

A G E N D A
JAMES CITY COUNTY BOARD OF SUPERVISORS
County Government Center Board Room
September 25, 2012
7:00 P.M.

- A. CALL TO ORDER**
- B. ROLL CALL**
- C. MOMENT OF SILENCE**
- D. PLEDGE OF ALLEGIANCE - Katie Stanton, a student at Berkeley Middle School**
- E. PRESENTATION**
- F. PUBLIC COMMENT**
- G. BOARD REQUESTS AND DIRECTIVES**
- H. CONSENT CALENDAR - All Approved 4-0**
 - 1. Minutes -
 - a. September 11, 2012, Regular Meeting
 - 2. Grant Award - Department of Motor Vehicles Occupant Protection
 - 3. Grant Award - Department of Motor Vehicles Alcohol Enforcement
 - 4. Grant Award - Department of Motor Vehicles Speed Enforcement
 - 5. Grant Award - Victim's Witness Program - \$120,637
 - 6. Contract Award - Annual Architectural Services
 - 7. Budget Amendment - Virginia Peninsula Regional Jail
- I. PUBLIC HEARINGS**
- J. BOARD CONSIDERATION**
 - 1. Legislative Application Deferral Policy - **Approved 4-0**
- 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. Community Action Agency (Lisa Thomas, John Smith, Archer Gold, Andrea Salimay, and Tucker Edmonds)
 - 2. Consultation with legal counsel and staff members 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 October 9, 2012**

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AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 11TH DAY OF SEPTEMBER 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

John J. McGlennon, Chairman, Roberts District
Mary K. Jones, Vice Chairman, Berkeley 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 - Nicholas Gall, a sixth-grade homeschooled student, led the Board and citizens in the Pledge of Allegiance.

E. PRESENTATIONS

1. 125th Anniversary of James City County Board of Supervisors - Ms. Martha McCartney

Ms. McCartney thanked the Board for inviting her to speak in commemoration of this very special event. She stated that it was September 10, 1887, when the James City County Board of Supervisors held its first recorded meeting. In October 1869, the State of Virginia ratified its new constitution and in that new constitution there were provisions for the election of County Boards of Supervisors and they in turn assumed many of the decision-making duties that had previously been performed by the Counties' Justice of the Peace. She stated that the first recorded minutes dated back to 1887, however there were probably meeting minutes from earlier that have been lost or destroyed. Ms. McCartney stated that in 1887, when the Supervisors first met, they represented the Jamestown, Powhatan, and Stonehouse districts. She stated that prior to 1891; the Supervisors met on an as needed basis and did not adhere to any regular schedule. It was not until 1904 that Board members decided to begin meeting on the fourth Monday of every month, except for January when State law dictated that they meet on the first Monday. A lot of the Supervisors' time was dedicated to making decisions about road maintenance and many of their funds were spent on road maintenance. Each Supervisor served as their district's Superintendent of Roads and was paid to make sure that the roads in the district were repaired and kept in good condition. She stated that local citizens could be hired by the Supervisor to make road repairs and to shore up and rebuild bridges.

Mr. McGlennon thanked Ms. McCartney for coming and giving the history of the Board. He stated that several former members of the Board of Supervisors were in attendance this evening and he invited them to come up to the dais and join the current Board members for a photo. He also stated that the Board was commissioning a plaque listing all the names of the former Board members for as far back as can be found. Mr. McGlennon asked Mr. Jack Edwards, Mr. David Sisk, Mr. Perry DePue, Ms. Judy Knudson, Mr. Ron Nervitt, and Mr. Bruce Goodson to come up to the podium to be recognized.

2. Virginia Association of Counties (VACo) Achievement Award

Mr. Larry Land, from the Virginia Association of Counties (VACo) presented the County with an Achievement Award. He stated that this is the sixth Achievement Award that James City County has won and the fourth in the last five years. James City County won the award in the Information Technology category. He stated that the title of James City County's entry was *Comprehensive Plan Implementation Tracking Tool*. He stated that to streamline the process of reporting progress on Goals, Strategies, and Actions (GSAs) the Planning Division developed an innovative web-based tracking tool that allows updaters to sort the GSAs by reporting agencies and instantly see only the GSAs that they need to update. He stated that the site also archives all previous data, so specific GSAs can be tracked over time. Data can be exported to Excel spreadsheets or print pre-packaged reports.

Mr. Land stated that citizens could read the complete entry at VACo's website, at www.VACo.org. He stated that four staff members deserved recognition for their efforts in achieving this award: Mr. Jason Purse, Ms. Leanne Reidenbach, Ms. Brigitte White, and Ms. Tammy Rosario. He congratulated the County on achieving the award and stated that VACo looks forward to seeing what James City County submits next year.

3. National Association of Counties (NACo) Awards

Mr. Middaugh addressed the Board stating that the National Association of Counties (NACo) has awarded James City County an Achievement Award. He stated that the 2009 Comprehensive Plan was selected from hundreds to receive an Achievement Award which recognizes an effective or innovative program. He stated that NACo takes all of the Achievement Award winners and from that small group NACo will select a "best-of" category. James City County was selected as Best Rural Program, which NACo considers as 75,000 people or under. James City County was one of 16 picked out of 569 total national submissions. He stated that this is a very high honor and demonstrates the caliber of the Planning Division.

4. Chairman's Presentation

Mr. McGlennon stated that Ms. Jones served as Chairman of the Board from January 2011 through August 2012. He stated that in recognition of her efforts as Chairman and her distinguished service to the County and citizens, he had a plaque to present to her with a gavel commemorating her time as Chairman.

F. PUBLIC COMMENT

1. Mr. Hank Denning, 4135 Winthrop Circle, spoke on behalf of Colonial Heritage Housing Association and addressed the Board concerning the proposed Dominion Virginia Power Transmission Line. He stated that Colonial Heritage recognizes that the County is in need of additional power. He stated that the population is growing and that the Dominion Power Plant in Yorktown is scheduled for shutdown. He stated the Colonial Heritage believes the question is not whether a new line should come to the County, but which proposed route best leverages the County's financial resources and minimizes the visual impact on the largest number of our County's residents. Mr. Denning stated that the proposed James River Route is the most responsive route because it is 59 percent less expensive and 72 percent shorter than the proposed

Chickahominy Route. He stated the James River Route affects 1/10th of the private homes that the proposed Chickahominy Route effects. Mr. Denning stated concern over the County using taxpayer dollars to lobby the State Corporation Commission (SCC) to have Dominion run the lines under the James River. The estimated additional cost of running the lines under the James River would be \$100-200 million. He stated that he respectfully asks that during this time of economic austerity and limited County resources, that additional monies not be spent on studying the possibility of aqueous power lines.

2. Mr. Nathan Walker, 101 Locust Place, Williamsburg, addressed the Board concerning articles and discussions concerning bringing in a "Green Czar." He stated that he hopes that in these economic times, that this County would not go into debt to hire another high-priced person or contractor. He stated that these are tough times and that we were all raised to not spend a dollar until we had it.

3. Ms. Marjorie Ponziani, 4852 Bristol Circle, Williamsburg, addressed the Board concerning the land acquisition program and the large sum of money borrowed to implement it. She stated that she understands there is an option to borrow an additional \$14 million for this program. She stated that she is wondering how this money will be repaid. She asked if taxes will be raised. She asked if it was necessary for local government to acquire all of this land. She asked what is meant by strategic acquisition. She stated that she had read in The Virginia Gazette that there are plans to hire a "Green Czar." She asked if the program is so beneficial why does it need to be pushed.

4. Ms. Sue Sadler, 9929 Mountain Berry Court, Toano, addressed the Board and quoted an August headline from The Virginia Gazette, "James City County Eyes Land Czar." She stated that she would like to know what the goal is. She said that 36 percent of the land in James City County is already protected by some form of conservation and now the County wants to hire a "Land Czar" because the land acquisition program has apparently not been very successful. She asked why there is a need to spend \$20 million on land acquisition. She stated that perhaps it is because there is a view by some that land cannot be treated like an ordinary asset, controlled by individuals and subject to the normal pressures of the market. She asked if spending this kind of money in these economic times furthers the fiscal leadership that led James City County to its first ever triple A bond rating.

5. Mr. Ed Oyer, 139 Indian Circle, Williamsburg, displayed a map depicting where the United States Navy is currently located throughout the world. Mr. Oyer addressed the Board concerning property values.

6. Ms. Roseanne Brennan, 106 Dundee, Williamsburg, addressed the Board stating that she would like to echo comments made by two previous citizens. She stated that she is part of a small group that is walking on Saturday at an event called Walking to Honor the Constitution. She stated that one of the major points is property rights. She stated that she believes there is enough open space here for conservation.

G. BOARD REQUESTS AND DIRECTIVES

Mr. McGlennon noted that in discussions over the years between the City of Williamsburg, James City County, and the Williamsburg-James City County School Division there has been a consensus that James Blair, the school currently being used as the School Board offices, should eventually be turned back into a school site. In recognition of this, Mr. McGlennon stated that it is important to recognize that within the not too distant future, the building will need to be turned back in to a school. He stated it is then necessary to begin planning for the move of the School administrative offices. He stated that he would like the Board to support

his request that the County Administrator meet with the City Manager and the School Superintendent for the purpose of beginning to formulate a working group to identify the needs of the School administrative offices and possible locations.

Mr. Kale made a motion to so direct the County Administrator.

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

H. CONSENT CALENDAR

Mr. Icenhour made a motion to approve the Consent Calendar.

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

RESOLUTION

NATIONAL PREPAREDNESS MONTH, SEPTEMBER 2012

WHEREAS, “National Preparedness Month” creates an important opportunity for every resident of James City County to prepare their homes, businesses and communities for any type of emergency including natural disasters and potential terrorist attacks; and

WHEREAS, investing in preparing ourselves, our families, businesses, and communities can reduce fatalities and economic devastation in our communities and in our nation; and

WHEREAS, the Federal Emergency Management Agency’s (FEMA) *Ready* Campaign, the Ready Virginia outreach program sponsored by the Virginia Department of Emergency Management, and other Federal, State, local, tribal, territorial, private, and volunteer agencies are working to increase public activities in preparing for emergencies and to educate individuals on how to take action; and

WHEREAS, emergency preparedness is the responsibility of every citizen of James City County and all citizens are urged to make preparedness a priority and work together as a team to ensure that individuals, families, and communities are prepared for disasters and emergencies of any type; and

WHEREAS, all citizens of James City County are encouraged to participate in citizen preparedness activities and asked to review the *Ready* campaign’s websites at Ready.gov or Listo.gov (in Spanish) and ReadyVirginia.gov and ListoVirginia.gov and become more prepared.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby proclaims September 2012, National Preparedness Month in the County of James City, Virginia, and encourages all citizens and businesses to develop their own emergency preparedness plan and work together toward creating a more prepared society.

I. PUBLIC HEARINGS

1. Case No. ZO-0014-2011. Exterior Signage

Ms. Leanne Reidenbach, Planner III, addressed the Board regarding the Exterior Signage Ordinance. She stated that at its meeting on June 12, 2012, the Board deferred consideration of the exterior signage ordinance so that staff could address several Board concerns related to sign mounted lighting in Community Character Corridors (CCCs), Community Character Areas (CCAs), and the overall size of freestanding sign mounting structures.

Ms. Reidenbach stated that the amendment for sign mounted lighting may have been misrepresented at the last meeting. Sign mounted lighting in CCCs and CCAs is already permitted and staff provided pictures of a few signs that currently use this type of lighting in Board packets. The proposed amendment is to clarify the wording of this option in the ordinance and does not allow a new type of sign lighting.

Ms. Reidenbach stated that in regards to setting maximums for the overall size of freestanding signs, staff researched signage best practices in localities in the area and nationwide and determined that these sorts of caps are not typically included in sign ordinance regulations. Sign massing is typically regulated through things such as height limitations. The current ordinance already sets either an 8-foot or 15-foot maximum height limit depending on the type of sign, which includes the height of the sign structure. As a result of this research, staff recommends that the Board not pursue regulations pertaining to the overall size of sign structures.

Ms. Reidenbach stated that if the Board still wishes to pursue structure size regulations, staff has included an alternative sign ordinance which says that sign structure ratios must be greater than 14 percent. The sign structure ratio is the sign text area divided by the overall sign area, with the smaller the ratio, the larger the empty space on the sign structure. Staff based the 14 percent figure on a survey of existing signs in the County. In conjunction with the sign structure ratio, staff also added a requirement that the structure and measurements be provided as part of the sign permit application, a definition and graphic for sign structure ratio and a procedure for exemptions when signs are mounted to walls or fences. If the Board wishes to pursue the alternative ordinance, the County Attorney's office has determined that the changes are significant enough that the ordinance should be remanded to the Planning Commission. Additionally, the amendment includes sections of the ordinance that have not previously been advertised so the Board could not adopt this alternative amendment at this meeting.

Ms. Reidenbach stated that at its meeting on May 2, 2012, the Planning Commission recommended approval of the original ordinance by a vote of 6-1. Staff recommends that the Board approve the original exterior signs ordinance that was presented on June 12 and keep sign mounted lighting as permitted in CCCs. If the Board wishes to pursue the sign structure ratio cap, staff recommends that the Board remand the alternative ordinance back to the Planning Commission.

Mr. Icenhour questioned if the Planning Department was recommending a height limitation for 7-15 feet.

Ms. Reidenbach stated that it is an overall height limitation. She stated that the limitation would apply to the overall size of the structure, not just to the sign text area.

Mr. Icenhour stated that the County's control is over the sign text area itself. He stated that other than the fiscal constraints, the only thing keeping someone from building a large monument with a small text area is the height limitation.

Ms. Reidenbach stated that is correct.

Mr. Icenhour stated that the only place the large signs are seen is in front of some of the subdivisions, and those are usually large brick walls. In those cases, the ratio of text area to overall size is around the 14 percent mark, but most other business signs are in the range of 30-40 percent.

Ms. Reidenbach stated that yes that was about the average.

Mr. McGlennon opened the Public Hearing.

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

Mr. Icenhour made a motion to approve the original sign ordinance.

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

2. Case No. SUP 0012-2011. nTelos, Route 199 Wireless Communication Facility

Mr. Luke Vinciguerra, Planner, stated that Ms. Gloria Frye, on behalf of nTelos, has applied for a Special Use Permit (SUP) to allow the construction of a 172-foot-tall wireless communication facility (WCF) to be located on the east side of Route 199 north of New Town Sections 7 and 8, adjacent to Eastern State Hospital. Tower mounted communication facilities with a designation other than residential on a Board adopted master plan in the R-4, district require an SUP. The proposed WCF would be a “slick stick” with no visible external antennas.

Mr. Vinciguerra stated that based on a publicly advertised balloon test the proposed tower would be highly visible from eastbound Route 199 between Ford’s Colony and Eastern State Hospital. Additionally, the proposed WCF would be partially visible through the trees at a few locations along Heritage Pointe within Ford’s Colony. Staff was unable to see the balloon from any existing locations within New Town; however, it is likely that the proposed tower would be visible to future residential developments in New Town, particularly from the main entrance road in Section 8.

Mr. Vinciguerra stated that at 172 feet, the proposed tower is higher than other recent WCF applications submitted in developed areas of the County. The recently approved Ingram Road tower, which was also adjacent to a CCC was approved at 124 feet. Approving applications for higher towers may encourage future applicants to request higher tower heights than necessary. Staff has found that towers that are only minimally visible above the tree line are often able to satisfy the coverage needs of wireless providers.

Mr. Vinciguerra stated that due to the proposed height of the tower, which is significantly higher than the adjacent tree canopy, the application is not in compliance with the adopted Performance Standards for Wireless Communications Facilities. On July 11, 2012, the Planning Commission voted 4-3 to recommend denial of the application and to furnish a computer generated image illustrating the view of the tower from the future New Town Section 8. Staff recommends the Board deny the application. Should the Board application of the application, staff suggests such approval be contingent upon the conditions listed in the resolution in the staff report.

Mr. McGlennon opened the Public Hearing.

1. Ms. Gloria Frye, the attorney representing the applicant, nTelos, addressed the Board. She stated that the applicant originally applied for an SUP for a tower of 194 feet to increase performance, but has revised the application for a tower of 174 feet. She stated that the applicant made this compromise because they believed at that height there was minimal impact on existing homes, minimal impact on New Town, and

minimal visibility from Route 199. She stated that the applicant now sees that there is the potential for impact on the development of New Town Section 8 and the applicant is willing to amend the application to a lower height to reduce that visibility. She stated that she is going to go through the case with willingness to compromise in mind. She stated that nTelos needs a new tower in this area to offer better coverage to subscribers within the search ring that she posted for the Board and the public. She stated that the need for this new facility was established back in 2005 and is necessary to provide indoor reception for subscribers in the area. She stated that there is no other tower or structure within the search ring that nTelos could co-locate on, thus the need for a new facility. Ms. Frye stated that nTelos feels that the current site is the best suited to meet the goals of the County and meet the needs of the applicant. She stated that the applicant has gone above and beyond in their search for a site that could meet as many of the County goals and standards as possible.

Ms. Frye stated that when looking at the Comprehensive Plan, Route 199 is designated as a CCC and as such is subject to restrictions on development. The proposed site of the tower is 140 feet back from Route 199, providing almost three times the required amount of buffer. She also stated that the slick-stick tower, while visible, will not detract from the view of the woods. She stated that in comparison to the transmission lines located along Route 199, the slick stick tower is much less visible and more highly buffered, as can be seen from the simulation photos. On the photo simulation of the tower at 150 feet the slick stick is barely visible. She stated that cell towers must extend above the tree canopy in order to send and receive signal and to have a cell tower not extend above the canopy of the trees is an impossible standard. Ms. Frye stated that the Comprehensive Plan is a guide, not a requirement, and this proposed site exceeds the buffering stated in the Comprehensive Plan.

Ms. Frye stated that the other tool the County uses when looking at cell towers is the Performance Standards. They are to be weighed on a case-by-case basis. She stated that the co-location and Alternative Analysis Standard has been provided and accepted by staff. The Location and Design Standard states that a cell tower in a residential area should be a "slick stick" and be well buffered and be a minimal intrusion on residential areas. Ms. Frye stated that there are five towers that residents of New Town see on a daily basis at the entrance of New Town. She stated that it is difficult to conclude that one more tower would have that big of an impact on the view that New Town residents already see.

Ms. Frye stated that in the interest of compromise and at the pleasure of the Board, nTelos is willing to accept a resolution at a height of 150 feet. This compromise would address the staff concerns over visual impacts on the future development of New Town Section 8 while allowing nTelos to increase its service coverage.

2. Dr. Melissa Patrylo, 4303 Lydias Drive, Williamsburg, stated that as a former resident of Miami-Dade, Florida, she has seen the negative effects of cell towers going up. She stated that an increase in the number of cell towers had a direct correlation to a drop in test scores for high school students and property values decreased which lead to an increase in crime. She stated that she does not believe that this is what the founders of New Town had in mind when they developed New Town. She stated that New Town is an educated, vibrant community that demands high retail, high-quality schools, and that putting in a cell tower near New Town is a bad idea.

3. Ms. Kelly Mihalcoe, 4433 Lydias Drive, Williamsburg, addressed the Board stating that she is an nTelos subscriber and is against putting the tower in the back acreage of New Town. She expressed concern about the way that citizens were treated at a meeting held with Mr. Kale and Mr. Icenhour.

4. Mr. Larry Salzman, 1501 Harborough Road, Richmond, addressed the Board as the representative of the New Town Associates, LLC. He stated that the New Town Associates believe that this tower does not meet the standards of the Comprehensive Plan, does not meet the Performance Standards for Wireless Communication Facilities, and it affects New Town without benefiting New Town. He stated that

this application can be denied by the Board without being in conflict with the Wireless Communications Act. He stated that New Town Associates believes that this tower should be located closer to the segment of the population that this tower is intended to serve. He stated that if this application is to be considered, then no modeling has been done at 135 feet or 150 feet, both heights that have been discussed as possibilities.

Mr. Salzman stated that neither the residents of New Town nor staff had been notified of the possible reductions in height. He suggested, at the very least, that the application be deferred to allow for modeling to be done at these proposed heights. He also stated that perhaps another balloon test should also be done since changes in development of New Town have occurred. Mr. Salzman stated that the Standard of co-location has not been met. He stated that Mr. Granger, who owns the 400-foot radio tower in the area, would be interested in having nTelos co-locate on the radio tower. However, the applicant has stated that that location would not work, but has not provided any verifiable evidence as to why. He stated that when New Town Sections 7 and 8 are developed that this tower will be able to be seen by hundreds of homes and would be a negative impact. Mr. Salzman also stated that he wanted to clarify a rumor concerning New Town Associates desire to purchase the property that is the proposed site of the tower. He stated that New Town Associates would like to purchase the property, but that they would turn over that property to the developer of the adjacent property at no profit to New Town Associates. He stated that he believes that piece of property fits the character of New Town and would be an added addition to New Town, but not because of making a profit. He concluded by saying that the Board should support the recommendation of staff and the Planning Commission and deny the application or defer it until staff can assess the impact at the different proposed heights.

5. Mr. Phil Chapman, 4335 Casey Boulevard, Williamsburg, addressed the Board stating that normally he is opposed to the “not in my backyard” attitude, however in this instance he supports it since no one in New Town will benefit from the tower. He stated that the Board should deny the application because it does not meet the standards of the Comprehensive Plan, it does not meet the Performance Standards, and does not meet the objectives of the County Code. He stated that in a letter from Mr. Granger, the owner of the Williamsburg Radio Tower, he stated that there is space available for co-location and that Sprint and AT&T are already co-locating there. Mr. Chapman encouraged the Board to verify those statements with Mr. Granger before accepting the applicant’s word that co-location on the radio tower is not feasible.

6. Mr. Gregory Davis, 4801 Courthouse Street, Williamsburg, addressed the Board as the representative of Kaufman and Canoles. He stated that his law firm is representing the partnership which is developing Sections 7 and 8 of New Town. He stated that the visual impact of the application cannot be based on the lay of the land today. He stated when Sections 7 and 8 are completed, more than 400 homes will be negatively impacted by the proposed tower. He stated that Sections 7 and 8 are the single-family homes sections of New Town and these sections have been zoned and planned for this type of construction. He stated that the application does not meet the Performance Standard for minimal intrusion. The proposed application will be very intrusive and have a large visual impact on the development in Sections 7 and 8.

7. Mr. Robert Keith, 4600 Town Creek Drive, Williamsburg, addressed the Board on behalf of the future residents of New Town Sections 7 and 8, and urged the Board to deny this application on behalf of the future residents that will be most greatly impacted.

8. Mr. Drew Mulhare, 124 Henry Tyler Drive, Williamsburg, addressed the Board as the Managing Member of the Landowner. He stated that in 2010 he applied for limited access off Route 199 and the Board approved the application knowing that the property was being looked at as a site for a cell tower. He asked the Board to be consistent and approve the application for the cell tower. He stated that there are several cell towers around New Town and those cell towers have not affected New Town’s development. He stated that a lot of money has been invested in this project, based off the Board’s approval in 2010 and he asked the Board to approve the application.

Mr. Kennedy stated that he had questions for Mr. Salzman. He asked if the New Town Commercial Association Board had taken a vote against the cell tower.

Mr. Salzman stated yes, there had been a vote in opposition to the cell tower.

Mr. Kennedy asked how many times Mr. Salzman had approached Mr. Mulhare in regards to purchasing the piece of property for New Town and whether or not that was before or after the knowledge of the proposed cell tower.

Mr. Salzman stated that he approached Mr. Mulhare at least once, maybe twice, and once was with the knowledge of the cell tower. Mr. Salzman stated that the desire of New Town Associates is to bring this piece of property into New Town and have it eventually developed. Mr. Salzman stated that he is willing to facilitate the acquisition of this property at no profit for the New Town Associates.

Mr. Kale asked Mr. Salzman if the property was purchased by New Town Associates, would they then request more residential units for the property. Mr. Salzman stated that he cannot say what would be built on the land. He proposes this purchase as a solution for New Town and as the best natural use of this piece of property. Any development on this property would have to be zoned and then approved by the Design Review Board, so at this time, he cannot state what would be built there.

Mr. Kennedy asked Ms. Frye how we got to this piece of property.

Ms. Frye replied that the original plan was the Hospice House property, but after balloon tests there was a large impact on existing homes. She stated that this brought them back to the current property in the application. She stated that the limited access granted by the Board in 2010 allowed this piece of property to be chosen as the site. She also stated that with the Board's resolution, the Commonwealth Transportation Board approved the limited access off Route 199 for the purpose of constructing and servicing a cell tower.

Mr. Kennedy asked Ms. Frye if she had been in touch with Mr. Granger.

She stated yes. Ms. Frye stated that the engineers have stated that the radio tower will not meet the service objectives and therefore is not a viable site location. She stated that she can assure the Board that the company would not be spending all of this time and money, if co-locating on the radio tower was a viable option.

Ms. Jones asked Ms. Frye where the customers that nTelos is trying to service with this tower are located geographically. Ms. Jones asked if the customers were only in Ford's Colony and Powhatan Secondary.

Ms. Frye stated that was correct. Ms. Frye also stated that future customers in New Town Sections 7 and 8 will also benefit from the coverage, as well as citizens travelling up and down Route 199.

Mr. Kale asked Ms. Frye to clarify an earlier statement that the tower would allow customers to receive service inside their homes that currently do not have service.

Ms. Frye directed the question to Mr. Mark Cornell, Site Acquisition Manager for nTelos. He stated that when nTelos' network was developed, it was originally a car network, one designed to be used out of doors and in vehicles. Over the last five years, trends have drastically changed in cell phone usage. The predominant cell phone sold is a Smartphone and people have an expectation of being able to use their

Smartphone in their homes. He stated that it is more difficult to provide service inside of buildings and homes, than it is outside. He stated it is necessary for the towers to be located closer to the homes in order to provide the service inside the home.

As no one else had any more questions for the speakers, Mr. McGlennon closed the Public Hearing.

Mr. McGlennon stated that he had some questions for staff. He asked Mr. Chris Johnson, Acting Director of Planning, how difficult it would be to model and hold simulations of the different heights proposed.

Mr. Johnson stated that it would not be difficult to do, it would just require a small measure of time to prepare and bring back before the Board.

Mr. McGlennon asked for clarification on the location of the tower during the staff simulations. He asked if the simulation was done to the tree line or the proposed tower location.

Mr. Johnson stated that the simulations done by staff were done to the tower location, not to the property line.

Mr. Kale asked Mr. Johnson if having the tower at a lower height would resolve some of staff's concerns that lead to their recommendation of denial.

Mr. Johnson stated that while having the tower at a lower height will obviously lessen the visual impact, without having a balloon test done at the new height, staff has no visual representation to base their recommendation on.

Mr. Kale asked about the other issues in regards to the Comprehensive Plan and the Performance Standards.

Mr. Johnson stated that Route 199 is still a CCC and that will not change. He stated that lowering the tower will obviously mitigate some of the impact, but again, without having a balloon test done and a visual representation at the new height proposed, staff cannot make a recommendation.

Mr. Icenhour noted that several comments mentioned being blind-sided by a new proposed height. He stated that in the Planning Commission minutes included in the Board Packet, there was considerable discussion in regards to various heights of the tower. Mr. Icenhour noted that staff states in those minutes that 130 feet is the maximum height that they would support at this location. Mr. Icenhour asked if this was correct.

Mr. Johnson stated that yes there was discussion and un-advertised balloon tests done at various heights and staff stated that they could not support a tower above 130 feet.

Mr. Icenhour stated that balloon tests do nothing to measure the visual impact on the proposed development of Sections 7 and 8 because they are still covered with trees. The only way to simulate the impact is with the line of sight simulations. He asked if this was correct.

Mr. Johnson stated that yes it was correct.

Mr. Icenhour stated that the height of the tower and the visual intrusion is a balancing act. The Board has a responsibility to balance the right to use property and minimize the impact on the neighbors. He stated that the Board cannot tell the property owner that they cannot use their property just because the neighbors do not approve. There has to be some type of balance. He stated that there has to be some height that would

allow the tower to work and function properly and minimize the visual intrusion. That does not mean that the tower would not be seen, but means that the visual impact would be minimized. He stated that his concern is that staff and everyone involved focus on a compromise, but realize that the visual intrusion cannot be completely eliminated. He asked Mr. Johnson if that is clear and something that staff can do.

Mr. Johnson replied yes. He stated that staff is not unreasonable and understands that the towers are going to be visible. Mr. Johnson stated that the compromise heights thrown out tonight have just not been modeled or simulated to see their visual impacts on the CCC and the proposed development in New Town.

Mr. Kennedy stated that he has always been concerned about the CCC component. He stated that the tree line along Route 199 was removed when building Warhill High School. He stated that the lights from Warhill High School are the longest running line of sight that he sees on his evening commute. He stated that the irony of this situation is that almost everyone uses a cell phone and everyone wants their cell phone to work, but no one wants to see the cell towers that make the cell phone work.

Ms. Jones stated that the purpose of the Public Hearing is to get the input of the public, hear from the applicant, and from staff. She stated that it is important to publicly advertise a balloon test if there is going to be a change in the proposed height of the tower. Hence the public can see the impact of the new height and be able to communicate their input to the Board and to staff.

Mr. Kennedy stated that he is not opposed to waiting another two weeks or a month to give the public and the applicant time to meet, to try and work out a compromise, and to do some renderings of any changes in height to the tower.

Mr. Icenhour stated that looking at the list of proposed locations for this tower many of those locations were marked off because the property owner was unwilling to lease their property. He stated that the public needs to understand that while there may be many potential locations, it is a business transaction and there must be a buyer and a seller. The Board cannot tell a property owner that they have to lease their property to a cell provider for a tower. Mr. Icenhour asked Mr. Johnson what the staff's role was in helping nTelos go through the other locations.

Mr. Johnson stated that staff was not directly involved in those locations, but that staff trusts that nTelos has done their due diligence in researching alternative locations. He stated that Mr. Cornell could probably better answer the question.

Mr. Cornell stated that the process was started by identifying gaps in coverage. Then they began looking at other preexisting structures in the area that could meet the need of the gap in coverage. If there is no available structure to meet the need they begin to look a potential property where they might be able to erect a structure. The property has to meet certain criteria to even be considered, including having a willing property owner that is willing to have their property used long-term. He stated that nTelos has done its due diligence in searching for alternative sites and this application is before the Board now because it is the last site that can meet the objectives and provide service to fill in the gap of coverage.

Mr. Kale made a motion to consider amending the resolution in regards to the height listed from 172 feet to 150 feet.

Ms. Jones stated that she would not be able to support that motion. In moving forward, she stated that if there is going to be a change in height, then a publicly advertised balloon test needs to be done. She stated that she would support a deferral.

Mr. Icenhour stated that he believes 150 feet would be a reasonable compromise and would support amending the resolution.

Mr. McGlennon stated that he does not believe he could support the height at 150 feet, but would need to see the evidence of the balloon test and the modeling at that height.

Mr. Kennedy stated that he would consider 150 feet.

Mr. Icenhour stated that in regards to Ms. Jones' comments, that he does not believe that another balloon test would be accurate. He stated that the area in Sections 7 and 8 that will be most affected still have trees now, but those trees will be gone once development begins. He stated that computer simulations of line of sight would probably be more accurate.

Ms. Jones stated that doing the computer simulations and a balloon test would be very thorough.

Mr. Icenhour asked staff what would be involved for staff to put together computer simulations and a balloon test at the heights of 150 feet and 130 feet.

Mr. Johnson stated that staff would request a one-month deferral to properly advertise a balloon test and to allow the applicant to generate propagation maps. After those are completed staff can properly prepare a report back to the Board.

Mr. Icenhour asked Ms. Frye if the applicant would like to go through with the deferral and put together the documentation and the balloon test at the heights of 130 feet and 150 feet.

Ms. Frye stated yes they would at both heights.

Mr. Kale withdrew his current motion and made a new motion to defer the application to the October 9, 2012, Board meeting.

Mr. Icenhour stated that when staff and the applicant come back he wants to see a balloon test, propagation maps, and line of sight renderings for 150, 135, and 130 feet.

Mr. Kale stated that he would want staff to notify the residents of New Town as to the time and date of the balloon test.

As there was no more discussion on the motion, Mr. Middaugh called the roll.

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

Mr. McGlennon stated that before moving on from this case, he wanted to point out that he has concerns over the implication made that the Board should turn down this case so that another party might purchase the land.

3. Case No. ZO-0004-2012. Walnut Grove Proffer Amendment

Mr. Middaugh stated that the case has been withdrawn and recommended that the Chairman open the Public Hearing and if no one wishes to speak the Board can dispose of the matter all together.

Mr. McGlennon opened the Public Hearing.

Mr. Kennedy stated that he was disappointed with this case and he wanted it to be part of the public record.

Mr. Kale stated that he concurred with Mr. Kennedy. He asked for clarification on the withdrawal.

Mr. Rogers stated that should the applicant wish to re-apply that the applicant would have to start over completely and pay the fees, but there is no time limit for the applicant to re-submit.

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

Mr. Kennedy stated that this case has brought to light an issue with the Proffer Policy. He stated that his concern is that the County has open-ended Proffers and the County needs to do something to clean that up. He stated that there needs to be some time constraint on when these Proffers need to be expected to be completed.

Mr. Rogers stated that the County would have to look into how to prevent this situation going forward.

At 9:43 p.m., Mr. McGlennon recessed the Board for a break.

At 9:51 p.m., Mr. McGlennon reconvened the Board.

Mr. McGlennon noted that Mr. Kennedy had to leave for medical reasons.

4. Case No. ZO-0002-12. Definitions
Case No. ZO-0005-2011. Endorsement of Green Building Incentives
Case Nos. ZO-0007-2011 and ZO-0009-2011. Residential Districts, Cluster Overlay, Residential Redevelopment Policy and Workforce Housing Opportunities Policy
Case No. ZO-0008-2011. Multiple Use Districts and Mixed Use Construction Phasing Policy

Mr. McGlennon stated that the Board was going to treat all these cases as one Public Hearing and go through the ordinances one-by-one.

Ms. Tammy Rosario, Principal Planner, addressed the Board and stated that the next four cases represent a compilation of efforts to update the Zoning Ordinance regarding definitions, green building issues, multiple uses, and the residential districts. As part of the Zoning Ordinance update process, these items have proceeded through Stages 1 and 2 of the process and come before the Board for consideration with final language as part of Stage 3.

Ms. Rosario stated that in particular the items include:

Definitions Ordinance: Most of these items have been presented individually as part of the review of a specific district and come together under a collective section. There are also miscellaneous changes to address broader issues that arose during the general review, such as the deletion of obsolete terms and the addition of illustrations.

Green Building Incentives Resolution: As discussed at the last work session, the focus of the green building initiatives is a list of incentives included in a resolution, supplemented by density bonuses in various residential and multiple use districts.

Residential Ordinances and the Workforce Housing Opportunities Policy: These include changes to R-1, R-2, R-5, and Cluster Overlay districts, the creation of the R-3 district and an associated Residential Redevelopment Policy, and the development of the Workforce Housing Opportunities Policy.

Multiple Use Ordinances and Mixed Use Construction Phasing Policy: These include changes to the R-4, MU, and Planned Unit Development (PUD) districts, as well as the creation of the construction phasing policy.

Ms. Rosario noted that at the request of the Planning Commission, a change was made to the PUD ordinance to allow setback reductions for commercial/industrial development when the PUD property was adjacent to land already zoned for commercial/industrial development. This language is similar to other language in the PUD ordinance that allowed setback reductions for residential uses.

Ms. Rosario stated that at its July 11, 2012, meeting, the Planning Commission voted 7-0 to recommend approval of all of the ordinances changes, policies, incentives, and guidelines, with the change noted previously.

Ms. Rosario stated that staff recommends the Board approve these ordinances, resolutions, and policies, and for clarity and record-keeping purposes, do so case-by-case.

Case No. ZO-2-11 – the Definitions section ordinance

Mr. Jose Riberio, Planner II, stated that the definition of Affordable Housing and Workforce Housing is used interchangeably. He stated that the Affordable Housing definition has been deleted and the Workforce Housing definition has been added.

Mr. McGlennon stated that by deleting the one definition he is concerned that they have eliminated the definition of the one group that the market has the hardest time providing housing. He stated that by clumping this group in with the Workforce Housing definition, he is concerned that emphasis is lost on the group that falls in the lower end of the income spectrum and where the market has the hardest time meeting the needs.

Ms. Jones stated that if Mr. McGlennon is stating that the definitions of Workforce Housing and Affordable Housing need to be separated, then she would definitely support that. She stated that there are very specific federal definitions of these two types of housing and believes that they should be kept separate.

Mr. Icenhour stated that he would be supportive of separating the two definitions.

Mr. Kale stated that it is important that no one believe that the Board is diminishing the Affordable Housing and that it should be separated.

Mr. McGlennon opened the Public Hearing.

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

Mr. Icenhour made a motion to approve the Definitions Ordinance with the exception of removing the Workforce Housing Definition, which would be reconsidered after revisions are made.

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

Case No. ZO-5-11 – the Endorsement of Green Building Incentives Resolution

Mr. McGlennon opened the Public Hearing.

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

Mr. Icenhour commented that he was disappointed in the resolution. He stated that he does not see a lot of incentive in the resolution, but he would support it.

Ms. Jones made a motion to approve the resolution.

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

RESOLUTION

CASE NO. ZO-0005-2011. ENDORSEMENT OF GREEN BUILDING INCENTIVES

WHEREAS, the 2009 Comprehensive Plan cites use of green building practices in a development project as an example of public benefit; and

WHEREAS, the Green Building Design Roundtable Forum, which met from March 2009 to June 2010, compiled a report and set of green building recommendations known as the James City County Green Building Design Roundtable Report (“Report”) dated June 2010; and

WHEREAS, on July 27, 2010, the Board of Supervisors adopted a resolution that supports implementation of the general recommendations found within the Report; and

WHEREAS, consideration of a green building policy was part of the Zoning Ordinance update methodology adopted by the Board of Supervisors in May 2010; and

WHEREAS, at its January 24, 2012, work session, the Board of Supervisors directed staff to set forth incentives to be provided for projects that pursue green building certification; and

WHEREAS, the Board of Supervisors encourages all types of development in James City County to pursue green building practices for new construction and major renovations or expansions.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby endorse the following green building incentives:

In support of projects considering program certification (at a minimum, “Certified” level or equivalent), James City County commits to the following:

1. Technical consultations and assistance, including the following components:
 - a. County-organized workshops and training sessions that will cover green building topics; and
 - b. As-needed opportunities to sit down with knowledgeable County staff to discuss questions about certification standards and processes and to evaluate options.

In support of projects that do make the commitment¹ to achieve green building certification through Leadership in Energy and Environmental Design (LEED), Earthcraft, or another equivalent certification program, James City County offers the following package of incentives:

1. To help defray the costs of certification program registration and certification, the County will refund 25 percent of the Planning Division site or subdivision construction plan review fees upon the project achieving certification.
2. On-going technical consultations and assistance, including the following components:
 - a. Invitations to no cost or low cost planned County-organized workshops and training sessions that will cover green building topics.
 - b. Opportunities to work with County staff:
 - i. Pre-application meeting to go through the certification program checklist to identify opportunities to coordinate certification points with County requirements.
 - ii. Plan review project participation within Development Management by staff members familiar with green building certification programs. Staff will be available to review and discuss the elements of the project proposed to meet the certification points on an as-needed basis.
3. Recognition of the commitment through the following, at a minimum:
 - a. A “Future James City County Green [Business/Institution/Community]” site sign on location during construction.
 - b. Upon certification, a profile on the County website and on TV Channel 48.
 - c. Upon certification, inclusion in the Planning Commission’s Annual Report and recognition at a Board of Supervisors meeting.

Case No. ZO-7-11 – the Cluster Overlay District ordinance

Case No. ZO-9-11 – the R-1, R-2, R-3, and R-5 district ordinances, the Residential Redevelopment Policy, and the Workforce Housing Opportunities Policy

Mr. Icenhour stated that he wanted to commend staff for doing a great job of simplifying what is a very complicated issue. He stated that he was confused about the density bonus in the R-5 district ordinance. He stated that if a property was to be re-zoned R-5, it would have to come before the Board, so he believes that the density bonuses in R-5 districts should be at the discretion of the Board not the Planning Commission.

Ms. Cook stated that that section was old language and a carryover from when density bonuses were done administratively. She stated that the ordinance could be amended to state that the density bonuses in R-5 districts would come before the Board.

¹ Commitment shall entail providing a copy of relevant documents showing that the project has been registered with the certification program, and submission of an initial draft certification checklist indicating the likely items to be pursued.

Mr. Icenhour stated that in the R-4 district table of uses, that assisted living facilities require an SUP. He stated that this is different than the other districts. He stated that this should be amended to be consistent across all the districts.

Mr. Purse stated that staff would be fine with that change.

Mr. Icenhour questioned why there is no density bonus in the R-4 districts like there are in most of the other districts.

Mr. Purse stated that staff made the conscience decision to leave the density bonuses out of the R-4 districts, because there are many R-4 districts already in place.

Mr. McGlennon opened the Public Hearing.

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

Mr. Icenhour made a motion to approve the R-1 District Ordinance.

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

Mr. Icenhour made a motion to approve the R-2 District Ordinance.

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

Mr. Icenhour made a motion to approve the R-3 District Ordinance.

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

Mr. Icenhour made a motion to approve the R-5 District Ordinance.

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

Mr. Icenhour made a motion to defer the Residential Redevelopment Policy, Cluster Overlay Districts, and the Workforce Housing Opportunities Policy until the November 27, 2012, meeting.

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

Case ZO-8-11 – the R-4, Mixed Use, and PUD district ordinances, and the Multiple Use Districts and Mixed-use Construction Phasing Policy.

Mr. Purse stated that Mr. Icenhour's question about the R-4 district had already been addressed.

Mr. Icenhour made a motion to adopt the R-4 ordinance with the correction stated earlier.

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

Mr. Icenhour made a motion to adopt the PUD Ordinance, the Mixed Use Ordinance, and the Multiple Use Districts and Mixed-use Construction Phasing Policy.

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

RESOLUTION

CASE NOS. ZO-0008-2011. MULTIPLE USE DISTRICTS AND MIXED USE

CONSTRUCTION PHASING POLICY

WHEREAS, the task of updating the Mixed Use Zoning District was undertaken as a part of the Board of Supervisors adopted methodology for the zoning ordinance update in May 2010; and

WHEREAS, the 2009 Comprehensive Plan referenced the importance of construction phasing to ensure residential development did not take place before a majority of commercial/industrial development was completed; and

WHEREAS, after meeting with the Policy Committee, the Planning Commission, and the Board of Supervisors, the following policy is recommended for all Mixed Use area development.

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

Construction within Mixed Use developments shall be sequenced in accordance with a project build-out schedule submitted for review as a part of the initial application and approved by the Board of Supervisors. As a guideline, project proposals that adhere to the following sequencing requirements will be considered consistent with the objectives of the phasing plan:

- (1) Building permits for up to 10 percent of the residential units may be issued prior to commencing any commercial construction; and
- (2) Certificates of Occupancy (CO) must be issued for at least 25 percent of the commercial square footage as shown on the master plan prior to building permits being issued for any residential unit above 50 percent of the total proposed units as shown on the master plan; and
- (3) Prior to issuance of building permits for construction of the final 20 percent of the residential units, CO must be issued for at least 80 percent of the commercial square footage as shown on the master plan.
- (4) If no residential development is proposed, the construction phasing shall still make assurances that all infrastructure is installed in coordination with the planned build-out of the development.

8. Authorization of Conveyance of J.B. Blayton Elementary School and Lois S. Hornsby Middle School Property to Williamsburg-James City County School Board.

Mr. Rogers stated that the County owns the property where the schools were constructed. He stated that the County typically waits until an appropriate time after construction of the schools to turn the property over to the School Board. He stated that now is the appropriate time and recommends the Board adopt the resolution.

Mr. McGlennon opened the Public Hearing.

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

Mr. Kale made a motion to adopt the resolution.

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

RESOLUTION

AUTHORIZATION OF CONVEYANCE OF J.B. BLAYTON ELEMENTARY SCHOOL AND

LOIS S. HORNSBY MIDDLE SCHOOL PROPERTY TO

WILLIAMSBURG-JAMES CITY COUNTY SCHOOL BOARD

WHEREAS, the County is the owner of certain real property identified as Parcel No. 3020100011 on the James City County Real Estate Tax Map (the "Property"); and

WHEREAS, the County desires to transfer ownership of the Property to the Williamsburg-James City County School Board under certain terms and conditions to be set forth by deed; and

WHEREAS, the Property to be conveyed contains 80.546 acres and is more commonly known as 800 and 850 Jolly Pond Road, Williamsburg, Virginia, 23188, on which J.B. Blayton Elementary School and Lois S. Hornsby Middle School have been operating since October 2010; and

WHEREAS, the Board of Supervisors of James City County, following a public hearing, is of the opinion that it is in the public interest to convey the Property to the School Board.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to execute any and all documents necessary to convey the Property to the School Board.

J. BOARD CONSIDERATIONS

1. Legislative Application Deferral Policy

Mr. McGlennon requested that in deference to Mr. Kennedy's absence that the Board defer this item until its next meeting.

Mr. Icenhour made a motion to defer until the September 25, 2012, Board meeting.

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

2. Zoning Ordinance Transition

Ms. Cook stated that the purpose of the transition resolution is to codify the Code of Virginia provisions at the local level, thus making clear in a local ordinance the status of vested rights in relation to the changes to the residential and multiple-use districts. Developments which completely meet the criteria listed in the resolution would be vested under the old ordinances prior to the adoption of the ordinances before the Board. At the July 11, 2012, meeting, the Planning Commission voted 7-0 to recommend approval.

Mr. Rogers stated that the Board should approve this transition resolution now to cover the ordinances approved earlier, and that another transition resolution would need to be done to cover the ordinances that were deferred this evening.

Mr. Kale made a motion to adopt the resolution.

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

RESOLUTION

ZONING ORDINANCE TRANSITION

WHEREAS, the Board of Supervisors has adopted comprehensive revisions and amendments to sections of Chapter 24, Zoning, of the Code of the County of James City, Virginia, as described in Case Nos. ZO-0007-11, ZO-0008-2011, and ZO-0009-2011; and

WHEREAS, the orderly transition from the existing zoning regulations to revised regulations requires a transition resolution to affect changes in law.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby grandfathers proposed developments which meet the criteria identified below under the regulations in effect prior to the September 11, 2012, adoption of the comprehensive revisions to the James City County Zoning Ordinance, as described in Case Nos. ZO-0007-11, ZO-0008-2011, and ZO-0009-2011, if all of the following conditions were fully and completely met on or before September 11, 2012:

1. The landowner had obtained or was the beneficiary of a “significant affirmative governmental act” (as defined herein) which remains in effect allowing development of a specific project; and
2. Relied in good faith on the significant affirmative governmental act; and
3. Incurred extensive obligations or substantial expenses in diligent pursuit of the specific project in reliance on the significant affirmative governmental act.

Each of the following are deemed to be a “significant affirmative governmental act”:

- a. The board of supervisors has accepted proffers or proffered conditions which specify use related to a zoning amendment;
- b. The board of supervisors has approved an application for a rezoning, with master plan, for specific use(s) or density;
- c. The board of supervisors or board of zoning appeals has granted a special exception or use permit, with master plan, with conditions;
- d. The board of zoning appeals has approved a variance;
- e. The board of supervisors or its designated agent has approved a preliminary subdivision plat, site plan, or plan of development for the landowner’s property and the landowner diligently pursues approval of the final plat or plan within a reasonable period of time under the circumstances;
- f. The board of supervisors or its designated agent has approved a final subdivision plat, site plan, or plan of development for the landowner’s property; or
- g. The zoning administrator or other administrative officer has issued a written order, requirement, decision or determination regarding the permissibility of a specific use or density of the landowner’s property that is no longer subject to appeal and no longer subject to change, modification, or reversal under subsection C of section 15.2-2311 of the Code of Virginia, 1950, as amended.

3. Renaming of Longhill Road Connector

Mr. Middaugh stated that the Board has recommended renaming the Longhill Road Connector section of road to acknowledge the many contributions of Mr. Perry DePue. He stated that the Board could choose any descriptive word to name this description of road.

Mr. Kale stated that this section of road is very confusing with the advent of GPS and he believes that it is appropriate to rename this section of road after Mr. DePue, due to his efforts in seeing this road to completion.

Mr. Kale made a motion to adopt the resolution with the amendment of changing the name to DePue Drive.

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

RESOLUTION

STREET NAME CHANGE: LONGHILL CONNECTOR ROAD (ROUTE 615) TO

“DEPUE DRIVE”

WHEREAS, Mr. Perry M. DePue was instrumental in pursuing construction of the Longhill Connector Road during his tenure on the Board of Supervisors; and

WHEREAS, the Board of Supervisors has requested to change the name of Longhill Connector Road (Route 615) to “DePue Drive;” and

WHEREAS, Section 19-54 (b) of the James City County Subdivision Ordinance provides for street names to be changed upon approval by the Board of Supervisors; and

WHEREAS, the proposed street name change has been discussed with the Fire Department, Police Department, Planning Division, Williamsburg Post Office, and Real Estate Assessments and these agencies have found it acceptable.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve renaming the street called Longhill Connector Road (Route 615) to “DePue Drive.”

K. PUBLIC COMMENT – None

L. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Middaugh stated that a very successful Ladies’ Professional Golf Association (LPGA) tournament held in the County had just concluded. He stated that in the coming weeks he hopes to have some statistics for the Board in regards to economic impact.

Ms. Jones complimented the staff for all the effort put in to the tournament and in working with Kingsmill for making the tournament a success and is happy to report that the LPGA will be back in May.

Mr. Kale stated that after visiting all of the corporate boxes, many of them have signed up to return in May 2013. He congratulated staff and Kingsmill.

Mr. Middaugh asked the Chairman his thoughts on doing the Closed Session tonight, because of the late hour.

Ms. Jones stated that she believed that the Closed Session should be put off in deference to Mr. Kennedy’s absence.

M. BOARD REQUESTS AND DIRECTIVES

Mr. Kale stated that he had a request of the Board. He stated that he would like the Board to consider returning to staggered election terms for the Board of Supervisors. He stated that he wants this on the agenda

for the meeting on October 9 prior to the November elections. Mr. Kale made a motion to have staggered terms added to the agenda for the October 9, 2012, meeting.

Ms. Jones stated that she would not support this motion.

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

Ms. Jones made a motion to adjourn the meeting until 4 p.m., on September 25, 2012.

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

At 10:40 p.m., Mr. McGlennon adjourned the Board of Supervisors.

Robert C. Middaugh
Clerk to the Board

091112bos_min

MEMORANDUM COVER

Subject: Grant Award - Department of Motor Vehicles (DMV) Occupant Protection - \$4,200

Action Requested: Shall the Board approve the resolution to accept the Department of Motor Vehicles (DMV) Occupant Protection grant award?

Summary: James City County Police Department has been awarded a highway safety grant from DMV's Highway Safety Office for \$4,200. The funds are to be used towards traffic enforcement overtime where officers will focus on the enforcement of laws related to proper use of occupant restraints.

Staff recommends adoption 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.: H-2

Date: September 25, 2012

M E M O R A N D U M

DATE: September 25, 2012

TO: The Board of Supervisors

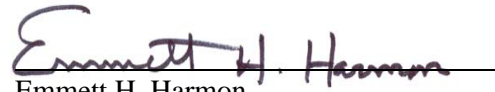
FROM: Emmett H. Harmon, Chief of Police

SUBJECT: Grant Award - Department of Motor Vehicles (DMV) Occupant Protection - \$4,200

The James City County Police Department has been awarded a highway safety grant from the Virginia Department of Motor Vehicles (DMV) Highway Safety Office for \$4,200. The funds are to be used toward traffic enforcement overtime where officers will focus on the enforcement of laws related to the proper use of occupant restraints. The grant requires only an in-kind match, which is available through the fuel and maintenance costs for police vehicles that participate in traffic enforcement duties. These funds will not take the place of budgeted expenses.

The DMV typically administers a recurring annual grant passed through the National Highway Transportation Safety Administration for the purpose of supporting statewide goals in enforcing highway safety laws. In the past, this annual grant has had purpose areas of alcohol, speed, and occupant protection enforcement combined in one grant. This year the DMV has separated these focus areas into three separate grants, all of which are on the Board's agenda (Occupant Protection, Alcohol Enforcement, and Speed Enforcement).

Staff recommends adoption of the attached resolution.


Emmett H. Harmon

CONCUR:

Robert C. Middaugh

EHH/nb
GA_OccupantPr_mem

Attachment

RESOLUTION

GRANT AWARD – DEPARTMENT OF MOTOR VEHICLES (DMV)

OCCUPANT PROTECTION – \$4,200

WHEREAS, the James City County Police Department has been awarded a highway safety grant from the Virginia Department of Motor Vehicles (DMV) Highway Safety Office for \$4,200; and

WHEREAS, funds are to be used toward traffic enforcement overtime where officers will focus on the enforcement of laws related to the proper use of occupant restraints; and

WHEREAS, the grant requires only an in-kind match, which is available through the fuel and maintenance costs for police vehicles that participate in traffic enforcement duties.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, accepts the \$4,200 grant awarded by the Virginia DMV.

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

Revenue:

FY 13 DMV – Occupant Protection Enforcement \$4,200

Expenditure:

FY 13 DMV – Occupant Protection Enforcement \$4,200

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	___	___	___
JONES	___	___	___
KENNEDY	___	___	___
ICENHOUR	___	___	___
KALE	___	___	___

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of September, 2012.

MEMORANDUM COVER

Subject: Grant Award - Department of Motor Vehicles (DMV) Alcohol Enforcement - \$20,785

Action Requested: Shall the Board approve the resolution to accept the Department of Motor Vehicles (DMV) Alcohol Enforcement grant award?

Summary: The James City County Police Department has been awarded a highway safety grant from the DMV's Highway Safety Office for \$20,785. Funds in the amount of \$620 will be used for training and conferences, \$3,365 will be used for the purchase of a breath testing unit and a Light Detection and Ranging (LIDAR), and the balance will be used for overtime pay for traffic enforcement focusing on impaired driving.

Staff recommends adoption 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.: H-3

Date: September 25, 2012

M E M O R A N D U M

DATE: September 25, 2012

TO: The Board of Supervisors


FROM: Emmett H. Harmon, Police Chief

SUBJECT: Grant Award - Department of Motor Vehicles (DMV) Alcohol Enforcement - \$20,785

The James City County Police Department has been awarded a highway safety grant from the Virginia Department of Motor Vehicles (DMV) Highway Safety Office for \$20,785. The funds are to be used toward traffic enforcement overtime and related training and equipment. Funds in the amount of \$620 will be used for training and conferences, \$3,365 will be used for the purchase of a breath testing unit and a Light Detection and Ranging (LIDAR) (used to detect the speed of a vehicle), and the balance will be used for overtime pay for traffic enforcement focusing on impaired driving. The grant requires only an in-kind match, which is available through the fuel and maintenance costs for police vehicles that participate in traffic enforcement duties. These funds will not take the place of budgeted expenses.

The DMV typically administers a recurring annual grant passed through the National Highway Transportation Safety Administration for the purpose of supporting statewide goals in enforcing highway safety laws. In the past, this annual grant has had purpose areas of alcohol, speed, and occupant protection enforcement combined in one grant. This year the DMV has separated these focus areas into three separate grants, all of which are on the Board's agenda (Occupant Protection, Alcohol Enforcement, and Speed Enforcement).

Staff recommends adoption of the attached resolution.


Emmett H. Harmon

CONCUR:

Robert C. Middaugh

EHH/gb
GA-DMV-AlcEnf_mem

Attachment

RESOLUTION

GRANT AWARD - DEPARTMENT OF MOTOR VEHICLES (DMV)

ALCOHOL ENFORCEMENT - \$20,785

WHEREAS, the James City County Police Department has been awarded a highway safety grant from the Virginia Department of Motor Vehicles (DMV) Highway Safety Office for \$20,785; and

WHEREAS, funds in the amount of \$620 will be used for training and conferences, \$3,365 will be used for the purchase of a breath testing unit and a Light Detection and Ranging (LIDAR), and the balance will be used for overtime pay for traffic enforcement focusing on impaired driving; and

WHEREAS, the grant requires only an in-kind match, which is available through the fuel and maintenance costs for police vehicles that participate in traffic enforcement duties.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby accepts the \$20,785 grant awarded by the Virginia DMV.

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

Revenue:

FY 13 DMV – Alcohol Enforcement \$20,785

Expenditure:

FY 13 DMV – Alcohol Enforcement \$20,785

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
JONES	_____	_____	_____
KENNEDY	_____	_____	_____
ICENHOUR	_____	_____	_____
KALE	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of September, 2012.

MEMORANDUM COVER

Subject: Grant Award - Department of Motor Vehicles (DMV) Speed Enforcement - \$14,000

Action Requested: Shall the Board approve the resolution to accept the Department of Motor Vehicles (DMV) Speed Enforcement grant award?

Summary: James City County Police Department has been awarded a highway safety grant from the DMV's Highway Safety Office for \$14,000. The funds are to be used toward speed traffic enforcement overtime.

Staff recommends adoption 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.: H-4

Date: September 25, 2012

M E M O R A N D U M

DATE: September 25, 2012

TO: The Board of Supervisors


FROM: Emmett H. Harmon, Chief of Police

SUBJECT: Grant Award - Department of Motor Vehicles (DMV) Speed Enforcement - \$14,000

The James City County Police Department has been awarded a highway safety grant from the Virginia Department of Motor Vehicles (DMV) Highway Safety Office for \$14,000. The funds are to be used toward speed traffic enforcement overtime. The grant requires only an in-kind match, which is available through the fuel and maintenance costs for police vehicles that participate in traffic enforcement duties. These funds will not take the place of budgeted expenses.

The DMV typically administers a recurring annual grant passed through the National Highway Transportation Safety Administration for the purpose of supporting statewide goals in enforcing highway safety laws. In the past, this annual grant has had purpose areas of alcohol, speed, and occupant protection enforcement combined in one grant. This year the DMV has separated these focus areas into three separate grants, all of which are on the Board's agenda (Occupant Protection, Alcohol Enforcement, and Speed Enforcement).

Staff recommends adoption of the attached resolution.


Emmett H. Harmon

CONCUR:

Robert C. Middaugh

EHH/nb
GA-DMVSpeedEnf_mem

Attachment

RESOLUTION

GRANT AWARD - DEPARTMENT OF MOTOR VEHICLES (DMV)

SPEED ENFORCEMENT - \$14,000

WHEREAS, the James City County Police Department has been awarded a highway safety grant from the Virginia Department of Motor Vehicles (DMV) Highway Safety Office for \$14,000; and

WHEREAS, funds are to be used toward speed traffic enforcement overtime; and

WHEREAS, the grant requires only an in-kind match, which is available through the fuel and maintenance costs for police vehicles that participate in traffic enforcement duties.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, accepts the \$14,000 grant awarded by the Virginia DMV.

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

Revenue:

FY 13 DMV – Speed Enforcement	<u>\$14,000</u>
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Expenditure:

FY 13 DMV – Speed Enforcement	<u>\$14,000</u>
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John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	___	___	___
JONES	___	___	___
KENNEDY	___	___	___
ICENHOUR	___	___	___
KALE	___	___	___

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of September, 2012.

MEMORANDUM COVER

Subject: Grant Award - Victim's Witness Program - \$120,637

Action Requested: Shall the Board approve the resolution that accepts the Victim's Witness Program Grant?

Summary: The Commonwealth Attorney for the City of Williamsburg and James City County has been awarded a \$120,637 (Federal Share \$77,247; State share \$25,749; and County match \$17,641) grant from the Victim's Witness Grant Program through the State Department of Criminal Justice Services.

This grant will fund two personnel positions that will provide comprehensive information and direct services to crime victims and witnesses beginning July 1, 2012, through June 30, 2013.

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.: H-5

Date: September 25, 2012

MEMORANDUM

DATE: September 25, 2012
TO: The Board of Supervisors
FROM: Suzanne R. Mellen, Assistant Manager of Financial and Management Services
SUBJECT: Grant Award - Victim's Witness Program - \$120,637

The Commonwealth Attorney has been awarded a \$120,637 (Federal Share \$77,247; State share \$25,749; and County match \$17,641) grant from the Victim's Witness Grant Program through the State Department of Criminal Justice Services. The Grant will fund the personnel costs for the continuation of two positions to provide comprehensive information and direct services to crime victims and witnesses beginning July 1, 2012, through June 30, 2013. The local match is available in the Commonwealth Attorney's General Fund account.

The attached resolution appropriates these funds to the Special Projects/Grant Fund through June 30, 2013.

The County receives this grant annually and the local match was budgeted in anticipation of receiving it.

Staff recommends approval of the attached resolution.

Suzanne R. Mellen

CONCUR:

Robert C. Middaugh

SRM/gb
GA-VicWitPro_mem

Attachment

RESOLUTION

GRANT AWARD – COMMONWEALTH ATTORNEY -

VICTIM’S WITNESS GRANT PROGRAM - \$120,637

WHEREAS, the Commonwealth Attorney for the City of Williamsburg and James City County has been awarded a \$120,637 Federal grant from the Victim’s Witness Grant Fund (Federal Share \$77,247; State share \$25,749; and County match \$17,641) through the State Department of Criminal Justice Services; and

WHEREAS, this grant would fund the personnel costs of two positions to provide comprehensive information and direct services to crime victims and witnesses beginning July 1, 2012, through June 30, 2013; and

WHEREAS, the grant requires a local cash or in-kind match of \$17,641, which is available in the Commonwealth Attorney’s General Fund account.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the additional appropriation to the Special Projects/Grants Fund for FY 13 purposes described above:

Revenues:

Victim’s Witness Department of Criminal Justice Services Federal Revenue (DCJS)	\$ 77,247
Victim’s Witness Department of Criminal Justice Services State Revenue (DCJS)	25,749
James City County Matching Funds	<u>17,641</u>
Total	<u>\$120,637</u>

Expenditure:

Victim’s Witness Personnel	<u>\$120,637</u>
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John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	___	___	___
JONES	___	___	___
KENNEDY	___	___	___
ICENHOUR	___	___	___
KALE	___	___	___

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of September, 2012.

MEMORANDUM COVER

Subject: Contract Awards – Annual Architectural Services

Action Requested: Shall the Board approve the resolution that awards Annual Architectural Services?

Summary: A Request for Proposal (RFP) was solicited from qualified Architect firms to facilitate and streamline the purchasing process when architectural design assistance is required by having firms pre-selected based upon their qualifications per the requirements of the Virginia Public Procurement Act and establishing an “in place” contract for professional architectural services.

Firms selected for contract award are:

- RRMM Architects
- Guernsey Tingle Architects
- HBA Architecture Interior Design
- Hopke & Associates, Inc.
- Moseley Architects

Staff recommends approval of the attached resolution awarding a contract to the firms listed above.

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.: H-6

Date: September 25, 2012

MEMORANDUM

DATE: September 25, 2012

TO: The Board of Supervisors

FROM: Kitty Hall, Purchasing Director

SUBJECT: Contract Awards – Annual Architectural Services

A Request for Proposal (RFP) was solicited from qualified architect firms to facilitate and streamline the purchasing process when architectural design assistance is required by having firms pre-selected based upon their qualifications per the requirements of the Virginia Public Procurement Act and establishing an “in place” contract for professional architectural services.

Interested firms responded to the RFP by describing their interest, qualifications, project approach, and experience in performing similar work. A panel of staff members representing Planning, James City Service Authority, Capital Projects, Schools, Engineering and Resource Protection, and Purchasing evaluated the proposals and selected the most qualified firms. The contracts have an initial term of one year with four additional one year options available to the County. The RFP included cooperative procurement provisions allowing Williamsburg-James City County Public Schools and other entities to use the architectural firms if they so choose.

Eight firms submitted proposals and five were selected for contract award:

- RRMM Architects
- Guernsey Tingle Architects
- HBA Architecture Interior Design
- Hopke & Associates, Inc.
- Moseley Architects

The following criteria were used to evaluate the proposals:

- Qualifications and Experience. Firm’s prior experience in the execution of similar contracts. Experience with and understanding of Hampton Roads Planning Commission.
- Capability and Skill. Profiles of the personnel and the project team.
- Responsiveness. Demonstrated ability to provide projects on schedule and within budget. Demonstrated quality of prior work in design cost estimating, quality control, preparation of documents.
- Geographic location and ability to respond on-site to JCC, JCSA and WJCC.
- Demonstrates knowledge and understanding of local conditions and all pertinent codes and regulations and as evidenced by previous experience working with local building officials for approval of plans and specifications.
- The workload of firm; and priority to be assigned to County, Schools and JCSA projects while providing a timely response to request for service under the contract.
- Overall quality and completeness of proposal.

Staff recommends approval of the attached resolution awarding a contract to the firms listed above.

Kitty Hall

CONCUR:

John E. McDonald

KH/nb
CA_AAArchServ_mem

Attachment

RESOLUTION

CONTRACT AWARDS – ANNUAL ARCHITECTURAL SERVICES

WHEREAS, a Request for Proposals (RFP) has been advertised and evaluated for annual architectural services; and

WHEREAS, the firms listed below were determined to be the best qualified to provide the required architectural services:

- RRMM Architects
- Guernsey Tingle Architects
- HBA Architecture Interior Design
- Hopke & Associates, Inc.
- Moseley Architects

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby awards the contracts for annual architectural services to the firms listed in this resolution.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
JONES	_____	_____	_____
KENNEDY	_____	_____	_____
ICENHOUR	_____	_____	_____
KALE	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of September, 2012.

CA_AAArchServ_res

MEMORANDUM COVER

Subject: Budget Amendment - Virginia Peninsula Regional Jail

Action Requested: Shall the Board of Supervisors amend the budget and increase the appropriation to the Virginia Peninsula Regional Jail (Jail) by \$26,208?

Summary: The Jail ended FY 2012 with a \$76,856 net deficit and the Board of Directors authorized the Superintendent to bill the member jurisdictions for that dollar amount. For James City County, this represents an additional and previously unbudgeted, payment of \$26,208.

The budget shortfall is the result of a lower jail population and a corresponding reduction in fee revenues from the Federal and State governments.

Budgeted operating contingency was \$819,895 - the Board has approved a transfer of \$50,000 for legal services relating to the Virginia Power transmission line, this would be the second transfer since July 1, 2012, and would leave a balance of \$739,687.

Staff recommends adoption of the attached resolution.

Fiscal Impact: Costs County an additional \$26,208.

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-7

Date: September 25, 2012

MEMORANDUM

DATE: September 25, 2012
TO: The Board of Supervisors
FROM: John E. McDonald, Director, Financial and Management Services
SUBJECT: Budget Amendment - Virginia Peninsula Regional Jail

The Virginia Peninsula Regional Jail (the “Jail”) ended FY 2012 with a calculated \$76,856 assessment to the four localities and the Board of Directors authorized the Superintendent to bill the member jurisdictions for that dollar amount. For James City County, this represents an additional, and previously unbudgeted, payment of \$26,208.

The assessment results primarily from a decline in the resident population (a 10 percent drop in the average daily population from 428 in FY 2011 to 386 in FY 2012) and the resulting revenue shortfalls from fees and from both the State and Federal governments.

The attached resolution would amend the budget and transfer \$26,208 from Operating Contingency to the budget line for the County’s contribution to the Regional Jail.

The budgeted FY 2013 operating contingency was \$819,895 - the Board has previously approved a transfer of \$50,000 for legal services relating to the Virginia Power transmission line, this would be the second transfer since July 1, 2012, and would leave a balance of \$739,687.

John E. McDonald

JEM/nb
VPRJailBud_mem

Attachment

RESOLUTION

BUDGET AMENDMENT - VIRGINIA PENINSULA REGIONAL JAIL

WHEREAS, the Board of Directors of the Virginia Peninsula Regional Jail (“Jail”) has amended the FY 2012 Jail budget and has identified a supplemental assessment of \$76,856 for the four member localities; and

WHEREAS, the Board of Supervisors has been requested to provide an additional \$26,208 to fund its share of the supplemental assessment; and

WHEREAS, a transfer from Operating Contingency is proposed to provide the additional \$26,208 to the Jail.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves a budget amendment for FY 2013 for the Jail and authorizes the following transfer from Operating Contingency:

FY 2013 General Fund Expenditures

Payment to the Virginia Peninsula Regional Jail	+ \$ 26,208
Operating Contingency	- \$ 26,208

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	___	___	___
JONES	___	___	___
KENNEDY	___	___	___
ICENHOUR	___	___	___
KALE	___	___	___

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of September, 2012.

VPRJailBud_res

MEMORANDUM COVER

Subject: Legislative Application Deferral Policy

Action Requested: Shall the Board approve a Legislative Application Deferral Policy?

Summary: At its work session on May 22, 2012, the Board of Supervisors reviewed a proposed legislative application deferral policy and suggested modifications prior to consideration of the policy for adoption.

Attached is a resolution which incorporates the suggestions received from the Board at the May 22, 2012, work session.

Approval is recommended for 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
3. Adopted Minutes from the May 22, 2012, Board Work Session

Agenda Item No.: J-1

Date: September 25, 2012

MEMORANDUM

DATE: September 25, 2012
TO: The Board of Supervisors
FROM: Robert C. Middaugh, County Administrator
SUBJECT: Legislative Application Deferral Policy

At its meeting on January 10, the Board of Supervisors (the “Board”) requested a legislative application deferral policy be prepared for consideration to address circumstances where an applicant requests that an application not be advertised for Board consideration following action by the Planning Commission (the “Commission”) or requests an indefinite deferral by the Board. Attached for your consideration is a resolution which incorporates suggested modifications received from the Board at a work session on May 22. The proposed policy addresses the following items:

- Establishes that a legislative application which has received action from the Commission shall be placed on the agenda for the first Board meeting the month following action by the Commission. This would eliminate requests made to staff to not advertise an application following Commission action absent a determination of consistency with an adopted set of deferral criteria.
- Allows the County Administrator or his designee (the “Administrator”) to determine whether to grant a one-month administrative deferral in accordance with the adopted criteria.
- Establishes that all legislative applications are expected to appear on a Board agenda, with an advertised public hearing, either as a request for deferral or consideration of approval, within a maximum of three months following action by the Commission.
- Establishes that an applicant may request a deferral of a legislative application by the Board for a period not to exceed three months and may request up to two additional deferrals within a 12-month period from the date the application was placed on a Commission agenda for action.

I recommend approval of the attached resolution.

Robert C. Middaugh

RCM/nb
LegisAppDef_mem

Attachments:

1. Resolution
2. Adopted Minutes of the May 22, 2012, Board of Supervisors Work Session

RESOLUTION

LEGISLATIVE APPLICATION DEFERRAL POLICY

WHEREAS, at its meeting on January 10, 2012, the Board of Supervisors (the “Board”) requested a legislative application deferral policy to address circumstances where an applicant requests that an application not be advertised for Board consideration following action by the Planning Commission (the “Commission”) or requests an indefinite deferral by the Board; and

WHEREAS, the Board held a work session on May 22, 2012 to review deferral procedures and criteria and suggested modifications to the draft policy.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby adopts the following policy to be used when considering requests for deferral of legislative applications:

1. Legislative applications (“applications”) that have received action from the Planning Commission (the “Commission”) shall be placed on the agenda for the first Board meeting the month following action by the Commission. An applicant may submit a written request to the County Administrator or his designee (the “Administrator”) for a one-month administrative deferral. In this circumstance, the Administrator shall determine whether to grant the deferral in accordance with the criteria expressed herein. If the administrator approves the deferral request, the application shall not be advertised and will instead be scheduled for the first Board meeting on the second month following action by the Commission.
2. All applications shall be placed on a Board agenda with an advertised public hearing, either as a request for further deferral or consideration of approval, no more than three (3) months following action by the Commission. The applicant may withdraw the application at any time.
3. An applicant may request a deferral for a period not to exceed three (3) months. In this circumstance, the application will be advertised and the Board shall determine whether to grant a deferral following a public hearing on the matter. If the Board grants a deferral, the application will be scheduled for a Board meeting requested by the applicant and approved by the Board and the applicant shall be required to pay a deferral fee to cover the costs of advertising the application. Such fee shall reimburse the County for expenses associated with deferring the application. If the Board does not grant the deferral, the Board may either approve or deny the application at that meeting.
4. An applicant may request two additional deferrals from the Board that shall, in total, be valid for no more than twelve (12) months from the date the application was placed on a Commission agenda for action. In this circumstance, the application shall be advertised and the Board shall determine whether to grant a deferral following a public hearing on the matter. If the Board grants a deferral, the application will be scheduled for a Board meeting requested by the applicant and approved by the Board

and the applicant shall be required to pay a deferral fee to cover the costs of advertising the application. Such fee shall reimburse the County for expenses associated with deferring the application. If the Board does not grant the deferral, the Board may either approve or deny the application at that meeting.

5. The Administrator and/or the Board may grant a deferral as noted above for one or more of the following reasons:
 - The Commission requests substantive changes to the application, supplemental materials, proffers, or conditions that must be addressed prior to the Board hearing.
 - Substantive issues are raised by a County or external reviewing agency that must be addressed prior to the Board hearing.
 - Delays have occurred with County or external reviewing agency comments that affect the application.
 - Errors in legally required advertising are discovered and must be rectified.
 - Adjacent property owner concerns have been expressed that generate the need for substantive changes or additional public meetings.
 - The applicant demonstrates that there are extenuating circumstances that are unique to the application that require additional time.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	___	___	___
JONES	___	___	___
KENNEDY	___	___	___
ICENHOUR	___	___	___
KALE	___	___	___

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of September, 2012.

AT A WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 22ND DAY OF MAY 2012, AT 4:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. CALL TO ORDER

B. ROLL CALL

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. BOARD DISCUSSIONS

1. Joint Work Session with the Planning Commission

Mr. Tim O'Connor, Planning Commission Chairman, called to order the Planning Commission (PC) and advised the Board that all members, with the exception of Mr. George Drummond, were present. Mr. O'Connor thanked the Board for the opportunity to meet with them and advised them that the PC had three topics to discuss with the Board. He stated that the topics were a review of the Coordinated Comprehensive Plan Process to date; a review of the 2009 Comprehensive Plan's Goals, Strategies, and Actions as listed in the PC's Annual report; and, an update from staff on the Zoning Ordinance revision process.

Mr. O'Connor informed the Board that under the Coordinated Comprehensive Plan, the PC's goals were threefold: 1) special considerations or concerns regarding the Joint Comprehensive Plan and the process, 2) any individual considerations for the Board, including Quarterpath/Riverside Hospital, Busch Gardens, Marquis area, Lightfoot/Pottery area, the northeast triangle in Williamsburg, and lower York County and, 3) the preferred format the Board desires for the Comprehensive Plan update. He stated that the PC's recommendation would be to create an addendum to the Comprehensive Plan which could be easily updated/amended.

Ms. Tammy Rosario, Principal Planner, informed the Board that this topic was discussed with the Board in January 2012, at which time the Board received an overview regarding the project. She informed the Board of the progress made on the project since January, which included three community forums. She stated that following the forums, there was a Joint Planning Commission meeting in April 2012. She stated that the staff prepared a Joint Transportation Study, Inventory of Existing Land Uses, and updated demographic and housing trends. She advised the Board that a website was created regarding the Historic Triangle. Ms. Rosario provided a recap of the April 2012 joint meeting and invited questions from the Board.

Ms. Jones stated that the PC is seeking guidance on whether or not to proceed with having an insert of the joint pages in the Comprehensive Plan. Ms. Jones stated that, from her perspective, it is always good to have leadership from the localities communicating, collaborating, and working together. She expressed her concerns about putting the same exact pages in the three Comprehensive Plans and moving toward the direction of regionalism. Ms. Jones stated that the public has expressed concerns regarding regionalism, private property rights, and is ensuring that the County government officials hear their voices and represent them. She stated that there is public support for communication and collaboration among the communities.

Mr. McGlennon inquired as to the motivation for the Regional Issues Committee in proposing the coordination of the Comprehensive Plans.

Ms. Jones stated that the matter arose in 2006 and it was referred to as the synchronization of the comprehensive plan so that all three comprehensive plans were updated at the same time. She also stated that the plan was to have all three Planning Commissions communicating because there are key areas that impact multiple jurisdictions.

Mr. Icenhour stated that when he was on the Regional Issues Committee, the issue was brought forward during the County's Comprehensive Plan update that there were border areas where land use designations in York County and the City of Williamsburg that did not mesh with the County's land use map. He stated that communication between the localities could minimize conflicts. He stated that in order to accomplish this, the plans had to be coordinated because the localities were on different schedules. He stated that it has taken six years to get to that point. He stated that the Comprehensive Plan did not have to have common pages. He stated that information should be gleaned from other jurisdictions and incorporated into the County's Comprehensive Plan. Mr. Icenhour questioned the time frame of the review process for updating the Comprehensive Plan.

Mr. Rogers responded that a review has to be done every five years after the date of adoption and advised the Board that if the plan was readopted, the five-year period would start from the time of adoption.

Mr. O'Connor stated that an important goal stressed at Regional Issues Committee meetings is that the comprehensive plans remain as individual plans for each locality.

Mr. McGlennon stated that the process does not require or allow for a regional comprehensive plan. He stated that authority rests with local jurisdictions.

Ms. Jones stated that she agreed with Mr. Icenhour that the comprehensive plan did not have to have common pages. She stated that for the first time in 15 years she attended a meeting with officials from James City County, the City of Williamsburg, and York County. She stated the meeting opened dialogue and built relationships with leadership and planning commissioners. She stated that in the 2009 Comprehensive Plan there are pages dedicated to recognizing corridors of other localities. She stated that there is value in opening the lines of communication between leadership in the localities. She expressed that the current Board and Planning Commission members are sensitive to proposed project impacts along jurisdictional corridors.

Mr. Kennedy stated that he believes in regional cooperation but does not believe in regional government. He stated that he believes it would be appropriate to develop shared revenue zones to create something unique such as a year-round tourist destination. He questioned if there are any proposals before the Planning Commission that concern jurisdictional lines.

Mr. O'Connor responded no. He stated that York County and the City of Williamsburg have just begun this process. He stated that York County has instructed its planning staff to inform the James City County Planning Commission when they hold public meetings regarding Lightfoot and areas adjacent to James City County. He stated that all jurisdictions are concerned about traffic impact along the corridors. He stated that staff has had conversations about creating a common history regarding a joint comprehensive plan with jurisdictions tailoring it to their individual regions.

Ms. Rosario stated that the County focus has always been a targeted review of the comprehensive plan for regional discussions and issues. She stated that a wealth of information has been produced and that she would like to document the updates to the demographics and highlight jurisdictional commonalities or differences.

Mr. Kennedy stated that there are a lot of fundamental differences between the localities and that an area he is concerned about is the Lightfoot corridor. He stated that there is still a lot of rural undeveloped land in Lightfoot.

Mr. Kale stated that the County should first determine the differences between each jurisdictional comprehensive plan and then determine the commonalities. He stated that he would not like an addendum to the comprehensive plan. He stated that he would like an inclusion in the comprehensive plan.

Mr. McGlennon questioned recent legislation passed by the General Assembly that transportation aspects of any comprehensive plan update have to be submitted to the Virginia Department of Transportation (VDOT) for review.

Ms. Rosario responded that based on prior legislation, the County had worked with VDOT on the 2009 Comprehensive Plan. Ms. Rosario summarized that the Board is interested in keeping the scope narrow and targeted to regional issues focused on common borders. She stated that the Board has varied opinions regarding common pages. Ms. Rosario advised the Board that York County and the City of Williamsburg are trying to get their comprehensive plans concluded and to their Planning Commissions at the end of this year or the beginning of next year. She stated that James City County will try to be on the same schedule.

Mr. Kale questioned that if the County added information and readopted the plan as other localities were adopting their plans, would all the localities then be on the same cycle.

Mr. Rogers responded that the adoption dates would be the same. He stated that the requirement of the State Code is that the localities would have to begin the review of the Comprehensive Plan at the same time.

Mr. Kennedy expressed his views on whether or not the municipalities had to synchronize comprehensive plans.

Mr. Richard Krapf, Planning Commission member, stated each locality develops their own goals, strategies, and actions and they all have different time tables.

Mr. Icenhour questioned staff as to the process and questioned if the plan would be adopted in early 2012.

Mr. Allen Murphy, Development Management Manager, responded that James City County will track what the other localities are doing, document the similarities and differences, and be prepared to talk about them. He requested guidance and direction from the Board on how to proceed.

Ms. Jones requested input from the Board on how they wanted to direct the Planning Commission on how to move forward.

Mr. Icenhour stated that he would be in favor of adding a modified update to the plan which can then be readopted.

Ms. Jones stated that she could be in favor of readopting the plan and synchronizing it with the other localities.

Mr. Murphy asked if the decision could be postponed until York County and City of Williamsburg were closer to the end of their process so that the County could fully examine the differences and commonalities. He stated that the Board could review the matter in a year.

Ms. Jones stated that she would like input from York County and City of Williamsburg regarding common pages.

Mr. Kennedy stated that he supported Mr. Murphy's suggestion. He stated that the matter could be looked at in a year or sooner. He stated that he did not want to start a process at this point, not knowing what the process was going to entail.

Mr. O'Connor thanked the Board for its direction. He advised the Board that Mr. Krapf is Chairman of the Policy Committee and stated that Mr. Krapf will be discussing the scorecard for goals, strategies, and actions with the Board.

Mr. Krapf stated that during the past 12 to 18 months the focus of the Policy Committee has been the zoning and subdivision ordinance re-write triggered by the 2009 Comprehensive Plan. He stated that to date, four priority topics have been completed and approved by the Board. He stated that the four policies included the Economic Opportunity, which was adopted in September 2011; Development Standards, adopted in November 2011; Commercial Districts, adopted in January 2012; and Wireless Communications Facilities, adopted in January 2012. Mr. Krapf discussed the key issues that still remained on the calendar for this year. Those issues included a sign ordinance, housing opportunity policy, green building policy. He stated that a majority of the adopted and pending ordinances are contained in the goal, strategies, and actions section of the comprehensive plan. He stated that most of the policies are in the zero- to five-year priority category that the County established.

Ms. Rosario stated that they also have rural land work to explore with the Board and will be looking for its direction.

Ms. Jones inquired of the Board if they had any further questions for the Planning Commission and staff. Ms. Jones thanked the staff and Planning Board for their work session participation.

2. Board of Supervisors Guidelines for Outside Communications with Applicants Requesting Legislative Approvals

Mr. Middaugh advised the Board that this item and the Legislative Action Deferral Policy were requested previously and deferred by the Board. He stated that the Board received a draft of each policy. He stated that for both policies, he provided suggestions, parameters, and comments from Board members. He stated that the material on the deferral policy provides some criteria that can be shaped by the Board.

Ms. Jones thanked Mr. Middaugh and asked the Board for input on Guidelines for Outside Communications. Ms. Jones stated that she appreciated the intent of transparency; however, she does not believe the legislation is necessary because the Board does a good job of communicating and being

transparent. She stated that she also had concerns that citizens might not talk to the Board if the matter has to be reported out.

Mr. Kale stated that he feels the Board of Supervisors is transparent and the Board functions as such due to the trustworthiness of its members. He believes that the policy is not necessary.

Mr. Icenhour stated that he agreed with Mr. Kale. He stated that he was comfortable with not passing the policy.

Mr. McGlennon stated that it was in the individual Board member's best interest to let people know when they have met with an applicant; however, he stressed that it was their responsibility to do that.

Mr. Kennedy stated that he has always believed in transparency. He stated that communication needs to be improved and cited an example about a current request for a donation for a courthouse statue.

Mr. McGlennon stressed to the Board that when talking about legislative approvals, someone is requesting an action by the Board. Mr. McGlennon stated that the Board is better off recognizing that it is in its best interest to be clear when meeting with an applicant.

Mr. Kennedy agreed but expressed his opinion that the Board needs to improve communications.

Ms. Jones stated that the Board will pass on the disclosure policy.

3. Legislative Action Deferral Policy

Mr. Middaugh stated that staff has developed a template for the Board to work with. He stated that the Board can give deferrals not in excess of 12 months based on certain criteria. He stated that if the matter has to be re-advertised and citizens had to be re-notified, the applicant would bear the expense. Mr. Middaugh questioned if the Board's 12-month limitation is from the time of submission to the Planning Division.

Mr. Rogers stated that for legislative approvals, the time period is 12-months from when the case goes to the Planning Commission.

Mr. Icenhour questioned about making the policy to reflect the State Code.

Mr. Rogers responded that was not necessary but that it would shorten what is permissible under the State Code.

Mr. Kale inquired as to when the 12-month clock begins.

Mr. Rogers responded that the 12-month clock begins when the case is put on the Planning Commissions agenda for action. He stated that if there is not an applicant deferral of the case at that point, it would begin the 12-month period.

Mr. Kale questioned if the 12-month period would encompass both the Planning Commission and the Board.

Mr. Rogers responded yes.

Mr. Kennedy stated that the time frame would really be 11 months for the Board. He stated that there is a period of 30 days if the application is approved by the Commission and 30 days later before it can be heard by the Board.

Mr. Rogers stated that the Planning Commission has 100 days to act on the application from the time it is submitted to the Commission for action.

Mr. Kennedy stated that would shorten the Boards time to nine months.

Mr. Middaugh stated that the provision is in the policy to ensure that the Board acts timely.

Mr. Icenhour stated that the intent of the Board was to rectify indefinite deferrals for unexplained reasons. He stated that he is not adverse in giving people as much time as they need and stated that the Board has to have that flexibility.

Mr. McGlennon questioned an alternative approach regarding the possibility of the Board setting an expiration date, absent an extension for cause, when a deferral has been granted.

Mr. Middaugh stated that would be an added discipline. He stated that if a case came before the Board and the applicant has requested a deferral based on certain criteria, the Board could grant a deferral not to exceed 90 days. He stated that in 90 days the deferral would expire and the applicant would have to come back for action or to request an extension.

Mr. Kennedy expressed concerns about the policy and stated that the Board has to be cognizant of deferrals for difficult economic times.

Mr. Middaugh addressed Mr. Kennedy's concerns and advised that the Board could ask the applicant to withdraw the application until they were ready.

Mr. Kale agreed with Mr. McGlennon's approach regarding an expiration date on the extension.

Mr. Icenhour also agreed with Mr. McGlennon's approach.

Mr. Rogers stated that the public hearing process identifies a date for a case to come back to the Board.

Mr. McGlennon inquired as to the process if the public hearing was closed.

Mr. Rogers responded that that Board is not required to identify a date.

Mr. McGlennon questioned if there is a requirement for public hearing to occur if the applicant comes before the Board, after the public hearing has been closed several months earlier, asking for a deferral.

Mr. Rogers responded that the County does re-advertise for those cases. He stated that it is a requirement because the Board is going to take action on a case. He stated that if the Board defers the case for two weeks to the next Board meeting, the County would not re-advertise the case even after the public hearing has been closed.

Mr. Icenhour stated that he would like modifications made to the policy and have the matter brought before the Board for consideration.

Ms. Jones queried the Board and the Board agreed.

Mr. Middaugh questioned the Board if they want to set a limit on themselves in terms of how long the deferral would be.

Ms. Jones stated that the matter should be determined case by case.

Mr. Icenhour stated that the State Code was written so that the Board does not excessively drag the matter out when the applicant wants to get through the matter quickly.

Mr. Kale questioned that if an applicant comes to the Board and they have had one deferral of three months and requests another deferral of two months which is one month beyond 12 months, what happens to the State law. He questioned that if the applicant is asking for the deferral, then the 12-month time frame does not apply.

Mr. Rogers stated that even though the applicant requests a deferral, the time clock keeps running. He stated that at the end of the time clock, it can be continued by an applicant.

Mr. Middaugh questioned if the deferral criteria were appropriate.

Mr. McGlennon responded that this is another reason why he suggested the alternative approach which would reduce the need to set criteria.

Mr. Icenhour stated that he feels the Board should have flexibility and stated matters should be reviewed case by case.

Mr. Middaugh stated that the policy will be brought back before the Board for action at a regular meeting.

Mr. Kale advised the Board that he asked the County Administrator to look into the speed limit on Longhill Road, from the area of Plumeri Park and Eastern State Hospital going west around the curve at the Recreation Center. He stated that there is a lot of traffic exiting Eastern State Hospital and the Recreation Center. He stated that there have been two accidents at the intersection this year. He stated that he also asked Mr. Middaugh to take a look at the drainage system underneath the entry road of the Recreation Center. He stated that there is not a drainage culvert underneath the road and that in the wintertime the road becomes a sheet of ice.

At 6:01 p.m., Ms. Jones recessed the Board.

Robert C. Middaugh
Clerk to the Board