

A G E N D A
JAMES CITY COUNTY BOARD OF SUPERVISORS
County Government Center Board Room
June 26, 2012
7:00 P.M.

- A. CALL TO ORDER**
- B. ROLL CALL**
- C. MOMENT OF SILENCE**
- D. PLEDGE OF ALLEGIANCE** – Hailey Hopkins, 4th grade student at Norge Elementary School
- E. PRESENTATION** – None
- F. PUBLIC COMMENT**
- G. BOARD REQUESTS AND DIRECTIVES**
- H. CONSENT CALENDAR**
 - 1. Minutes –
 - a. June 12, 2012, Regular Meeting
 - 2. Appropriation of Funding for the Homelessness Intervention Program (HIP) – \$13,278
 - 3. Certificate of Public Need – Advanced Vision Surgery Center
- I. PUBLIC HEARING**
 - 1. Chapter 3. Animal Laws. An Ordinance to Amend James City County Code Section 3-1, Definitions, and Section 3-8, Dangerous and Vicious Animals
- J. BOARD CONSIDERATIONS**
 - 1. Local Governing Body Concurrence with School Division Electing to Pay the Virginia Retirement System Board-Certified Rate
 - 2. Cox Communications Easement/Right-of-Way Agreement – Freedom Park Interpretive Center
- K. PUBLIC COMMENT**
- L. REPORTS OF THE COUNTY ADMINISTRATOR**
- M. BOARD REQUESTS AND DIRECTIVES**
- N. CLOSED SESSION**
 - 1. Consideration of a personnel matter(s), the appointment of individuals to County boards and/or commissions pursuant to Section 2.2-3711(A)(1) of the Code of Virginia
 - a. Social Services Advisory Board
 - b. Colonial Behavioral Health Board
 - 2. Consideration of the purchase of parcel(s) of property for public use pursuant to Section 2.2-3711(A)(3) of the Code of Virginia
 - 3. Consideration to consult with legal counsel and staff members (or consultants) pertaining to actual or probable litigation pursuant to Section 2.2-3711(a)(7) of the Code of Virginia
- O. ADJOURNMENT** - to 7 p.m. on July 10, 2012

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 12TH DAY OF JUNE 2012, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. CALL TO ORDER

B. ROLL CALL

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

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

C. MOMENT OF SILENCE

D. PLEDGE OF ALLEGIANCE – Jalen Morris, a 5th grade student at James River Elementary School, led the Board and citizens in the Pledge of Allegiance.

E. PRESENTATIONS

1. 2012 Historical Preservation Award

Mr. Lafayette Jones, Chairman of the Historical Commission, presented a 2012 Historical Preservation Award to Mr. John Labanish for his initiation of the Norge Train Depot relocation project and to members of the Friends of Green Spring for their educational efforts to increase knowledge and awareness of the Historic Green Spring Plantation and its builder Governor William Berkeley. Mr. Jones noted that Mr. Labanish and the Friends of Green Spring both worked diligently to preserve and promote the local history of James City County.

2. Library Presentation

Mr. John Moorman, Director of the Williamsburg Regional Library, introduced two members of the Library Board of Trustees, Ms. Sara Hoagland and Ms. Lynda Byrd-Poller. Mr. Moorman provided the Board with an update on the services provided by the Williamsburg Regional Library. Mr. Moorman provided a history of the Library from its founding of 50 volumes in 1909 in the front hall of the historic Saint George Tucker House to present. Mr. Moorman advised the Board that the Williamsburg Library is 40,000 square feet and houses 180,000 volumes. He stated that the James City County Library is 35,000 square feet and houses 150,000 volumes. Mr. Moorman spoke about the Library's website and stated that it provides user friendly electronic access to programs and services offered by the Library. He stated that the Library has 60 computer

terminals and offers internet access to its members. Mr. Moorman advised the Board that the Williamsburg Library offers gallery space to local artists, sculptors, and photographers. He stated that the Library has a 267-seat auditorium that is used for a variety of reasons such as concerts and author visits. He stated that the Library serves as a community center and provides public room space where individuals can discuss ideas and concerns. Mr. Moorman spoke about the Library's Outreach Division that provides services to those who are unable to visit the Library. He stated that the Division provides monthly visits to 21 retirement and assisted living centers in the community. He stated that the Division also provides 14 weekly community stops and monthly service to 30 preschools and day-care centers. Mr. Moorman thanked the Board for its financial support which enables the Library to provide excellent service to the community.

Mr. McGlennon thanked Mr. Moorman, the Library Board, and the Library staff for continued excellent service that they provide to the community.

Ms. Jones thanked Mr. Moorman for the presentation.

F. PUBLIC COMMENTS

1. Mr. John Pottle, 4233 Teakwood Drive, Williamsburg, gave an invocation to the Board.
2. Ms. Sue Sadler, 9929 Mountain Berry Court, Toano, spoke about Robert's Rules of Order with respect to proper protocol when members of the assembly address the Board.
3. Mr. Joseph Swanenburg, 3026 The Point Drive, Lanexa, expressed concern about security and public safety at Board meetings. Mr. Swanenburg also talked about United Nations Agenda 21.
4. Mr. Ken Kievit, 3150 Cider House Road, Toano, addressed the Board regarding Richardson Mill Pond Dam. He stated that the dam has a hole. He stated that he has contacted the State Department of Conservation and Recreation and learned that there were plans to have the dam rehabilitated in 2007. Mr. Kievit requested that the Board contact the property owner and advise the owner to repair the hole in the dam.
5. Mr. Chris Henderson, 101 Keystone, Williamsburg, addressed the Board regarding a parking problem at the James City County Recreation Center on election days. Mr. Henderson stated that it is an inconvenience for voters to enter and exit the voting area. Mr. Henderson requested that the Board of Supervisors consider closing the Recreation Center on election days so that the voters can utilize the entire parking lot. Mr. Henderson also expressed to the Board his desire for having security at public meetings. He stated an officer's presence promotes decorum and peace. He encouraged the Board to consider having a uniformed police officer at its meetings.
6. Mr. Ed Oyer, 139 Indian Circle, Williamsburg, addressed the Board concerning traffic delays on Route 60. Mr. Oyer also commented on the Library presentation and stated that he feels the Library is a valuable resource.

G. BOARD REQUESTS AND DIRECTIVES

Mr. Kale requested County staff to look into Mr. Henderson's request to close the James City County Recreation Center on election days.

Mr. McGlennon reported that he attended the Memorial Day services at Williamsburg Memorial Park. He stated that the services were excellent and well attended. Mr. McGlennon stated that he had the opportunity to visit Williamsburg Landing. He stated that Williamsburg Landing received a loan from the County's energy efficiency conservation block grant revolving loan fund which has allowed them to replace all street lighting with LED lighting. Mr. McGlennon stated that Williamsburg Landing will be able to repay the loan in three years with the savings they will realize from the energy efficient LED lights.

Mr. Icenhour presented Mr. Middaugh with petitions dealing with the Virginia Department of Transportation (VDOT) speed limit issue from residents of Seasons Trace. Mr. Icenhour reported that he attended a business appreciation event at the Colonial Williamsburg Visitor's Center. He stated that the event was very impressive. He informed the Board that on May 31, 2012, he attended a meeting at Windsor Meade to hear a presentation regarding New Town Section 12. He stated that the meeting was interesting and informative. He stated that on June 5, 2012, he attended the grand opening of the Williamsburg Landing Cove Café. He stated that on June 7, 2012, he and Chairman Jones attended the General Education Diploma (GED) graduation ceremony. He stated that it was an impressive ceremony. He also mentioned that on June 8, 2012, he attended the Virginia Association of Counties (VACo) Region II meeting in King and Queen County. Mr. Icenhour advised County staff that he received a citizen inquiry regarding the timing of the traffic light on Route 5, heading toward the fire station. He stated that sometimes people sit through two to three cycles at the light before they can make a left turn.

Mr. Kennedy stated that he had the task of relocating a business in the County and wanted to express his thanks and appreciation to staff for a job well done for making the relocation a pleasant experience. Mr. Kennedy requested that the Board consider forming a Landscaping Committee. He stated that he has talked to several landscapers who have looked at recent landscaped projects at the Pottery and other locations. He stated that the landscapers stated that the businesses were overplanting. He asked the County to consider utilizing the professional experiences of landscapers to assist office staff.

Ms. Jones stated that it was an honor to attend the GED graduation ceremony. She stated that the ceremony was very inspiring and she congratulated all of the graduates. Ms. Jones stated that on June 7, 2012, she and the County Administrator attended Virginia's Golden Crescent Summit meeting in Henrico County. She stated that it was a gathering of Mayors and Chairs from 56 communities. She stated that the purpose of the meeting was to get together, as one voice, to discuss the transportation infrastructure needs with the Governor and General Assembly. She stated that it was a very positive meeting.

Mr. Middaugh stated that the materials distributed at the Golden Crescent Summit meeting were prepared by the Hampton Roads Planning District Commission (PDC). He stated that he will make sure that Board members get a copy of the material.

Ms. Jones stated that the information will also be made available on the County's website.

H. CONSENT CALENDAR

Mr. McGlennon noted that the Board received amended regular meeting minutes for the May 22, 2012, meeting. Mr. McGlennon made a motion to approve the Consent Calendar.

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

1. Minutes –
 - a. May 22, 2012, Work Session
 - b. May 22, 2012, Regular Meeting

2. Resolution of the Board of Supervisors of James City County, Virginia Declaring Its Intention to Reimburse Itself from the Proceeds of One or More Financings for Certain Costs of Capital Improvements

RESOLUTION

RESOLUTION OF THE BOARD OF SUPERVISORS OF JAMES CITY COUNTY, VIRGINIA

DECLARING ITS INTENTION TO REIMBURSE ITSELF

FROM THE PROCEEDS OF ONE OR MORE FINANCINGS

FOR CERTAIN COSTS OF CAPITAL IMPROVEMENTS

WHEREAS, James City County, Virginia (the "County") has determined that it may be necessary or desirable to advance money to pay the costs of certain capital improvements for public facility improvements, identified as the "Project" and adopted as part of the Capital Budget for the fiscal year ending June 30, 2013; and

WHEREAS, the Project includes the James River Elementary School Heating, Ventilation, and Air Conditioning (HVAC) system replacement, the Lafayette High School HVAC system replacement, the Toano Middle School refurbishment and HVAC system and roof replacements, and a replacement for Fire Station 1 in Toano.

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

1. The Board of Supervisors adopts this declaration of official intent under Treasury Regulations Section 1.150-2.
2. The Board of Supervisors reasonably expects to reimburse advances made or to be made by the County to pay the costs of the Project from the proceeds of one or more financings. The maximum amount of financing expected to be issued for the Project is \$20 million.
3. This resolution shall take effect immediately upon its adoption.

3. Colonial Community Corrections (CCC) Budget Adjustment - \$90,000

RESOLUTION

COLONIAL COMMUNITY CORRECTIONS (CCC)

BUDGET ADJUSTMENT - \$90,000

WHEREAS, the Board of Supervisors of James City County, Virginia, is the fiscal agent for Colonial Community Corrections (CCC) and approves both budgets and position requests for CCC; and

WHEREAS, CCC has entered into an agreement with the National Institute of Corrections (NIC) to reimburse the salary and fringe benefit costs of Ms. Katie Green, Program Director, for two years so that she might work with NIC on community correction programs; and

WHEREAS, CCC has requested a two-year limited-term position, funded from the monies reimbursed by the NIC, would allow the work to continue in Ms. Green’s absence - at no additional cost to the County or the other locality partners in CCC; and

WHEREAS, a budget amendment of \$90,000 for both FY 2013 and FY 2014, the appropriation of the funds in FY 2013 and the creation of a limited-term position for two years (FY 2013 and FY 2014) need to be approved by the Board of Supervisors for CCC to execute this agreement.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby amends the adopted budget of CCC as follows and appropriates the funds for the fiscal year ending June 30, 2013;

<u>FY 2013</u>	Revenues – National Institute of Corrections	+\$ 90,000
	Expenditures – Personnel Services	+\$ 90,000
<u>FY2014</u>	Revenues – National Institute of Corrections	+\$ 90,000
	Expenditures – Personnel Services	+\$ 90,000

BE IT FURTHER RESOLVED that the Board of Supervisors authorizes a two-year limited-term position for the period beginning July 1, 2012, to act as the CCC Program Director.

I. PUBLIC HEARINGS

1. Expansion of James City County Enterprise Zone

Mr. Telly Tucker, Assistant Director of Economic Development, stated that the enterprise zone program is a partnership between the State and local government that stimulates job creation and private investment within designated areas throughout the State. Mr. Tucker informed the Board that James City County received its designation in 1996. He stated that as part of this designation, the County is allowed a total of 3,840 acres County-wide, consisting of no more than three non-contiguous areas. He stated that additionally an enterprise zone locality can reallocate 15 percent of its existing acreage per year. He stated that in order to maximize the potential benefit County-wide, staff created a three- to five-year amendment plan which would encourage job creation and private investment within other areas of the County. He stated that in 2011, Year One of the plan, the Board of Supervisors approved an amendment to remove 518 acres of Resource Protection Area (RPA) and wetlands in the southern portion of the County and reallocate that acreage, along with 384 acres previously unallocated which allowed the County to add the Busch Corporate Center area, portions of Route 60 corridor, Hankins and Jacobson Industrial Parks, and a portion of the Stonehouse Commerce Park area. He stated that staff is requesting authorization to make application to the State to continue the multi-year reallocation plan and remove enterprise zone designations from 537 additional acres of existing zone characterized by RPA, wetlands, and public lands, and re-designate 533 acres of industrial and commercial lands to include the remainder of Stonehouse Commerce Park and additional acreage along both side of the State Route 60 corridor, from the Stonehouse Commerce Park approximately 1.3 miles toward the intersection of State Route 60 and Croaker Road. He stated that staff is also requesting authorization to make application to the State to amend the local incentives within the James City County enterprise zone by reducing the capital investment threshold requirement for local incentives from \$1 million to \$500,000 and to add expedited review, fast-track permitting for all projects that meet the capital investment qualifications criteria in the enterprise zone. He stated that the proposed incentive changes are designed to provide enterprise zone incentives for smaller businesses and technology based businesses that make significant capital investment within the enterprise zone, triggering an increase in taxes paid to the County. He stated that the proposal was presented to the Economic Development Authority (EDA) on May 17, 2012. He stated that the proposal received EDA support. Mr. Tucker advised the Board that he would answer any questions that it may have regarding the proposed changes to the enterprise zone.

Mr. McGlennon questioned if the Economic Development Office ever determined the employment impact as a result of the enterprise zones.

Mr. Tucker responded that in 1984 when the program was created, it required that companies hire either people who lived in the enterprise zone or people who met the low to moderate income requirement. He stated that in 2005 the General Assembly completely overhauled the program due to the fact that the program's intent to encourage those hiring decisions within those areas had insignificant results. He stated that the State did away with the requirement that stated businesses have to hire people who live in the zone. He stated that it serves very little purpose to have residential areas be part of an enterprise zone as there are currently no incentives in place for residential property.

Mr. McGlennon questioned if the program had any type of priority in improving the employment situation for individuals who are unemployed or under-employed.

Mr. Tucker stated that this priority is part of the program. He stated that the requirement is that a company must hire at least four new full-time positions. He stated that the position must pay at least \$12.69 per hour and the employer must offer to pay at least 50 percent of the employee's health insurance.

Ms. Jones opened the Public Hearing.

1. Mr. William H. Beck, 7988 Richmond Road, Toano, addressed Mr. Kennedy and stated that he did not know anything about the enterprise zone until the morning of June 12, 2012. He stated that he read 533 acres were going to be taken out of the County and questioned how much of the acreage was in Stonehouse.

Ms. Jones advised Mr. Beck that during the public comment section that there is not dialogue with the Board.

Mr. Beck questioned if he could ask his supervisor for an answer.

Ms. Jones advised Mr. Beck no, not directly.

2. Mr. Ed Oyer, 139 Indian Circle, Williamsburg, questioned if a business located in the enterprise zone could chose not to participate in the incentives offered of the enterprise zone.

Ms. Jones advised Mr. Oyer that his question would be answered by Mr. Tucker after she closed the Public Hearing.

3. Mr. Dwight Wolf, 1113 Patrick Lane, Newport News, advised the Board that he owns land zoned as heavy industrial in the enterprise zone area. Mr. Wolf expressed concern regarding the wetlands delineation. He stated that roads will be built crossing wetlands areas and that the County should not eliminate the wetlands from the enterprise zone.

Ms. Jones closed the Public Hearing.

Mr. Tucker responded to comments made during the Public Hearing. He stated that enterprise zone program no longer requires any business within the enterprise zone to hire residents who live in the enterprise zone. He stated that the requirement was eliminated in 2005 when the program became a cash grant program as opposed to a tax credit program. In regard to the RPA meets and bounds, Mr. Tucker stated that in his experience, the Department of Housing and Community Development (DHCD) is willing to work with any business even if a portion of their property is not included in the enterprise zone. He stated that DHCD

protocol is to look at where the physical building is located and the percentage of property located in the enterprise zone. He stated that if a majority of the property is located in the enterprise zone, then an investor would be able to include those costs when applying for incentives. Mr. Tucker stated that if there was a situation where something was left out, the County has the ability to amend the zone once every 365 days and the amendment becomes retroactive to the first of the year.

Mr. Middaugh addressed Mr. Beck's concerns regarding if acreage is going to be removed from the County. Mr. Middaugh stated that acreage was going to be reallocated within the County from an area that cannot utilize the enterprise zone designation to an area that is zoned and can utilize the designation.

Mr. Icenhour commented that the Enterprise Zone designation expires on December 31, 2015, and expressed his desire that the legislation is extended or renewed.

Mr. Icenhour made a motion to adopt the resolution.

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

RESOLUTION

EXPANSION OF JAMES CITY COUNTY'S ENTERPRISE ZONE

WHEREAS, James City County has a total of 3,840 acres which can be included as part of designated Enterprise Zone that will expire on December 31, 2015; and

WHEREAS, the County's existing Enterprise Zone contains approximately 3,836 acres; and

WHEREAS, the existing Enterprise Zone contains large areas of public lands, wetlands, or property designated by the Chesapeake Bay Preservation Act as a Resource Protection Area (RPA); and

WHEREAS, the Virginia Enterprise Zone Program regulations allow for an annual 15 percent reallocation of existing Enterprise Zone acres; and

WHEREAS, the Virginia Enterprise Zone Program regulations allow for local incentives to be amended once per 365 days.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes staff to submit an Enterprise Zone Boundary and Incentive Amendment Application to the Virginia Department of Housing and Community Development to remove Enterprise Zone designation of 537 acres from the existing Enterprise Zone identified as wetlands, RPA, and publicly owned land, and designate 533 acres in the following manner:

- Expand the County's existing Enterprise Zone to include additional acreage along the SR-60 corridor from the existing Zone boundary farther east toward Croaker Road.
- Expand the existing Enterprise Zone to include additional acreage in the Stonehouse Commerce Park per the approved master plan.
- Reduce the capital investment threshold requirement from \$1 million or more to \$500,000 or more in commercial or industrial investment in the zone.
- Add a new incentive which will provide expedited processing and/or fast track permitting for all projects that meet the capital investment qualification criteria within the Enterprise Zone.

2. Zoning Ordinance Updates

a. Case Nos. ZO-0011-2011, ZO-0012-2011, and ZO-0013-2011. Procedural Descriptions, Submittal Requirements and Administrative Items, and Nonconformities

Mr. Jose Ribeiro, Senior Planner I, informed the Board that, as part of the zoning ordinance update process, staff has revised ordinance language. He stated that staff has also drafted policies regarding traffic impact and environmental constraints and established a set of guidelines to be used for fiscal impact submittals. Mr. Ribeiro stated that language revisions reflect different needs ranging from updates based on the State Code, clarification of procedures, correction of minor grammatical errors, reorganization of information, and introduction of new language. He stated that staff also consolidated a narrative regarding master plans. Mr. Ribeiro stated that a fee schedule resolution was going to be proposed; however, on the advice of the County Attorney, the fee schedule will remain as an ordinance. Mr. Ribeiro stated that he would answer questions from the Board.

Mr. McGlennon questioned if the administrative fees were back in the ordinance.

Mr. Ribeiro stated yes. He further responded that staff was going to submit a resolution authorizing the Board of Supervisors the authority to review fees through a fee schedule. He stated that as per a consultation with the County Attorney, staff realized that they would not proceed with the resolution. The idea behind the resolution was to streamline the process. He stated that currently the Board has to go through a public hearing in order to amend the fee schedule. He stated it was staff's initial thought that if the fee schedule was removed from the ordinance the public hearing process would be eliminated. He stated that he was advised by the County Attorney's Office that that would not be the case.

Ms. Jones opened the Public Hearing.

As no one wished to speak to this matter, Ms. Jones closed the Public Hearing.

Mr. McGlennon made a motion to adopt three ordinances and two resolutions.

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

RESOLUTION

TRAFFIC IMPACT ANALYSIS SUBMITTAL REQUIREMENTS POLICY

WHEREAS, the Traffic Impact Analysis Submittal Requirements Policy ("Policy") is designed to provide guidance to applicants regarding the minimum submittal requirements for a Traffic Impact Analysis (TIA); and

WHEREAS, the Policy is consistent with the Virginia Department of Transportation's Traffic Impact Statement (VTIS) submittal requirements; and

WHEREAS, the Policy Committee endorsed the Policy on September 15, 2011; and

WHEREAS, the James City County Planning Commission, after a public hearing, endorsed the Policy on _____ by a vote of _____.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the Traffic Impact Analysis Submittal Requirements Policy.

RESOLUTION

ENVIRONMENTAL CONSTRAINTS ANALYSIS FOR LEGISLATIVE CASES

WHEREAS, in order to fully understand the impacts of a development on the local environment, consistent information should be provided to Planning staff and members of the Planning Commission and Board of Supervisors prior to approval of a legislative case (special use permits and rezonings); and

WHEREAS, a thorough environmental analysis will ensure that development is not planned for areas which may not be able to accommodate it due to environmental constraints; and

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby endorses the following:

Any application for a use requiring a special use permit and/or rezoning, shall be accompanied by an Environmental Constraints Analysis containing, at a minimum, the information below. All or portions of the Environmental Constraints Analysis may be excluded from legislative cases application as determined by the planning director.

I. Hydrologic Features:

1. Location of all bodies of water such as streams, ponds, lakes, impoundments, rivers;
2. Name of watershed in which the project is located;
3. Approximate location of tidal and non-tidal wetlands (e.g. sinkholes, wetland, springs, seeps, etc);
4. Approximate location of perennial and intermittent streams;
5. Description of receiving streams; and
6. Floodplain delineation for 100 and 500-year storm events including tidal flooding, if applicable.

II. Physical Features:

1. Approximate location of steep slopes greater than 25 percent based on County GIS or better source (all sources must be referenced). The scale for which this shall be provided is at the discretion of the engineering and resource protection director;
2. Soils, especially prime agricultural lands and Hydrologic Soil Groups (HSG) A&B, based on the County soil survey;
3. Soils erodability based on the County soils survey;
4. Areas of forest, woodland cover and wildlife corridors; and
5. Pre-development topography based on County GIS or alternate source approved by the engineering and resource protection director (all sources must be referenced).

III. Prohibited or Restricted Development Areas:

1. Location of required buffers and existing conservation easements;
2. Sites with known populations of rare, threatened or endangered species of plants or animals per studies done in accordance with the Natural Resource Policy;
3. Location of trees to be preserved in accordance with the Chesapeake Bay Preservation Ordinance; and
4. Preliminary location of Resource Protection Areas and legal wetlands.

IV. Existing and Proposed Changes to the Site:

1. The nature of existing and approved but not yet built development(s) on the site;
2. Location of surrounding properties and neighborhoods;
3. Proposed limit of disturbance and a disturbance area estimate;
4. Calculation of existing and proposed pervious and impervious areas (e.g. parking areas, roads, sidewalks, buildings, etc);
5. If used, description of Better Site Design or Low Impact Development techniques (e.g. pervious pavement, walks, infiltration areas, etc.);
6. Description of how disturbance is being minimized, indigenous vegetation is being preserved, and impervious cover is being reduced; and
7. Proposed conceptual stormwater management plan, including pre and post-development discharge analysis.

V. Narrative Analysis of Environmental Constraints and Recommended Environmental Measures to Conform with the Proposed Environmental Analysis

b. Case No. ZO-0014-2011. Exterior Signs

Ms. Leanne Reidenbach, Senior Planner, II, advised the Board that as part of the comprehensive zoning ordinance review, staff has developed recommendations for changes to the exterior signage ordinance. Ms. Reidenbach stated that the Planning Division staff and the Office of Economic Development held a meeting in March to present the ordinance to certain business interests to receive input. She stated that feedback about the changes were primarily positive. She advised the Board that proposed changes included 1) clarifying the definitions for back-lit signs, channeled letter signs and flashing signs; adding graphics to visually show sign types and how to measure the gross sign area; 2) allowing shopping center signage to be split on either side of the shopping center's entrance; 3) adding the ability to allow tenant names on shopping center signs in mixed use areas that are governed by design guidelines, a design review board, and a master plan, and allowing the size of the signs to be up to 42 square feet; 4) allowing sign-mounted lighting along the Community Character Corridors (CCCs) and Community Character Areas (CCAs); 5) allowing a seven-foot height limit for directional signage; and 6) amending the ordinance to reflect the County's current practice and agreement with VDOT regarding the removal of and penalties for signs that are placed within the right-of-way. Ms. Reidenbach stated that the amendments make the sign ordinance easier to understand, provide more flexibility, options for business signage, and reflect current staff practices. Ms. Reidenbach informed the Board that on May 2, 2012, the Planning Commission recommended approval of the exterior signage ordinance subject to including an additional graphic on how to calculate sign area and adding language to clarify that where tenant names are allowed on a sign that the shopping center name has to be at least, rather than exactly, one third of the sign area. Ms. Reidenbach advised that she would answer any questions from the Board.

Mr. McGlennon commented that this is the Board's first opportunity to discuss the draft ordinance. Mr. McGlennon stated that the original decision to allow sign-mounted lighting in mixed use areas was conditioned because those areas have smaller setbacks with larger sidewalks and would not have the opportunity for landscaping and up lighting the signs. He questioned if the proposal is a general provision to allow sign-mounted lighting, even in the CCCs and CCAs.

Ms. Reidenbach stated that was correct.

Mr. McGlennon questioned whether there were examples of sign-mounted lighting in the Mixed Use (MU) area and how much that option was selected.

Ms. Reidenbach replied that it is used often in the MU area for blade signage. She stated that there are restrictions that the bulb has to be hidden by landscaping or a hood over top of the light.

Mr. McGlennon stated that a lot of effort and thought went into ground-mounted lighting with the requirement that the light be camouflaged by landscaping. He stated that this will not be the case with the sign-mounted lighting. He stated that the lighting fixture will be visible and stated that he has concerns on how this will affect the CCCs and CCAs. Mr. McGlennon noted the language change for areas designated as MU for shopping center areas having larger signs. He inquired as to where this would have an impact, noting that it has to have a Design Review Board.

Ms. Reidenbach responded that currently New Town is the only area where this would apply.

Mr. McGlennon questioned if LED signage used at gas stations in all zoning districts would be allowed to flash.

Ms. Reidenbach stated that signs cannot flash or scroll in any zoning district.

Mr. McGlennon questioned if the 42-square-foot sign would only be allowed in shopping centers that have master plans and Design Review Boards.

Ms. Reidenbach stated that the 42-square-foot sign would be allowed only if tenant names were included on the sign. She stated that the sign was increased from 32 square feet to 42 square feet to account for sign legibility. Any other sign would still be capped at 32 square feet.

Mr. McGlennon questioned if the 42-square-foot sign could be split.

Ms. Reidenbach responded that splitting the sign is only permitted when only the shopping center name is on the sign. The total area is still capped at 32 square feet.

Mr. McGlennon questioned the calculation of the 42-square-foot sign.

Ms. Reidenbach responded that the calculation depends on how the sign is designed. She stated that for a cabinet sign that is illuminated from the inside, the whole background, including the text, is illuminated. She stated in that circumstance the entire box would count toward the sign area. She stated that in the circumstance where letters are mounted individually to a wall or monument style sign, there is a lot of leeway and the area calculation is subject to interpretation by the Zoning Administrator as to whether each letter or each work is measured separately.

Mr. McGlennon questioned whether the ordinance specifies a maximum physical size within the 42 gross square feet for signage versus open area.

Ms. Reidenbach responded that there is a height restriction but indicated that there is not an overall area restriction for signs.

Mr. McGlennon expressed concern about how large the sign could be with tenant names on it and questioned if any thought has been given to setting a maximum size for sign.

Ms. Reidenbach responded no. She added that the same size calculations proposed for tenant signage are currently used for all signs in the County.

Mr. McGlennon stated that the County should have a cap on the size of signs.

Mr. Icenhour stated that he agrees with Mr. McGlennon and expressed his concerns that if the County has a maximum sign size, the County should also have ratio guidelines that keep the monument in proportion to the sign size. Mr. Icenhour questioned the change to the definition of flashing sign. Specifically, he asked about changeable LED gas prices and that it is not considered a flashing sign if the message is changed fewer than four times in a 24-hour period. He questioned if the number came from the business community.

Ms. Reidenbach responded that staff wanted to provide businesses with the opportunity to change the gas prices if they did fluctuate. She noted that staff would be open to considering other numbers of time the price could change.

Mr. Kale questioned if tenants names can be put on both entrance signs if the signs were split.

Ms. Reidenbach responded no. She stated that the section that permits tenants to be on the sign permits one maximum 42-square-foot free standing sign per primary entrance.

Mr. Kale questioned if signs were split, if one sign could be larger than the other.

Ms. Reidenbach responded yes. She stated that when the signage is split, the total of the sign area has to be less than 32 square feet and can only display the shopping center name. She further clarified that if the tenant names are included on a sign, the sign can be 42 square feet, but the shopping center will only be allowed one sign at the primary entrance. She stated that these were the two different options on how to sign a shopping center entrance.

Mr. Kale stated that the ordinance is not clear.

Mr. Kennedy shared that he personally went through a signage issue in the County and stated it was an easy process.

Mr. McGlennon stated that he wants to make sure that the policy is clear and consistent. He also stated his concerns regarding the policy to include sign-mounted lighting in the CCCs and the lack of a maximum overall size of a sign. Mr. McGlennon stated that he was going to request a deferral after the public hearing was closed.

Ms. Jones opened the Public Hearing.

1. Mr. Jim Costillo, Development Director of Settlers Market, advised the Board that he worked with the Planning staff in regard to the sign ordinance. He stated that he is very pleased with the changes to the sign ordinance.

Ms. Jones closed the Public Hearing.

Mr. McGlennon noted that staff did a good job on the ordinance; however, due to the fact that this was the first opportunity that the Board had to review the ordinance, Mr. McGlennon requested a deferral of the policy.

It was the consensus of the Board to defer the matter until July 10, 2012.

3. Ordinance to Amend and Reordain Chapter 20, Taxation, Article II, Exemption of Certain Persons from Real Estate Taxes, Section 20-10, Qualifications for Exemption and Section 20-12, Application

Mr. Bryan Soukup, summer Law Clerk, advised the Board that the amendments to the ordinance were requested by the Commissioner of the Revenue in response to citizens voicing confusion as to the correct time frame for the real estate tax exemption. He stated that the proposed amendments will clarify the time frame for which the valuation of assets and income, the application for exemption, and real estate tax billing period, are based by adding qualifying language. He stated that certain age, disability, and income requirements are necessary in order to be eligible for the exemption. He stated that the tax year for real property is based on a fiscal year, commencing on July 1 and ending on June 30. He stated that the Code currently is based on a taxable year, an ambiguous term that could be interpreted as calendar year or fiscal year, which leads to confusion as to the billing cycle which the exemption is subject. He stated the amendments will eliminate confusion by replacing year and taxable year with the term fiscal year. He stated that the amendments are for the benefit of the citizens and will not alter the exemption, nor will it change the method on which the Commissioner of the Revenue applies the exemption. Mr. Soukup advised the Board that the Commissioner of the Revenue was present to also answer any questions from the Board.

Mr. McGlennon noted that different government offices have different fiscal years. He stated that some fiscal years begin on October 1 and wondered if this posed a concern for confusion.

Mr. Rogers advised the Board that the County is required to have a fiscal year of July 1 to June 30, which is defined in the Code and Charter.

Ms. Jones opened the Public Hearing.

1. Mr. Ed Oyer, 139 Indian Circle, Williamsburg, asked the Board to consider indexing the tax rate for property owners.

Ms. Jones closed the Public Hearing.

Mr. Icenhour made a motion to adopt the ordinance.

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

4. Ordinance to Amend and Reordain Chapter 13, Motor Vehicles and Traffic, Article I, In General, Section 13-7, Adoption of State Law; and Article II, Driving Automobiles, Etc. While Intoxicated or Under the Influences of Any Drug, Section 13-28, Adoption of State Law, Generally

Mr. Bryan Soukup, Summer Law Clerk, stated that the amendments to the ordinance are done annually to keep in compliance with State Code. Mr. Soukup advised the Board that Police Chief Emmett Harmon was present to answer any questions that the Board may have.

Ms. Jones opened the Public Hearing.

As no one wished to speak to this matter, Ms. Jones closed the Public Hearing.

Mr. Kale made a motion to adopt the ordinance.

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

5. Ordinance to Amend and Reordain Chapter 13, Motor Vehicles and Traffic, Article I, In General, Section 13-24, Temporary Removal and Disposition of Vehicles Involved in Accidents

Mr. Bryan Soukup, summer Law Clerk, stated the amendment was requested by the James City County Police Department. He stated disabled automobiles that are involved in accidents will remain planted on highways impeding the free flow of traffic. He stated that the proposed amendment will codify current Police practice, authorized by the Virginia Code, allowing Police to remove vehicles to a separate storage area for safekeeping away from the site of the accident at the owner's expense. He stated that the towing will be performed by companies on a rotating list. He stated that the towing companies meet specific Police Department requirements. He stated that Police are required to report the removal of the vehicle to the Virginia Department of Motor Vehicles and to the owner. Mr. Soukup advised the Board that Police Chief Harmon was present to answer any questions that the Board may have.

Mr. Icenhour questioned Chief Harmon as to whether it was the State or local Police Department that handled accident investigation.

Chief Harmon responded that for the past couple of years the James City County Police Department have worked the vast majority of automobile crashes. He stated that this is done to expedite service to accident victims.

Mr. Kale questioned Chief Harmon if cars would be towed to the Law Enforcement facility or if they would be towed to a private facility.

Chief Harmon responded that the vehicles are taken to the towing company's lot. He stated that one of the requirements to be on the towing company rotating list is that the company must have a secure lot in order to store vehicles. Chief Harmon stated that the Law Enforcement Center has very limited space. He stated that the Law Enforcement space is used to store vehicles that were involved a traffic fatality or a serious crime.

Ms. Jones opened the Public Hearing.

As no one wished to speak to this matter, Ms. Jones closed the Public Hearing.

Mr. Icenhour made a motion to adopt the ordinance.

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

J. BOARD CONSIDERATIONS

1. Courthouse Statue

Mr. Middaugh advised the Board that the request was made by retired Judge Powell who has been working over the past several years to position three statues to commemorate different aspects of the County's colonial heritage at the Courthouse that is jointly used by the City of Williamsburg and James City County. Mr. Middaugh stated that the first statue is in place at the Courthouse and that Judge Powell has obtained funding for the second statue. Mr. Middaugh stated that Judge Powell is in the process of trying to obtain funding for the third statue. Currently, Judge Powell has a foundation award of \$25,000 and is requesting the City and the County to each contribute \$12,500 to finish the purchase of the statue. Mr. Middaugh advised the Board that the City expressed interest to have money for the statue paid out of a joint fund that is used to maintain the Courthouse. He stated that the fund currently has a balance of \$230,000. Mr. Middaugh stated that it would be beneficial for both jurisdictions if the Board chose to pay for the statue from the joint account. He advised the Board that they could talk about other options if they chose to do so.

Mr. McGlennon thanked the County Administrator for talking with the City and bringing forward the Courthouse statue resolution. Mr. McGlennon stated that the County will see a benefit of \$150,000: the three statues for a contribution of \$12,500. He stated that the statue would provide another attraction for those going to New Town.

Mr. Kennedy stated that he will not be supporting the resolution.

Ms. Jones stated that she will not be supporting the resolution. She expressed concern regarding the current financial times and stressed that there could have been other fund-raising alternatives.

Mr. Kale expressed his views in support of the statue.

Mr. McGlennon moved for the adoption of the resolution.

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

RESOLUTION

COURTHOUSE STATUE

WHEREAS, the Board of Supervisors of James City County, Virginia, has been requested to partially fund the third of three statues at the Williamsburg-James City County Courthouse ("Courthouse") to honor the contributions of the English settlers, Native Americans, and African Americans for their contributions to the birth of this country; and

WHEREAS, the requested contribution of \$12,500 is 25 percent of the funds needed to complete the statue and would match the contribution of the City of Williamsburg; and

WHEREAS, the preferred funding source is available through the City of Williamsburg with funds dedicated to the Courthouse in the Courthouse Maintenance Fund; and

WHEREAS, as an alternative, a Tricentennial Fund established in 1976 has a current balance of approximately \$12,147 and, with a modest supplement from Operating Contingency, could be used to pay for the County's contribution.

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

1. The Board of Supervisors authorizes the County Administrator to pay \$25,000 as the City/County share to fund the third of three statues at the Courthouse from the Courthouse Maintenance Fund.
2. At the discretion of the County Administrator and as an option, the Board of Supervisors authorizes the Treasurer to close the Tricentennial Fund and deposit all proceeds in the General Fund of the County to offset a substantial portion of the costs of the statue. Any residual would come from Operating Contingency.
3. This resolution shall take effect immediately upon its adoption.

2. Case No. Z-0006-2011. Stonehouse Development Proffer Amendment – Conservation Easement Dedication

Ms. Ellen Cook, Senior Planner, II, advised the Board that in 2007, GS Stonehouse Greenland Sub LLC received approval of a master plan and proffer amendment for the Stonehouse development. She stated that the amended proffers included several that relate to environmental protection, including one subsection on conservation easements. She informed the Board that Mr. Vernon Geddy, III, on behalf of GS Stonehouse Greenland Sub LLC, is seeking approval of an amendment to the proffer to eliminate the obligation to grant conservation easements to the Williamsburg Land Conservancy or other land conservation organizations, in addition to the County. She stated that the owner is seeking this amendment as the Land Conservancy has indicated that it does not wish to hold conservation easements on the areas required by the proffer due to time and resource constraints. She stated that the County will be granted conservation easements for the Chesapeake Bay Preservation Ordinance. She stated that the Planning Commission on June 12, 2012, voted 7-0 to recommend the application. Ms. Cook advised the Board that Mr. Geddy was present to answer any questions that the Board may have.

Mr. McGlennon made a motion to adopt the resolution.

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

RESOLUTION

CASE NO. Z-0006-2012. STONEHOUSE DEVELOPMENT PROFFER AMENDMENT –

CONSERVATION EASEMENT DEDICATION

WHEREAS, upon finding that the amendment proposed by Case No. Z-0006-2012 Stonehouse Development Proffer Amendment – Conservation Easement Dedication, does not affect use or density, the Board of Supervisors waives any public hearing requirement pursuant to Virginia Code Section 15.2-2302; and

WHEREAS, Case No. Z-0006-2012 proposes to strike Subsection 10.4, Conservation Easements, from the existing proffers and retain all other proffers; and

WHEREAS, the site can be further identified as Parcel Nos. (1-8A) and (1-19) on James City County Real Estate Tax Map No. (13-1); Parcel No. (1-1) on James City County Real Estate Tax Map No. (6-4); Parcel Nos. (1-47) and (1-48) on James City County Real Estate Tax Map No. (12-1); Parcel Nos. (1-12), (4-1C), (1-17), (1-16), (7-1A), (1-2), (1-11), (1-15), and (6-1A) on James City County Real Estate Tax Map No. (5-4); Parcel Nos. (1-22), (1-14), (1-23), (1-21), (1-9), (1-25), (1-20), (1-10), and (1-24) on James City County Real Estate Tax Map No. (5-3); Parcel Nos. (1-25), (1-26), (1-28), and (1-29) on James City County Real Estate Tax Map No. (4-4); Parcel Nos. (1-6), and (1-5) on James City County Real Estate Tax Map No. (6-3); and

WHEREAS, the Planning Commission of James City County, following its consideration on June 6, 2012, recommended approval of Case No. Z-0006-2012, by a vote of 7 -0 .

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-0006-2012 as described herein and accept the amended proffers.

K. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, Williamsburg, advised the Board that when he went to vote at James River Elementary School he experienced a parking problem due to the fact that school was in session. Mr. Oyer also advised the Board that VDOT is doing a traffic count on Route 60.

L. REPORT OF THE COUNTY ADMINISTRATOR

Mr. Middaugh advised the Board that Dominion Virginia Power submitted its application for the new transmission crossing that will run from Surry County Hog Island Preserve to James City County BASF property. He stated that the route submitted is for an aerial route. He stated that a sub-aqueous route is not part of the proposal. He mentioned that he and the County Attorney have been given authority from the Board to take action on this matter. He stated that he will provide the Board at the next meeting with more information about the potential of having to retain outside counsel to officially intervene with the Federal Communications Commission (FCC) process. Mr. Middaugh also mentioned that hurricane season has begun, which runs from June 1 to November 30. He stated that there has been a Board consensus to make appointments to the Economic Development Authority and Colonial Health Behavioral Board in an open session. He stated that the Board concurred to withdraw the other closed session item regarding the Purchase of Development Rights (PDR) parcel. He advised the Board that the matter would be brought back to them at a later date.

M. BOARD REQUESTS AND DIRECTIVES

Mr. Kennedy spoke about the septic problems at the Greensprings Mobile Home Community and requested the Board to consider allowing the community to hook into County sewer and rezone the area with proffers protecting residents from land use changes who are currently residing in the mobile park.

Mr. McGlennon nominated Mr. Paul Gerhardt for the Economic Development Authority and Mr. Doug Powell to the Colonial Behavioral Health Board.

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

Mr. Kale asked if there was a consensus of the Board to look into the matter that Mr. Kennedy proposed in regard to the Greensprings Mobile Home Community.

It was the consensus of the Board to have staff look into the matter that was proposed by Mr. Kennedy.

Mr. Middaugh advised the Board that the staff did talk about this matter and stated that the suggestion that Mr. Kennedy proposed is the only way to assure residents any measure of security through a rezoning.

Mr. Icenhour asked the County Attorney to explain the difference between rezoning and a Special Use Permit (SUP).

Mr. Rogers stated that there is a lot more flexibility with a voluntarily offered proffer that is a part of rezoning, which is recorded in the land records and binds future property owners. He stated that the County would not be able to protect existing homeowners with an SUP in the same way that the property owner would be able to protect them by offering a proffer with rezoning.

N. CLOSED SESSION - None

O. ADJOURNMENT

Mr. McGlennon made a motion to adjourn the meeting.

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

At 9:17 p.m., Ms. Jones adjourned the Board until 4 p.m. on June 26, 2012.

Robert C. Middaugh
Clerk to the Board

MEMORANDUM COVER

Subject: Appropriation of Funding for the Homelessness Intervention Program (HIP) - \$13,278

Action Requested: Shall the Board increase Fiscal Year 2012 appropriation for the Homelessness Intervention Program (HIP) by \$13,278?

Summary: The Virginia Department of Housing and Community Development informed the Office of Housing and Community Development (OHCD) in a letter dated May 25, 2012, that James City County is eligible to receive an additional allocation of \$8,793 from the Homelessness Intervention Program funding for FY 12.

OHCD has collected \$4,485 in HIP assistance repayments and would like to appropriate those funds in FY 12 for additional assistance. The total amount necessary for assistance is \$13,278.

Staff recommends adoption of the attached resolution authorizing the County Administrator to expend the additional funding for the HIP in the amount of \$13,278.

Fiscal Impact: FY 12 HIP appropriation will increase from \$149,231 to \$162,509.

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: June 26, 2012

M E M O R A N D U M

DATE: June 26, 2012

TO: The Board of Supervisors

FROM: A. Vaughn Poller AICP, Housing and Community Development Administrator

SUBJECT: Appropriation of Funding for the Homelessness Intervention Program (HIP) - \$13,278

James City County, through its Office of Housing and Community Development (OHCD), operates the Homelessness Intervention Program (HIP). HIP funds are used to assist households who are in jeopardy of being homeless or are already experiencing homelessness. The funds are paid directly to landlords for deposits and/or first and last month's rent. These funds serve households with a total income at or below 50 percent of the Area Median Income (\$35,450 for a family of four) at the time they apply for assistance.

HIP funds can also be loaned to households who, because of a circumstance beyond their control, need temporary assistance with mortgage payments. OHCD Staff, certified as Housing Counselors, work with households by intervening on their behalf with their mortgagee. These efforts, when successful, can lead to loan restructuring allowing families to avoid foreclosure and thereby reducing additional impacts on Social Services budgets. The money repaid to the program is available to service additional clients.

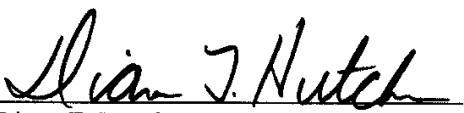
The HIP grant award for FY 11 and FY 12 was \$149,231 for each year. The Program received 265 inquiries for help, of which 102 households received counseling and 43 were assisted. In FY 12 the program received 274 inquiries for help, of which 95 households received counseling and 55 were assisted. Funds for FY 12 have been depleted.

The Virginia Department of Housing and Community Development informed OHCD in a letter dated May 25, 2012, that James City County is eligible to receive an additional allocation of \$8,793 from the Homelessness Intervention Program funding for FY 12. OHCD has collected \$4,485 in HIP assistance repayments and would like to appropriate those funds in FY 12 for additional assistance. The total amount necessary for assistance is \$13,278.

Staff recommends adoption of the attached resolution authorizing the County Administrator to expend the additional funding for the HIP in the amount of \$13,278.

A. Vaughn Poller

CONCUR:


Diana F. Hutchens

AVP/gb
HomlesProAppr_mem

Attachment

RESOLUTION

APPROPRIATION OF FUNDING FOR THE

HOMELESSNESS INTERVENTION PROGRAM (HIP) - \$13,278

WHEREAS, the Commonwealth of Virginia, through its Department of Housing and Community Development, has made available an additional \$8,793 in the Homelessness Intervention Program (HIP) for assistance to James City County residents who qualify; and

WHEREAS, the James City County Office of Housing and Community Development administers the HIP to benefit residents of the County; and

WHEREAS, James City County has residents who have need of assistance to intervene or prevent their being homeless; and

WHEREAS, the repayment of funds to the Program from past recipients (Program Income) in the amount of \$4,485, not previously appropriated, is available to assist additional participants in the HIP.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes the County Administrator to accept the HIP funding in the amount of \$8,793.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, hereby amends the Budget, as adopted for the fiscal year ending June 30, 2012, as follows:

Revenues:

Homelessness Intervention Program	\$ 8,793
Homelessness Intervention Program Income	<u>4,485</u>
Total:	<u><u>\$13,278</u></u>

Expenditure:

Homelessness Intervention Program	<u><u>\$13,278</u></u>
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Mary K. Jones
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 June, 2012.

HomlesProAppr_res

MEMORANDUM COVER

Subject: Certificate of Public Need – Advanced Vision Surgery Center

Action Requested: Shall the Board approve the resolution in support of the Advanced Vision Surgery Center's COPN Application for a new single-specialty ambulatory surgical facility?


Summary: The Advanced Vision Surgery Center, located at 5215 Monticello Avenue, has submitted a request to the Virginia Department of Health for a Certificate of Public Need (COPN) to construct a 5,600-square-foot single-specialty ambulatory surgical facility, dedicated to the practice of ophthalmology. Total capital investment associated with this expansion will be approximately \$2 million and include the hiring of nine new full-time employees.

Staff recommends that the Board consider supporting Advanced Vision Surgery Center's COPN application.


Fiscal Impact:

FMS Approval, if Applicable: Yes No

Assistant County Administrator

Doug Powell 

County Administrator

Robert C. Middaugh 

Attachments:

1. Memorandum
2. Resolution
3. COPN Request No. VA-7890

Agenda Item No.: H-3

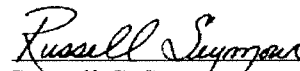
Date: June 26, 2012

MEMORANDUM

DATE: June 26, 2012
TO: The Board of Supervisors
FROM: Russell C. Seymour, Director Office of Economic Development
SUBJECT: Certificate of Public Need – Advanced Vision Surgery Center

The Advanced Vision Surgery Center, located at 5215 Monticello Avenue, has submitted a request to the Virginia Department of Health for a Certificate of Public Need (COPN) to construct a 5,600-square-foot single-specialty ambulatory surgical facility, dedicated to the practice of ophthalmology. The proposed facility is to be constructed adjacent to their existing practice. The total capital investment for this expansion will be approximately \$2 million and conservative new employment estimates call for the hiring of nine new full-time employees. According to the COPN application, the proposed center will be the first in the area to feature the state-of-the-art Femtosecond Laser Surgery technology, which is used during cataract surgery.

Staff recommends that the Board consider supporting Advanced Vision Surgery Center's COPN application for a new single-specialty ambulatory surgical facility as submitted to the Virginia Department of Health.



Russell C. Seymour

RCS/tlc
AdvVision_mem

Attachment

RESOLUTION

CERTIFICATE OF PUBLIC NEED - ADVANCED VISION SURGERY CENTER

WHEREAS, given the rapid population growth in James City County and the Greater Williamsburg area, additional medical facilities are needed to serve both the current and future population; and

WHEREAS, medical facilities, such as the one proposed, provide services that are in high demand in areas such as James City County that have a relatively high percentage of its population over the age of 65; and

WHEREAS, the proposed facility will assist in providing area residents with additional options for health care providers;

WHEREAS, the proposed facility will be the first in the area to provide residents with the latest state-of-the-art technology used during cataract surgery.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby supports the Advanced Vision Surgery Center's COPN Application and requests that the Virginia Department of Health approve the proposed project.

Mary K. Jones
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 June, 2012.

AviVision_res

COPN Request No. VA-7890

Advanced Vision Surgery Center, located in Williamsburg, is requesting the approval for a 5,600SF single-specialty ambulatory surgical facility, dedicated to the practice of ophthalmology. This surgery center is to be licensed, certified and accredited by all pertinent government agencies and accreditation organizations. The center is to be housed in a new facility adjacent to Advanced Vision Institute, also in Williamsburg. Although Advanced Vision Institute also has a satellite office in Hampton, the Hampton satellite serves primarily as an optometric site. Dr. Campbell is available at the Hampton location for primary ophthalmic care only once a month. Additionally, Dr Astruc, Advanced Vision's retina specialist does not see patients in the Hampton satellite office. He practices out of Advanced Vision Institute's Williamsburg office and his office in Richmond.

The philosophy of the doctors at Advanced Vision Institute is simple and driven: "The Art and Science of Clear Sight". The commitments of Dr. Campbell and Dr. Astruc to provide the most advanced eye care available are underscored by their, and Advanced Vision's, willingness to develop a state-of-the-art single-specialty surgery center for both their patients, and the community at large.

One state-of-the-art feature of the center will be its Femtosecond Laser Surgery technology. Femtosecond Laser Surgery is a highly sophisticated new technology, that is used during cataract surgery. It is an exciting advance in ophthalmic surgery; in fact, the most exciting, ground breaking technology since the development of small incision cataract surgery or Phacoemulsification. Prior

to the advent of Phacoemulsification a patient undergoing cataract surgery needed a much larger incision to remove the cataract. With Phacoemulsification the natural lens of the eye is removed through a significantly smaller incision. It breaks the cataract into small fragments and vacuums it out of the eye. The use of femtosecond technology will allow for better surgical outcomes, improved safety, and more accurate and reproducible results. The femtosecond laser can create precise incisions, open the lens capsule and fragments the cataract so that less Phacoemulsification energy is needed. In fact, without this technology, most surgeons are only achieving outcomes of +/- 0.50 diopter with traditional cataract surgery techniques, and only about 50% of the time. With femtosecond technology, it is expected that these results will improve dramatically. Femtosecond technology also allows for more precise, customizable, and reproducible incisions, including relaxing incisions and capsulorhexis or opening of the lens capsule. Femtosecond technology will also reduce the variability that happens from case to case. Finally, use of the femtosecond laser is expected to reduce wound leaks and, potentially, post-operative infections, as well as the prospect of follow-up vitrectomies and other potential complications such as capsular tears; and protect the posterior cornea by reducing endothelial cell loss.

If this application is approved, it will be the first in this area to offer femtosecond technology. If the application is not approved, there is a real possibility that this technology will not be available in the area any time soon. The facility Dr

COPN Request No. VA-7890

Campbell currently uses has already stated they are not willing to purchase this technology.

There is a clear and demonstrable need for Advanced Vision Institute's proposed facility, particularly in light of the unique characteristics of the proposed facility as just described. This "need" is demonstrable in spite of assertions by our opposition that our demographic data is flawed, and in spite of the fact that the methodology outlined in the State Medical Facilities Plan does not, on its face, support a finding of need for our project. Those assertions and conclusions do not take into consideration certain factors which I am about to describe, and they are based on out-dated data. In fact, as I will now explain, current, reliable data on population and trends in Planning District 21 more than support Advanced Vision Institute's application and a determination of "need".

For example, statistics provided by the Virginia Employment Commission Population Demographic Profiles, which were updated in 2011, and which reference population growth during the ten-year period from 2000 through 2010, confirm our projections of a nearly 12% increase in overall population growth for Planning District 21. Six profiles are combined to make up Planning District 21. These include the cities of Poquoson, Williamsburg, Hampton, and Newport News, as well as James City County and York County. These profiles show the following changes in population:

City of Poquoson: 5.05% increase

COPN Request No. VA-7890

City of Williamsburg:	17.25% increase
City of Hampton:	6.15% decrease
City of Newport News:	0.01% increase
James City County:	39.31% increase
York County:	16.28% increase

When an average of the above six areas is taken, it is consistent with our initial estimate of a nearly twelve percent (12%) growth. But even more telling, for purposes of this review, is the fact that most of the patients who seek the care of Drs Campbell and Astruc live in Williamsburg, James City County, and York County, the three profiles showing by far the greatest increases in population growth during the ten year period. The proposed surgery center is very convenient to these localities.

And that is not all....When referring to the operating room utilization reports provided in Exhibit 4C-2(2) the totals reflect that the existing operating rooms within the planning district were functioning at close to capacity, as of 2010. With population inside the planning district increasing by more than 13% by 2030 based on the figures provided by the Virginia Employment Commission the need for additional general purpose operating rooms over the next several years is clear.

And there is more. As we are all aware, nearly ten thousand baby boomers are turning 65 every day. This is not just a "national" reality. Based on local

projections obtained from the Virginia Employment Commission, the over 65 population in Planning District 21 alone is expected to increase annually by nearly 3.5% through 2020, with a total population increase for this age group of nearly 35% by 2030. Projections for the age group 65 and older for Planning District 21 are as follows:

<u>Year</u>	<u>PD 21 Population (65 +)</u>
2010	61,649
2020	82,593
2030	111,439

Furthermore, statistics show that an average 17.2% of Americans age 40 and older have a cataract in at least one eye; and as the US population ages with the baby boomer population turning 65, the rates for needed cataract surgery among this population is expected to increase dramatically. Population projections for the age group 40 and older in Planning District 21 are as follows:

<u>Year</u>	<u>PD 21 Population (40+)</u>
2010	216,414
2020	237,320
2030	258,925

COPN Request No. VA-7890

Using the statistical data provided by the National Eye Institute, approximately 17.2% of Americans over age 40 have a cataract in at least one eye that is visually significant and requires surgery. It is expected that by 2020, there will be approximately 40,819 cataract surgeries alone to be performed in Planning District 21. This projection does not take into account the fact that the number of residents over 40 in Planning District 21 is likely to dramatically increase by 2020.

With this rapid growth in those over 65, there will be increasing numbers of patients in Planning District 21 who need cataract surgery and the other ophthalmic and Vitreoretinal surgical services the proposed single-specialty facility will provide. Factoring this demographic reality into the equation indicates an even greater need for the proposed center and its surgery beds.

In a reviewing the oppositions statistics it was stated that Dr. Campbell's surgical volume has decreased by thirty percent over the past four years at the facility where he currently performs surgery. The reality within that statement is that Dr. Campbell's case volume decreased by twenty-one percent at the facility, based upon caseload analysis provided by Dr. Campbell's practice. Much of this decrease is due to the decision by Dr. Campbell to move his YAG laser procedures from the existing surgery center to his office, as it is more cost effective and convenient for patients. Still, based on statistics from the first

COPN Request No. VA-7890

quarter of 2012, Dr. Campbell is on target to perform a projected 1,356 cases for the year. This number is consistent with projections for the new facility.

As acknowledged by the Joint Commission on Healthcare in a report to the Governor and General Assembly on April 25, 2011, the State of Virginia Certificate of Public Need does not have specific regulations defining the requirements of Charity Care at facilities like the applicant's. The percentage of charity care required is ordinarily assigned as a condition of a COPN, when the Commissioner wishes to impose a requirement that is different than what was specified in the application for COPN. According to the Virginia Certificate of Need status report dated 4/13/12, the amounts of additional charity care that have been required of COPN applicants has varied from zero to 13.3%. Currently, Advanced Vision Institute is providing charity care through Project Care and will continue to assist that organization with its endeavors, as well as pursuing its own charity efforts.

Advanced Vision Institute recognizes that many residents within the planning district are uninsured or fall at or below poverty level, not allowing them to get the surgical care they require. It is the intent of the applicant to provide enhanced surgical and medical eyecare to the residents in need of ophthalmic and Vitreoretinal surgery, regardless of their available resources and insurance. In fact, in recent months, Advanced Vision has engaged in an agreement with the Foundation for Healthcare for Humanity, a national not-for-profit organization, to

provide ophthalmic surgical care to those in need in the communities served by Advanced Vision Institute and Drs Campbell and Astruc. This endeavor will represent an expanded, far-reaching effort by the applicant to offer charity care to the community, and is expected to far exceed the more than two percent of net revenues the practice is currently able to afford. The addition of this center will allow the physicians of the practice to render more surgical and medical eye care than they currently provide as they will have more resources available to care for those less fortunate.

The single specialty center that Advanced Vision plans to build is consistent with a national trend cited in many professional writings including the Willams Mullen article from December 2008, and reflects both surgeons' preference to use a single-specialty facility and patients' preference for the safer, more comfortable quality care environment that a single-specialty facility provides. Chesapeake Bank is fully prepared to provide complete financing for the center.

Upon completion, the center will employ highly dedicated and trained staff in the field of ophthalmology that will be best suited to assist in the delivery of the surgical care to its patients. It will be committed to providing high quality care with a strong focus on patient satisfaction, positive outcomes and increased patient safety; and by having a staff that is solely devoted to the specialty of ophthalmology, it will be better equipped, and its personnel will be more experienced, to provide the type of high quality, safe and efficient services which

COPN Request No. VA-7890

the community both needs and deserves. The new center is strongly committed to serving those in need in our community.

The proposed facility will also be essentially paperless, with a total electronic medical records system in place which will comply with government mandates and current trends in best practices. Having the medical records in electronic format will also better enable the surgery center to monitor, manage, and study its clinical outcomes, infection rates, patient satisfaction, inventory management, and much more. This will ultimately equate to an enhanced facility, with immeasurable benefits for the patient and overall for the center.

In closing, it is the priority of the proposed facility to offer the community a needed health care service and to offer its the patients an atmosphere of customer service and safety—since accommodating patient needs is of the utmost importance. We ask that you approve this project.

MEMORANDUM COVER

Subject: Ordinance to Amend and Reordain Chapter 3, Animal Laws, Article I, In General, Section 3-1, Definitions; and Section 3-8, Dangerous and Vicious Animals

Action Requested: Shall the Board approve an ordinance amending Chapter 3, Animal Laws, Article I, In General, Section 3-1, Definitions; and Section 3-8, Dangerous and Vicious Animals?

Summary: The attached ordinance incorporates into the County Code various Virginia Code provisions pertaining to animals. These amendments were requested by James City County Animal Control.

The proposed amendments will update the County Code to bring it into compliance with the Virginia Code with regard to dangerous and vicious animals. The proposed amendments will (i) add the Commonwealth's definition of "facility;" (ii) clarify when courts may determine that a dog is dangerous; (iii) provide courts with authority to order restitution; (iv) make it the responsibility of the animal control officer, instead of the owner, to provide information to the Virginia Dangerous Dog Registry; (v) alter the fee structure and timeframe for an owner to obtain a "dangerous dog registration certificate;" and (vi) implement the new State law requirement that a portion of the fee garnered through the registration of such dogs be paid by the County to the Commonwealth each year for maintenance of the Virginia Dangerous Dog Registry and its website.

Approval of the attached ordinance is recommended.

Fiscal Impact: N/A

FMS Approval, if Applicable: Yes No

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:

1. Memorandum
2. Ordinance

Agenda Item No.: I-1

Date: June 26, 2012

MEMORANDUM

DATE: June 26, 2012

TO: The Board of Supervisors

FROM: Bryan Soukup, County Attorney Law Clerk

SUBJECT: Ordinance to Amend and Reordain Chapter 3, Animal Laws, Article I, In General, Section 3-1, Definitions; and Section 3-8, Dangerous and Vicious Animals

The attached ordinance incorporates into the County Code various Virginia Code provisions pertaining to animals. These amendments are requested by James City County Animal Control.

First, the proposed amendments will add the Commonwealth's definition of "facility," as it relates to animals, to the County Code. The County Code currently includes references to "facility", in the context of animal shelters and pounds, but does not define that term.

Second, the amendments will clarify when courts may determine that a dog is dangerous. The Virginia Code contains guidance to assist courts when making such a determination. The language provides that a court must look at the totality of the evidence and, in order to designate the dog as dangerous, must find that the dog *is* dangerous or a threat to the community.

Third, the amendments will give courts specific authority to order the owner, custodian, or harbinger of the dangerous or vicious animal to pay restitution for actual damages to any person injured by the animal or whose companion animal was injured or killed by the animal. A "companion animal" is defined in the County Code as a domesticated animal (aside from those used for agriculture or game) under the care, custody, or ownership of a person that is bought, sold, or traded by that person. Authority for an award of restitution is currently lacking in the County Code.

Fourth, the amendments will alter the fee structure and timeframe for obtaining a "dangerous dog registration certificate" from James City County Animal Control. The General Assembly has increased the fee for obtaining this certificate from \$50 to \$150. Additionally, the owner will now have 45 days, instead of 10, to acquire such a certificate. The amendments specify that the annual certificate of renewal must contain all the information from the original certificate as well as any updates and must be obtained by January 31 of each year. Annual resubmissions of this certificate will ensure that the information is current and accurate. The fee for a renewal has been increased from \$50 to \$85. No fee shall be charged for updates to information between renewals.

Finally, the amendments will make it the responsibility of the local animal control officer to provide information to the Virginia Dangerous Dog Registry. The Virginia Dangerous Dog Registry provides a mechanism, in the form of an online database, for citizens to determine if dangerous dogs reside in their neighborhoods and for local animal control officials to post information about dogs that have been declared dangerous by the local court. Currently, the owner of the dog deemed to be dangerous is responsible for the initial reporting and updates regarding the dog's status. The amendment shifts this burden from the owner to the animal control officer. To be in compliance with the Virginia Code, the County must submit to the State Veterinarian, by January 31 of each year, \$90 for each dangerous dog it initially registers and \$25 for each dangerous dog for which a certificate of renewal is obtained within the previous calendar year. These funds will be used by the Commonwealth to maintain the Virginia Dangerous Dog Registry and its website.

Ordinance to Amend and Reordain Chapter 3, Animal Laws, Article I, In General, Section 3-1,
Definitions; and Section 3-8, Dangerous and Vicious Animals
June 26, 2012
Page 2

Approval of the attached ordinance is recommended.

Bryan J. Soukup

CONCUR:

Leo Rogers

BJS/nb
Chp3VicAnim_mem

Attachment

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 3, ANIMAL LAWS, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL, SECTION 3-1, DEFINITIONS AND SECTION 3-8, DANGEROUS AND VICIOUS ANIMALS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 3, Animal Laws, is hereby amended and reordained by amending Section 3-8, Dangerous and vicious animals.

Chapter 3. Animal Laws

Article I. In General

Sec. 3-1. Definitions.

For the purposes of this chapter, the following words shall have the meaning given herein.

Facility. A building or portion thereof as designated by the State Veterinarian, other than a private residential dwelling and its surrounding grounds, that is used to contain a primary enclosure or enclosures in which animals are housed or kept.

Sec. 3-8. Dangerous and vicious animals.

(a) As used in this section:

- (a) “*Dangerous dog.*” A canine or canine crossbreed that has bitten, attacked, or inflicted injury on a person or companion animal that is a dog or cat, or killed a companion animal that is a dog or cat. However, when a dog attacks or bites a companion animal that is a dog or cat, the attacking or biting dog shall not be deemed dangerous (i) if no serious physical injury as determined by a licensed veterinarian has occurred to the dog or cat as a result of the attack or bite, (ii) if both animals are owned by the same person, (iii) if such attack occurs on the property of the attacking or biting dog’s owner or custodian, or (iv) for other good cause as determined by the court. No dog shall be found to be a dangerous dog as a result of biting, attacking, or inflicting injury on a

dog or cat while engaged with an owner or custodian as part of lawful hunting or participating in an organized, lawful dog handling event. *A dog that has bitten, attacked, or inflicted injury on a person shall not be found to be dangerous unless the court determines, based on the totality of the evidence before it, that the dog is dangerous or a threat to the community.*

- (b) Any law-enforcement officer or animal control officer who has reason to believe that a canine or canine crossbreed within the county is a dangerous dog or vicious dog shall apply to a magistrate of the county for the issuance of a summons requiring the owner or custodian, if known, to appear before a general district court at a specified time. The summons shall advise the owner of the nature of the proceeding and the matters at issue. If a law-enforcement officer successfully makes an application for the issuance of a summons, he shall contact the local animal control officer and inform him of the location of the dog and the relevant facts pertaining to his belief that the dog is dangerous or vicious. The animal control officer shall confine the animal until such time as evidence shall be heard and a verdict rendered. If the animal control officer determines that the owner or custodian can confine the animal in a manner that protects the public safety, he may permit the owner or custodian to confine the animal until such time as evidence shall be heard and a verdict rendered. The court, through its contempt powers, may compel the owner, custodian or harbinger of the animal to produce the animal. If, after hearing the evidence, the court finds that the animal is a dangerous dog, the court shall order the animal's owner to comply with the provisions of this section. If, after hearing the evidence, the court finds that the animal is a vicious dog, the court shall order the animal euthanized in accordance with the provisions of section 3-45. *The court, upon finding the animal to be a dangerous or vicious dog, may order the owner, custodian, or harbinger thereof to pay restitution for actual damages to any person injured by the animal or whose companion animal was injured or killed by the animal.* The procedure for appeal and trial shall be the same as provided by law for misdemeanors. Trial by jury shall be as

provided in Article 4 (Section 19.2-260 et seq.) of Chapter 15 of Title 19.2 of the Code of Virginia. The Commonwealth shall be required to prove its case beyond a reasonable doubt.

* * *

- (e) The owner of any animal found to be a dangerous dog shall, within ~~10~~ 45 days of such finding, obtain a dangerous dog registration certificate from the local animal control officer for a fee of \$50 ~~\$150~~, in addition to other fees that may be authorized by law. The local animal control officer shall also provide the owner with a uniformly designed tag that identifies the animal as a dangerous dog. The owner shall affix the tag to the animal's collar and ensure that the animal wears the collar and tag at all times. ~~All certificates obtained pursuant to this subsection shall be renewed annually for the same fee and~~ *By January 31 of each year, until such time as the dangerous dog is deceased,* all certificates *obtained pursuant to this subsection* shall be *updated and renewed for a fee of \$85 and* in the same manner as the initial certificate was obtained. *The renewal registration shall include all information contained in the original registration and any updates. The owner shall verify the information is accurate by annual resubmissions. There shall be no change for any updated information provided between renewals. The County shall submit to the State Veterinarian by January 31 of each year \$90 for each dangerous dog it initially registered and \$25 for each dangerous dog for which it renewed registration within the previous calendar year.* The animal control officer shall ~~provide a copy of the dangerous dog registration certificate and verification of compliance to the State Veterinarian.~~ *post registration information on the Commonwealth of Virginia Dangerous Dog Registry, as established under section 3.2-6542 of the Code of Virginia, and any updates on the website.*

* * *

- (h) ~~The owner of any dog found to be dangerous shall register the animal with the Commonwealth of Virginia Dangerous Dog Registry, as established under section 3.2-~~

~~6542 of the Code of Virginia, within 45 days of such a finding by a court of competent jurisdiction.~~ The owner shall ~~also~~ cause the local animal control officer to be promptly notified of (i) the names, addresses, and telephone numbers of all owners; (ii) all of the means necessary to locate the owner and the dog at any time; (iii) any complaints or incidents of attack by the dog upon any person or cat or dog; (iv) any claims made or lawsuits brought as a result of any attack; (v) tattoo or chip identification information or both; (vi) proof of insurance or surety bond; and (vii) the death of the dog.

State law reference - Control of dangerous or vicious dogs; penalties, Code of Va., § 3.2-6540.

Mary K. Jones
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 June, 2012.

Chp3VicAnim_ord

MEMORANDUM COVER

Subject: Local Governing Body Concurrence with School Division Electing to Pay the Virginia Retirement System (VRS) Board-Certified Rate

Action Requested: Shall the Board approve the resolution concurring with the School Division electing to pay the Virginia Retirement System (VRS) Board-Certified Rate of 9.05 percent for its non-professional VRS Account?

Summary: The Board of Supervisors must choose whether to endorse the Williamsburg-James City County (WJCC) School Board Resolution to pay the VRS Employer Rate certified by the VRS Board for the Non-Professional Account for Fiscal Years 2013 and 2014 of 9.05 percent of covered payroll.

As with local governments, school divisions may elect to pay a rate lower than the VRS Board-Certified Employer Rate for Fiscal Years 2013 and 2014. School divisions that elect to pay the higher Certified Rate, however, must have the concurrence of the local governing bodies.

Staff recommends endorsing the WJCC School Division's VRS-Board Certified Rate of 9.05 percent for its non-professional account to avoid underfunding the VRS account and the accompanying future liabilities that would entail. The adopted FY 2013 School Division budget reflects payment at the Certified Rate.

Fiscal Impact: The certified rate costs \$145,000 more in FY 13 than the alternate rate; however, the adopted FY 2013 School Division budget reflects payment at the Certified Rate.

FMS Approval, if Applicable: Yes No

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:

- 1. Memorandum
- 2. County Resolution
- 3. School Resolution
- 4. 2012 Appropriation Act Item 468(H)

Agenda Item No.:J-1

Date: June 26, 2012

MEMORANDUM

DATE: June 26, 2012

TO: The Board of Supervisors

FROM: Robert C. Middaugh, County Administrator

SUBJECT: Local Governing Body Concurrence with School Division Electing to Pay the Virginia Retirement System (VRS) Board-Certified Rate

The Board of Supervisors must choose whether to endorse the Williamsburg-James City County (WJCC) School Board Resolution to pay the Virginia Retirement System (VRS) Employer Rate certified by the VRS Board for the Non-Professional Account for Fiscal Years 2013 and 2014 of 9.05 percent of covered payroll.

BACKGROUND

All School Divisions have two VRS Accounts, one for professional staff, including teachers, and one for non-professional staff. The professional staff account is a statewide pool with one rate for all School Divisions which is set by the General Assembly. There are almost 1,400 active members in the WJCC professional staff account. The non-professional staff account, by contrast, is actuarially established separately for each School Division, in the same way as James City County government's account is separate from that of other local governments. It is also the smaller of the two School Division VRS accounts made up of about 200 active members who work in areas such as transportation, custodial, and food service.

Similar to the way James City County had to choose which VRS Employer Contribution Rate to pay, the WJCC School Board also has to choose its Employer Contribution Rate effective July 1, 2012, selecting from one of two options:

- 9.05 percent - The rate certified by the VRS Board of Trustees for Fiscal Years 2013 and 2014; or
- 6.56 percent - An alternate rate which is the higher of the current rate certified by the VRS Board for FY 2011-2012 or 70 percent of the VRS Board-certified rate for Fiscal Years 2013 and 2014

At its June 19 meeting, the School Board elected to pay the VRS Board-certified rate. Its resolution adopting this rate is attached.

According to the School Board Agenda Item, the 9.05 percent certified rate was selected because the alternate rate would:

- Reduce contributions to the WJCC employer account and the investment earnings they would have generated, which will mean there will be fewer assets available for benefits.
- Result in a lower funded ratio when the next Actuarial Valuation is performed and, thus, a higher calculated contribution rate at that time.

The certified rate will cost \$145,000 more in FY 13 than the alternate rate. The WJCC adopted budget reflects payment at the certified rate of 9.05 percent.

Local Governing Body Concurrence with School Division Electing to Pay the Virginia Retirement System (VRS) Board-Certified Rate

June 26, 2012

Page 2

SPECIAL CIRCUMSTANCE

WJCC's local governing bodies must concur with the selection of the certified rate by signing resolutions certifying their concurrence by July 1, 2012. The City of Williamsburg will adopt the resolution at their June 14, 2014, meeting.

RECOMMENDATION

Staff recommends adoption of the attached resolution concurring with the WJCC School Board Resolution to pay the VRS Employer Rate certified by the VRS Board for the Non-Professional Account for Fiscal Years 2013 and 2014 of 9.05 percent of covered payroll.

The Board of Supervisors recently adopted the certified rate for the County VRS account for similar reasons cited by the School Division above.

Robert C. Middaugh

RCM/gb
VRS-RatePay_mem

Attachment

RESOLUTION

LOCAL GOVERNING BODY CONCURRENCE WITH SCHOOL DIVISION

ELECTING TO PAY THE VIRGINIA RETIREMENT SYSTEM (VRS)

BOARD-CERTIFIED RATE

WHEREAS, the Williamsburg-James City County (WJCC) School Board has elected to pay the Employer Contribution Rate certified by the Virginia Retirement System (VRS) Board of Trustees for its Non-Professional Account; and

WHEREAS, in accordance with the 2012 Appropriation Act Item 468 (H), the local governing body must concur with the local public school division's election of the VRS-certified Employer Contribution Rate; and

WHEREAS, the Board of Supervisors agrees with the WJCC School Board's rationale of avoiding reduced contributions to the account which could result in reduced investment earnings and fewer assets available for benefits, as well as avoiding a lower funded ratio when the next Actuarial Valuation is performed and, thus, a higher calculated contribution rate at that time; and

WHEREAS, the WJCC adopted budget reflects payment at the certified rate of 9.05 percent.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, (55147) hereby acknowledge that the Williamsburg-James City County School Division has made the election for its contribution rate to be based on the employer contribution rates certified by the VRS Board of Trustees pursuant to Virginia Code 51.1-145(1) resulting from the June 30, 2011, actuarial value of assets and liabilities (the "Certified Rate").

BE IT FURTHER RESOLVED that James City County (55147) does hereby certify to the VRS Board of Trustees that it concurs with the election of the Williamsburg-James City County School Division to pay the Certified Rate, as required by Item 468(H) of the 2012 Appropriations Act.

BE IT FURTHER RESOLVED that the officers of James City County (55147) are hereby authorized and directed in the name of James City County to execute any required contract to carry out the provisions of this resolution. In execution of any such contract which may be required, the seal of James City County, as appropriate, shall be affixed and attested by the Clerk.

Mary K. Jones
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 June,
2012.

VRS-RatePay_res

MEMORANDUM COVER

Subject: Cox Communications Easement/Right-of-Way Agreement – Freedom Park Interpretive Center

Action Requested: Shall the Board approve the resolution that allows the County Administrator to execute the necessary agreements to convey a utility easement and right-of-way to Cox Communications Hampton Roads, LLC, for the purpose of installing data access at Freedom Park Interpretive Center?

Summary: Cox Communications Hampton Roads, LLC, has requested a utility easement and right-of-way for Cox Communications lines near the entrance of the Freedom Park Interpretive Center. This would allow data access at the Freedom Park Interpretive Center. Cox Communications Hampton Roads, LLC has agreed to plant bushes and shrubs near the entrance of the Freedom Park Interpretive Center to screen the unit from Centerville Road and Hotwater Trail. The Freedom Park Interpretive Center was constructed as part of the County’s Capital Improvement Program (CIP), and a public hearing is not needed to convey a utility easement for projects consistent with a CIP pursuant to Virginia Code § 15.2-1800.

Staff recommends approval of the attached resolution.

Fiscal Impact: N/A

FMS Approval, if Applicable: Yes No

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:

- 1. Memorandum
- 2. Resolution

Agenda Item No.: J-2

Date: June 26, 2012

MEMORANDUM

DATE: June 26, 2012
TO: The Board of Supervisors
FROM: Adam R. Kinsman, Deputy County Attorney
SUBJECT: Cox Communications Easement/Right-of-Way Agreement – Freedom Park Interpretive Center

Cox Communications Hampton Roads, LLC has requested a utility easement and right-of-way for Cox Communications lines near the entrance of Freedom Park Interpretive Center. The proposed easement is located at 5535 Centerville Road, further identified as James City County Real Estate Tax Map No. 3130100006. The easement is necessary for data services at the Freedom Park Interpretive Center and nearby areas. In order to address staff's concerns about the aesthetic value of the Park, Cox Communications Hampton Roads, LLC has agreed to plant bushes and shrubs near the entrance of the Freedom Park Interpretive Center, to screen the unit from Centerville Road and Hotwater Trail, and to ensure that the equipment is placed behind trees and bushes in order to be screened from view.

Staff recommends approval of the attached resolution.

Adam R. Kinsman

CONCUR:

Leo P. Rogers

ARK/gb
CoxEsmtAgr-FP_mem

Attachment

RESOLUTION

COX COMMUNICATIONS EASEMENT/RIGHT-OF-WAY AGREEMENT –

FREEDOM PARK INTERPRETIVE CENTER

WHEREAS, the Board of Supervisors held a public hearing to include in the County's Capital Improvement Program (CIP) construction of an Interpretive Center at Freedom Park; and

WHEREAS, the Board of Supervisors approved the contract award authorizing construction of an Interpretive Center at Freedom Park; and

WHEREAS, an easement is needed to provide data services to the Interpretive Center; and

WHEREAS, Cox Communications Hampton Roads, LLC has agreed to install bushes and shrubs for screening and has ensured that the placement of its equipment would not be visually detracting from Freedom Park; and

WHEREAS, a public hearing is not needed to convey a utility easement for projects consistent with a CIP pursuant to Virginia Code § 152-1800.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute any required Right-of-Way Agreement and such other documents as may be necessary for Cox Communications Hampton Roads, LLC to install lines for data services to the Interpretive Center at Freedom Park.

Mary K. Jones
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 June, 2012.

CoxEsmtAgr-FP_res



Owner's Initials

5551 Centerville Rd

Tax Account:
4304
N/F
James City
County

5535 Centerville Rd

Pole AC84
in Cox
Easement

Longhill Road

**8' wide Cox Communications
Underground Easement extending
55' from pole AC84. Centerline of
easement to be determined by
facility placement.**

To Freedom Park
Hotwater Trail

Pole AC66

5525 Centerville Rd

Pole AC74

Centerville Road

Pole BC15

Sheet 1 of 1

Property Owner James City County	Properties Tax Account: 4304, 5535 Centerville Road	RPC # 2702	City/ County James City		Easement of Right of Way for Cox Communications	By Rory C (Bud) Swanson Project Coordinator - Cox Communications	
		QPIN # 3130100006	State Virginia	Date 6/17/2011			

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