

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 9TH DAY OF SEPTEMBER 2008, 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

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

Sanford B. Wanner, County Administrator
Leo P. Rogers, County Attorney

C. PLEDGE OF ALLEGIANCE – Demarjia Lewis, a fourth-grade student at James River Elementary School, led the Board and citizens in the Pledge of Allegiance.

D. PRESENTATION – Jamestown High School Envirothon Team

Mr. Goodson presented certificates of recognition to the members of the Jamestown High School Envirothon Team for its outstanding performance in the State competition.

E. PUBLIC COMMENT

1. Mr. Mike Caplice, 4193 Teakwood, on behalf of the James City County Citizens' Coalition (J4C) Traffic Committee, presented a traffic study done by the J4C.
2. Mr. Burt Roth, 112 Winged Foot, on behalf of the James City County Citizens Budget Advisory Committee, commented on fiscal analysis of school spending, enrollment, and capacity data.
3. Dr. Don Cherry, 31 Whittaker's Mill, commented on the J4Cs study in relation to school enrollment and classroom capacity.
4. Mr. Randy O'Neill, 109 Sheffield Road, commented on childhood health issues, and the cost and quality of parks and recreation in the County. He commented on his program for youth health enhancement and stated that he has still not had the opportunity to work with the County.

5. Mr. Ed Oyer, 139 Indian Circle, commented on the King William Reservoir bond issue; disposal of televisions in the County; attendance at the 2007 Commemoration events; out-of-state registration of vehicles; in-fill homes on Route 60 East; commercial traffic on Route 60 East; and housing prices.

F. CONSENT CALENDAR

Mr. Goodson asked to add two items to the Consent Calendar dealing with the declaration of a local emergency for Tropical Storm Hanna.

Mr. Goodson asked to pull Item 10 for a presentation from Ms. Angela King, Assistant County Attorney.

Mr. McGlennon made a motion to adopt the items on the Consent Calendar aside from Items 10, 11, and 12.

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

1. Minutes –
 - a. August 12, 2008, Work Session
 - b. August 12, 2008, Regular Meeting
2. Spencer's Ordinary and Green Spring Battlefields Mapping & Archaeology Study Grant Allocation

RESOLUTION

SPENCER'S ORDINARY AND GREEN SPRING BATTLEFIELDS MAPPING AND

ARCHAEOLOGY STUDY – GRANT ALLOCATION – \$55,224

WHEREAS, the American Battlefield Protection Program of the National Park Service (NPS) has awarded James City County a \$55,224 grant for mapping and archaeological investigations at the Revolutionary War Battlefields of Spencer's Ordinary and Green Spring; and

WHEREAS, the funds will be used to identify battlefield boundaries and historic landscape features through examination of historic maps, literature searches, and selective archeological testing, and this information will provide accurate battlefield boundary information to help guide future development on and around these historic sites.

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

Revenue:

NPS American Battlefield Protection Program \$55,224

Expenditure:

Spencer's Ordinary and Green Spring Battlefields Mapping
and Archaeology Study \$55,224

3. Grant Award – TRIAD Crime Prevention for Seniors – \$2,250

RESOLUTION

GRANT AWARD – TRIAD CRIME PREVENTION FOR SENIORS – \$2,250

WHEREAS, James City County has been awarded a TRIAD Crime Prevention for Seniors Grant in the amount of \$2,250 (\$2,025 State; \$225 local match) through Virginia's Office of the Attorney General to be used to enhance the County's TRIAD program; and

WHEREAS, the purpose of TRIAD is to reduce criminal victimization of older citizens, enhance the delivery of law enforcement services, and improve their quality of life; and

WHEREAS, these funds will be used to purchase safety equipment for the elderly, to provide supplies and promotional materials to educate seniors on safety issues, and to promote the various programs offered to seniors in the County; and

WHEREAS, the grant requires matching funds of \$225, and these funds are available in the County's Grant Match Account.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the acceptance of this grant and the following appropriation amendment to the Special Projects/Grants fund:

Revenues:

OAG – TRIAD Crime Prevention for Seniors Grant	\$2,025
James City County Grant Match Account	<u>225</u>
Total	<u>\$2,250</u>

Expenditure:

OAG – TRIAD Crime Prevention for Seniors Grant	<u>\$2,250</u>
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4. Award of Contract – Ambulance Purchase – \$201,592

RESOLUTION

AWARD OF CONTRACT – AMBULANCE PURCHASE – \$201,592

WHEREAS, funds are available in the FY 2009 Capital Improvements Program budget for the purchase of a replacement ambulance; and

WHEREAS, cooperative purchasing action is authorized by Chapter 1, Section 5 of the James City County Purchasing Policy, the Virginia Public Procurement Act, and the County of Arlington issued a cooperative purchasing contract to Singer Associates as a result of a competitive sealed Invitation to Bid; and

WHEREAS, the Fire Department and Purchasing staff determined the contract specifications met the County's performance requirements for a medium-duty ambulance and negotiated a price of \$201,592 with Singer Associates for a 2008 Medtec AD-170, Type I, medium-duty ambulance.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes the County Administrator to execute a contract with Singer Associates for a medium-duty ambulance in the amount of \$201,592.

5. Grant Award – Department of Motor Vehicles (DMV) – \$35,010

RESOLUTION

GRANT AWARD – DEPARTMENT OF MOTOR VEHICLES (DMV) – \$35,010

WHEREAS, the Department of Motor Vehicles (DMV) has awarded a grant in the amount of \$35,010 to the Police Department for traffic enforcement overtime and related equipment; and

WHEREAS, the grant requires only a soft money local match, thus eliminating any additional spending by the Police Department, excluding court overtime and equipment maintenance.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the acceptance of this grant and the following appropriation amendment to the Special Projects/Grants fund:

Revenue:

DMV – Highway Safety FY 09 \$35,010

Expenditure:

DMV – Highway Safety FY 09 \$35,010

6. Appropriation of Insurance Proceeds – Police Department

RESOLUTION

APPROPRIATION OF INSURANCE PROCEEDS – POLICE DEPARTMENT

WHEREAS, James City County is committed to protecting County assets and replacing destroyed assets in an efficient manner; and

WHEREAS, James City County vehicle No. 062606 was destroyed in an accident on July 4, 2008; and

WHEREAS, the actual cash value of the vehicle - \$7,675 has been recovered from the responsible party.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following appropriations of recovered funds.

Revenue:

Insurance Recovery	<u>\$7,675</u>
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Expenditure:

Police Department Budget	<u>\$7,675</u>
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7. Virginia Peninsulas Public Service Authority (VPPSA) Service Agreement for Hurricanes and other Disasters

RESOLUTION

VIRGINIA PENINSULAS PUBLIC SERVICE AUTHORITY (VPPSA)

SERVICE AGREEMENT FOR HURRICANES AND OTHER DISASTERS

WHEREAS, James City County is a member of the Virginia Peninsulas Public Service Authority (VPPSA); and

WHEREAS, VPPSA has entered into agreements on behalf of its member jurisdictions with contractors for debris removal, reduction, and disposal in the event of a hurricane or other disaster; and

WHEREAS, James City County wishes to have the ability to utilize the services of VPPSA and its contractors for the above services.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to execute service agreements with VPPSA for debris removal, reduction, and disposal for hurricanes and other disasters.

8. Colonial Community Criminal Justice Board Appointment

RESOLUTION

COLONIAL COMMUNITY CRIMINAL JUSTICE BOARD APPOINTMENT

WHEREAS, the Board of Supervisors of James City County appointed Mr. William C. Porter, Jr. to serve as one of the County's representatives on the Colonial Community Criminal Justice Board (CCCJB); and

WHEREAS, Mr. Porter no longer qualifies to serve on the CCCJB in accordance with the Code of Virginia and the Joint Exercise of Powers Agreement (JEPA); and

WHEREAS, Mr. Porter's term was set to expire on February 28, 2010.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby appoint Doug Powell to an unexpired term on the CCCJB, set to expire on February 28, 2010.

9. Virginia Peninsula Regional Jail Board of Directors Alternate Appointment

RESOLUTION

APPOINTMENT OF AN ALTERNATE TO THE

VIRGINIA PENINSULA REGIONAL JAIL AUTHORITY (VPRJ)

WHEREAS, the Virginia Peninsula Regional Jail Authority (VPRJ) consists of one member from each participating jurisdiction; and

WHEREAS, there are occasions when the regular member is unable to attend VPRJ Authority Board of Directors meetings and Mr. Doug Powell has expressed interest in serving as the alternate representing the County on the VPRJ Authority Board of Directors.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby appoint Doug Powell as its VPRJ Authority Board of Directors alternate designee.

Mr. Rogers introduced Ms. Angela King, Assistant County Attorney to present the resolution authorizing the acceptance of real estate transfers.

10. Resolution Authorizing the Acceptance of Real Estate Transfers

Ms. King stated this resolution authorized the acceptance of real estate transfers to the County by the County Attorney's office. She stated this was an update to an earlier document, and recommended approval of the resolution.

Mr. McGlennon made a motion to adopt the resolution.

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

RESOLUTION

ACCEPTANCE OF REAL ESTATE TRANSFERS

WHEREAS, Virginia Code Section 15.2-1803 requires that every deed conveying real estate to the County be in a form approved by the attorney for the County. Such deeds must be accepted by the County to be valid. Acceptance shall be executed by a person authorized to act on behalf of the County on the face of the deed or on a separately recorded instrument. This does not apply to any conveyance of real estate related to the orderly subdivision of land and its development, which is performed pursuant to Virginia Code Section 15.2-2240 et seq., entitled *Land Subdivision and Development*; and

WHEREAS, Virginia Code Section 15.2-408 allows the County Attorney to appoint deputies, assistants, and employees as he may require in the exercise of the powers conferred and in the performance of the duties imposed upon him by law.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes and directs the County Attorney, the Deputy County Attorney, and/or the Assistant County Attorney of James City County to affix the acceptance upon the face of any deed conveying real estate to James City County, other than the conveyance of interests in real property through the recordation of subdivision plats.

11. Declaration of a Local Emergency

12. Declaration of a Local Emergency Rescinded

Fire Chief Tal Luton gave an overview of the opening of the Emergency Operations Center (EOC) in preparation for Tropical Storm Hanna. He stated that Mr. Wanner declared an emergency on Friday, September 5, 2008, that the shelters were opened that evening, and the EOC was fully staffed. He stated that two trees came down in the County and approximately 250 homes that were without power for a few hours. He stated that the Board was being asked to confirm the declaration of Mr. Wanner and also to rescind the declaration of a local emergency.

Ms. Jones complimented Chief Luton and the Emergency Management team including Police Chief Emmett Harmon and Ms. Kate Hale for preparedness and communication. She recognized the proactive nature of the Virginia Department of Transportation (VDOT) and the coverage by the Daily Press and Virginia Gazette.

Ms. Jones made a motion to adopt the resolutions.

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

RESOLUTION

DECLARATION OF A LOCAL EMERGENCY

WHEREAS, the Board of Supervisors of the County of James City, Virginia, does hereby find as follows:

1. That due to the occurrence of Tropical Storm Hanna, the County of James City is facing a condition of extreme peril to the lives, safety, and property of the residents of James City County; and
2. That as a result of this extreme peril, the proclamation of the existence of an emergency is necessary to permit the full powers of government to deal effectively with this condition of peril.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that a local emergency now exists throughout the County of James City.

NOW, THEREFORE, BE IT FURTHER RESOLVED that during the existence of this emergency, the powers, functions, and duties of the Director of Emergency Management and the Emergency Management organization, and functions of the County of James City shall be those prescribed by the laws of the Commonwealth of Virginia and the ordinances, resolutions, and approved plans of the County of James City in order to mitigate the effects of said emergency.

RESOLUTION

DECLARATION OF A LOCAL EMERGENCY RESCINDED

WHEREAS, the Board of Supervisors of James City County, Virginia, does hereby find that due to the predicted effects of Tropical Storm Hanna, the County faces dangerous conditions of sufficient severity and magnitude to warrant coordinated local government action to mitigate the damage, loss, hardship, or suffering threatened or caused thereby; and

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

WHEREAS, the effects of Tropical Storm Hanna have been mitigated by James City County.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, pursuant to Section 44-146.21 of the Code of Virginia, 1950, as amended, that the Declaration of a Local Emergency dated September 5, 2008, by Sanford B. Wanner, Director of Emergency Management for James City County, is rescinded.

G. PUBLIC HEARINGS

Mr. Goodson recognized Planning Commissioner Tony Obadal was in the audience.

1. Case No. SUP-0014-2008. Freedom Park Water Main Extension

Ms. Leanne Reidenbach, Planner, stated that the applicant has requested a deferral. She stated that the applicant has requested that the public hearing be continued to the first meeting in October 2008 to provide staff time for further investigation.

Mr. Goodson opened the Public Hearing.

Mr. Goodson continued the Public Hearing to October 14, 2008.

Mr. Icenhour stated that his concern with this application was for the cost of this project and the necessity of connecting the school site. He stated that he would prefer not to see this carried through the entire loop and asked that staff look at other options. He stated that the same has been asked of by-right projects that incorporate independent water systems in that area and asked for a range of alternatives with cost-benefit analysis of each.

Ms. Jones stated that at the Planning Commission meeting, there was a request to evaluate the Board's current policy through the Comprehensive Plan update.

Mr. McGlennon stated that he was surprised at this application being used as a vehicle to raise the issue of extending the primary service area (PSA). He stated that he was surprised that this arose outside the Comprehensive Plan process.

Ms. Jones stated that she felt that this was a means of evaluating the most cost-efficient way of providing water and the better interests of the citizens should be taken into account with this policy.

Mr. McGlennon stated that he did not understand why this was a vehicle for this issue. He stated that there were other instances, including the Comprehensive Plan process, within which this could be considered.

Ms. Jones stated that this particular application was extending water outside the PSA.

Mr. McGlennon stated that there was concern about a double standard, but to extend public facilities to public buildings was an effort to address the impacts of growth rather than to extend growth.

2. An Ordinance to amend and reordain James City County Code Chapter 18A, Stormwater Management to eliminate language supporting the stormwater service fee

Ms. Frances Geissler, Stormwater Management Director, stated that the ordinance amendment deleted language in the County Code which supported the stormwater service fee.

Mr. Icenhour asked if the guidance about the stormwater program for citizens was limited.

Ms. Geissler stated that there was information in brochures and on the website.

Mr. Icenhour stated that it would be difficult to make the State and Federal mandates clear to citizens without clear structure and objectives.

Mr. Goodson stated that was unfair to staff.

Mr. Icenhour stated that staff should be able to make a recommendation on this matter. He asked to salvage some of the language to provide a general purpose and definitions. He asked that the Board give guidance to staff for a better definition of what the program should be.

Ms. Jones asked if it would be required to be in the code.

Mr. Rogers stated it would not. He stated that the first ordinance did have a purpose section, but that seemed odd since there was no additional code section.

Mr. Icenhour asked about the methodology to clarify for the Board and public the structure and impact of the program.

Mr. Goodson stated that staff has reacted to a Board direction.

Mr. Goodson opened the Public Hearing.

1. Ms. Kensett Teller, 126 Lake Drive, stated on behalf of the J4C that the J4C supported the Stormwater Management division. She stated that a flooding report was done by the J4C and this matter has not been addressed. She stated that priorities should be established, resolutions identified and budget funding be provided for these matters. She requested approval of the committee.

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

Mr. Icenhour stated that the professional staff has not been asked to provide input. He asked for an outlined program for citizens to clearly understand the goals of the program.

Ms. Jones stated that the Stormwater Management division has provided the information on the goals, but that the funding mechanism falls under the responsibility of the Board. She stated that the division did not need to be defined by ordinance.

Mr. Goodson stated that during Board Considerations a resolution will be provided for consideration that creates a committee with a mission that is clearly defined.

Mr. Wanner stated that if staff is allowed to come back with a stormwater management policy that has goals and resolutions, it can be adopted as a policy document. He stated that this would not prohibit any of the actions of the evening or the appointments that the Board will be asked to do on September 23, 2008. He stated that this will pull together a lot of the other documents and guidance that have been provided.

Mr. Icenhour stated that this was what he had expected in order to define the program and to make the information available to the public. He stated that two criteria to fund this are public education and that he would appreciate staff creating this document and bringing it back before the Board.

Mr. McGlennon stated that he planned to vote against repealing this ordinance because it was the direction of citizens to manage stormwater through a utility as defined by this ordinance. He stated that these citizens studied this item for two years and that he planned to vote against this item to reflect his appreciation to those citizens for their efforts.

Ms. Jones stated that the citizens did an excellent job, but noted that the funding requirement came as a result of previous Boards refusing to make a dedicated fund for stormwater issues.

Mr. McGlennon stated that stormwater became a much lower priority as part of the budget than as a dedicated utility fee.

Ms. Jones stated that this would come as a separate bill to citizens, which would be a problem and that by making this issue a priority it could be funded.

Mr. McGlennon stated that it is not funded as well as it could have been, and the citizens would be covering the needs. He stated that with the utility fee the cost was more equitably assessed.

Ms. Jones stated that citizens have asserted that the utility was a stealth tax and that financing this issue was a matter that warranted discussion.

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

Mr. Icenhour stated that he would be voting against this item for similar reasons as Mr. McGlennon and that there would be a lack of service to the citizens who needed it.

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

3. Verizon Easement – Warhill Trail

Mr. Adam Kinsman, Deputy County Attorney, stated that in March 2008, the James City Service Authority (JCSA) Board of Directors approved a lease for AT&T to locate a cellular array on the new Warhill water tower located at 5900 Warhill Trail. Mr. Kinsman indicated that the resolution granted Verizon an easement to run telephone lines across the property. He stated that staff recommended approval of the resolution giving the County Administrator the authority to execute the necessary documents to grant the easement.

Mr. Goodson opened the Public Hearing.

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

Mr. Kennedy made a motion to adopt the resolution.

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

RESOLUTION

VERIZON EASEMENT – WARHILL TRAIL

WHEREAS, James City County owns a parcel of property located at 5700 Warhill Trail and further identified as James City County Real Estate Tax Parcel No. 3210100012 (the “Property”); and

WHEREAS, the James City Service Authority (the “JCSA”) has entered into a lease with AT&T for the location of a cellular array and related support equipment on the Warhill water tank site located at 5900 Warhill Trail; and

WHEREAS, the cellular support equipment requires telephone service and the closest telephone line is situated along Opportunity Way; and

WHEREAS, the extension of a telephone line from Opportunity Way to the Warhill water tank will provide improved telephone service on adjacent County-owned property at the Warhill site.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the County Administrator is hereby authorized and directed to sign and execute those documents necessary to grant a 20-foot-wide, approximately 4,200-foot-long easement, on property located on the northeast side of the Warhill property and further identified as James City County Real Estate Tax Parcel No. 3210100012 to Verizon to extend telephone service from Opportunity Way to JCSA’s Warhill water tank.

H. BOARD CONSIDERATION

I. Formation of the Stormwater Program Advisory Committee

Ms. Frances Geissler, Stormwater Management Director, stated that the resolution created a Stormwater Program Advisory Committee to set priorities and to shape an outreach program. She stated that this led to the completion of the requirement for the public outreach requirements for the Municipal Separate Storm Sewer System (MS4) permit. She stated that there should be three results: better targeting of limited funds, more effective public outreach programs, and improved permit compliance for MS4.

Ms. Jones stated that the alternate resolution provided added language incorporating flooding. She stated that Brian Noyes of the Colonial Soil and Water Conservation District would like to participate.

Ms. Geissler stated that she felt that he would be a very valuable non-voting member of the Committee.

Ms. Jones stated that the flooding inclusion was the only change.

Ms. Geissler stated that this was added at Ms. Jones's request and that it expands the role of the committee. She stated that this goes beyond the MS4 permit requirements, but the issue would likely be raised.

Ms. Jones asked if Wayland Bass and Darryl Cook would be included.

Ms. Geissler said that they would.

Ms. Jones asked if the representative from VDOT would be available.

Ms. Geissler stated that she asked Mr. Halacy, but that he has not confirmed this.

Ms. Jones stated that Mr. Halacy had communicated that he would be interested.

Ms. Jones made a motion to adopt the alternate resolution which included language that incorporated flooding into the goals of the Committee.

Ms. Jones stated that the citizens appreciate the support from the Board on this item and that this would be a great accomplishment to bring together citizens, staff, and outside agencies on this matter.

Mr. McGlennon stated his support for the creation of the Advisory Committee if it is a good representation of the community. He stated that it would provide a good deal of guidance and also an avenue of funding for the items. He asked about the mention of 12 members and asked that if this was not included in the event that the number does not fulfill.

Ms. Jones stated that the intention was to have two citizens per district and two at-large members.

Mr. Icenhour stated that this was beyond the MS4 permit with the flooding measure due to the input of citizens.

Ms. Geissler stated that this was correct.

Mr. Icenhour stated that this year's budget has no money for flooding.

Ms. Geissler stated that this was correct.

Mr. Icenhour stated that it would be difficult and asked how many people have submitted applications.

Ms. Geissler stated that there have been several applications and many phone calls about the Committee.

Ms. Jones stated that there would be an increased interest once the Committee formation resolution is adopted. She stated that the County has never had funding for flooding, but that this was a matter that needed to be addressed.

Mr. McGlennon stated that the utility had money to address stormwater, which resulted in flooding and that the purpose was to establish the funding that could be available.

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

RESOLUTION

FORMATION OF A STORMWATER PROGRAM ADVISORY COMMITTEE

WHEREAS, there is a need for citizen input in setting priorities for capital and maintenance projects to meet the stormwater program goals; and

WHEREAS, there is a need for citizen assistance in developing meaningful and effective public outreach activities to meet the stormwater program goals; and

WHEREAS, an effective, citizen-based advisory committee will promote compliance with the State Municipal Separate Storm Sewer Systems (MS4) General Permit.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the formation of a Stormwater Program Advisory Committee as described herein:

1. **Mission**

To provide assistance and advice to the Board and County staff in the development, implementation, and promotion of the County's stormwater program to meet the needs of the citizens of James City County by fulfilling the goals of the Stormwater Program.

2. **Responsibilities**

- a. Identify needed infrastructure improvements for flooding, drainage and water quality;
- b. Review annual drainage and capital improvement programs, and recommend priorities;
- c. Review annual stormwater program public engagement and outreach plan and make recommendations regarding needs and activities;
- d. Review outreach and public engagement materials to ensure consistent and effective messages to County citizens; and
- e. Assist staff in outreach and engagement activities including speaking to community groups and manning displays at events such as the County Fair.

3. **Membership Requirements and Terms of Appointment**

- a. Sufficient number and makeup of members to ensure broad representation of interests and areas within the County;
- b. Four-year staggered terms with one-half the initial members having two-year terms at commencement; and
- c. Members must be able to support the goals and purpose of the Stormwater Program and advocate for projects within the community.

I. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, commented on the passing of Mr. Tommy Smith and the localities absorbing shortfalls of State funding.

J. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner stated that Chief Luton and Ms. Jones made comments on the Tropical Storm Hanna event. He noted that no one came to the shelter, but that the Red Cross and staff members were there. He stated that the Board and previous Boards have invested in emergency management. He thanked the Board on behalf of staff for its support.

He stated the Board would need to hold a closed session for personnel matters, appointments to committees, and that the Board should adjourn to 4 p.m. on September 23, 2008, for a work session which included discussion on a budget update, solid waste, and the Powhatan Watershed study.

K. BOARD REQUESTS AND DIRECTIVES

Mr. Icenhour stated that citizens had questions about debris cleanup after the tropical storm in his community. He stated that the question was why the County did not provide pickup for personal debris on personal property. He stated that this was no longer a rural county and the expectations are for an urban level of service. He asked that staff provide a public education session on providing this level of service and stated that citizens needed to be clearly informed of this.

Mr. Goodson stated that this was part of the larger conversation at the next work session on solid waste, which would take place at 4 p.m. on September 23, 2008.

Mr. Kennedy asked about the drainage ditches on Old Stage Road that needed to be redone. He stated that there had been complaints from citizens in this regard. He asked that Mr. Halacy follow up about a shoulder on Route 60 where ditches had been filled in and placement of silt fencing whenever VDOT does work. He stated that he has received comments about VDOT reinforcing the areas that were being worked on with seed, sod, or mesh.

Mr. Wanner stated that VDOT is currently short-staffed and is beginning to hire more individuals to complete maintenance work.

Mr. McGlennon commented that the property at 110 Jameswood in First Colony constituted a threat to health and public safety, and asked for consensus to move forward on this with an ordinance.

Mr. Kennedy stated that he supported this, but that there was no housekeeping ordinance and asked that if a better policy was needed.

Mr. McGlennon stated that this was an exception among derelict properties, as this house has been under construction for over ten years. He said there was an alternate vehicle for addressing buildings that were in use. He stated his agreement on the need to evaluate the policy.

L. CLOSED SESSION

Mr. Kennedy made a motion to go into Closed Session pursuant to Section 2.2-3711(A)(1) of the Code of Virginia for the consideration of a personnel matter, the appointment of individuals to County boards and/or commissions, specifically the Chesapeake Bay Board/Wetlands Board, the Comprehensive Plan Steering Committee, and the Regional Issues Committee.

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

At 8:30 p.m., Mr. Goodson recessed the Board into Closed Session.

At 8:48 p.m., Mr. Goodson reconvened the Board.

Mr. McGlennon made a motion to adopt the Closed Session resolution.

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

RESOLUTION

CERTIFICATION OF CLOSED MEETING

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

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

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge: i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies; and ii) only such public business matters were heard, discussed, or considered by the Board as were identified in the motion, Section 2.2-3711(A)(1), to consider personnel matters, the appointment of individuals to County boards and/or commission.

Mr. McGlennon made a motion to appoint Mr. Allen Murphy to fill a vacant seat on the Regional Issues Committee. He made a motion to appoint Mr. Terence Elkins to a term on the Wetlands Board/Chesapeake Bay Board beginning October 1, 2008, and expiring October 1, 2013. He made a motion to appoint Mr. Richard Mason as the first alternate and Mr. Charles Roadley as the second alternate to the Wetlands Board/Chesapeake Bay Board.

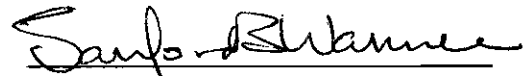
On a roll call vote, the vote was: AYE: Icenhour, McGlennon, Jones, Kennedy, Goodson (5). NAY: (0).

M. ADJOURNMENT to 4 p.m. on September 23, 2008.

Mr. Icenhour made a motion to adjourn.

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

At 8:50 p.m., Mr. Goodson adjourned the Board to 4 p.m. on September 23, 2008.


Sanford B. Wanner
Clerk to the Board

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SEP 9 2008

ORDINANCE NO. 208A-4BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 18A, STORMWATER MANAGEMENT, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY DELETING ARTICLE I, IN GENERAL, SECTION 18A-1, PURPOSE; SECTION 18A-2, DEFINITIONS; SECTION 18A-3, ESTABLISHMENT OF STORMWATER SERVICE FEE; SECTION 18A-4, IMPOSITION OF STORMWATER SERVICE FEES; SECTION 18A-5, STRUCTURE OF FEES AND CHARGES; SECTION 18A-6, ASSESSMENT, BILLING AND PAYMENT, INTEREST, LIENS; SECTION 18A-7, ADJUSTMENT OF FEES, EXEMPTIONS, AND CREDITS; AND SECTION 18A-8, SEVERABILITY.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 18A, Stormwater Management, is hereby amended and reordained by deleting Article 1, In General, Section 18A-1, Purpose; Section 18A-2, Definitions; Section 18A-3, Establishment of storm water service fee; Section 18A-4, Imposition of storm water service fees; Section 18A-5, Structure of fees and charges; Section 18A-6, Assessment, billing and payment, interest, liens; Section 18A-7, Adjustment of fees, exemptions, and credits; and Section 18A-8, Severability.

~~Article I. In General~~

~~Sec. 18A-1. Purpose.~~

~~(a) It is necessary and essential to ensure that the collection of stormwater runoff and control of stormwater within the county limits adequately protects the health, safety, and welfare of the citizens of the county.~~

~~—(b) Within James City County many streams are degraded by stormwater runoff from development and restoration of these streams is recommended in adopted watershed management plans.~~

~~—(c) Citizens report an increasing number of problems with pipes, inlets, ponds, and other stormwater facilities installed within the community.~~

~~—(d) It is necessary that the county address the various environmental issues that will further burden stormwater infrastructure requirements and comply with federal, state and local stormwater regulations.~~

~~—(e) Stormwater runoff is associated with all improved properties in the county, whether residential or nonresidential, and the downstream impacts of runoff are correlated to the amount of impervious surface on a property.~~

~~—(f) The elements and oversight of stormwater management infrastructure provide benefits and service to properties within the county through control of runoff and protection of the natural environment.~~

~~—(g) Section 15.2-2114 of the Code of Virginia, as amended, grants statutory authority to localities to enact a system of service charges to fund stormwater control program.~~

~~—(h) The costs of planning, monitoring, regulating, operating, maintaining, and constructing the stormwater system shall be allocated, to the extent practicable, to all owners of developed property based on their estimated impact on the stormwater management system through the implementation of a stormwater service fee.~~

Sec. 18A-2. Definitions.

~~—*Developed non single family detached property.* Developed property that does not qualify as single family detached residential property. Such property shall include, but not be limited to, multi family residences, condominiums, townhouses, apartment buildings, time shares, mobile home parks, commercial properties, industrial properties, parking lots, recreational and cultural facilities, hotels, offices, churches, and other like properties.~~

~~—*Developed property.* Real property, which has been altered from its "natural" state by the addition of any improvements such as buildings, structures, and other impervious surfaces. For improvements requiring a building permit, new construction, property shall be considered developed pursuant to this section upon issuance of any certificate of occupancy. For other improvements, property shall be considered developed upon evidence of the existence of impervious cover on the property.~~

~~—*Developed single family detached residential property.* A developed lot or parcel containing one dwelling unit, and accessory uses related to but subordinate to the purpose of providing a permanent dwelling facility. Such property shall not include townhouses, time shares, condominiums and mobile home parks.~~

~~—*Equivalent residential unit (ERU).* The equivalent impervious area of a single family detached residential developed property located within the county based on the statistical average horizontal impervious area on the property. An equivalent residential unit (ERU) equals 3,235 square feet of impervious surface area.~~

~~—*Impervious surface area.* A surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Impervious surfaces include, but are not limited to, roofs, buildings, parking areas, and any concrete, asphalt or compacted aggregate surface. Pervious pavement~~

~~surfaces will not be considered as totally impervious based on the open area and runoff characteristics of the paver structure and the proposed installation.~~

~~*Revenues.* All rates, fees, assessments, rentals or other charges, or other income received by the utility, in connection with the management and operation of the system, including amounts received from the investment or deposit of moneys in any fund or account and any amounts contributed by the county, fees in lieu of provided by developers or individual residents, and the proceeds from sale of bonds.~~

~~*Stormwater management fund.* The fund created by this section to pay for operation, maintenance and improvements to the county's stormwater management system.~~

~~*Stormwater management system.* The county operated stormwater management infrastructure and equipment and all improvements thereto for stormwater control within the county. Infrastructure and equipment may include structural and natural control systems of all types, including, without limitation, retention and detention basins, receiving streams, conduits, pipelines, and other best management practices, structures, and real and personal property used for support of the system. The system does not include private drainage systems.~~

~~*Stormwater manager.* The person designated to oversee and insure the implementation of the stormwater management system.~~

~~*Stormwater service fees.* The service charges applied to property owners of developed single family detached property and developed non-single family detached property, all as more fully described in section 18A-4.~~

~~Undeveloped property. Any parcel which has not been altered from its natural state to disturb or alter the topography or soils on the property in a manner, which substantially reduces the rate of infiltration of stormwater into the earth.~~

~~Sec. 18A-3. Establishment of stormwater service fee.~~

~~(a) The stormwater service fee is established to help provide for the general welfare, health, and safety of the county and its residents.~~

~~(b) The stormwater service fee shall be deposited in a separate ledger account and all funds deposited shall be used exclusively to provide services and facilities related to the stormwater management system. The deposited revenues shall be used for the activities as more fully allowed under section 15.2-2114 of the Code of Virginia, as amended, including:~~

~~(1) Acquisition of real or personal property, and interest therein necessary to construct, operate and maintain stormwater control facilities;~~

~~(2) The cost of administration of such programs, to include the establishment of reasonable operating and capital reserves to meet unanticipated or emergency requirements of the stormwater management system;~~

~~(3) Engineering and design, debt retirement, construction costs for new facilities and enlargement or improvement of existing facilities;~~

~~(4) Facility maintenance and inspections;~~

- ~~—(5) Monitoring of stormwater control devices;~~
- ~~—(6) Pollution control and abatement, consistent with state and federal regulations for water pollution control and abatement; and~~
- ~~—(7) Compliance with applicable regulatory requirements.~~

~~**Sec. 18A.4. Imposition of stormwater service fees.**~~

~~Adequate revenues shall be generated to provide for a balanced operating and capital improvement budget for maintenance and improvement of the stormwater management system by setting sufficient levels of stormwater service fees. Income from stormwater service fees shall not exceed actual costs incurred in providing the services and facilities described in section 18A.3. Stormwater service fees shall be charged to owners of all developed property in the county, except those owners exempted below and/or pursuant to section 18A.7(a).~~

~~(a) For purposes of determining the stormwater service fee, all developed properties in the county are classified by the county's real estate assessment classification codes into one of the following classes:~~

~~(1) Developed non-single family detached property.~~

~~(2) Developed single family detached property;~~

~~(b) The stormwater service fee for developed single family detached property shall equal the ERU rate.~~

~~—(e) The stormwater service fee for developed non single family detached property shall be the ERU rate multiplied by the numerical factor obtained by dividing the total impervious surface area of the developed non single family property by one ERU (3,235 square feet). The numerical factor will be rounded to the next highest integer. The minimum stormwater service fee for any developed non single family detached property shall equal the ERU rate. The stormwater fee for condominiums and townhouses will be calculated by dividing the total impervious cover on the condominium or townhouse property by the number of condominium or townhouse units on the property.~~

~~—(d) Undeveloped property shall be exempt from the stormwater service fee. All private streets shall be exempt from the stormwater service fee except for those private streets which are part of entrances or parking for non single family detached property.~~

Sec. 18A-5. Structure of fees and charges.

~~—(a) *Stormwater service fee and charges.* The stormwater service fee per month shall be \$0.00 per ERU. Such stormwater service fee and charges set out in this section shall apply to all properties within the county except as altered by credits or specifically excluded under applicable state law.~~

~~—(1) *Single family detached residential.* Each developed single family detached residential property shall be billed and shall pay the fee for one ERU.~~

~~—(2) *Other properties.* All other developed properties having impervious coverage, including but not limited to multi family residential properties, commercial properties, industrial properties, institutional properties, church properties, private school properties, unless specifically exempted by state law, shall be billed for one ERU for each 3,235 square feet or fraction thereof of~~

~~impervious coverage on the subject property. The stormwater fee for condominiums and townhouses will be calculated by dividing the total impervious cover on the condominium or townhouse property by the number of condominium or townhouse units on the property.~~

~~(b) *Change of stormwater service fee.* Any change of the stormwater service fee shall be in accordance with the provisions of Virginia Code section 15.2-107.~~

~~Sec. 18A-6. Assessment, billing and payment, interest, liens.~~

~~(a) The stormwater service fee charged to owners of all developed property in the county shall be assessed as of July 1 of each year, except for those owners exempted pursuant to section 18A-7(a).~~

~~(b) The stormwater service fee is to be paid by the owner of each lot or parcel subject to the stormwater service fee. All properties, except undeveloped property and those exempted by state law, shall be rendered bills or statements for stormwater services. Such bills or statements may be combined with the county tax bill, provided that all charges shall be separately stated. The combined bill shall be issued for one total amount. The treasurer has the authority to bill and collect the stormwater service fees through all available means provided.~~

~~(c) The bills shall be due and payable in two equal installments. One installment shall be due and payable on or before June fifth of the year after such fee is assessed and the other installment shall be due and payable on or before December fifth of the year such fee is assessed.~~

~~(d) Any bill, which has not been paid by the due date, shall be deemed delinquent, and the account shall be collected by any means available to the county. All payments and interest due may be recovered~~

~~by action at law or suit in equity. Unpaid fees and interest accrued shall constitute a lien against the property, ranking on parity with liens for unpaid taxes.~~

~~(e) In the event charges are not paid when due, interest thereon shall commence on the due date and accrue at the rate of ten percent per annum until such time as the overdue payment and interest is paid. In addition, any person who fails to pay the charge when due shall incur a penalty thereon of ten percent. Said penalty shall be added to the amount due from such person, which, when collected shall be accounted for in said person's settlements.~~

~~(f) Fees for new developed property shall be billed in the first billing cycle following granting of any certificate of occupancy. In the event of alterations or additions to developed non-single family detached property, which alter the amount of impervious surface area, the stormwater service fees will be adjusted upon determination of the change. A bill will be issued in the next billing cycle reflecting the adjusted stormwater service fee.~~

Sec. 18A-7. Adjustment of fees, exemptions, and credits.

~~(a) Waivers and exemptions shall be those set forth in Virginia Code section 15.2-2114.~~

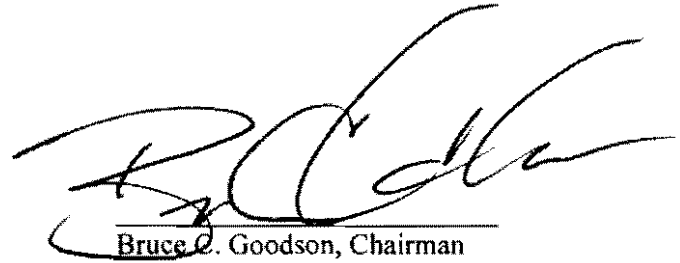
~~(b) Any owner who has paid his/her stormwater service fees and who believes his/her stormwater service fees to be incorrect may submit an adjustment request to the stormwater manager or his designee. Adjustment requests shall be made in writing setting forth, in detail, the grounds upon which relief is sought. Response to such adjustment requests, whether providing an adjustment or denying an adjustment, shall be made to the requesting person by the stormwater manager or his designee within 60 days of receipt of the request for adjustment. The stormwater manager shall have the authority to grant~~

~~adjustments, as applicable. An appeal of the stormwater manager's final decision shall be made in writing within 30 days from the date of the final decision to the county administrator. The county administrator shall have the authority to review the stormwater manager's final decision and grant adjustments, as applicable. The final decision of the county administrator may be appealed to circuit court within 30 days from the date of the county administrator's final decision.~~

~~(e) Credits against stormwater service fees are an appropriate means of adjusting fees, rates, charges, fines, and penalties in certain cases. Crediting policy may be established by the board of supervisors and, when established, a credit manual shall be issued that will set forth the appropriate process and documentation to obtain such credits. No exception, credit, offset, or other reduction in stormwater service fees shall be granted based on age, race, tax status, economic status, or religion of the customer, or other condition unrelated to the stormwater management system's cost of providing stormwater services and facilities, or the goals of the stormwater management system.~~

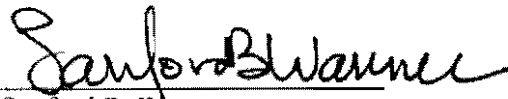
Sec. 18A-8. Severability.

~~The provisions of this chapter shall be deemed severable; and if any of the provisions hereof are adjudged to be invalid or unenforceable, the remaining portions of this chapter shall remain in full force and effect and their validity unimpaired.~~



Bruce C. Goodson, Chairman
Board of Supervisors

ATTEST:



Sanford B. Wanner
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
ICENHOUR	NAY
MCGLENNON	NAY
JONES	AYE
KENNEDY	AYE
GOODSON	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of September, 2008.

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