

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 12TH DAY OF APRIL 2011, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. CALL TO ORDER

B. ROLL CALL

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

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

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

D. PRESENTATIONS

1. James City County Volunteer Appreciation Week – April 10-16, 2011

Ms. Jones read a resolution of recognition for Volunteer Appreciation Week, designated on April 10-16, 2011, in recognition of volunteer service. Ms. Mary Lou Rowe and Mr. Charles “Jug” Gerard received the resolution for their service participating in the Santa Calling program.

2. Public Safety Telecommunications Week – April 10-16, 2011

Ms. Jones read a resolution for Public Safety Telecommunications Week, designated April 10-16, 2011, in recognition of the work of public safety communication officers. Ms. Julie McKercher, Director of Emergency Communications, and other members of the County’s Emergency Communications office received the resolution of recognition.

3. Resolution of Recognition – Emergency Medical Services (EMS) Week – May 15-21, 2011

Ms. Jones read a resolution for Emergency Medical Services (EMS) Week, designated May 15-21, 2011, in recognition of the work of emergency medical services personnel. Deputy Chief Bob Ryalls and members of an EMS team received the resolution of recognition.

E. PUBLIC COMMENT

1. Mr. David Brown, 1502 Bush Neck Road, commented on Jolly Pond Road and the requirements to restore Jolly Pond Dam. He commented that traffic continued to use the section of road over the dam until the Dam Safety Committee closed the road. He stated that engineering studies should be completed on the dam.

2. Mr. Randy O'Neill, 109 Sheffield Road, commented on the cost of his services and public health in relation to students in the County. He commented on funds being directed to County parks and that they may not impact the majority of County citizens. He stated concern for school expenditures that did not benefit student health.

3. Mr. Ed Oyer, 139 Indian Circle, commented on real estate prices and assessments; violent burglary in Country Village and the impact on property values; and dysfunctional vehicles on properties.

F. BOARD REQUESTS AND DIRECTIVES

Mr. Icenhour commented on an email from a citizen in Powhatan Secondary related to road conditions. He stated that an evaluation should be done on roads which have or have not been accepted into the Virginia Department of Transportation's (VDOTs) secondary road system and have not received appropriate maintenance.

G. CONSENT CALENDAR

Mr. McGlennon made a motion to adopt the items on the Consent Calendar. He also made a motion to adopt the revised agenda which reordered the Public Hearing items.

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

1. Minutes –
 - a. March 22, 2011, Work Session Meeting
 - b. March 22, 2011, Regular Meeting
2. Resolution of Recognition – James City County Volunteer Appreciation Week – April 10-16, 2011

RESOLUTION

RESOLUTION OF RECOGNITION – JAMES CITY COUNTY

VOLUNTEER APPRECIATION WEEK – APRIL 10-16, 2011

WHEREAS, during this week all over the nation, service projects will be performed and volunteers will be recognized for their commitment to service; and

WHEREAS, last year, volunteers worked in partnership with James City County staff and contributed 88,405 hours, valued at \$1,814,955; and

WHEREAS, volunteers make a real difference in the lives of their fellow citizens and help make this a special place to live; and

WHEREAS, while volunteers demonstrate their generosity and dedication every day of the year, it is fitting to recognize their commitment to service during the week that has been set aside.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, hereby designates the week of April 10-16, 2011, as Volunteer Appreciation Week and calls its significance to all of our citizens.

3. Resolution of Recognition – Public Safety Telecommunications Week – April 10-16, 2011

RESOLUTION

RESOLUTION OF RECOGNITION – PUBLIC SAFETY TELECOMMUNICATIONS

WEEK – APRIL 10-16, 2011

WHEREAS, emergency communications is a vital public service; and

WHEREAS, when an emergency occurs the prompt response of law enforcement officers, firefighters, and paramedics is critical to the protection of life and preservation of property; and

WHEREAS, Public Safety Communication Officers are the first critical contact our citizens have with emergency services; and

WHEREAS, the safety of our law enforcement officers, firefighters, and paramedics is dependent upon the quality and accuracy of information obtained from citizens who telephone the James City County Emergency Communications Center; and

WHEREAS, Public Safety Communication Officers of James City County have contributed to the apprehension of criminals, suppression of fires, and treatment of patients; and

WHEREAS, it is appropriate to recognize the value and the accomplishments of public safety communication officers.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby recognizes this event and proclaims the week of April 10-16, 2011, as Public Safety Telecommunications Week.

4. Resolution of Recognition – Emergency Medical Services (EMS) Week – May 15-21, 2011

RESOLUTION

EMERGENCY MEDICAL SERVICES (EMS) WEEK - MAY 15-21, 2011

WHEREAS, Emergency Medical Services (EMS) is a vital public service; and

WHEREAS, the members of EMS teams are ready to provide lifesaving care to those in need 24 hours a day, seven days a week; and

WHEREAS, access to quality emergency care dramatically improves the survival and recovery rate of those who experience sudden illness or injury; and

WHEREAS, the EMS system consists of emergency physicians, emergency nurses, emergency medical technicians, paramedics, firefighters, emergency dispatchers, educators, administrators, and others; and

WHEREAS, the members of the EMS teams, whether career or volunteer, engage in thousands of hours of specialized training and continuing education to enhance their lifesaving skills; and

WHEREAS, it is appropriate to recognize the value and the accomplishments of EMS providers by designating Emergency Medical Services Week.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, in recognition of this event does hereby proclaim the week of May 15-21, 2011, as

EMERGENCY MEDICAL SERVICES WEEK

With the theme, **EMS: Everyday Heroes**, we encourage the community to observe this week with appropriate programs, ceremonies, and activities.

5. Dedication of Streets – Portions of Monticello Avenue and a Portion of Greensprings Plantation Drive

RESOLUTION

DEDICATION OF STREETS OF PORTIONS OF MONTICELLO AVENUE AND

GREENSPRINGS PLANTATION DRIVE

WHEREAS, the streets described on the attached Form AM-4.3, fully incorporated herein by reference, are shown on plats recorded in the Clerk's Office of the Circuit Court of James City County; and

WHEREAS, the Residency Administrator for the Virginia Department of Transportation advised the Board that the streets meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation; and

WHEREAS, the County and the Virginia Department of Transportation entered into an agreement on July 1, 1994, for comprehensive stormwater detention which applies to this request for addition.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests the Virginia Department of Transportation to add the streets described in the attached Additions Form AM-4.3 to the secondary system of State highways, pursuant to §33.1-229 of the Code of Virginia, and the Department's Subdivision Street Requirements.

BE IT FURTHER RESOLVED, the Board guarantees a clear and unrestricted right-of-way, as described and any necessary easements for cuts, fills, and drainage.

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Residency Administrator for the Virginia Department of Transportation.

6. Dedication of Streets in Monticello Woods Phases I and II

RESOLUTION

DEDICATION OF STREETS IN MONTICELLO WOODS PHASES I AND II

WHEREAS, the streets described on the attached Form AM-4.3, fully incorporated herein by reference, are shown on plats recorded in the Clerk's Office of the Circuit Court of James City County; and

WHEREAS, the Residency Administrator for the Virginia Department of Transportation advised the Board that the streets meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation; and

WHEREAS, the County and the Virginia Department of Transportation entered into an agreement on July 1, 1994, for comprehensive stormwater detention which applies to this request for addition.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests the Virginia Department of Transportation to add the streets described in the attached Additions Form AM-4.3 to the secondary system of State highways, pursuant to §33.1-229 of the Code of Virginia, and the Department's Subdivision Street Requirements.

BE IT FURTHER RESOLVED that the Board guarantees a clear and unrestricted right-of-way, as described and any necessary easements for cuts, fills, and drainage.

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Residency Administrator for the Virginia Department of Transportation.

7. Contract Award – New Police Building Furnishings – \$240,000

RESOLUTION

CONTRACT AWARD – NEW POLICE BUILDING FURNISHINGS – \$240,000

WHEREAS, a Request for Proposals (RFP) for new Police building furnishings was publicly advertised and staff reviewed proposals from 11 firms interested in performing the work; and

WHEREAS, upon evaluating the proposals, staff determined that FSI Office was the most fully qualified and submitted the proposal that best suited the County's needs as presented in the RFP.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby awards the contract not to exceed \$240,000 for new Police building furnishings to FSI Office.

8. Appointment of Acting Building Official

RESOLUTION

APPOINTMENT OF ACTING BUILDING OFFICIAL

WHEREAS, the Virginia Uniform Statewide Building Code (USBC) requires that every local building division have a building official, appointed by the local governing body, as the executive official in charge of the division; and

WHEREAS, Mr. Douglas H. Murrow has resigned from his position as Director of Code Compliance effective April 8, 2011; and

WHEREAS, Mr. Steven W. Hicks is the Manager of Development Management and oversees the Code Compliance Division and is qualified to temporarily fulfill the duties of building official for the purposes of the Virginia USBC and the Code of the County of James City.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby appoints Mr. Steven W. Hicks as Acting Building Official until the position of Director of Code Compliance is filled.

H. PUBLIC HEARINGS

1. FY 2012 County Budget

Mr. Middaugh stated that he had some announcements for individuals who wished to speak on behalf of the Big Brothers Big Sisters and the Historic Triangle Senior Center (HTSC). He stated that he wished to address those items due to misinformation that has circulated through the community. He noted that the Big Brothers Big Sisters contribution was allocated to the Social Services Division budget in order to allow that division to buy the services provided by Big Brothers Big Sisters. He stated that the only change would be that the organization would become a contract vendor to the County rather than a donation recipient. He stated that the Social Services Director had corresponded with the Director of the organization and understood that it was amicable to both parties. He stated that Big Brothers Big Sisters would be compensated for the services provided and gave the County accountability for the funds spent.

Mr. Middaugh commented on the HTSC funding. He stated that the County recognizes the senior population as an important facet of the community. He stated that the Senior Center at the Community Center was not closed as part of the County Administrator's budget. He stated that the proposal was to increase the contribution to seniors. He stated that the proposal would provide for a more efficient use of County tax dollars at the Center. He stated that the HTSC would still be able to use the senior lounge at the Community Center for free, but the space would need to be scheduled to increase efficiency. He stated that office space would be provided at no cost and no operations would be changed. He stated the proposal allocated \$20,000 from the HTSC contribution to the Parks and Recreation Division to provide additional services throughout the community. He stated that in each budget year, funding was evaluated for all County agencies and outside

agencies to see how it was being spent. He stated that in this cycle, the Executive Director of the HTSC was not responsive to requests that were made to expand services to seniors. He stated that there were no other partner agencies that receive space for no cost. He stated this would provide consistency between the HTSC and other agencies in the County. He stated that most of the funding was used for staff costs, but programming was largely undertaken by volunteers. He stated that other regional partners had little or no involvement, but the seniors from those localities were attending the HTSC. He stated that he has asked Parks and Recreation staff to use the funds to provide additional services to seniors where they reside rather than at the HTSC. He stated that whatever the HTSC chooses not to do, the County would assume the responsibility to ensure that there is no lapse of services.

Mr. Middaugh stated that the proposed budget was the second year of a biennial budget. He stated that no tax rate increase was proposed and no recurring expenses were proposed. He stated that any enhancements of services would result from reallocating funding. He stated that in the next biennium, a reassessment would have to be done with the expectation of a loss of valuation in FY 2013-2014 between three and four percent. He stated that the budget proposed reductions in spending and increases in debt reserve to maintain services through this decrease in revenues.

Ms. Sue Mellen, Assistant Manager of Financial and Management Services, gave an overview of the proposed budget for FY 2012. She stated there would be no change in the tax rate, no general reassessment of real property, no increase in the number of General Fund County employees, and no overall pay increase for County employees. She stated that the majority of the revenues were from real estate. She stated that the change was a result of new growth in real property, personal property, and machinery and tools. She reviewed the General Fund spending categories with a majority of the funding being allocated to the Williamsburg-James City County school system. She noted costs associated with the opening of the new police building and fuel and utility cost increases. She stated there were also changes in funding to outside agencies, including funding for tourism. She reviewed the capital improvements program mainly consisting of three projects: Fire Station 4 renovations, Building D renovations, and Mid-County park renovations. She reviewed the James City Service Authority (JCSA) Budget. She reviewed the Budget Schedule and stated that three work sessions would be held and that they would be on April 14, April 18, and April 20, at 7 p.m. She stated that the Budget was scheduled for adoption on April 26, 2011. She recommended that the Board open the public hearing and defer action until April 26, 2011.

Ms. Jones opened the Public Hearing.

1. Mr. Billy Scruggs, 119 Woodmere Court, City of Williamsburg, commented on the budget as President of the Williamsburg Hotel Motel Association (WHMA). He commented that tourism funding makes possible destination marketing that helps the County and region grow. He commented on the amount of money local hoteliers spend to market the Williamsburg area as a destination and bring tourism revenue into the area. He stated the WHMA proposed funding to improve the internet site and the new WHMA Board subsequently determined to change the funding request sent to local governments to include a separate line item for the local call center in the amount of \$50,000. He gave background information on the local call center, WHMA and information about area partnerships in destination marketing. He reviewed the booking statistics and revenue generated by the local call center and its benefits. He noted the value of this service for guests to the area. He requested funding to support this investment. He stated that a local call center could provide more visitors who spend more time and money in the area.

Ms. Jones recognized Planning Commission Chairman Jack Fraley in attendance.

2. Ms. Elizabeth Chisolm, on behalf of Big Brothers Big Sisters, spoke on the importance of mentorship and the relationship of Big Brothers Big Sisters with the children it serves. She commented on the County's relationship to Big Brothers Big Sisters and the change to a contractual agreement from a donation to the organization as an outside agency. She expressed concern that the change would put the relationship into jeopardy.

3. Mr. William Carmines, 700 Jamestown Road, President of Board of Directors of HTSC, commented on lack of communication between County officials and the HTSC and lack of explanation about funding cuts to the organization. He commented on services to minorities in the community and programming reductions which were beyond the control of the Center's leadership. He stated that the Center did not have the capacity to act as an outreach service and did not believe the funding in place would serve those needs. He stated that the Center has provided detailed information about how funding was being used without being questioned by the County. He stated that no one in the organization had been informed of the issues raised by the County prior to this budget cycle. He stated that without dedicated space for seniors to meet and socialize, citizens would withdraw their membership. He asked for exclusive use of the space until January 1, 2012, to allow the organization to have an opportunity to find a new facility. He asked for increased communication in working with the County.

4. Ms. Eleanor Taylor, 105 Queen Mary Court, stated that she was a member of the HTSC. She commented on the gravity of the idea of losing the HTSC and the services it provided to seniors. She commended the staff and volunteers and stated that the HTSC should remain in its space. She asked the Board to reconsider the funding change.

5. Mr. Sam Lazarus, 7 Thorpe Court, stated that he was an active member of the HTSC. He noted that the membership dues and revenues from activities go toward the operation cost. He stated that the donation to the HTSC from the County was a very small contribution. He questioned the notification of HTSC about shortcomings. He commented on uncomfortable chairs in the HTSC which he believed were representative of inadequate planning and misuse of funds. He posed questions related to discriminatory actions toward seniors in the County.

Ms. Jones noted that the County Administrator's proposed budget did not recommend closing the HTSC.

6. Ms. June Kasparek, 406 Hempstead Road, Activities Planner for HTSC, stated that she has been affiliated with the HTSC for over nine years as a volunteer and part-time employee. She noted that this provided her an opportunity to meet people within her age group. She noted that lower-income individuals were not excluded and funding has been raised to help more seniors participate in programming. She stated that the program was accredited by the State and noted a significant need for a place for seniors in the community.

7. Ms. Rosanne Reddin, 2812 King Rook Court, commented on the opportunities and programs provided by the HTSC. She stated that many HTSC members do volunteer work in the community and commented on motives for the funding reduction and that the seniors deserve services and programs similar to the teens, daycare, and sports teams that are housed at the Community Center. She noted that the removal of the HTSC from the facility did not make logistical sense and commented on the growing demographic that utilizes the facility. She noted how the HTSC fulfills the County's goals to provide accessible programming to youth and seniors.

Ms. Jones noted that the County Administrator's proposed budget did not relocate the HTSC.

8. Ms. Kathleen Thall, 4001 Summit Loop, stated that she has benefitted from attending the HTSC and felt it would be unjust to take away the space.

9. Mr. Don Couser, 2902 Fenton Croft, commented on the benefits of the HTSC. He stated his appreciation for the past support of the Board through funding and space allocation. He stated that he attends the HTSC several times a week for activities and programming. He stated that he has attended other senior centers and the HTSC is superior to the others he has experienced. He stated that if the dedicated room is taken away, there would be a significant impact on the HTSC and its programming. He asked the Board to maintain the dedicated room for the HTSC.

10. Mr. Edmond Amoye, 5251-18 John Tyler Highway, a College of William and Mary student, member, and secretary of the HTSC, commented on outlying effects of the decision to reduce funding and dedicated space for the HTSC. He commented that this would impact the HTSC's accreditation status and corporate sponsorships. He stated that representatives of James City County indicated that the equipment and furniture in the HTSC would be moved into storage, which would create a burden of setup and breakdown whenever programs were held. He commented that seniors need the services provided by the HTSC and the seniors who attend are different from other segments of the population. He asked for additional consideration of the impacts of this decision.

11. Ms. Helga Merritt, 130 Branscome Boulevard, commented that the HTSC was a vital resource for seniors and provided services to the community.

12. Dr. David Trump, Director of Peninsula Health District, 1126 Professional Drive, stated the Peninsula Health District was part of the Virginia Department of Health and was the local health department for area jurisdictions. He commented that James City County's portion of the cooperative budget as 12.5 percent with a net funded 55 percent by the State and 45 percent by the County. He stated that County residents and businesses account for 58 percent of the district's work through sewage, wells, and food protection programs. He reviewed the medical services, Women, Infants, and Children (WIC) nutrition services, and inspection services provided by the Peninsula Health District. He stated that the Peninsula Health District worked with the local emergency services to respond to health emergencies. He commented on expanded facility space that would provide adequate space to address the needs of those served by the Peninsula Health District.

13. Mr. Bob Spencer, 9123 Three Bushel Road, on behalf of the James City County Citizens Coalition (J4C), expressed concerns about the proposed County Budget in relation to funding stormwater management. He noted that the J4C supported a Wireless Communication Facility Master Plan, a priority area of the Comprehensive Plan. He requested that funding be included for this master planning process. He noted that J4C wished to identify greenspace and purchase the property during economic times when prices would be lower. He stated the J4C requested that any changes in personnel maintain the careful review of the current organizational structure. He requested adequate staffing in the Stormwater Management Division on behalf of J4C. He commented on lawsuits with the Environmental Protection Agency and funds needed for legal services. He commented on budget funding for local tourism that was reallocated from regional tourism partnerships. He commented on miscommunication with the staff and members of the HTSC and encouraged correct and timely information to these individuals.

14. Mr. Bill Williams, 154 Lakewood Drive, Immediate Past President of the Williamsburg Land Conservancy Board of Directors, commented on the mission of the Williamsburg Land Conservancy and protection of 28 parcels of land and open space. He stated appreciation of past support of the County and requested restored funding at an increased level. He commented on bond funding from a referendum which

supported greenspace in the County. He stated that the Williamsburg Land Conservancy wished to assist in the inspection of County-owned properties and protect the County's viewsheds. He commented on the properties within James City County that were part of the Williamsburg Land Conservancy's stewardship.

15. Ms. Deborah Kratter, 113 Long Point, commented on the proposed budget and stated that it appeared the budget reduced or eliminated funding from those organizations with little money and reallocated it to increase funding for economic development. She stated that some funding could be taken from the operational increase that served potential businesses in order to serve the greater community. She stated that in the current economic conditions, those who may not be able to protect themselves should be considered before incentives for potential businesses.

16. Ms. Mary Huts, 3104 Carriage House Way, commented that seniors were working to provide a facility for members of a growing demographic at the HTSC.

17. Mr. Ed Oyer, 139 Indian Circle, commented on a logo change for the County. He stated that small projects can expand and cost a great deal of money. He noted the benefits of the programming and events of the HTSC.

18. Ms. Marie Ims, 2902 Fenton Croft, stated that the issue with the HTSC was the dedicated use of the room to allow seniors to know where to go and use the facilities.

19. Mr. Douglas Panto, 112 Semple Road, Immediate Past President of the HTSC Board, stated that removal of dedicated space would remove continuity of service for seniors and impact the HTSC's State accreditation.

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

Mr. Goodson asked the County Administrator to address the issue of providing permanent dedicated space for the HTSC. He stated that during the budget proceedings, he wished to see the full implications of the funding transfer to the Parks and Recreation Division. He stated it may be more beneficial to provide the funding to the HTSC rather than have County staff oversee the programs.

Mr. Kennedy stated that he supported Mr. Goodson's request and would like to see similar information in relation to Big Brothers Big Sisters. He stated that he did not wish to see budget items to grow and wished to see the cost effectiveness of these changes. He noted his support for maintaining the dedicated space for the HTSC.

Ms. Jones echoed the concerns of Mr. Goodson and Mr. Kennedy and stated that she wished to increase and improve communication with outside agencies.

At 8:47 p.m., the Board took a break.

At 8:53 p.m., Ms. Jones reconvened the Board.

2. Redistricting Public Hearing

Mr. Leo Rogers stated that the 2011 Citizen Redistricting Committee has met and in keeping with the Board's timeline, a public hearing was being held on the proposed maps from the committee. He stated that an ordinance and minutes of the committee meetings would be provided at the Board's second public hearing on Redistricting on April 26, 2011.

Mr. Jeff Ryer, Chairman of the 2011 Citizen Redistricting Committee, stated that the committee met and evaluated four maps that were submitted for consideration. He stated that two maps considered by the committee met the criteria and two did not, and one map was recommended by the committee. He reviewed the criteria and noted how the recommended plan fit the requirements. He noted that the committee recommended that the Board consider seven County election districts and the impacts of staggered terms for Board of Supervisors and School Board members. He thanked the members of the committee, members of the Board, and staff who assisted with the process.

Mr. Goodson stated that he was disappointed that a minority-majority district was not achieved.

Mr. Ryer stated that the County did not have a concentrated population that would comprise a minority-majority voting district. He stated that the largest concentration of a minority population was in Grove, in which 40.8 percent of the population was African-American. He stated there were smaller areas of the County that have a minority-majority population, but these were smaller areas that were not contiguous with the Grove area.

Mr. McGlennon asked how minority voters were protected and their influence was not diluted by the current map proposal.

Mr. Ryer stated that the percentage of minorities in the County as a whole has decreased. He also commented that the Roberts District is not experiencing the increase in minorities that other districts have seen. He stated that most districts had very close percentages of African-American voters.

Mr. McGlennon asked about a seven-district map that allowed for minority representation, but that violated criteria to maintain five election districts.

Mr. Ryer stated that was correct. He noted that the map does not maintain the five election districts and also did not maintain compactness.

Ms. Jones opened the Public Hearing.

1. Ms. Judy Fuss, 3509 Hunter's Ridge, expressed support for the Kratter five-district map. She commented on the voter confusion and expense that would result from changing district and precinct names. She stated that election districts are a tool for achieving good governance. She stated that partisanship should not play a part in good governance.

2. Mr. Craig Metcalfe, 4435 Landfall Drive, stated as one of the co-developers of the Kratter five-district map and the seven-district map, he was interested in keeping communities of interest intact. He stated that the current proposed map did not respect communities of interest and felt that there was dichotomy between the communities of Grove and Kingsmill. He stated that he had no party interests in mind in development of the maps and wished to allow all residents to have a voice in their government. He stated that the Board of Supervisors mandated a five-district map without public input. He stated that he felt the seven-district map was the best one proposed with smaller districts, increased representation, and preservation of communities of interest. He asked the Board to protect the interests of the citizens and allow the seven-district map to be considered.

3. Mr. Ed Oyer, 139 Indian Circle, commented on the foundations of the Constitution of Virginia, Article II, Section 6, which mandated contiguous and compact districts, proportional representation of the population, and reapportionment of districts every ten years. He stated that he had previously suggested a seven-member board or one at-large member. He stated that the voters would have the ultimate discourse.

4. Ms. Edith Heard, 1239 Oak Drive, commented on the possibility of a minority-majority district due to dilution of the voices of people who have similar interests which were not necessarily based on race. She commented that most people do not see the blight of the community of Grove.

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

Mr. Goodson asked the County Attorney to address the legal foundations of the plans in the approval process by the Department of Justice.

Mr. Rogers stated that a proposed seven-member district would not be consistent with the County Code, which is a facet that the Justice Department would consider. He stated that an emergency ordinance could be adopted. He stated that he did not see major concerns with the plans, aside from the issue of contiguity in the Kratter five-district map.

Mr. Goodson asked for an explanation of the term “pearl necklace” in relationship to the districts.

Mr. Rogers stated that the term referred to communities that were strung together like pearls to create a district that maintains a certain population.

Mr. Goodson asked if there was a possibility to create a minority-majority district in the County.

Mr. Rogers stated that he did not think it would be feasible to defend a map to the Justice Department that was drawn in a non-compact or non-contiguous way.

Mr. McGlennon asked if the district would be more egregious in terms of compactness than other districts in the Commonwealth.

Mr. Rogers stated that districts have been drawn that were unusual, but his intention was to put forth a map that would not be challenged by the Justice Department to avoid having to go through preclearance.

Ms. Jones thanked the Redistricting Committee for its service.

3. Ordinance to Renew the Franchise Certificate for Cox Communications of Hampton Roads, LLC to June 30, 2021 (deferred from March 22, 2011)

Mr. Rogers stated that the Cox Communications Franchise Certificate was not changed, but the Cable ordinance adopted at the last meeting was changed by reducing the PEG fee to \$0.00.

Ms. Jones opened the Public Hearing.

1. Ms. Kathryn Falk, on behalf of Cox Communications, thanked the Board and staff for working with Cox and providing a strong framework and innovative features for the franchise. She stated that Cox looked forward to making continued investments in the community.

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

Mr. Goodson made a motion to adopt the ordinance.

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

4. Ordinance to Amend James City County Code, Chapter 15, Offenses – Miscellaneous, by Amending Section 15-20, Noise Prohibited in Residential-Zoned Areas (deferred from March 22, 2011)

Mr. Adam Kinsman, Deputy County Attorney, stated that a recent Virginia Supreme Court decision precipitated review of the County's noise ordinance. He stated that this was a collaborative effort among staff and local government attorneys. He reviewed the revisions including noise permits, prohibited noise during certain issues and exemptions from the ordinance including theme parks, and necessary noise associated with a business use. He noted that the ordinance included graduated civil penalties that increase with subsequent offenses. He stated this ordinance would withstand the vagueness challenge and fall within the requirements of the Virginia Supreme Court. He recommended adoption of the ordinance.

Ms. Jones opened the Public Hearing.

1. Mr. Lewis Shelton, 5 Digges Court, requested support for the noise ordinance. He stated that the quality of life in the Chisel Run subdivision has been impacted by loud noises from a restaurant near the subdivision. He commented that patrons played a game which resulted in loud noises and shouting until late in the evening. He stated that with this ordinance, this issue would hopefully be addressed. He stated that he and other members of the community contacted the business owner about the noise but no results occurred. He thanked the Board and staff for working on this ordinance and helping to protect the citizens in Chisel Run.

2. Mr. Ed Oyer, 139 Indian Circle, correlated the violent break-in at Country Village and the impact of newer segments entering the community.

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

Mr. McGlennon stated his support for the ordinance and empathized with Mr. Shelton's concerns. He asked how the ordinance would be enforced in relation to this game.

Mr. Kinsman stated that if a game is determined not to be an essential use of the business, it would be subject to the general provisions.

Mr. Kennedy asked how this ordinance impacted bands and events at New Town.

Mr. Kinsman stated that a specific section in relation to Mixed Use districts that prohibits excessive noise between midnight and 7 a.m. in recognition of the nature of mixed use. He stated that the requirement for residential districts was 11 p.m. to 7 a.m. and commercial uses adjacent to residential districts were effective 9 p.m. to 7 a.m.

Mr. Kennedy stated that he was confused by the statutes.

Mr. Kinsman stated that the lines were drawn as effectively as possible, but they could be changed at the request of the Board. He also noted that this was a comprehensive rewrite of the ordinance. He stated that he would recommend trying the statutes as written and bring the ordinance back for minor revisions at a later date.

Ms. Jones expressed concern that 50 feet was a reasonable distance and that this requirement could be changed at a later time. She stated that consistency would be desirable.

Mr. Icenhour stated that he understood the necessity for a 50-foot buffer in areas like New Town, but he would like consistency. He stated that the ordinance could be tried out and reviewed at a later date.

Mr. Kennedy asked about industrial districts where trucks were loaded and unloaded in early hours of the morning.

Mr. Kinsman stated there was a specific section of the ordinance that addressed non-emergency construction or landscaping uses. He stated that in relation to trucks moving in and out of a shopping center adjacent to a residential area, consideration would be given to the necessity of the noise for the use, such as garbage pickup. He stated that if it was determined that the noise was not necessary, it would fall within the general provision.

Mr. Rogers noted that Target was a unique area; he noted it was zoned R-4 and noise was emanating from one residential zone to another which would be addressed under a very strict part of the ordinance.

Mr. Kennedy asked how this ordinance could be enforced if the business owners claimed that the noise nuisance was a necessary part of the business. He stated that this ordinance set expectations that would be difficult to enforce if the statutes were ambiguous. He stated that he understood the necessity of the noise ordinance and expressed his concern about its application.

Ms. Jones stated that New Town was a more intensive area, but she would be more comfortable with a consistent 100 feet for all statutes.

Mr. Kennedy stated his concern with how this matter would be regulated.

Mr. Icenhour stated that this would give the County a tool to deal with noise issues that cannot be addressed by reasonable negotiation. He noted that staff worked with noise at the Target area and the business owner was willing to work on the issue. He stated this should be a matter for zoning administration rather than the police. He stated this tool would give more accountability and credibility to address these issues. He stated this was a reasonable approach to deal with some of the outlying cases.

Mr. Goodson commented on emergency situations when the use of generators would produce excessive noise.

Mr. Kinsman stated that emergency situations were exempted in the ordinance.

Mr. McGlennon made a motion to adopt the amended ordinance provided at the dais.

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

5. Case No. SUP-0024-2009. Hospice House and Support Care of Williamsburg Wireless Communication Facility Tower (deferred from February 8, 2011)

Mr. Chris Johnson, Principal Planner, stated that the applicant has requested a deferral until July 12, 2011, to allow the applicant to meet with property owners of alternative sites. He stated that staff concurs with the request and recommends that the Board defer until July 12, 2011.

Mr. Kennedy asked how long this case has been opened.

Mr. Johnson stated that this case first came before the Board in January 2010 and it has been deferred nine times.

Mr. Kennedy asked when this situation would be resolved.

Mr. Rogers stated this matter has been discussed. He stated that though it meets the legal standard for advertisement when the case is deferred by the Board, the case should be readvertised whether the case moves forward on this site or another site.

Mr. Kennedy stated his dissatisfaction with the process for this case.

Ms. Jones opened the Public Hearing.

As no one wished to speak to this matter, Ms. Jones continued the Public Hearing until July 12, 2011.

I. PUBLIC COMMENT - None

J. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Middaugh stated that a Closed Session was on the agenda pursuant to Section 2.2-3711(A)(1) of the Code of Virginia for the consideration of personnel matters, the appointments of individuals to County boards and/or commissions, specifically the Colonial Behavioral Health Board. He stated that when the Board completes its business it should adjourn to 7 p.m. on Thursday, April 14, 2011, for the first of its Budget Work Sessions. Subsequent Budget Work Sessions will be held on Monday, April 18, and Wednesday, April 20, each at 7 p.m. These meetings will be broadcast live on JCCTV and will be available online. The next regular meeting of the Board will be held at 7 p.m. on Tuesday, April 26, 2011. At this meeting the Board will be anticipated to adopt the County budget based on discussions from the Budget Work Sessions, and the Board will also have the new redistricting ordinance for consideration at that meeting.

K. BOARD REQUESTS AND DIRECTIVES

Mr. McGlennon commented that he attended a retirement reception for Mr. Richard Drumwright of Williamsburg Area Transit Authority (WATA). He commented on the history of the County's transit system and the expansion of the ridership. He congratulated Mr. Drumwright for his work.

Mr. McGlennon commented on consideration of the redistricting plan at the next meeting. He stated that he would look at the proposed plans and possibly make modifications. He noted that this was a legislative process that provided for the Board of Supervisors to make the final determination.

Mr. Goodson commented on legal costs for the regional legal counsel in relation to Environmental Protection Agency (EPA) requirements and indicated they were being paid by Hampton Roads Planning District Commission (HRPDC). He stated that he would keep the Board updated on the process.

L. CLOSED SESSION

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

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

At 9:52 p.m., Ms. Jones recessed the Board into Closed Session.

At 10:01 p.m. Ms. Jones reconvened the Board.

Mr. McGlennon made a motion to adopt the closed session resolution.

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) of the Code of Virginia, to consider a personnel matter, the appointment of individuals to County boards and/or commissions.

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

Mr. McGlennon made a motion to appoint Mr. John Kuplinski to an unexpired term on the Colonial Behavioral Health Board, term to expire on June 30, 2013.

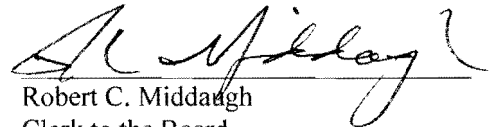
On a roll call vote, the vote was: AYE: Kennedy, Goodson, McGlennon, Icenhour, Jones (5). NAY: (0).

M. ADJOURNMENT to 7 p.m. on April 14, 2011.

Mr. McGlennon made a motion to adjourn.

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

At 10:03 p.m., Ms. Jones adjourned the Board until 7 p.m. on April 14, 2011.



Robert C. Middaugh
Clerk to the Board

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APR 12 2011

ORDINANCE NO. 141A-16BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIAAN ORDINANCE TO RENEW THE COX COMMUNICATIONS OFHAMPTON ROADS, LLC'S FRANCHISE CERTIFICATE

WHEREAS, Cox Communications of Hampton Roads, LLC, ("Cox"), is the grantee of a nonexclusive franchise to construct and operate a cable communications system in the County under a Franchise Certificate effective until April 1, 2011; and

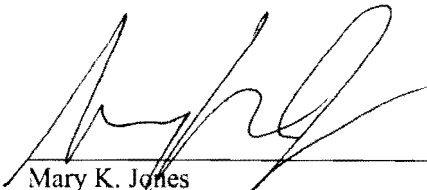
WHEREAS, the County and Cox agree to extend the Franchise Certificate by ten years and three months as per Federal, State, and local law and the terms and conditions of the Franchise Agreement by and between James City County, Virginia and Cox Communications of Hampton Roads, LLC, dated April 12, 2011; and

WHEREAS, the County desires to extend the term of the existing franchise for an additional ten years and three months.

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

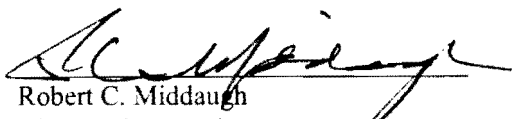
1. The County's Franchise Certificate, as amended, with Cox Communications of Hampton Roads, LLC, is hereby renewed for ten years and three months, commencing April 12, 2011, and ending June 30, 2021.
2. The County Administrator is hereby authorized and directed to execute the Franchise Agreement by and between James City County, Virginia and Cox Communications of Hampton Roads, LLC, dated April 12, 2011.
3. The PEG Capital Fee set forth in Paragraph 5.3. of the Franchise Agreement shall be initially set at zero (\$0.00).

This Ordinance shall be in full force and effect from the date of its adoption.



Mary K. Jones
Chairman, Board of Supervisors

ATTEST:



Robert C. Middaugh
Clerk to the Board

SUPERVISOR	VOTE
KENNEDY	AYE
GOODSON	AYE
MCGLENNON	AYE
LCENHOUR	AYE
JONES	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of April, 2011.

RenewCoxCb_res2

APR 12 2011

ORDINANCE NO. 56A-17BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 15, OFFENSES - MISCELLANEOUS, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING SECTION 15-20, NOISES PROHIBITED IN RESIDENTIAL AREAS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 15, Offenses - Miscellaneous, is hereby amended and reordained by amending Section 15-20, Noise regulations.

Chapter 15. Offenses - Miscellaneous

Section 15-20. ~~Noises prohibited in residential areas~~ regulations.

~~It shall be unlawful for any person to, within the limits of the county, make, continue or cause to be made or continued any excessive, unnecessary or unusually loud noise or any noise on any premises of such a character as to either disturb, injure or endanger the quiet, comfort, repose, health, peace or safety of others; provided, that this section shall apply only to residential zoned areas and all uses provided for in such a zoning classification.~~

~~The following acts, among others, are declared to be loud, disturbing and unnecessary noise in violation of this section, but such enumeration shall not be deemed to be exclusive:~~

- ~~(a) *Horns, signaling devices, etc.* The sounding of any horn or signaling device on any automobile, motoreycle, bicycle or other vehicle on any street or public place of the county, except as a danger warning; the creation by means of any signaling device of any unreasonable loud or harsh sound; and the sounding of any signaling device for an unnecessary and unreasonable period of time.~~
- ~~(b) *Radios, phonographs, etc.* The using, operating or permitting to be played, used or operated, any radio receiving set, tape recorder, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in such a manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument,~~

~~phonograph, machine or device between the hours of 11:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of 50 feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.~~

- ~~(c) *Loudspeakers, amplifiers for advertising.* The using, operating or permitting the playing, using or operating of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building, structure or vehicle.~~
- ~~(d) *Animals.* The keeping of any animal which, by causing frequent or continued noise, shall disturb the comfort or repose of any person in the vicinity.~~
- ~~(e) *Exhausts.* The discharge into open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat, or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.~~
- ~~(f) *Defects in vehicle.* The use of any automobile, motorcycle or vehicle so out of repair, so loaded or in such a manner as to create loud and unnecessary grating, grinding, rattling or other noise.~~
- ~~(g) *Hawkers.* The shouting and crying of peddlers, hawkers and vendors, which disturbs the peace and quiet of the neighborhood.~~
- ~~(h) *Musical instruments.* The use of any drums or other musical instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale.~~

~~Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding \$100.00, or be imprisoned in jail for a period not exceeding ten days, or by both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.~~

(A) Title. This section shall be known and may be cited as the “James City County, Virginia, Noise Ordinance” or simply the “Noise Ordinance.”

(B) Findings. The board of supervisors hereby finds and declares that excessive noise is a serious hazard to the public health, welfare, peace and safety and the quality of life. It is, therefore, the policy of the county and the purpose of this section to prevent such excessive noise.

(C) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where context clearly indicates a different meaning:

Consecutive means following one after another without interruption.

Dwelling unit means one or more rooms in a dwelling designed for living or sleeping purposes, and having at least one kitchen.

Emergency means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

Emergency work means any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

Instrument, machine or device means and refers to any musical instrument, radio, phonograph, compact disc player, cassette tape player, amplifier, loudspeaker, bullhorn, or any other machine or device, including a motor vehicle, for producing, reproducing or amplification of sound.

Motor vehicle means every vehicle defined as a motor vehicle by section 46.2-100 of the Code of Virginia (1950), as amended.

Noise means any sound which may cause or tend to cause an adverse psychological or physiological effect on humans.

Officer means any employee or agent designated by the county administrator to enforce the provisions of this section.

Permit means any permit issued or approved by the board of supervisors or county staff which regulates or permits noise, including but not limited to a temporary noise permit, fireworks permit, or outdoor gathering permit.

Plainly audible means any sound that can be detected by a person using his or her unaided hearing faculties. Specific words or phrases need not be discernable. The detection of bass reverberations is sufficient to constitute a plainly audible sound.

Sound means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that cause compression and rarefaction of that medium. The description of sound may include any characteristics of such sound, including duration, intensity and frequency.

(D) Temporary permits.

(1) Requirements and procedures. The county administrator is authorized to issue a temporary permit to allow noise when produced by a temporary use or activity. The county administrator may prescribe any reasonable conditions necessary to minimize any adverse effect upon the community. A permit granted under this subsection shall contain all conditions upon which the permit has been granted, including the period of time for which the permit has been granted.

(2) Violation of temporary permit. Failure to comply with any condition of a temporary permit issued pursuant to this subsection shall constitute a violation and shall result in enforcement procedures and penalties as set forth in this section.

(3) Revocation of temporary permit. Any temporary permit may be immediately revoked if the county administrator finds that an emergency condition exists involving serious danger to the public health, safety, or welfare; if the permit holder failed to disclose or misrepresented material information in the permit application or in the permit application process; or that there was a failure to comply with any condition of a particular temporary permit.

(E) Specific prohibitions.

(1) Residential zoned districts and areas, and/or structures designated as residential on master plans and in mixed use zoned districts. The following acts, among others, are declared to be plainly audible noise in violation of this section, but such enumeration shall not be deemed to be exclusive:

(a) Animals. The keeping of any animal, which shall be the source of any noise or sound which is plainly audible across a residential property line or through the partitions common to two dwelling units between the hours of 11:00 p.m. and 7:00 a.m.

(b) Construction and landscaping activities. The operation of any bulldozer, crane, backhoe, front loader, pile driver, jackhammer, pneumatic drill, or other construction equipment between the hours of 9:00 p.m. and 6:30 a.m. except when operated in the course of emergency work or as authorized by the county administrator.

(c) Defects in motor vehicles. The use of any automobile, motorcycle or vehicle so out of repair, so loaded or in such a manner as to create excessive grating, grinding, rattling or other noise which is plainly audible at a distance of 50 feet from its source.

(d) Exhausts. The discharge into open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat, or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive excessive noises therefrom.

(e) Horns, signaling devices, etc. The sounding of any horn or signaling device on any motor vehicle, motorcycle, bicycle, or other vehicle on any street or public place of the county, continuously or intermittently for more than ten consecutive seconds, except as a danger warning or as permitted by state code.

(f) Instruments, machines, or devices. The using, operating or permitting to be played, used or operated, any instrument, machine, or device for the producing or reproducing of sound in such a manner where the sound is plainly audible to any person other than the player(s) or operator(s) of the instrument, machine, or device and those who are voluntarily listening to the sound and is plainly audible and discernable at a distance of 50 feet or more from the source of the sound or through partitions common to two dwelling units; provided, however that the provisions of this subsection shall not apply to any event sponsored by the county, state, or federal government, or for which the county has granted a permit. The operation of any such instrument, machine, or device between the hours of 11:00 p.m. and 7:00 a.m., in such a manner as to be plainly audible at a distance of 50 feet from the source of the sound or through partitions common to two dwelling units shall be prima facie evidence of a violation of this section.

(g) Loudspeakers, amplifiers for advertising. The using operating or permitting the playing, using or operating of any instrument, machine, or device for the producing or reproducing of sound upon the public streets for the purpose of advertising or attracting the attention of the public to any building, structure or vehicle.

(h) Peddlers. The shouting and crying of peddlers and vendors, shall be prohibited if the sound is reproduced continuously or intermittently for more than ten consecutive seconds and is plainly audible at a distance of 50 feet from its source.

(2) Mixed use zoned districts. The following act, among others, is declared to be plainly audible noise in violation of this section, but such enumeration shall not be deemed to be exclusive:

(a) Amplified sound at restaurants, bars, coffee shops, cafes, etc. The using, operating, or permitting the playing, using, or operating of any instrument, machine, or device for the producing or reproducing of sound which is plainly audible at a distance of 50 feet from its source between the hours of 12:00a.m. and 7:00a.m.

(F) General prohibitions. *In addition to, and not in limitation of the Specific Prohibitions above, the following is declared to be plainly audible noise in violation of this section:*

(1) Residential zoned districts and areas, and/or structures designated as residential on master plans and in mixed use zoned districts. *No person shall cause or permit to be caused any noise which is plainly audible across a residential property line or through the partitions common to two dwelling units between the hours of 11:00 p.m. and 7:00 a.m.*

(2) Uses adjacent to residential zoned districts and areas, and/or structures designated as residential on master plans and in mixed use zoned districts. *No person shall cause or permit to be caused any noise which is plainly audible at a distance of 100 feet from its source between the hours of 9:00 p.m. and 7:00 a.m.*

(G) Exceptions. *No provisions of this article shall apply to (1) the emission of sound for the purpose of alerting persons to the existence of an emergency; (2) the emission of sound in the performance of emergency work; (3) activities sponsored by the county, state, or federal government; (4) activities authorized by permit; (5) theme parks and/or outdoor centers of amusement; (6) noise necessarily or directly related to a use or activity approved by the county; or (7) activities for which the regulation of noise has been preempted by county, state, or federal law.*

(H) Administration and enforcement. *This section shall be administered and enforced by the county administrator.*

(I) Procedures.

(1) Warnings.

(a) Oral warnings. If an officer observes a violation of this section without a complaint having been made, the officer may first issue one oral courtesy warning per day and inform the violator that the violator will be subject to penalties if the violation continues.

(b) Written warnings. An officer shall first issue a written warning to immediately cease the violation prior to issuing a notice of violation unless one written warning has been issued within 180 days preceding the date of violation. The written warning shall be substantially in the same form as the notice of violation. Failure to correct the violation within 15 minutes of the issuance of a written or oral warning shall result in the issuance of a notice of violation pursuant to this section.

(2) Notice of violation.

(a) If an officer determines that a violation of this chapter has occurred, the officer may cause a notice of the violation to be served on any or all persons committing, permitting, assisting in or attempting such violation.

(b) The notice shall provide that the person charged with a violation may elect to make an appearance in person, or in writing by mail, to the treasurer of the county, and admit liability for or plead no contest to the violation, abate the violation, and pay the civil penalty established for the violation, all within the time period fixed in the notice.

(c) If a person charged with a violation does not elect to admit liability or plead no contest, and abate the violation, within the time period fixed in the notice, the violation shall be tried in general district court upon a warrant in debt or motion for judgment, with the same right of appeal as provided for civil actions at law. In the event the violation exceeds the jurisdictional limits of the general district court, the violation shall be tried in circuit court.

(d) A finding of admission of liability or a plea of no contest to a civil violation shall not be deemed a criminal violation for any purpose.

(J) Civil Penalties. *Any person who commits, permits, assists in or attempts any violation of this section, whether by act or omission, shall be liable for a civil penalty. All payments of these civil penalties are to be paid to the treasurer of the county. The penalties are as follows:*


First violation. The first violation of this section shall be punished by a civil penalty in the amount of \$50.00.

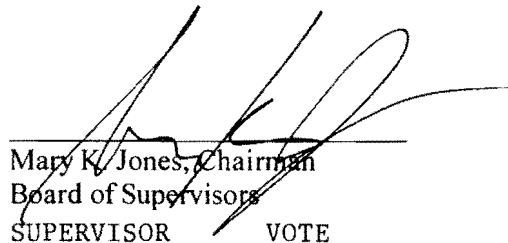
Second violation. The second violation of this section by the same person, property, or set of operative facts within 180 days of the first violation of this section shall be punished by a civil penalty in the amount of \$100.00.

Third violation. The third violation of this section by the same person, property, or set of operative facts within 180 days of the second violation of this section shall be punished by a civil penalty in the amount of \$500.00.

Additional violations. The fourth, or subsequent, violation of this section by the same person, property, or set of operative facts within 180 days of the third, or previous, violation of this section shall be guilty of a Class 4 misdemeanor. Additionally, the county may apply to the circuit court to enjoin continuing violations of this section.

ATTEST:


Robert C. Middaugh
Clerk to the Board


Mary K. Jones, Chairman
Board of Supervisors

SUPERVISOR	VOTE
KENNEDY	AYE
GOODSON	AYE
MCGLENNON	AYE
ICENHOUR	AYE
JONES	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of April, 2011.