-term social, economic and environmental health of the community
6. Develop Freedom Park in accordance with approved master plan
7. Partner with others to educate and engage Historic Triangle residents and visitors about the story of the American Civil War
8. Foster principles of civic engagement through productive collaboration between citizens and government
9. Improve performance of regional 800 MHz radio system
10. Promote two-way communication with citizens through electronic mediums

Questions?

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 28TH DAY OF SEPTEMBER 2010, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. CALL TO ORDER

B. ROLL CALL

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

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

C. MOMENT OF SILENCE

D. PLEDGE OF ALLEGIANCE – Ysabel Dieguez, a first-grade student at Rawls Byrd Elementary School, led the Board and citizens in the Pledge of Allegiance.

E. PUBLIC COMMENT

1. Dr. John Whitley, 110 Governor Berkeley, commented on decorum and disrespectful comments by members of the Board of Supervisors.

2. Mr. Jack Haldeman, 1597 Founders Hill North, on behalf of the James City County Citizens Coalition (J4C), commented on the group's support for increased fees for independent water systems.

3. Mr. Ed Oyer, 139 Indian Circle, commented on the loss of Lt. Todd Weaver; decreased enrollment in schools; and demographic and income comparisons between James City County and York County.

4. Mr. Robert Richardson, 2786 Lake Powell Road, commented on the Constitutional Conservations kickoff event and encouraged attendance at the remaining events. He commented on disrespectful comments that he felt were aimed at him and defaults in the financial obligations of members of the Board.

F. BOARD REQUESTS AND DIRECTIVES

Ms. Jones commented that on Thursday, September 30, 2010, at 6:30 p.m. a meeting will be held at the James City/Williamsburg Community Center Room A for the public to take an opportunity to meet the new County Administrator.

Mr. Middaugh stated that the meetings would be held each Thursday beginning on September 30, 2010, in the Berkeley District.

Mr. Icenhour stated the meeting on October 7, 2010, in the Powhatan District would be held in the Human Services Building Auditorium.

Mr. McGlennon stated the meeting on October 14, 2010, in the Jamestown District would be held at Rawls Byrd Elementary School.

Mr. Goodson stated the meeting on October 21, 2010, in the Roberts District would be held at James River Elementary School Auditorium.

Mr. Kennedy stated the meeting on October 28, 2010, in the Stonehouse District would be held at the James City County Library in Norge.

G. CONSENT CALENDAR

Ms. Jones asked to pull Item No. 3 for more information for the benefit of the citizens.

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

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

1. Minutes – September 14, 2010
2. Grant Award – Virginia Department of Health – \$21,762

RESOLUTION

GRANT AWARD - VIRGINIA DEPARTMENT OF HEALTH - \$21,762

WHEREAS, James City County was awarded a grant from the Virginia Department of Health under the Clean Vessel Act in the amount of \$21,762 (\$16,322 grant, \$5,440 local match); and

WHEREAS, the grant requires a match of \$5,440 which is available in the Grants Match Account; and

WHEREAS, the funds are to be used to purchase and install a sewage system at the County's Jamestown Yacht Basin facility.

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 General Fund Grants Match:

Revenues:

VDH-Clean Vessel Act	\$16,322
General Fund Grants Match	<u>5,440</u>
Total	<u>\$21,762</u>

Expenditure:

VDH-Clean Vessel Act	<u>\$21,762</u>
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4. Declaration of a Local Emergency

RESOLUTION

DECLARATION OF A LOCAL EMERGENCY

WHEREAS, the Board of Supervisors of James City County, Virginia, does hereby find that due to the recent lack of rain coupled with low humidity, the County faces dangerous conditions of sufficient severity and magnitude to warrant coordinated local government action to prevent or alleviate the damage, loss, hardship, or suffering threatened or caused thereby, including an immediate prohibition on open burning; and

WHEREAS, a condition of extreme peril of life and property necessitated the declaration of the existence of an emergency; and

WHEREAS, due to exigent circumstances, the Board of Supervisors was unable to convene to consent to the declaration of a local emergency.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that, pursuant to Section 44-146.21 of the Code of Virginia, 1950, as amended, the Declaration of a Local Emergency dated September 17, 2010, by Robert C. Middaugh, Jr., Director of Emergency Management for James City County, be, and the same hereby, is confirmed.

BE IT FURTHER RESOLVED that the Director of Emergency Management and the Emergency Operations Division of the James City County Fire Department shall exercise those powers, functions, and duties as prescribed by State law and the ordinances, resolutions, and approved plans of James City County in order to mitigate the effects of said emergency.

3. Contract Award – Construction of Ironbound Square Revitalization Road Improvements, Phase II – \$589,535

Mr. Rick Hanson, Office of Housing and Community Development Director, gave information about when the project will occur and the extent of the work. He stated that the contract included reconstruction of the remaining portion of Watford Lane and construction of three new cul-de-sacs, paved shared drives, stormwater management structures, water and sewer line extensions and other improvements. He stated the pre-construction meeting is scheduled for October 11, 2010, and citizens will be invited to a subsequent

meeting that week. He stated that directly-impacted citizens would be notified by mail and the information would be on the County website. He stated the construction would begin October 21, 2010, and conclude in August, 2011.

Mr. McGlennon made a motion to adopt the resolution.

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

RESOLUTION

CONTRACT AWARD – CONSTRUCTION OF IRONBOUND SQUARE REVITALIZATION

ROAD IMPROVEMENTS – PHASE II - \$589,535

WHEREAS, bids were publicly advertised for the construction of Ironbound Square Revitalization Road Improvements - Phase II; and

WHEREAS, eight bids were considered for award and David A. Nice Builders, Inc. was the lowest responsive and responsible bidder; and

WHEREAS, sufficient funds are available to award the bid amount of \$589,535 from the Ironbound Square Roads Project in the Capital Improvement Program.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute a contract up to the amount of \$589,535 with David A. Nice Builders, Inc. for the Construction of Ironbound Square Revitalization Road Improvements - Phase II.

H. PUBLIC HEARINGS

1. Agricultural and Forestal District (AFD) 2010 Renewals

- a. Case No. AFD-1-89. Armistead 2010 Renewal
- b. Case No. AFD-5-86. Barnes Swamp 2010 Renewal
- c. Case No. AFD-1-02. Carter's Grove 2010 Renewal
- d. Case No. AFD-10-86. Christenson's Corner 2010 Renewal
- e. Case No. AFD-6-86. Cranston's Pond 2010 Renewal
- f. Case No. AFD-2-86. Croaker 2010 Renewal
- g. Case No. AFD-9-86. Gordon Creek 2010 Renewal
- h. Case No. AFD-12-86. Gospel Spreading Church Farm 2010 Renewal
- i. Case No. AFD-3-86. Hill Pleasant Farm 2010 Renewal
- j. Case No. AFD-7-86. Mill Creek 2010 Renewal
- k. Case No. AFD-1-93. Williamsburg Farms 2010 Renewal
- l. Case No. AFD-11-86. Yarmouth Island 2010 Renewal

Ms. Kate Sipes, Senior Planner, stated there were currently 14 AFDs in the County, with 12 in the renewal process. She stated that per State Code, a public hearing was required to renew an AFD for an additional term. Per State Code, a public hearing must be held to consider the renewal of an AFD for an

additional term. There are currently 14 AFDs in the County. Twelve are currently in the renewal process: Armistead, Barnes Swamp, Carter's Grove, Christenson's Corner, Cranston's Pond, Croaker, Gordon Creek, Gospel Spreading Church Farm, Hill Pleasant Farm, Mill Creek, Williamsburg Farms, and Yarmouth Island. All have four-year terms, expiring between September and November 2010. Wright's Island AFD was renewed by the Board of Supervisors in July 2010, with an eight-year term; the remaining district, Pate's Neck, has a six-year term which expires in 2012.

At its meeting on September 1, 2010, the Planning Commission recommended renewal of the AFDs other than AFD-7-86, Mill Creek and AFD-1-02, Carter's Grove by a vote of 7-0. The Planning Commission recommended renewal of AFD-7-86 Mill Creek by a vote of 6-0 with one abstention and AFD-1-02 Carter's Grove by a vote of 5-0 with two abstentions.

Staff recommended renewal of all the districts and adoption of the ordinances.

Mr. Kennedy opened the Public Hearing.

1. Ms. Jacqueline Griffin-Allmond, 1804 Treasure Island Road, stated she was speaking in relation to Gospel Spreading Church AFD. She commented that she would like to add a provision to this AFD to allow for the construction of two dwellings on the parcels and limitations to be placed on wireless communication towers and equipment on this property due to possible negative health effects. She commented that the 1990 renewal of this AFD has stunted the growth of the parcel and requested that the original provisions be included in the current renewal ordinance.

2. Mr. Robert Richardson, 2786 Lake Powell Road, continued Ms. Griffin-Allmond's statements which requested approval of the planned community that would have originally been allowed on the property. Mr. Richardson commented on the historical significance of the property. He stated that the modifications to the ordinance were being requested. He noted that he was a neighbor of Gospel Spreading Church AFD and felt it was an asset to the community.

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

Mr. Kennedy asked Mr. Rogers to address the concerns of Ms. Griffin-Allmond.

Mr. Rogers stated the application for the renewal of the AFD could be done only if the property owner and the County were in agreements with the change. He stated the court has determined that the owner was the James City County Bible and Agricultural Training School, which was the applicant in this case.

Mr. Goodson stated the Board could not make the changes without approval by the property owner.

Mr. Rogers stated the Board could make the changes, but it would need to notify the property owner.

Mr. McGlennon made a motion to adopt the ordinances.

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

2. Case No. SUP-0019-2010. Harmonious Hardscapes

Ms. Sarah Propst, Planner, stated that Mr. David Barglof has applied for a Special Use Permit (SUP) to allow for the development of a retail landscaping store with the storage of landscaping materials as an accessory use at 8162 Richmond Road. The sale of plant and garden supplies and the storage and distribution

of sand, gravel, and stone are specially permitted uses in the A-1, General Agriculture zoning district. The applicant will be using the existing structure as the retail store and business office. A 17-space parking lot, as depicted on the master plan and a privacy fence around the "Inventory and Equipment Storage Area" will be constructed.

On September 1, 2010, the Planning Commission recommended approval of this application by a vote of 7-0.

Ms. Propst explained that Condition Nos. 2 and 6 were changed, at the recommendation of the Planning Commission. Condition No. 2 reads "A privacy fence of at least 6 feet tall made of chain link with vertical slats to accommodate privacy or a comparable material, *such as Enviroscreen*, approved by the Planning Director shall be provided around the "Inventory and Equipment Storage Area." Condition No. 6 reads "A landscape plan *and a tree preservation plan*, subject to the review and approval of the Planning Director or their designee, shall be submitted for the Property (in accordance with the "Article II. Special Regulations Division 4. Landscaping" of the Zoning Ordinance) during the initial phase of development."

Staff found the proposal consistent with surrounding land uses, the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation.

Staff recommends approval of the application.

Mr. McGlennon asked about tree buffer on the property and which trees would remain.

Ms. Propst stated that a mature row of pine trees on the east side of the property per Condition No. 6 and staff would work with the applicant for tree preservation through a landscaping plan.

Mr. Icenhour asked if the trees would front on Richmond Road.

Ms. Propst stated that was correct.

Mr. Icenhour stated his concern with significant tree removal. He asked if there was discussion about tree preservation at the Planning Commission. He asked if these changes would be done at the site plan level.

Ms. Propst stated that the discussion was held at the Planning Commission, but no changes were suggested at that time.

Mr. Icenhour asked if the purpose of the landscaping would be enhancement of the property or for screening.

Ms. Propst stated that the landscaping would be for enhancement of the property for community character.

Mr. Kennedy recognized Mr. Jack Fraley in attendance on behalf of the Planning Commission.

Mr. Kennedy opened the Public Hearing.

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

Ms. Jones made a motion to adopt the resolution.

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

RESOLUTION

CASE NO. SUP-0019-2010. HARMONIOUS HARDSCAPES

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a Special Use Permit (SUP) process; and

WHEREAS, Mr. David Barglof has applied on behalf of Mid Atlantic Enterprises, Inc. for an SUP to allow for the construction of a retail landscaping store with storage of materials for landscaping as an accessory use; and

WHEREAS, the proposed development is shown on a plan prepared by Cornerstone Design Group, dated August 20, 2010 (the "Master Plan") and entitled "Harmonious Hardscapes Special Use Permit Application Exhibit"; and

WHEREAS, the property is located at 8162 Richmond Road and can be further identified as James City County Real Estate Tax Map Parcel No. 1240100012; and

WHEREAS, the Planning Commission, following its public hearing on September 1, 2010, voted 7-0 to recommend approval of this application; and

WHEREAS, the Board of Supervisors of James City County, Virginia, finds this use to be consistent with the 2009 Comprehensive Plan Use Map designation for this site.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-0019-2010 as described herein with the following conditions:

1. Master Plan: This SUP shall be valid for the construction of an approximately 1,440 square foot, one-story-high retail landscaping business, which also includes a two-story future expansion of approximately 1,500 square feet for retail and office space and an approximate 2,000-square-foot shop space. The property is located at 8162 Richmond Road and further identified as James City County Tax Map Parcel No. 1240100012. Development and use of the Property shall be generally in accordance with and bound by the Master Plan entitled "Harmonious Hardscapes 8162 Richmond Road," prepared by Cornerstone Design Group, date stamped August 20, 2010 (the "Master Plan") with such minor changes as the Development Review Committee determines does not change the basic concept or character of the development.
2. Buffering: A privacy fence of at least 6 feet tall made of chain link with vertical slats to accommodate privacy or a comparable material, such as Enviroscreen, approved by the Planning Director shall be provided around the "Inventory and Equipment Storage Area." The trees between the fencing and the residence at 123 Industrial Boulevard shall be preserved and maintained.

3. Hours of Operation: The hours of operation for the business, including the loading or unloading of, or maintenance of, vehicles or equipment, shall be limited from 6 a.m. to 8 p.m., Monday through Friday, 7 a.m. to 8 p.m. on Saturday, and 9 a.m. to 8 p.m. on Sunday.
4. Water Conservation: The Owner shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority prior to final site plan approval for the initial phase. The standards may include, but shall not be limited to such water conservation measures as limitations on the installation and use of irrigations systems and irrigations wells, the use of approved landscaping materials including the use of drought tolerant plants, warm season grasses, and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.
5. Lighting: Any parking lot lighting installed on the Property shall be comprised of recessed fixtures with no bulb, lens, or globe extending below the fixture housing. The housing shall be opaque and shall completely enclose the light source in such a manner that all light is directed downward, and that the light source is not visible from the side of the fixture. Pole-mounted fixtures shall not be mounted in excess of 15 feet in height above the finished grade beneath them. Accent lighting to showcase products is allowed but may not produce any glare or light spillage toward the roads or the residence at 123 Industrial Boulevard. Light spillage, defined as light intensity measured at 0.1 foot-candle or higher extending beyond any property line, shall be prohibited.
6. Landscape Plan: A landscape plan, subject to the review and approval of the Planning Director or his designee, shall be submitted for the Property (in accordance with "Article II. Special Regulations Division 4. Landscaping" of the Zoning Ordinance) during the initial phase of development. The owner shall provide enhanced landscaping such that the required size of shrubs and trees located in the 50-foot buffer along Richmond Road equals, at a minimum, 125 percent of the size requirements, and such that at least 60 percent of the shrubs and trees are evergreens.
7. Equipment Storage: All storage of equipment associated with the development shall be located inside the fenced area defined as "Inventory and Equipment Storage" or "Bulk Storage" on the Master Plan.
8. Freestanding Sign: Freestanding signage shall be limited to one monument style sign. For purposes of this condition, a "monument" style sign shall be defined as a freestanding sign with a completely enclosed base not to exceed 32 square feet in size and not to exceed ten feet in height from grade. The sign shall be illuminated by ground mounted lights only.
9. Severance Clause: This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

3. Reductions in the FY 2011 Capital Budget

Mr. John McDonald, Manager of Financial and Management Services, stated that Williamsburg-James City County Schools (WJCC) has ended the year with an unusually high fund balance of approximately \$4.26 million in unencumbered funds primarily due to the fact that the State suspended the fourth quarter Virginia Retirement System (VRS) payment in FY 2010. Under State law, these funds would be returned to the City

and the County but under the provisions of the City/County School contract, the schools can retain the funds, invest up to \$500,000 in any needed school project, and use the residual to fund approved capital projects. WJCC has set aside the \$500,000 allowed under the contract and is tentatively allocating approximately \$1 million to instructional technology and the James Blair renovation. The remaining funds of \$2.75 million are proposed to be used on capital projects that the City and County have already agreed to fund.

Mr. McDonald stated that the resolution reduces the County's Capital Budget by \$2,513,857 in school spending and reduces the approved financing by \$2.5 million. The \$13,857 difference is proposed to be added to Capital Contingency. He recommended approval of the resolution.

Mr. Goodson asked when the payment that was not made to VRS would need to be made up. He asked for more details on this issue.

Mr. McDonald stated that the General Assembly did commit to reestablish the contribution to VRS and the County would eventually have to catch-up the payments.

Mr. Goodson stated that the State would have to make that decision and the schools were unable to make that decision.

Mr. McDonald stated that was correct.

Mr. Icenhour asked if the County budgeted for the payment.

Mr. McDonald stated that it was budgeted and the County did not receive the funds to assist with the payment, but the contribution is larger than what the State would contribute.

Mr. Icenhour stated concern that when the payment is made or caught up, it would likely be paid from County funds rather than State funds.

Mr. McDonald stated that the contribution was a combination of State and County funds.

Mr. Icenhour stated the County would likely have to contribute more.

Mr. McDonald stated that was correct.

Mr. Kennedy asked if there was potential for the funding to be waived again.

Mr. McDonald stated that it was possible, but he was unsure. He stated that the rates for VRS have been set for FY 2011 and FY 2012.

Mr. Kennedy asked if there was a way to keep this money until the County needed to pay its obligation.

Mr. McDonald stated the agreement with the City had provisions for the leftover funds.

Mr. McGlennon stated that he understood why the Board would question why the County should not hold the money until the funds needed to be paid, but he understood that this money could offset some capital borrowing. He stated there was a possibility that the State could take many approaches to the repayment of the funds.

Mr. McDonald stated that the City-County contract agreed to a provision in this case, and that this was a one-time availability of spendable cash that needed to be spent, and he noted the differences of fiscal policy and political actions. He stated staff was unsure when the payment would need to be made.

Mr. Kennedy recommended cost-saving measures to provide for a future payment.

Mr. Goodson noted that there would be debt-service savings. He stated that he would like to discuss what the resulting savings would be during the budget process.

Mr. Kennedy opened the Public Hearing.

1. Mr. Ed Oyer, 139 Indian Circle, commented that this was a deferred payment.

2. Mr. Jay Everson, 103 Branscome Boulevard, commented on the interest savings in comparison to the rate of return on the VRS funds, which was about seven percent. He commented that the VRS system is underfunded, and the repayment would need to be repaid with interest, which would double in ten years at seven percent. He stated that making a direct payment to VRS or placing the funds in escrow would be recommended so the payment could be made later.

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

Mr. Middaugh noted that the current contract with the City required the funds to be allocated as noted. He stated that the contract would need to be amended in order to make a change.

Mr. Goodson stated that he believed that if an adjustment needed to be made, it should be done through the County budget.

Mr. Kennedy stated the agreement could not be changed at this time.

Mr. Goodson stated that if the funds were sent, it would not change what would be due in the future.

Mr. Kennedy stated that this was a scenario that could not have been anticipated in the contract with the City. He noted his discomfort with trying to realize where the funding would come from in the future. He stated that in this case, the money was not left over at the end of the year since it was technically appropriated for a purpose.

Mr. McGlennon stated that he did not disagree that there were problems with VRS. He stated that the Board could not solve those issues at this time and under the current contract. He stated that in the short-term, there were benefits of spending the funds for capital projects. He stated the State would accept the money, but it would not credit the County for the contribution. He stated that the Board needed to plan to meet this obligation in the future.

Mr. McGlennon made a motion to adopt the resolution.

Mr. Middaugh stated that the action could be deferred in order to future explore the options.

Mr. Kennedy stated the schools were setting aside funds for capital projects per the contract.

Mr. McDonald indicated that spending on the projects identified in the memorandum had not yet commenced but spending on both the school technology component and the James Blair Renovation had begun in June. He stated the \$500,000 residual allowed under the contract is treated as a contingency fund by the Schools, which was spent only if there is an unanticipated need. He said that hiring a new 2nd grade teacher at a school where enrollment exceeded projections is an example of such a contingency.

Mr. Kennedy asked if the budget reduction has resulted in an increase in spending.

Mr. McDonald indicated that the proposal was a change in how needed capital projects were funded, but it was not an increase in spending. He noted that on the County side, the proposal reduced debt service spending.

Mr. McGlennon stated the funding would reduce what was going to be spent in the coming year.

Mr. Kennedy stated that the funds would need to be replaced in the future.

Mr. McGlennon stated the planning budget that was adopted included the \$2.7 million allocation. He stated that those funds could be used to offset the VRS funding.

Mr. Goodson stated that the County would not borrow for those projects and would not have the additional cash.

Mr. McDonald noted that the bonds were typically issued for 20 years.

Mr. Goodson stated that the VRS payment would need to be paid before the 20 year bond was mature.

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

RESOLUTION

REDUCTIONS IN THE FY 2011 CAPITAL BUDGET

WHEREAS, the Board of Supervisors has been advised that FY 2010 ending balances accumulated by the Williamsburg-James City County School Board are sufficient to finance \$2,513,857 in certain specific capital projects that were originally dependent on County borrowings.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the following amendments to appropriations in the FY 2011 capital budget be adopted and that the FY 2011 budget be amended, as follows:

Reduction in FY 2011 School Bond Financing	\$ 2,500,000
Increase in Capital Contingency	<u>13,857</u>
	<u>\$ 2,513,857</u>
Reduction in FY 2011 School Capital Projects	<u>\$ 2,513,857</u>

I. BOARD CONSIDERATIONS

1. Refunding of General Obligation Bonds

Mr. John McDonald, Manager of Financial and Management Services, stated that staff has been working with representatives of Davenport and Company, the County's financial advisors, and Mr. Stephen Johnson of Troutman Sanders, bond counsel, on a possible refunding (refinancing) of \$4,939,800 of the County's outstanding 2002 General Obligation debt. Savings in debt service spending from the refunding is estimated to be \$373,638 through the year 2016.

Mr. McDonald stated that staff was also working on a refunding of \$4,903,000 of the County's 2003 lease revenue financing, with a projected savings of \$235,461 through the year 2019. He stated that he hoped to be able to bring that proposal to the Board in October.

Staff recommended approval of the resolution.

Mr. Goodson asked if additional funds could be borrowed for VRS payment.

Mr. McDonald stated the payback on a bond issued in less than six years was less than two percent.

Mr. Icenhour asked if this was like refinancing a mortgage to get a better rate.

Mr. McDonald stated that was correct.

Mr. McGlennon made a motion to adopt the resolution.

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

RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF GENERAL OBLIGATION PUBLIC IMPROVEMENT REFUNDING BONDS, SERIES 2010, OF THE COUNTY OF JAMES CITY, VIRGINIA, AND PROVIDING FOR THE FORM, DETAILS AND PAYMENT THEREOF

WHEREAS, the issuance of general obligation bonds by the County of James City, Virginia (the "County"), in the maximum principal amount of \$52,100,000 was approved by the qualified voters of the County in three referenda at a special election held on March 1, 1994, to finance a school construction program, library improvements and park and recreation improvements (together, the "Improvements"). On August 3, 1994, the County issued its \$9,500,000 General Obligation Public Improvement Bonds, Series of 1994 (the "1994 Bonds") to finance a portion of the costs of the Improvements. On December 5, 1995, the County issued its \$35,000,000 General Obligation Public Improvement Bonds, Series 1995 (the "1995 Bonds") to finance a portion of the costs of the Improvements; and

WHEREAS, on November 20, 2002, the County issued its \$4,280,000 General Obligation Public Improvement Refunding Bond, Series 2002 (the "2002A Bond") to refund a portion of the 1994 Bonds, and on December 17, 2002, the County issued its \$3,180,200 General Obligation Public

Improvement Refunding Bond, Series 2002B (the “2002B Bond”) to refund a portion of the 1995 Bonds. The County’s Board of Supervisors (the “Board”) determines that it is in the best interests of the County to take advantage of lower interest rates now prevalent in the capital markets and to issue and sell general obligation public improvement refunding bonds to refund the 2002A Bond and the 2002B Bond (collectively, the “Prior Bonds”); and

WHEREAS, the Board determines that it would be advantageous to the County to sell such refunding bonds in a competitive sale.

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

Section 1. Authorization, Issuance and Sale. There is hereby authorized to be issued and sold, pursuant to the Constitution and statutes of the Commonwealth of Virginia, including the Public Finance Act of 1991, Chapter 26, Title 15.2, Code of Virginia of 1950, as amended (the “Act”), general obligation public improvement refunding bonds of the County in the principal amount not to exceed \$5,250,000 to refund the Prior Bonds and to pay the costs incurred in connection with issuing such refunding bonds. The Board hereby elects to issue such refunding bonds under the provisions of the Act.

Section 2. Bond Details. Such bonds shall be designated “General Obligation Public Improvement Refunding Bonds, Series 2010” (the “Bonds”), shall be dated the date of their issuance, shall be in registered form, shall be in denominations of \$5,000 and multiples thereof, and shall be numbered R-1 upward. Subject to Section 4 and Section 9, the Bonds shall mature in installments, or shall have mandatory sinking fund redemption installments, on each December 15 ending no later than the year 2016. Subject to Section 9, interest on the Bonds shall be payable on June 15, 2011, and semiannually thereafter on each June 15 and December 15 (each, an “Interest Payment Date”) and shall be calculated on the basis of a year of 360 days with twelve 30-day months. The Board authorizes the issuance and sale of the Bonds on such terms as shall be satisfactory to the County Administrator or the Chairman of the Board; *provided*, that the Bonds (a) shall have a true or “Canadian” interest cost not to exceed 2.00% per year, taking into account any original issue discount or premium; (b) shall be sold to the successful bidder at a price not less than 98% of the original aggregate principal amount thereof; (c) shall have a weighted average maturity of no more than six (6) years; (d) shall be issued in an aggregate amount not to exceed \$5,250,000; (e) shall not be subject to optional redemption; and (f) shall result in a three percent (3.00%) or greater net present value debt service savings to the County.

Principal and premium, if any, on the Bonds shall be payable to the registered owners upon surrender of the Bonds as they become due at the designated corporate trust office of the Registrar, as defined in Section 8 below. Interest shall be payable by check or draft mailed to the registered owners at their addresses as they appear on the registration books kept by the Registrar as of the close of business on the first day of the month in which each Interest Payment Date occurs. In case the date of maturity or redemption of the principal of any Bond or an Interest Payment Date shall be a date on which banking institutions are authorized or obligated by law to

close at the place where the designated corporate trust office of the Registrar is located, then payment of principal and interest need not be made on such date, but may be made on the next succeeding date which is not such a date at the place where the designated corporate trust office of the Registrar is located, and if made on such next succeeding date no additional interest shall accrue for the period after such date of maturity or redemption or Interest Payment Date. Principal, premium, if any, and interest on the Bonds shall be payable in lawful money of the United States of America.

Each Bond shall bear interest from the Interest Payment Date next preceding the date on which it is authenticated, unless such Bond is (a) authenticated before June 15, 2011, in which case it will bear interest from its dated date, or (b) authenticated upon an Interest Payment Date or after the record date with respect thereto, in which case it will bear interest from such Interest Payment Date (unless payment of interest thereon is in default, in which case interest on such Bond shall be payable from the date to which interest has been paid).

Section 3.

Book-Entry System. Initially, one Bond certificate for each maturity of the Bonds shall be issued to and registered in the name of The Depository Trust Company, New York, New York ("DTC"), or its nominee. The County has entered into or will enter into a Blanket Issuer Letter of Representations (the "Letter of Representations") relating to a book-entry system to be maintained by DTC with respect to certain securities issued by the County, including the Bonds. As used herein, the term "Securities Depository" shall mean DTC or any other securities depository for the Bonds appointed pursuant to this Section 3.

In the event that (a) the Securities Depository determines not to continue to act as the securities depository for the Bonds by giving notice to the Registrar or the County, or (b) the County in its sole discretion determines (i) to select a new Securities Depository or (ii) that beneficial owners of Bonds shall be able to obtain certificated Bonds, then the County Administrator shall, at the direction of the County, attempt to locate another qualified securities depository to serve as Securities Depository or arrange for the authentication and delivery of certificated Bonds to the beneficial owners or to the Securities Depository's participants on behalf of beneficial owners, substantially in the form provided for in Exhibit A. In delivering certificated Bonds, the County Administrator shall be entitled to rely on the records of the Securities Depository as to the beneficial owners or the records of the Securities Depository's participants acting on behalf of beneficial owners. Such certificated Bonds will then be registrable, transferable and exchangeable as set forth in Section 8.

So long as there is a Securities Depository for the Bonds (1) it or its nominee shall be the registered owner of the Bonds, (2) notwithstanding anything to the contrary in this Resolution, determinations of persons entitled to payment of principal, premium, if any, and interest, transfers of ownership and exchanges, and receipt of notices shall be the responsibility of the Securities Depository and shall be effected pursuant to rules and procedures established by such Securities Depository, (3) the Registrar and the County shall not be

responsible or liable for maintaining, supervising, or reviewing the records maintained by the Securities Depository, its participants or persons acting through such participants, (4) references in this Resolution to registered owners of the Bonds shall mean such Securities Depository or its nominee and shall not mean the beneficial owners of the Bonds, and (5) in the event of any inconsistency between the provisions of this Resolution and the provisions of the Letter of Representations, such provisions of the Letter of Representations, except to the extent set forth in this paragraph and the next preceding paragraph, shall control.

Section 4.

Redemption Provisions.

- (a) Optional Redemption. The Bonds are not subject to optional redemption prior to their respective stated dates of maturity.
- (b) Mandatory Sinking Fund Redemption. Any term bonds may be subject to mandatory sinking fund redemption as determined by the County Administrator or the Chairman of the Board. If there are any term bonds, on or before the 70th day next preceding any mandatory sinking fund redemption date, the County may apply as a credit against the County's mandatory sinking fund redemption obligation for any Bonds maturing on such date, Bonds that previously have been purchased and canceled or surrendered for cancellation by the County and not previously applied as a credit against any mandatory sinking fund redemption obligation for such Bonds. Each such Bond so purchased and delivered shall be credited at 100% of the principal amount thereof against the principal amount of the Bonds required to be redeemed on such mandatory sinking fund redemption date. Any principal amount of Bonds so purchased and delivered in excess of the principal amount required to be redeemed on such mandatory sinking fund redemption date shall similarly reduce the principal amount of the Bonds to be redeemed on future mandatory sinking fund redemption dates, as selected by the County Administrator or the Chairman of the Board.
- (c) Bonds Selected for Redemption. If less than all the Bonds of any maturity are to be redeemed through a mandatory sinking fund redemption, the Bonds to be redeemed shall be selected by DTC or any successor Securities Depository pursuant to its rules and procedures or, if the book-entry system is discontinued, shall be selected by the Registrar by lot in such manner as the Registrar in its discretion may determine. In either case, (a) the portion of any Bond to be redeemed shall be in the principal amount of \$5,000 or some integral multiple thereof and (b) in selecting Bonds for redemption, each Bond shall be considered as representing that number of Bonds that is obtained by dividing the principal amount of such Bond by \$5,000. If a portion of a Bond is called for redemption, a new Bond in principal amount equal to the

unredeemed portion thereof will be issued to the registered owner upon the surrender thereof.

- (d) Determination of Final Redemption Provisions. The Board authorizes the County Administrator or the Chairman of the Board, in collaboration with Davenport & Company LLC, as the County's financial advisor (the "Financial Advisor"), to determine whether the issuance of any term bonds would be beneficial to the County.

Section 5. Execution and Authentication. The Bonds shall be signed by the manual or facsimile signature of the Chairman or Vice Chairman of the Board and the Board's seal shall be affixed thereto or a facsimile thereof printed thereon and attested to by the manual or facsimile signature of the Clerk or Deputy Clerk of the Board; *provided*, that no Bond shall be valid until it has been authenticated by the manual signature of an authorized representative of the Registrar and the date of authentication noted thereon. Upon execution and authentication, the Bonds shall be delivered to or on behalf of the successful bidder upon payment for the Bonds.

Section 6. Bond Form. The Bonds shall be in substantially the form set forth in Exhibit A attached hereto, with such changes, insertions, completions or omissions to reflect the final terms of the Bonds.

Section 7. Pledge of Full Faith and Credit. The full faith and credit of the County are irrevocably pledged for the payment of principal of, premium, if any, and interest on the Bonds. Unless other funds are lawfully available and appropriated for timely payment of the Bonds, the County shall levy and collect an annual *ad valorem* tax, over and above all other taxes authorized or limited by law and without limitation as to rate or amount, on all locally taxable property in the County sufficient to pay the principal of, premium, if any, and interest on the Bonds, as the same become due.

Section 8. Registration, Transfer and Owners of Bonds. Regions Bank, Richmond, Virginia, is appointed paying agent and registrar for the Bonds (the "Registrar"). The Registrar shall maintain registration books for the registration of the Bonds. Upon surrender of any Bonds at the designated corporate trust office of the Registrar, together with an assignment duly executed by the registered owner or his duly authorized attorney or legal representative in such form as shall be satisfactory to the Registrar, the County shall execute, and the Registrar shall authenticate and deliver in exchange, a new Bond or Bonds having an equal aggregate principal amount, in authorized denominations, of the same form and maturity, bearing interest at the same rate, and registered in names as requested by the then registered owner or his duly authorized attorney or legal representative. Any such exchange shall be at the expense of the County, except that the Registrar may charge the person requesting such exchange the amount of any tax or other governmental charge required to be paid with respect thereto.

The Registrar shall treat the registered owner as the person exclusively entitled to payment of principal, premium, if any, and interest and the

exercise of all other rights and powers of the owner, except that interest payments shall be made to the person shown as owner on the registration books on the first day of the month in which each Interest Payment Date occurs.

Section 9.

Sale of Bonds. The Board approves the following terms of the sale of the Bonds. The Bonds will be sold by competitive bid. The County Administrator or the Chairman of the Board, in collaboration with the Financial Advisor, shall receive bids for the Bonds and award the Bonds to the bidder providing the lowest true or “Canadian” interest cost, all subject to the limitations set forth in Section 2. The Board further authorizes the County Administrator or the Chairman of the Board, in collaboration with the Financial Advisor, to (a) determine the principal amount of the Bonds, subject to the limitations set forth in Section 2, (b) determine the maturity schedule of the Bonds, subject to the weighted average maturity limitations and other limitations set forth in Section 2, (c) establish the sinking fund redemption provisions for any term Bonds, subject to the limitations set forth in Section 2 and Section 4(d) and (d) confirm that the debt service savings target set forth in Section 2 has been satisfied. In connection with the sale of the Bonds, the County Administrator or the Chairman of the Board, in collaboration with the Financial Advisor, may change the dated date of the Bonds and the payment dates provided therein (so long as the interest payment dates for any series are semi-annual) to facilitate the sale and delivery of the Bonds. The actions of the County Administrator or the Chairman of the Board in selling the Bonds shall be conclusive, and no further action with respect to the sale and issuance of the Bonds shall be necessary on the part of the Board.

Section 10.

Official Statement. The form of the Preliminary Official Statement of the County, to be dated the date of its mailing (the “Preliminary Official Statement”), has been made available to the Board prior to the adoption of this Resolution. The use and distribution of the Preliminary Official Statement, in substantially the form made available to the Board, including the use and distribution of an Appendix to the Preliminary Official Statement describing the County, are hereby authorized and approved. The Preliminary Official Statement, including such Appendix, may be completed and “deemed final” by the County Administrator or the Chairman of the Board as of its date, within the meaning of Rule 15c2-12 of the Securities and Exchange Commission (the “Rule”), except for the omission from the Preliminary Official Statement of such pricing and other information permitted to be omitted pursuant to the Rule. The delivery of the Preliminary Official Statement to the Financial Advisor shall be conclusive evidence that it has been deemed final as of its date by the County Administrator or the Chairman of the Board, except for the omission of such pricing and other information.

The County Administrator or the Chairman of the Board shall make such completions, omissions, insertions and changes in the Preliminary Official Statement not inconsistent with this Resolution as are necessary or desirable to complete it as a final Official Statement (the “Official Statement”). The use and distribution of the Official Statement are hereby authorized and

approved. The County Administrator or the Chairman of the Board shall arrange for the delivery to the successful bidder of a reasonable number of copies of the Official Statement, within seven (7) business days after the Bonds have been sold, for delivery to each potential investor requesting a copy of the Official Statement and to each person to whom the successful bidder initially sells Bonds.

The County Administrator or the Chairman of the Board is authorized, on behalf of the County, to deem the Official Statement to be final as of its date within the meaning of the Rule. The County Administrator or the Chairman of the Board is authorized and directed to execute the Official Statement, which execution shall be conclusive evidence that the Official Statement has been deemed final.

Section 11. Continuing Disclosure. A substantially final form of the Continuing Disclosure Certificate to be given by the County (the “Continuing Disclosure Certificate”), evidencing conformity with certain provisions of the Rule, has been made available to the Board prior to the adoption of this Resolution. The Continuing Disclosure Certificate is hereby approved in substantially the form made available to the Board. There may, however, be changes, insertions, completions or omissions to the form of the Continuing Disclosure Certificate to reflect the final terms of the Bonds, the completion of the Official Statement or other commercially reasonable provisions. All of such changes, insertions, completions or omissions will be approved by the County Administrator or the Chairman of the Board, whose approval shall be evidenced conclusively by the execution and delivery of the Continuing Disclosure Certificate. The Board hereby authorizes the County Administrator or the Chairman of the Board to execute and deliver the Continuing Disclosure Certificate on behalf of the County.

The County hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate. Notwithstanding any other provision of this Resolution, failure of the County to comply with the Continuing Disclosure Certificate shall not be considered a default under this Resolution or the Bonds; *provided*, that any holder of the Bonds, including owners of beneficial interests in the Bonds, may take such actions as may be necessary and appropriate, including seeking mandamus or specific performance by court order, to cause the County to comply with its obligations under this Section 11 and the Continuing Disclosure Certificate.

Section 12. Sale Documents. The use and distribution of the Notice of Bond Sale pursuant to which the Bonds will be offered for sale are hereby authorized and approved.

Section 13. Refunding; Escrow Agreement. The Board hereby irrevocably calls for the optional redemption of the Prior Bonds on a date that is not less than thirty (30) days nor more than sixty (60) days after the issuance of the Bonds (the “Redemption Date”) at a redemption price equal to 100% of the principal amount of the Prior Bonds plus accrued interest to the Redemption Date.

To facilitate the defeasance of the Prior Bonds and the payment of the principal of, premium and interest on the Prior Bonds from the issuance date through the Redemption Date, the Board hereby authorizes the use of the Escrow Agreement, dated as of October 1, 2010 (the "Escrow Agreement"), between the County and Regions Bank, as escrow agent (the "Escrow Agent"). The Escrow Agreement shall be in substantially the form previously used by the County in connection with the issuance of general obligation refunding bonds, with such changes, insertions and omissions as may be approved by the Chairman or Vice Chairman of the Board or the County Administrator, whose approval shall be conclusively evidenced by the execution of the Escrow Agreement. The Board hereby authorizes the County Administrator or the Escrow Agent to submit a subscription for the purchase and issue of United States Treasury Securities - State and Local Government Series or, alternatively, the County Administrator or the Escrow Agent, with the advice of the Financial Advisor, to obtain competitively a portfolio of securities. If the County Administrator shall determine that the same shall improve the efficiency of the Escrow Fund created under the Escrow Agreement, he is further authorized to enter into agreements and give instructions for the purchase of securities for periods when the moneys credited to the Escrow Fund would otherwise be uninvested. The Board hereby authorizes the Chairman and the Vice Chairman of the Board and the County Administrator, any of whom may act, to execute and deliver the Escrow Agreement on behalf of the County.

Section 14.

Arbitrage Covenants.

- (a) No Composite Issue. The County represents that there have not been issued, and covenants that there will not be issued, any obligations that will be treated as part of the same issue of obligations as the Bonds within the meaning of the Internal Revenue Code of 1986, as amended, including regulations issued pursuant thereto (the "Code").
- (b) No Arbitrage Bonds. The County covenants that it shall not take or omit to take any action the taking or omission of which will cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code, or otherwise cause interest on the Bonds to be includable in the gross income for federal income tax purposes of the registered owner thereof under existing law. Without limiting the generality of the foregoing, the County shall comply with any provision of law which may require the County at any time to rebate to the United States any part of the earnings derived from the investment of the gross proceeds of the Bonds, unless the County receives an opinion of nationally recognized bond counsel that such compliance is not required to prevent interest on the Bonds from being includable in the gross income for federal income tax purposes of the registered owners thereof under existing law. The County shall pay any such required rebate from its legally available funds.

Section 15. Non-Arbitrage Certificate and Elections. Such officers of the County as may be requested are authorized and directed to execute an appropriate certificate setting forth the expected use and investment of the proceeds of the Bonds in order to show that such expected use and investment will not violate the provisions of Section 148 of the Code, and any elections such officers deem desirable regarding rebate of earnings to the United States, for purposes of complying with Section 148 of the Code. Such certificate and elections shall be in such form as may be requested by bond counsel for the County. The County shall comply with any covenants set forth in such certificate regarding the use and investment of the proceeds of the Bonds.

Section 16. Limitation on Private Use; No Federal Guaranty. The County covenants that it shall not permit the proceeds of the Bonds to be used in any manner that would result in (a) ten percent (10%) or more of such proceeds being used in a trade or business carried on by any person other than a state or local governmental unit, as provided in Section 141(b) of the Code, (b) five percent (5%) or more of such proceeds being used with respect to any output facility (other than a facility for the furnishing of water), within the meaning of Section 141(b)(4) of the Code, or (c) five percent (5%) or more of such proceeds being used directly or indirectly to make or finance loans to any persons other than a state or local governmental unit, as provided in Section 141(c) of the Code; *provided*, that if the County receives an opinion of nationally recognized bond counsel that any such covenants need not be complied with to prevent the interest on the Bonds from being includable in the gross income for federal income tax purposes of the registered owners thereof under existing law, the County need not comply with such covenants.

The County represents and agrees that the Bonds are not and will not be “federally guaranteed,” as such term is used in Section 149(b) of the Code. No portion of the payment of principal of or interest on the Bonds is or will be guaranteed, directly or indirectly, in whole or in part by the United States or an agency or instrumentality thereof.

Section 17. Bank Qualification. The Bonds are hereby designated as qualified tax-exempt obligations under Section 265(b)(3)(B) of the Code. The County has not and will not designate more than \$30,000,000 of obligations, including the Bonds, as qualified tax-exempt obligations in calendar year 2010. The County has not issued, nor had issued for its benefit, more than \$30,000,000 of tax-exempt obligations in calendar year 2010, including the Bonds. Barring circumstances unforeseen as of the date of delivery of the Bonds, none of the County, its economic development authority or any other entity which issues obligations on behalf of the County (together, the “County Entities”) will issue tax-exempt obligations if the issuance of such tax-exempt obligations would, when aggregated with all other tax-exempt obligations theretofore issued by the County Entities in calendar year 2010, result in the County Entities having issued a total of more than \$30,000,000 of tax-exempt obligations in calendar year 2010, including the Bonds, for the benefit of the County. The County has no reason to believe that it will issue such tax-exempt obligations in 2010 in an aggregate amount that will exceed such \$30,000,000 limit; *provided*, that if the County receives an opinion of nationally recognized bond counsel that compliance with any covenant set

forth above in this paragraph is not required for the Bonds to be qualified tax-exempt obligations, the County need not comply with such covenant.

- Section 18.** **Discharge upon Payment of Bonds.** The Bonds may be defeased, as permitted by the Act. Any defeasance of the Bonds, as permitted by the Act, shall not release the County or the Registrar from its obligations hereunder to register and transfer the Bonds or release the County from its obligations to pay the principal of, premium, if any, and interest on the Bonds as contemplated herein until the date the Bonds are paid in full, unless otherwise provided in the Act. In addition, such defeasance shall not terminate the obligations of the County under Sections 14 and 16 until the date the Bonds are paid in full.
- Section 19.** **Other Actions.** All other actions of the members of the Board, officers, staff, and agents of the County in conformity with the purposes and intent of this Resolution and in furtherance of the issuance and sale of the Bonds and the refunding of the Prior Bonds are approved and confirmed. The officers and staff of the County are authorized and directed to execute and deliver all certificates and instruments, including Internal Revenue Service Form 8038-G, and to take all such further action as may be considered necessary or desirable in connection with the issuance, sale and delivery of the Bonds.
- Section 20.** **Limitation of Liability of Officials of the County.** No covenant, condition, agreement or obligation contained herein shall be deemed to be a covenant, condition, agreement or obligation of a member of the Board, officer, employee or agent of the County in his or her individual capacity, and no officer of the County executing any Bond shall be liable personally on such Bond or be subject to any personal liability or accountability by reason of the issuance thereof. No member of the Board, officer, employee or agent of the County shall incur any personal liability with respect to any other action taken by him or her pursuant to this Resolution, provided he or she acts in good faith.
- Section 21.** **Contract with Registered Owner.** The provisions of this Resolution shall constitute a contract between the County and the registered owner of the Bonds for so long as the Bonds are outstanding. Notwithstanding the foregoing, this Resolution may be amended by the County in any manner that does not, in the opinion of the County, materially adversely affect the registered owners of the Bonds.
- Section 22.** **Repeal of Conflicting Resolutions.** All resolutions or parts of resolutions in conflict herewith are repealed.
- Section 23.** **Effective Date.** This Resolution shall take effect immediately upon its adoption. The Clerk and any Deputy Clerk of the Board are hereby authorized and directed to see to the immediate filing of a certified copy of this Resolution with the Circuit Court of the City of Williamsburg and County of James City.

2. Policy Governing the Withdrawal of Property from Agricultural and Forestal Districts (AFDs)

Mr. John McDonald, Manager of Financial and Management Services, stated that the Board was being requested to update policies adopted in the mid-1990s relating to requested withdrawals of properties from agricultural and forestal districts (AFDs). This update would create the same withdrawal policy for all AFD properties, whether in the Primary Service Area (PSA) or not. As with any legislative policy, it provides guidance to future Boards but does not bind them. Individual property characteristics and circumstances will determine whether a future Board votes for a withdrawal.

Mr. McDonald stated that the purpose of the policy was to establish several items: that enabling legislation be requested from the General Assembly to allow James City County to join the current group of eight counties that have the ability to authorize new AFDs with as few as 20 acres, which staff recommended to be part of the 2011 Legislative Agenda; that the benefits of land use valuation for agricultural properties be limited to properties within an AFD and, as a component of that recommendation, that the minimum parcel size for inclusion in an AFD be reduced from 20 acres to five acres; that the policy governing withdrawals from AFDs outside of the PSA be used for every property in an AFD, whether within the PSA or not; that six-year terms with staggered commencement dates be established for citizen appointees to the AFD Advisory Committee, and a request that the Board attempt to appoint citizen committee members from each election district within the County.

Mr. Icenhour made a motion to adopt the resolution.

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

RESOLUTION

**POLICY GOVERNING THE WITHDRAWALS OF PROPERTY FROM AGRICULTURAL
AND FORESTAL DISTRICTS (AFDs)**

WHEREAS, the Board of Supervisors has determined that Agricultural and Forestal Districts (AFDs) are a valuable tool to help protect the agricultural and forestal lands and industry in James City County; and

WHEREAS, premature withdrawals of land from the Districts is contrary to the intent of the Board in allowing the establishment of these Districts.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby establishes the following policy relating to the withdrawal of lands from AFDs during the terms of those Districts. This policy in no way supersedes the provisions for withdrawal by right under Sections 15.2-4311 or 15.2-4314D of the Code of Virginia.

1. It is the policy of the Board of Supervisors to discourage the withdrawal of properties from AFDs during the terms of those districts.
2. The criteria for withdrawal during the terms of the districts are as follows:

In order to establish "good and reasonable cause," a landowner requesting to withdraw property from an AFD must submit written information to demonstrate compliance with

the following criteria:

- A. The request is caused by a change in circumstances that could not have been anticipated at the time application was made for inclusion in the district.
- B. The request would serve a public purpose, as opposed to the proprietary interest of the landowner that could not otherwise be realized upon expiration of the AFD.
- C. The request would not cause damage or disruption to the existing district.
- D. If the request for withdrawal is in conjunction with a proposal to convert the land use of a property to a different use than is currently in place on the property, the new land use would be in conformance with the Comprehensive Plan.

The Board shall weigh each of the above criteria in its deliberation, but may also use whatever other criteria as it deems appropriate for the individual case.

J. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, commented on leftover funds allocated at the Virginia Department of Transportation (VDOT). He commented that the funds were obligated but not spent. He commented that the deferral of the VRS payment was going to result in increased funding from the County in the long run.

2. Mr. Robert Richardson, 2786 Lake Powell Road, continued his comments on derogatory comments made against him by Mr. Kennedy. He commented on a previous altercation at a public meeting and implications that he instigated the incident.

3. Mr. Jack Fowler, 109 Wilderness Lane, commented on the upcoming stormwater referendum series. He noted that development has caused stormwater management problems, specifically citing Lake Powell. He commented that developers do not take responsibility for the environmental impacts of development and the Board should look at what impacts would result for areas downstream.

K. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Middaugh announced that County residents are invited to attend any of the Community meetings held over five consecutive Thursdays beginning September 30, 2010. He noted that each discussion starts at 6:30 p.m. and will be hosted by the Board of Supervisors member in their respective District. He stated that the meetings were an opportunity for him to meet residents and start a dialog regarding the Comprehensive Plan survey results as well as other questions the citizens had. He also noted that the Board had a Closed Session item on its agenda which could be done in open session.

L. BOARD REQUESTS AND DIRECTIVES

Mr. Goodson made a motion to reappoint Ms. Peg Boarman, Mr. Charles Loundermon, and Mr. Will Barnes to three-year terms on the Clean County Commission with terms to expire on July 31, 2013.

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

Mr. Goodson commented on the extension of the Gospel Spreading Farm AFD. He asked if the AFD would be invalidated if someone other than the owner applied for the designation.

Mr. Rogers stated that was correct.

M. RECESS to 4:00 p.m. on October 12, 2010

Mr. McGlennon made a motion to recess.

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

At 8:18 p.m., Mr. Kennedy recessed the Board until 4 p.m. on October 12, 2010.

Robert C. Middaugh
Clerk to the Board

092810bos_min

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

A. CALL TO ORDER

B. ROLL CALL

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

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

C. MOMENT OF SILENCE

D. PLEDGE OF ALLEGIANCE – Adam Leschinger, a third-grade student at D.J. Montague Elementary School, led the Board and citizens in the Pledge of Allegiance.

E. PUBLIC COMMENT

1. Mr. Randy O'Neill, 109 Sheffield Road, commented on the health and fitness of students in Williamsburg-James City County Schools. He commented on the correlation between fitness and test scores and the funding and programming of the Student Health Initiative Program (SHIP).

2. Mr. Jay Everson, 103 Branscome Boulevard, commented on the institution of public comment in public meetings. He stated he believed that the public comment period was intended to bring forward issues from the community rather than to allow personal attacks on the Board members. He commented that structure and standards were needed to prevent these circumstances in the future.

3. Mr. Chris Henderson, 101 Keystone, restated the concerns of the previous speaker regarding the conduct of public comment speakers. He stated that elected officials were due a certain level of respect. He recommended adoption of a stricter code of conduct at public meetings. He recognized the County's financial stewardship with the achievement of an AAA bond rating from Standard and Poor's (S&P).

F. BOARD REQUESTS AND DIRECTIVES

1. Historic Triangle Collaborative Economic Diversification Task Force Report

Mr. Jim Golden, Vice President of the Office of Strategic Initiatives at the College of William and Mary gave an overview of the Historic Triangle Collaborative (HTC) Economic Diversification Task Force Report on behalf of the HTC. He commented on several key economic diversification strategies, including focusing on smaller companies and hub operations, exploring regional partnerships and revenue sharing, supporting entrepreneurs, leveraging major institutions, collaborative marketing, and diversifying the tourism sector. He reviewed the next steps in the process, including opportunities for regional collaboration and further updates from the task force in the future.

Mr. Middaugh requested Board input on how to approach the strategies outlined in the report.

Mr. Goodson stated his support for regional branding for economic development.

Mr. McGlennon commented on the need for local government to understand the fiscal consequences of the economic development strategy. He commented on how the economic development activities proposed would generate revenue and have a direct economic impact to help support services. He stated his concern about the question of revenue sharing and giving up influence or control over decisions made in the County.

Ms. Jones stated that this report laid the groundwork for moving economic development forward in the region. She stated that the report gives suggestions that can benefit all the area localities. She commented on the need for promotion of sports marketing and educational opportunities in the area. She stated her appreciation for the emphasis on entrepreneurship and small businesses and her support for scheduling a work session for more information on these strategies. She stated she would also continue to update the Board on the matters of the Regional Issues Committee (RIC).

Mr. Kennedy commented that there were concerns and opportunities in relation to revenue sharing. He commented that there was a missed opportunity with New Town and High Street which created competing entities in close proximity. He stated there were other areas that could hold potential for this type of collaboration. He stated the area localities working together could accomplish more by pulling resources together. He stated he would like to hold a series of work sessions to explore the opportunities presented by the report.

Mr. McGlennon stated concern about where boundaries would be drawn on the collaborative enterprises. He stated the County was involved in various overlapping functions among the jurisdictions and concern about appropriate roles for these multitudes of regional organizations and enterprises.

Mr. Goodson commented on the regional visitor's center at Colonial Williamsburg and stated that he felt it should be less restrictive. He stated his support for sports marketing in the County and the region.

Mr. Kennedy stated his support for sports marketing in the region and for an inclusive regional visitor's center. He stated his concern about the State influence on the visitor's center in York County.

2. Veterans Tribute

Mr. Harry Walters commented on the difficulties faced by veterans returning from war. He reviewed a proposal for an event recognized as a Veterans Day Tribute on November 11, 2011. He commented the event would be complemented with a Veterans Tribute clock tower. He introduced Mr. Mark Jackbowski to give a testimonial.

Mr. Jackbowski commented on the impacts of overseas conflicts on the families in the Historic Triangle. He commented on the memorial for Lieutenant Todd Weaver, a Williamsburg native. He explained the significance and importance of Veterans Day in the Historic Triangle.

Mr. Goodson recommended that the Board appoint a standing Veterans Relations Committee to handle this event and continue to help address Veteran Relations in the community.

Mr. Kennedy asked if Mr. Walters had an informal committee in place.

Mr. Walters stated there was a committee that has formed.

Mr. Kennedy asked if there was support for moving forward with this event.

Ms. Jones stated she supported this event and the clock tower in recognition of veterans. She commented that she had considered New Town as a location for the tower and the event. She suggested that Mr. Walters work with the Planning Division and the Planning Commission to move forward.

Mr. Walters commented that the Victory Parade after Operation Desert Storm was a momentous event in Washington, D.C. He suggested inviting all veterans in Virginia to this event.

Mr. Icenhour stated he felt that this event should be embraced by the community financially and emotionally. He stated his support for this event.

Mr. McGlennon commented on regionalism and involvement of the City of Williamsburg and York County. He commented that he hoped the event would also involve those who participate in the local Memorial Day service. He encouraged discussion about whether the County's tribute to veterans was being replicated across the country or if it was a unique event to this area.

Mr. Kennedy stated his appreciation for the suggestion and that he would like to see a parade in the County.

G. CONSENT CALENDAR

Mr. Icenhour asked to pull Item 1.b. September 28, 2010, Regular Meeting, for deferral and to pull Item 2 for additional discussion.

Mr. Goodson made a motion to adopt Item G-1.a on the Consent Calendar.

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

1. Minutes –
 - a. September 28, 2010, Work Session
2. Contract Award – Longhill Road and Centerville Road Intersection Improvements – \$536,699.73

Mr. Icenhour asked Mr. Gordon to clarify that the funding for the project has been appropriated, the right-of-way has been purchased, and the project would be administered locally. He stated that he believed the Virginia Department of Transportation (VDOT) was supposed to install a traffic light in the past and it has not

yet occurred. He asked about what kind of delays would occur with this project.

Mr. Shawn Gordon, Capital Projects Administrator, stated the traffic signalization and pedestrian crossings have been approved by VDOT and that he was coordinating the project so these portions would be completed at the same time as the County-administered portion of the project.

Mr. Icenhour asked what the projected schedule was for the project.

Mr. Gordon stated that the project could proceed once the Board authorized the contract award, and then construction could begin within a few weeks.

Mr. Icenhour asked if this contractor would be doing everything or if VDOT would be doing the signalization.

Mr. Gordon stated the contractor would be doing all the improvements to the intersection and VDOT would be doing controls, pedestrian crossings, pavement markings, stop bars, and signalization.

Mr. Icenhour asked about the archaeological work at the approved convenience store. He asked how this was being coordinated with the project.

Mr. Gordon stated he has shared information with the developers and engineers with the project.

Mr. Icenhour asked if the project would be completed concurrent with the intersection improvements.

Mr. Gordon stated that he was unsure.

Mr. Goodson stated he did not feel that was a major concern.

Mr. Icenhour stated he wished that the projects would be coordinated so the newly installed roadway did not need to be removed.

Mr. Goodson stated he believed the contractor would work with the landowner for entrances in these cases.

Mr. Gordon stated that was correct.

Mr. Icenhour thanked Mr. Gordon for the information.

Mr. Icenhour made a motion to adopt the resolution.

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

RESOLUTION

CONTRACT AWARD – LONGHILL ROAD AND CENTERVILLE ROAD

INTERSECTION IMPROVEMENTS – \$536,699.73

WHEREAS, funds are available for James City County as part of the FY 2010-2015 VDOT Six-Year Secondary System Construction Program listed as Priority No. 3, and Federal funding to cover

the construction phase expenses for the Longhill Road and Centerville Road Intersection Improvements; and

WHEREAS, eight bids were considered for award with the lowest responsive and responsible bidder being Toano Contractors, Inc. with a bid in the amount of \$536,699.73.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby awards the contract for the Longhill Road and Centerville Road Intersection Improvements to Toano Contractors, Inc. in the total amount of \$536,699.73

H. PUBLIC HEARINGS

1. Case No. SUP-0018-2010. American Heritage RV Park Expansion

Ms. Kate Sipes, Senior Planner, stated that Mr. Vernon Geddy, III, has applied on behalf of Mr. and Mrs. Rhoads for a Special Use Permit (SUP) to expand the existing American Heritage RV Park from the current 95 camp sites to a proposed 327 sites. She stated that 86 of the sites would be modular cabins, and in addition to the cabins/RV units and an additional 146 camp sites, the applicant is proposing a building for the storage of RV units, expanded recreational and picnic areas, a storage building, and an office addition.

Ms. Sipes explained that staff has been contacted by several property owners on Maxton Lane regarding the width of that road and its ability to accommodate additional RV traffic. She stated that VDOT submitted an updated memorandum recommending improvements to Maxton Lane. She stated that based on these comments, staff recommends that this application be remanded to the Planning Commission.

Mr. Middaugh stated that the Planning Commission would hear this application at its first meeting in November.

Mr. McGlennon stated he believed that some issues were resolved between the applicant and the adjacent property owners.

Ms. Sipes stated that the applicant met with the adjacent property owners to work out some details, but these changes were significant enough to warrant being sent back to the Planning Commission.

Mr. Kennedy stated he understood remanding the application based on a decreased benefit, but he believed that in this case the changes would improve the application and that the plan was suitable.

Ms. Sipes stated that it was suitable to the landowners and to VDOT.

Mr. Kennedy asked why this application needed to return to the Planning Commission.

Mr. Goodson stated the applicant was addressing Planning Commission comments and that the applicant would be less likely to improve upon the project if the changes would delay the approval process. He stated he felt it was a bad precedent.

Ms. Jones stated that there were frequent cases where applicants would comply with Planning Commission recommendations. She stated there was revised information from the James City Service Authority (JCSA) regarding water and sewer. She asked if this was a significant change.

Ms. Sipes stated that the matter was taken into consideration by the Planning Commission.

Mr. Icenhour commented that the applicant was going to be required to connect to public water and sewer, but there was a subsequent boundary line adjustment that changed those criteria. He asked for clarification on how the adjustment was made. He asked if there was any notation in the resolution about the road improvements.

Ms. Sipes stated that the resolution before the Board does not include that information and was part of the reason why the Board was not being asked to take action at this time.

Mr. Icenhour stated his apprehension on voting on anything at this time without the final language.

Mr. McGlennon stated he felt that this item should be deferred to allow for additional public comment if needed and additional information to be considered. He stated that the other consideration is whether or not this item should be remanded to the Planning Commission and noted that the previous policy indicates that if significant changes are made, the application should be remanded. He stated he did not have the information to make an informed decision and felt that it should come forward at a later time.

Mr. Goodson stated that he agreed to a deferral to October 26, 2010, because he did not believe it was a substantial change.

Mr. Kennedy asked if this item could be ready on October 26, 2010.

Mr. Middaugh stated the question that may take time would have to do with the property being inside the Economic Opportunity (EO) zone. He stated at the time the Planning Commission discussed this matter, there was no condition imposed.

Mr. Goodson stated that he felt staff did not fully brief the Planning Commission on this matter.

Mr. Middaugh stated that if this matter came up at the Planning Commission, it would be approved as long as there was cooperation in the future.

Mr. Goodson stated that he felt the Planning Commission should have been instructed by staff to provide more guidance.

Ms. Jones stated her agreement in relation to additional feedback on the EO zone.

Mr. Kennedy asked how long this project has been in discussion.

Ms. Sipes stated that she believed it was submitted as a conceptual plan last winter.

Mr. Kennedy stated that he believed the impacts of this case on the EO zone were discussed during the Comprehensive Plan update.

Mr. Kennedy opened the Public Hearing.

1. Mr. Vernon M. Geddy, III, on behalf of the applicant, gave a brief presentation related to the project. He reviewed the site and EO zone designation, details of the SUP application, issues on Maxton Lane and their resolution, and the benefits of the use of the property. He commented on the timing of the construction in the off-season. He commented on the utility issue and the boundary line adjustment, which would split an easement over a shared driveway, which would be split between the two property owners.

2. Mr. Chris Henderson, 101 Keystone, commented that he assessed the case as a member of the Planning Commission. He stated that he understood that this property was located in a strategic location for a connector road in the EO zone in the Lightfoot corridor. He stated that he felt comfortable at the time that the property owner understood the implications of the EO zone and agreed to cooperate with the future development of that area.

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

Mr. Goodson stated that he felt comfortable remanding this item back to the Planning Commission. He stated that he believed that if the item was passed at the November meeting, it would not negatively impact the applicant's timeframe for the project.

Mr. McGlennon expressed concern that the materials for the first Planning Commission meeting in November would be available, but too late for the agenda packages.

Mr. Rogers stated that a staff report could be provided and the Planning Commission materials could be provided as an addendum.

Ms. Jones stated she felt comfortable deferring this case rather than remanding it.

Mr. Goodson stated that he was deferring the case so it would be heard whether the Planning Commission reviewed it again or not.

Mr. Kennedy stated that he remembered discussing this case in relation to the EO zone previously.

Mr. Rhoades, applicant, stated this has been in discussion for over a year. He stated that he did not have representation at the time of his preliminary application and that he brought his application before the Design Review Committee (DRC) in order to understand how his property would fit into the EO Zone. He stated this was an opportunity to expand a small business and increase jobs.

Mr. Kennedy asked if the cabins were on wheels.

Mr. Rhoades stated that they were as part of the conditions stipulated because of the EO zone designation.

Ms. Jones stated that there was significant discussion at the DRC level and that the Planning Commission could take their report into consideration on this particular case.

Mr. Rhoades stated that was correct.

Mr. Kennedy asked if staff was at the DRC meeting.

Mr. Rhoades stated that was correct.

Mr. Kennedy asked why the DRC materials were not part of the agenda packet.

Mr. McGlennon stated that the DRC discussion was not the actual application.

Mr. Kennedy stated that he felt that the materials should have been provided to the Planning Commission.

Mr. McGlennon stated that he believed that the application materials would have been compiled rather than materials from a prior meeting.

Mr. Goodson stated the motion was to defer to November 9, 2010, and allow the Planning Commission to review the case.

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

The case was deferred.

2. Case No. SUP-0021-2010. Hogge Family Subdivision

Mr. Jason Purse, Senior Planner, stated that Mr. Thomas Hogge has applied for an SUP to allow a family subdivision resulting in lots of less than three acres in size for family residential use. The lot is currently owned by Mr. Thomas and Mrs. Nikki Hogge and is planned to be transferred to their son, Mr. Jacob S. Hogge. Mr. and Mrs. Hogge have owned this parcel for more than 30 years. An existing shared 50-foot ingress/egress easement and gravel driveway will continue to be used as the primary point of access to the lot(s). The existing lot is 6.93 acres; the proposed family subdivision would result in a new 1.85-acre lot and a remainder parent parcel of 5.08 acres.

Staff found the proposal to be consistent with the surrounding development and Section 19-17 of the James City County Subdivision Ordinance.

Staff recommends approval of this SUP with the conditions listed in the resolution.

Mr. Icenhour asked if there were any residents on the parcel at this time.

Mr. Purse stated there were none.

Mr. Icenhour stated that this would be a subdivision and building project.

Mr. Purse stated that was correct.

Mr. Kennedy recognized Planning Commissioner Tim O'Connor in attendance.

Mr. Kennedy opened the Public Hearing.

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

Mr. Icenhour made a motion to adopt the resolution.

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

RESOLUTION

CASE NO. SUP-0021-2010. HOGGE FAMILY SUBDIVISION

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a Special Use Permit (SUP) process; and

WHEREAS, the applicants have requested an SUP to allow for a family subdivision with a lot less than three acres in size in an A-1, General Agricultural, District, located at 2677 Jolly Pond Road, further identified as James City County Real Estate Tax Map No. 3520100015B; and

WHEREAS, the Board of Supervisors, following a public hearing, is of the opinion that the SUP to allow for the above-mentioned family subdivision should be approved.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-0021-2010 as described herein with the following conditions:

1. This SUP is valid for a family subdivision for the creation of one new lot and one parent lot and shall be generally as shown on the plan drawn by Angle and Distance Land Surveying Inc, titled “(proposed) Subdivision of the Property of Thomas R. and Annikki S. Hogge,” and dated July 29, 2010.
2. Only one entrance serving both lots shall be allowed onto Jolly Pond Road.
3. Final subdivision approval must be received from the County within 12 months from the issuance of this SUP or the permit shall become void.
4. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

3. SO-0002-2010. Subdivision Ordinance Amendment

Mr. Chris Johnson, Principal Planner, stated that staff recommended amendment of Section 19-29 of Article II of the Subdivision Ordinance. He explained that the amendment added one new note and revised one existing note, both of which are required to be shown on final subdivision plats for parcels with either on-site sewage treatment systems or Resource Protection Area (RPA). The new note is in regard to the requirement that on-site sewage treatment systems be pumped out at least once every five years per Section 23-9(b)(6) of the James City County Code. The revised existing note simply changes the Section referenced to include all of Section 23-7 of the Chesapeake Bay Preservation Ordinance, which is the section that describes development criteria for RPAs. These amendments were identified by the recent Chesapeake Bay Act Phase III compliance assessment conducted by the Virginia Department of Conservation and Recreation’s Chesapeake Bay Local Assistance Department (CBLAD) staff in accordance with State law. Both notes refer to already existing Chesapeake Bay Act-related Environmental Division regulations.

At its meeting on September 1, 2010, the Planning Commission recommended approval of the proposed amendments by a vote of 7-0.

Staff recommends adoption of the ordinance.

Mr. Goodson asked how this would be enforced.

Mr. Johnson stated that enforcement would not be a County initiative. He stated that this was already a requirement. He stated that if there was an infraction, it would be reported to CBLAD and would be enforced according to State Code.

Mr. Goodson asked for clarification about how the requirement would be met.

Mr. Johnson stated that this was a note that was required on the plat. He stated this would bring attention to the property owner that the septic system needed to be pumped.

Mr. Goodson stated that he believed this may create a title issue for mortgage companies.

Mr. Rogers stated that it would not create a title issue since it would be indicated on the plats. He stated that there was currently enforcement through CBLAD.

Mr. Goodson stated that he could see benefit to policing this matter, and he did not want to have something in the ordinance that was not enforced.

Mr. Icenhour asked if this was a requirement put into the County by the Chesapeake Bay Preservation Ordinance.

Mr. Johnson stated that was correct. He stated this was an effort to acknowledge the requirement outside the Chesapeake Bay Preservation Ordinance to promote compliance.

Mr. Icenhour stated that at Smith Mountain Lake, there is a requirement for a five-year pump out within a certain distance of the lake. He stated property owners are sent a notice and the property owner must respond with evidence of a pump out or they receive a citation. He asked if there was any correlation in these programs.

Mr. Rogers stated there was a similar notification process of the requirement by State law. He stated he was unaware if this was a similar requirement to Smith Mountain Lake as it may not be in the Chesapeake Bay watershed.

Mr. Icenhour stated that there was similar methodology.

Mr. Goodson stated that there were many residents who are used to having a sewer system and are unaware of this requirement.

Mr. McGlennon stated that the purpose of this ordinance amendment was to notify property owners of the requirement.

Mr. Johnson stated that was correct. He stated that this was one of six required items by CBLAD for compliance.

Mr. Kennedy opened the Public Hearing.

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

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

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

4. Ordinance to Amend Chapter 24, Zoning, Section 24-666

Mr. Adam Kinsman, Deputy County Attorney, stated this ordinance amendment brought the County Code into compliance with State Code. Mr. Kennedy stated that this particular change was brought forward by the County's Legislative Agenda as a result of the recent appeal of the Board of Zoning Appeals decision. He stated that this legislation was carried by Delegate Abbott and helped to clarify major shortcomings in the State Code to protect members of the Board of Zoning Appeals legally. He recommended approval of the ordinance amendment.

Mr. Kennedy opened the Public Hearing.

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

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

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

I. PUBLIC COMMENT

1. Mr. Jay Everson, 103 Branscome Boulevard, commented on revenues for York County as a result of collaborative economic development.

J. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Middaugh stated that the Virginia Association of Counties (VACo) Annual Conference would take place in November and that the Board should select its voting delegation for the business meeting. He indicated that a delegate and an alternate should be selected and that Mr. Goodson and Mr. Icenhour would be the attendees.

The Board selected Mr. Goodson to serve as the voting delegate and Mr. Icenhour to serve as the alternate.

Mr. Middaugh recognized Williamsburg Regional Library (WRL) for achieving its third consecutive five-star award from Library Journal and noted it was the only library in Virginia to gain this recognition. He stated that he would like to recognize WRL staff at the next meeting.

K. BOARD REQUESTS AND DIRECTIVES

Mr. McGlennon recognized the major contributions of Ms. Ann Bradshaw to the community, as she passed away last week. He also recognized Ms. Barbara Flynn, a long-time fifth-grade teacher at Rawls Byrd Elementary School who also recently passed away. He recognized County employee Mr. John Williams for flying an injured eagle to a facility for injured birds.

Mr. Goodson commented that the County Administrator's meeting series would be in the Roberts District on October 21, 2010, at 6:30 p.m. in the James River Elementary School cafeteria.

Mr. McGlennon noted that the County Administrator's meeting in the Jamestown District was on October 14, 2010, at 6:30 p.m. in the Rawls Byrd Elementary School gymnasium.

Mr. Icenhour noted that on October 13, 2010, at 2:30 p.m., the James City County Citizens Coalition (J4Cs) were sponsoring a Stormwater Referendum forum at the James City/Williamsburg Community Center.

Ms. Jones thanked citizens who came to the Berkeley meeting with the County Administrator. She thanked the residents of the Mews for their invitation to discuss the stormwater referendum. She noted that on Thursday October 14, 2010, at 5:30 p.m., a community meeting would be held to discuss the Ironbound Square road improvements at the JCSA Operations building on Tewning Road.

Mr. Kennedy recognized the residents of Colonial Heritage for inviting him to a recent community meeting and thanked them for the questions he received. He expressed his condolences to the Bradshaw family due to the loss of Ms. Ann Bradshaw.

Mr. Goodson stated that he did not want to have to reproduce oversized attachments for the deferred case if there were no changes.

Mr. Goodson stated that he could support appointing Ms. Lara Overy to the RIC.

Ms. Jones made a motion to appoint Ms. Lara Overy to an unexpired term on the RIC.

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

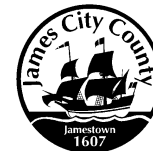
L. ADJOURNMENT to 4 p.m. on October 26, 2010.

Mr. Icenhour made a motion to adjourn.

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

At 8:58 p.m., Mr. Kennedy adjourned the Board until 4 p.m. on October 26, 2010.

Robert C. Middaugh
Clerk to the Board



MEMORANDUM COVER

Subject: Rescind Declaration of a Local Emergency

Strategic Management Plan Pathway: 2.a - address the needs of the underserved and protect the vulnerable

Action Requested: Shall the Board approve the resolution that rescinds the declaration of a local emergency?

Summary: The recent rainfall, coupled with increased humidity and lower temperatures, has abated the threat of wild fire. Accordingly, the Board's recent declaration of a local emergency may be rescinded.

Staff recommends adoption of the resolution to rescind the declaration of a local emergency.

Fiscal Impact:

FMS Approval, if Applicable: Yes ☐ No ☐

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:

1. Memorandum
2. Resolution

Agenda Item No.: H-2


Date: October 26, 2010

MEMORANDUM

DATE: October 26, 2010
TO: The Board of Supervisors
FROM: William T. Luton, Fire Chief
SUBJECT: Rescind Declaration of Local Emergency

On September 17, 2010, the County's Director of Emergency Management, Robert C. Middaugh, declared a local emergency due to a threat of fire caused by persistent dry, windy weather. At its September 28, 2010, meeting, the Board of Supervisors confirmed the September 17, 2010, declaration.

The recent rainfall, coupled with increased humidity and lower temperatures, has abated the threat of wild fire. Accordingly, the Board's recent declaration of a local emergency may be rescinded. A resolution rescinding the declaration is attached.


William T. Luton

CONCUR:

Robert C. Middaugh

WTL/nb
RescindLEr_mem

Attachment

RESOLUTION

RESCIND DECLARATION OF LOCAL EMERGENCY

WHEREAS, the Director of Emergency Management of James City County declared a local state of emergency on September 17, 2010, due to the threat of fire caused by persistent dry, windy weather; and

WHEREAS, at its meeting on September 28, 2010, the Board of Supervisors of James City County, Virginia, confirmed the Director's declaration; and

WHEREAS, due to recent rainfall, lower humidity, and lower temperatures, the threat of fire has abated.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that a local emergency no longer exists and the declaration is hereby rescinded.

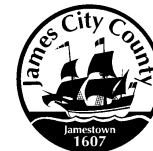
James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 26th day of October, 2010.

RescindLEr_res



MEMORANDUM COVER

Subject: Grant Award – Bulletproof Vest Program (BVP) – \$29,960

Strategic Management Plan Pathway: 1.d - develop and promote revenue alternatives to property taxes

Action Requested: Shall the Board approve the resolution that accepts the Bulletproof Vest Program (BVP) grant award?

Summary: The BVP grant will fund the purchase of approximately 43 replacement and new vests for police officers.

Staff recommends adoption of the attached resolution to appropriate funds.

Fiscal Impact: Requires a 50 percent local match - \$14,980 in local funds from County grants match.

FMS Approval, if Applicable: Yes ☒ No ☐

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:

1. Memorandum
2. Resolution

Agenda Item No.: H-3

Date: October 26, 2010

M E M O R A N D U M

DATE: October 26, 2010
TO: The Board of Supervisors
FROM: Emmett H. Harmon, Chief of Police
SUBJECT: Grant Award – Bulletproof Vest Program (BVP) – \$29,960

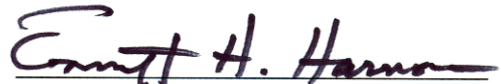
The James City County Police Department has been awarded a Bulletproof Vest Program (BVP) grant from the Office of Justice Programs' Bureau of Justice Assistance for \$29,960 (\$14,980 grant/\$14,980 local match). The funds are to be used to purchase approximately 43 replacement bulletproof vests for officers.

The Bulletproof Vest Program has typically been a recurring grant program made available each year to law enforcement agencies throughout the United States. This grant expires August 31, 2012, so it will allow us to replace vests, as needed, or purchase vests for new officers, throughout the grant period.

Each sworn officer within the Department is offered a bulletproof vest as part of their normal issued equipment. Currently, 83 bulletproof vests are issued. Unless recalls are made or the vest is damaged, the lifespan of vests is typically five years. The vests used by the Department are engineered for superior performance and are the first to integrate high-performance ballistic materials with a temperature-regulating carrier for maximum comfort. Additionally, the vest carriers utilize Thor Shield technology, a fabric designed to dissipate the electric charge delivered by electronic control devices, such as a TASER.

The grant requires a match of \$14,980, which is available in the County's grants match budget. Currently, there is \$189,822 available in this account.

Staff recommends adoption of the attached resolution to appropriate funds.


Emmett H. Harmon

CONCUR:

Robert C. Middaugh

EHH/nb
GA_BulPrfVst_mem

Attachment

RESOLUTION

GRANT AWARD – BULLETPROOF VEST PROGRAM (BVP) – \$29,960

WHEREAS, the James City County Police Department has been awarded a Bulletproof Vest Program (BVP) grant from the Office of Justice Programs' Bureau of Justice Assistance in the amount of \$29,960 (\$14,980 grant/\$14,980 local match); and

WHEREAS, the grant requires a match of \$14,980, which is available in the County's General Fund grants match account; and

WHEREAS, the funds are to be used to purchase approximately 43 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-FY 11	\$14,980
Grants Match	<u>14,980</u>
Total	<u>\$29,960</u>

Expenditure:

BVP – FY 11	<u>\$29,960</u>
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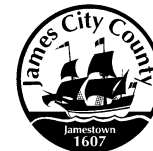
James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 26th day of October, 2010.

GA_BulPrfVst_res



MEMORANDUM COVER

Subject: Budget Adjustment – Asphalt Overlay Projects

Strategic Management Plan Pathway: 3.d - invest in the capital project needs of the community

Action Requested: Shall the Board appropriate additional Virginia Department of Transportation (VDOT) funds to allow an asphalt overlay project to be done?

Summary: Additional funding (\$17,027) needed to award an asphalt overlay project contract has been allocated by VDOT. Staff recommends that the Board appropriate the funds, allowing the project to proceed.

Fiscal Impact: No local funds, but will result in a locally administered VDOT project of \$535,421.

FMS Approval, if Applicable: Yes ☒ No ☐

John McDonald has signed the memo to the Board

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:

1. Memorandum
2. Resolution

Agenda Item No.: H-4

Date: October 26, 2010

MEMORANDUM

DATE: October 26, 2010
TO: The Board of Supervisors
FROM: John E. McDonald, Manager, Financial and Management Services
SUBJECT: Budget Adjustment – Asphalt Overlay Projects

On December 8, 2009, the Board of Supervisors appropriated \$518,394 in American Reinvestment and Recovery Act (ARRA) funds for a locally administered Asphalt Overlay/Resurfacing project. An Invitation for Bids for Asphalt Overlay-Variou Routes was publicly advertised and on July 13, 2010, the Board adopted a resolution authorizing the County Administrator to execute a contract up to the amount of \$535,421 with Branscome, Inc. That approval assumed that an additional \$17,027 in Federal and/or State funds could be allocated to the project.

<u>Firm</u>	<u>Base Bid</u>	<u>Additive Bid No. 1</u>	<u>Total</u>
Branscome, Inc.	\$339,682.76	\$195,738.24	\$535,421.00

The Base Bid includes overlay for 1.2 miles on Route 658, Olde Towne Road, and 1.2 miles on Route 617, Lake Powell Road. Additive Bid No. 1 is overlay for 1.1 miles on Route 616, Strawberry Plains Road.

On June 24, 2010, the County Administrator submitted a request to the Virginia Department of Transportation (VDOT) and the Hampton Roads Transportation Planning Organization (HRTPO) to transfer excess ARRA funds from the Route 199/Route 5 Intersection Improvements/Turn Lane project to this Asphalt Overlay project to enable the Additive Bid No. 1 work to be awarded in addition to the Base Bid. Responses from VDOT and HRTPO have been positive and the additional \$17,027 needed to fund alternative Bid No. 1 needs to be appropriated to the project budget.

Staff recommends adoption of the attached resolution appropriating an additional \$17,027 in ARRA funds to the Asphalt Overlay project. With this in place the full contract, in the amount of \$535,421, can be awarded to Branscome, Inc.

John E. McDonald

JEM/nb
BA_AsphOvly_mem

Attachment

RESOLUTION

BUDGET ADJUSTMENT – ASPHALT OVERLAY PROJECTS

WHEREAS, on October 27, 2009, the County/State Project Administration Agreement for Federal Aid Projects was adopted to authorize the County Administrator to execute the Project Administration Agreement for the Overlay/Resurfacing contract (UPC No. 95044); and

WHEREAS, on December 8, 2009, the Board of Supervisors appropriated \$518,394 towards the project; and

WHEREAS, a request for an additional allocation of \$17,027 needed to award a construction contract has recently been approved.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby amends the FY 2010 Special Projects/Grant fund for the purpose indicated:

Revenue:

American Recovery and Reinvestment Act (ARRA)	
Resurfacing Funds	<u>\$17,027</u>

Expenditure:

Overlay/Resurfacing (UPC No. 95044)	<u>\$17,027</u>
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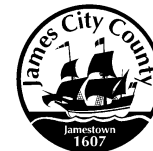
James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 26th day of October, 2010.

BA_AsphOvly_res



MEMORANDUM COVER

Subject: Virginia Peninsula Public Service Authority (VPPSA) Special Project Agreement for Landfill Monitoring - \$52,000

Strategic Management Plan Pathway: 4.d. - seek partnerships, citizen committees, trusts, and donations to protect the environment

Action Requested: Shall the Board approve a resolution authorizing the County Administrator to enter into an agreement with the VPPSA for landfill monitoring services?

Summary: As part of a required permit from the Virginia Department of Environmental Quality (VDEQ) the County must monitor the closed County landfill for any possible contamination of the groundwater in the area of the landfill. Since 1995 this has been done by consultants under a contract executed with VPPSA on behalf of the County. To allow VPPSA to provide the services to the County, a special project agreement is necessary between the County and VPPSA. VPPSA has selected Joyce Engineering as the most qualified firm to provide this service.

The action requested of the Board is to allow the County Administrator to enter into a special project agreement between the County and VPPSA to have Joyce Engineering provide landfill monitoring services at the closed James City County landfill. In FY 11 the anticipated cost is \$52,000 which has been budgeted within the Refuse Disposal operating budget.

Staff recommends approval of the resolution.

Fiscal Impact: \$52,000

FMS Approval, if Applicable: Yes ☐ No ☐

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:

1. Memorandum
2. Resolution
3. VPPSA Memorandum
4. Special Project Agreement

Agenda Item No.: H-5

Date: October 26, 2010

M E M O R A N D U M

DATE: October 26, 2010

TO: The Board of Supervisors

FROM: John T. P. Horne, General Services Manager

SUBJECT: Virginia Peninsula Public Service Authority (VPPSA) Special Project Agreement for Landfill Monitoring - \$52,000


James City County and six other jurisdictions contract with the Virginia Peninsulas Public Service Authority (VPPSA) for landfill monitoring services. VPPSA then contracts with an engineering consulting firm to provide the actual service. The monitoring at the County landfill is required under the Virginia Department of Environmental Quality (VDEQ) permit that is required for the closed landfill. The monitoring entails testing the groundwater for a variety of chemicals and methane gas, in order to ensure protection of the groundwater in the area. This work is highly specialized and the technical requirements are beyond the expertise of County staff.

The current Agreement for landfill monitoring services between VPPSA and James City County expired on June 30, 2010. VPPSA has provided this service to James City County since 1995.

In February 2010, VPPSA issued a Request for Proposals for landfill monitoring on behalf of the participating jurisdictions and received proposals from four firms. The firms were interviewed by a committee from VPPSA and the jurisdictions and a firm was selected in June 2010. All seven jurisdictions selected Joyce Engineering as the most qualified firm. Joyce Engineering has been providing this service to the VPPSA jurisdictions since 2000. Attached is a memorandum from the Executive Director of VPPSA which provides additional details on the selection and services.

VPPSA has executed the contract for landfill monitoring services with Joyce Engineering. The final step in the process is for the County to enter into a Special Project Agreement with VPPSA so the services can be provided to the County. Execution of the attached Agreement will allow for continued landfill monitoring services for an additional five years. Similar service agreements with VPPSA are in place for curbside recycling and household chemical collection. In FY 11 the landfill monitoring costs are expected to be no more than \$52,000. This funding is included in the adopted FY 11 budget for Refuse Disposal.

Staff recommends adoption of the attached resolution authorizing the County Administrator to enter into an agreement with VPPSA for landfill monitoring services.


John T.P. Horne

JTPH/nb
VPPSA_LndFl_mem

Attachments

RESOLUTION

SPECIAL PROJECT AGREEMENT – VIRGINIA PENINSULA PUBLIC SERVICE AUTHORITY

(VPPSA) FOR LANDFILL MONITORING – \$52,000

WHEREAS, James City County is a member of and contracts with the Virginia Peninsulas Public Service Authority (VPPSA) for landfill monitoring services; and

WHEREAS, VPPSA has issued a Request for Proposals for landfill monitoring services for a period of five years starting on June 30, 2010; and

WHEREAS, James City County wishes to continue contracting with VPPSA for landfill monitoring services.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to execute agreements with VPPSA for landfill monitoring services.

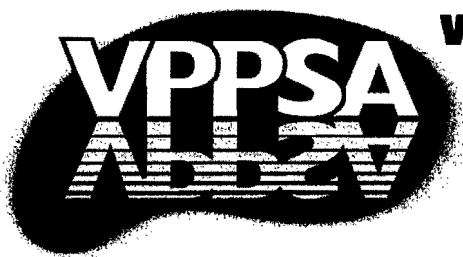
James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 26th day of October, 2010.

VPPSA_LndFl_res



Virginia Peninsulas Public Service Authority

September 29, 2010

MEMORANDUM TO: John Horne

FROM: Stephen B. Geissler

SUBJECT: Service Agreement for Post-Closure Landfill Monitoring

Joyce Engineering has provided landfill monitoring services to the counties of James City, King and Queen, King William, Mathews, Middlesex and York since July 2000 through agreements with VPPSA. In June 2010, Joyce completed a second five year agreement with VPPSA to provide these services.

In February 2010, VPPSA issued a Request for Proposals for Landfill Monitoring Services on behalf of the six participating counties and Essex County. The following four firms submitted proposals:

Draper Aden Associates
Golder Associates
Joyce Engineering
Resource International

On March 12, 2010, all four firms were interviewed by a panel consisting of one representative from each of the seven counties.

After additional investigations completed by VPPSA staff, all seven counties selected Joyce Engineering to provide the landfill monitoring services.

At the June 2010 meeting, the VPPSA Board approved a Contract with Joyce Engineering for landfill monitoring services for the Counties of Essex, James City, King and Queen, King William, Mathews, Middlesex and York.

Attached is a Service Agreement for Landfill Monitoring Services between VPPSA and James City County which was approved by the VPPSA Board at its regular meeting on August 2, 2010. Highlights of the Service Agreement are as follows:

- Joyce Engineering will provide base services, including groundwater monitoring, gas monitoring, site inspections and reporting to Virginia Department of Environmental Quality (DEQ)
- Joyce Engineering will provide additional services, including responding to DEQ requirements which may include field investigations, additional monitoring activities and preparation of reports and other general consulting services as defined in the Contract.

475 McLaws Circle, Suite 3B • Williamsburg • VA 23185-5676 • 757-259-9850 • Fax 757-259-9855

Serving the Communities of Essex, Hampton, James City, King and Queen, King William, Mathews, Middlesex, Norfolk and York

- The County will designate an individual to serve as the representative of the County.
- Every year VPPSA will obtain an estimate of the cost of base services and additional services for the following fiscal year from Joyce Engineering which will be used for preparation of the annual budget which will be considered for approval at the December meeting of the VPPSA Board.
- Every year Joyce Engineering will provide a proposal with updated cost estimates at the April meeting of the VPPSA Board. The VPPSA Board will consider the proposal from the Joyce Engineering, and if approved, shall serve as the budget for the Project for the following fiscal year.
- Throughout the term of the Agreement, VPPSA staff will provide administrative and technical assistance to the County as requested.
- Joyce Engineering will submit monthly invoices to VPPSA for services provided to the County, which will include itemized costs for personnel and expenses and a project status report identifying work completed for the billing period. VPPSA will forward copies of the invoice and project status report to the County requesting approval to make payment. After receipt of approval from the County, VPPSA will then make payment to the Joyce Engineering.
- VPPSA will invoice the County in the amount included on the invoice from Joyce Engineering plus any administrative fee established by the VPPSA Board.

Special Project Agreement

Landfill Monitoring Project

THIS AGREEMENT dated the ____ day of _____, 2010, is made by and between the Virginia Peninsulas Public Service Authority (hereinafter designated "VPPSA"), an authority created under the Virginia Water and Waste Authorities Act, VA.Code 15.2-5100 et seq. (the "Act"), and the County of James City (hereinafter designated as "Community").

Article I - Purpose:

This Agreement is entered into pursuant to the authorization of the Act and in accordance with the Articles of Incorporation of the Virginia Peninsulas Public Service Authority, as adopted by its member jurisdictions. Its purpose is to establish a special project pursuant to paragraph (e) of the Articles.

VPPSA has entered into a Contract entitled "Contract for Post-Closure Landfill Monitoring Services", with Joyce Engineering, Incorporated, dated June 30, 2010, (the Contract) a copy of which is attached to this Agreement, to provide landfill monitoring services for the Community and the Counties of Essex, King and Queen, King William, Mathews, Middlesex and York (the "Project").

Article II – Scope of Services:

Services will be provided to the Community by Joyce Engineering, Incorporated (the "Contractor") as defined in the Contract. The Contractor will provide base services, including groundwater monitoring, gas monitoring, site inspections and reporting the Virginia Department of Environmental Quality (DEQ), and additional services, including responding to DEQ requirements which may include field investigations, additional monitoring activities and preparation of reports and other general consulting services as defined in the Contract.

For FY 11, base services provided by the Contractor shall include:

- Semi-annual groundwater sampling: 13 wells
- Quarterly landfill gas monitoring: 15 probes
- Quarterly post-closure care inspections

- One semi-annual groundwater report
- One annual groundwater report (includes second semi-annual groundwater report)

Article III - Responsibilities of the Community:

The Community shall designate an individual who shall serve as the representative of the Community and shall be responsible for supervision of the Project. The representative of the Community will serve as the contact person for correspondence with the Contractor and for approving work to be completed and expenses to be incurred by the Contractor.

Article IV - Responsibilities of VPPSA:

Every year, on or about November 1, VPPSA shall obtain from the Contractor an estimate of the cost of base services and additional services for the following fiscal year, which shall include a description of services to be provided for the Project. The estimate shall be prepared based on the Contractor's understanding of work activities to be required by DEQ and will be included in the budget for the following fiscal year which will be considered for approval at the December meeting of the VPPSA Board of Directors.

Every year prior to the April meeting of the VPPSA Board meeting, VPPSA shall obtain a proposal from the Contractor which shall include a revised estimate of the cost of base services and additional services for the following fiscal year noting the reasons for any changes from the November estimate. The VPPSA Board of Directors will consider the proposal from the Contractor, and if approved, shall serve as the budget for the Project for the following fiscal year.

Throughout the term of the Agreement, VPPSA staff shall provide administrative and technical assistance to the Community as requested.

Article V - Term of Agreement:

This Agreement shall become effective and operations hereunder shall commence on the effective date of the Contract and shall terminate on June 30, 2015.

Article VI - Service Fees:

The Contractor shall submit monthly invoices to VPPSA for services provided to the Community, which shall include itemized costs for personnel and expenses and a

project status report identifying work completed for the billing period. VPPSA will forward copies of the invoice and project status report to the Community representative requesting approval to make payment to the Contractor. After receipt of approval from the Community, VPPSA shall make payment to the Contractor.

VPPSA shall invoice the Community a Service Fee in the amount included on the invoice from the Contractor plus any administrative fee established for the Project by the VPPSA Board of Directors. Invoices to the Community shall be payable in 30 days.

Payments by the Community of Service Fees hereunder are payments for services rendered and the obligation to make such payments does not constitute a debt of the Community for constitutional, statutory or charter limitations.

Article VII - No Partnership:

Nothing herein shall be construed to constitute a joint venture between VPPSA and the Community or other jurisdictions or the formation of a partnership.

Article VIII -Termination:

The Community may terminate the Agreement at any time provided that VPPSA can provide notice to the Contractor in accordance with the Contract.

Article IX- Licenses, Permits and Certificates:

VPPS shall be responsible for requiring that all licenses, permits and certificates required in connection with any and all parts of the Project are secured by the Contractor.

Article X - Governing Law:

This Agreement shall be governed by the laws of the Commonwealth of Virginia.

Article XI- Extent of Agreement:

This Agreement represents the entire agreement for the Project between VPPSA and the Community and supersedes all prior negotiation, representations or agreements, either written or oral. This Agreement may only be amended by written document signed by both the Community and VPPSA.

Article XII- Dispute Resolution:

The parties hereto agree to undertake to resolve any disputes hereunder by good faith negotiation prior to instituting any legal proceedings related to such dispute.

Article XIII- Severability and Waiver:

In the event any provision of this Agreement shall be held to be invalid and unenforceable, the remaining provisions shall be binding upon the parties. One or more waivers by either party of any provision, term, condition, or covenant shall not be construed by the other party as a waiver of a subsequent breach of the same by the other party.

IN WITNESS WHEREOF, VPPSA and the Community have caused this Agreement to be executed on their behalf, as of the day and year first above written.

ATTEST:

VIRGINIA PENINSULAS
PUBLIC SERVICE AUTHORITY

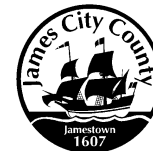
Lisa Polidori

By 
Executive Director

ATTEST:

COUNTY OF JAMES CITY

By _____
County Administrator



MEMORANDUM COVER

Subject: Pre-Cable Franchise Public Hearing

Strategic Management Plan Pathway: N/A

Action Requested: Shall the Board receive comments during a public hearing regarding the franchise renewal and amendments to the Cable Communications Ordinance?

Summary: Staff advertised a public hearing to give citizens an opportunity to comment on the provision of cable television in the County. The County is in the process of renewing the cable franchise with Cox Communications.

Staff recommends that the Board close the public hearing.

Fiscal Impact: N/A

FMS Approval, if Applicable: Yes ☐ No ☒

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:

1. Memorandum

Agenda Item No.: I-1

Date: October 26, 2010

M E M O R A N D U M

DATE: October 26, 2010

TO: The Board of Supervisors

FROM: Leo P. Rogers, County Attorney
Jody Puckett, Director of Communications

SUBJECT: Pre-Cable Franchise Public Hearing

Staff advertised a public hearing to give citizens an opportunity to comment on the provision of cable television in the County. The County is in the process of renewing the cable television franchise with Cox Communications. This is a non-exclusive franchise and pertains only to the provision of cable television service. The County's franchise does not pertain to telephone or internet services. In addition, the County is very limited by State and Federal law as to what can be regulated in a cable television franchise. For instance, the franchise cannot regulate rates or programming. The franchise deals with other issues such as the provision of cable television service to areas of the County, customer service by the franchise and the availability and use of the government access channels.

After hearing from the public, we recommend that you close the public hearing. In November there will be another public hearing to consider the franchise renewal and amendments to the Cable Communications Ordinance.


Leo P. Rogers

Jody Puckett

LPR/JP/tlc
PreCblPH_mem