

**AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 9TH DAY OF AUGUST 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. MOMENT OF SILENCE**

**D. PLEDGE OF ALLEGIANCE** – Blake Ozmer, a rising third-grade student at Rawls Byrd Elementary School, led the Board and citizens in the Pledge of Allegiance.

**E. PUBLIC COMMENT**

1. Mr. Keith Sadler, 9929 Mountain Berry Court, commented on his opposition to Agenda 21.
2. Ms. Sue Sadler, 9929 Mountain Berry Court, commented on her opposition to Agenda 21.
3. Mr. Shawn Johnson, 3428 Wexford Run, commented about the International Council for Local Environmental Initiatives (ICLEI), Agenda 21, and encouraged citizens to watch the Board of Supervisors work session.
4. Mr. Ed Oyer, 139 Indian Circle, commented about two depleted buildings in Grove. He memorialized Mr. Jack Rhein who often attended the Board meetings.

**F. BOARD REQUESTS AND DIRECTIVES**

Mr. Goodson made recommendations for Board and Commissions appointments. Mr. Ron Campana was appointed to the Board of Zoning Appeals; Mr. Roger Schmidt was appointed to the Chesapeake Bay/Wetlands Board and Mr. Louis Bott as alternate. Mr. Chris Basic was appointed to the Planning Commission from the Berkeley District.

Mr. Goodson made a motion to approve the recommendations.

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

Mr. McGlennon also paid a tribute to Mr. Jack Rhein for bringing to the attention of the Board the needs of the visually disabled.

**G. CONSENT CALENDAR**

Mr. Goodson made a motion to adopt the Consent Calendar.

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

1. Minutes –
  - a. July 26, 2011, Work Session
  - b. July 26, 2011, Regular Meeting
2. Local Aid to the State

**RESOLUTION**

**LOCAL AID TO THE STATE**

WHEREAS, State financial assistance for mandated and high priority programs, including public education, health and human services, public safety, and constitutional officers, is \$800 million less in FY 12 than in FY 09; and

WHEREAS, cities and counties must balance their budgets during a time in which future State assistance is unreliable, Federal stimulus dollars are dwindling, and real estate assessments are declining; and

WHEREAS, the Appropriation Act contains \$60 million in across-the-board cuts to cities and counties for both FY 11 and FY 12, under which localities are required to either elect to take reductions in particular State aid programs, or to send the State a check for the amounts determined by the Department of Planning and Budget (“Local Aid to the State”); and

WHEREAS, the reductions are applied to essential services, including law enforcement, jail administration, foster care and child protection services, election administration, and social services; and

WHEREAS, the County of James City does not have the authority to unilaterally decide to discontinue providing services such as election administration or to refuse to house and care for State prisoners in local and regional jails; and

WHEREAS, the State budget cuts are not accompanied by any reductions in State-imposed mandates, standards, and service requirements, nor do they provide any administrative flexibility for local agencies; and

WHEREAS, the County of James City remitted \$313,331 in FY 11 and will be required to remit another \$329,339 in FY 12; and

WHEREAS, cities and counties will have provided the State with \$220 million by the close of FY 12 for this "Local Aid to the State" program; and

WHEREAS, these reductions shift State costs to local taxpayers and artificially increase the amount of State surplus revenue; and

WHEREAS, State revenues have begun to recover and the State is expecting to have a revenue surplus for the second year in a row; and

WHEREAS, revenue collections for the County of James City continue to reflect the struggling housing market; and

WHEREAS, the State should not shift its share of the costs for mandates and responsibilities to local governments.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, asks Governor Bob McDonnell to submit a budget amendment to the 2012 session of the General Assembly to reverse the \$60 million-a-year reduction for the current year, FY 12, and to eliminate the aid to localities reduction in the budget submitted for FY 13 and FY 14 without any other State funding reductions to State mandated, locality provided programs.

BE IT FURTHER RESOLVED that the members of the General Assembly support a budget amendment to the 2012 session of the General Assembly to reverse the \$60 million-a-year reduction for the current year, FY 12, and to eliminate the aid to localities reduction in the budget submitted for FY 13 and FY 14.

3. Changes to Chapter 3, Drug Free Workplace, of the Personnel Policies and Procedures Manual

**RESOLUTION**

**CHANGES TO CHAPTER 3, DRUG FREE WORKPLACE,**

**OF THE PERSONNEL POLICIES AND PROCEDURES MANUAL**

WHEREAS, the County's Drug Free Workplace Policy was last updated in April 2009 and since then the Department of Transportation has updated 49 CFR Part 40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs; and

WHEREAS, the County is committed to ensuring policies and procedures are up-to-date; and

WHEREAS, the FY11 Triennial Review of the Williamsburg Area Transit Authority, prepared on behalf of the Federal Transit Administration, recommended a revision to the wording in the policy to either list all refusals to test or state that refusals to test are listed in 49 CFR Part 40 as amended or 49 CFR 40.161 as amended for urine collections and 49 CFR 40.261 as amended for breath tests and should then state that a copy of 49 CFR Part 40 is available upon request; and

WHEREAS, this modification brings the policy into compliance.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby adopts the attached revision to Chapter 3, Drug Free Workplace, of the James City County Personnel Policy and Procedures Manual.

4. Acceptance of Property for a Veterans Tribute Tower

**RESOLUTION**

**ACCEPTANCE OF PROPERTY FOR A VETERANS TRIBUTE TOWER**

WHEREAS, the Board of Supervisors has expressed its support for locating a Veterans Tribute Tower in the County; and

WHEREAS, a suitable location has been identified in New Town.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute all documents necessary to accept a part of the parcel at 5380 Discovery Park Boulevard from New Town Associates, LLC for the purpose of locating a Veterans Tribute Tower.

5. Grant Award – Virginia Circuit Court Records Preservation Program – \$4,400

**RESOLUTION**

**GRANT AWARD - VIRGINIA CIRCUIT COURT**

**RECORDS PRESERVATION PROGRAM - \$4,400**

WHEREAS, the Clerk of the Circuit Court of Williamsburg-James City County has been awarded a \$4,400 grant from the Virginia Circuit Court Records Preservation Program; and

WHEREAS, the grant has been awarded to fund the preservation of permanent records of the Circuit Court; and

WHEREAS, there is no match required for this grant.

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

Revenue:

FY 12 - Circuit Court Records Preservation	<u>\$4,400</u>
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Expenditure:

FY 12 - Circuit Court Records Preservation                      \$4,400

- 6.     Chesapeake Bay Preservation Ordinance Violations – Civil Charge – Linda Schaller, 2509 Sanctuary Drive, Governors Land – \$29,000 – Deferred
- 7.     Contingency Transfer – Virginia Peninsula Regional Jail

**RESOLUTION**

**CONTINGENCY TRANSFER - VIRGINIA PENINSULA REGIONAL JAIL**

WHEREAS, in FY 11, the Virginia Peninsula Regional Jail (VPRJ) experienced a very large, unplanned increase in inmate medical costs including increased outside medical care expenses and 24-hour nursing care; and

WHEREAS, Federal inmate bed days were substantially lower than anticipated; and

WHEREAS, additional funding is needed to cover these increased costs through June 30, 2011.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby amends the previously adopted budget for FY 2011 as follows:

Expenditures:

Contingency	\$ (110,000)
Contribution to VPRJ	110,000

Ms. Jones asked that Item No. 4 be pulled so Mr. Harry Walters could give an update on the Veterans Tribute Tower.

Mr. Harry Walters gave the Board an update on the Veterans Tribute Tower which will be located on Discovery Boulevard. He mentioned that a parade is also scheduled in New Town on November 12, 2011, in tribute to veterans. He thanked County staff for their assistance.

Mr. McGlennon made the motion to adopt Acceptance of Property for a Veterans Tribute Tower.

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

## H. PUBLIC HEARINGS

### 1. Ordinance Amendment to Chapter 20, Taxation, Section 20-9. Definitions; and Section 20-10, Qualifications for Exemption

Ms. Erin Waugh, an Appalachian State University student and an Intern with the County Attorney's office, gave a presentation about Ordinance Amendment to Chapter 20, Taxation, Section 20-9. Definitions; and Section 20-10, Qualifications for Exemption. During its 2011 session, the Virginia General Assembly amended the Code of Virginia (the "Virginia Code") as it relates to real property tax exemptions for the elderly and disabled. If a locality exercises its option to provide real estate tax exemptions for the elderly and disabled, it must do so in conformance with the Virginia Code. Because the County has chosen to provide these exemptions, the County Code must be amended to include the recent changes adopted by the General Assembly. These amendments will have minimal impact on the individuals who qualified for exemption under the "old" regulations and there should not be a significant change in the number of people who qualify. Ms. Waugh further explained the following proposed changes to the County Code are mandatory: the ordinance must be amended to include only those sources of income that are subject to Federal income tax laws; the definition of "income" is now more limited; December 31 of the immediately preceding calendar year is the date upon which net worth valuation and annual income is to be calculated, and the County Code currently excludes the first \$6,500 when calculating an individual's total income. This amount may no longer be excluded. These amendments to the Virginia Code were passed as emergency legislation and became effective on March 24, 2011. Accordingly, the changes to the County Code must be made effective for tax years beginning on or after January 1, 2011. The Commissioner of the Revenue notified staff of these changes.

Mr. McGlennon asked Mr. Richard Bradshaw, Commissioner of the Revenue, since the legislation is effective would the Board be able to take action so those who may be eligible can apply.

Mr. Bradshaw commented that he would reopen the application process for those who may be eligible to apply.

Mr. Goodson asked staff how they can determine if a member of the household qualifies.

Mr. Bradshaw responded that his office makes that determination.

Ms. Jones opened the Public Hearing.

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

Mr. McGlennon made the motion for the Commissioner of the Revenue to extend the application deadline for 30 days.

Mr. Bradshaw recommended a specific 30-day period.

Mr. McGlennon suggested a grace period from September 1 to September 30.

Mr. McGlennon made the motion to adopt the ordinance as amended.

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

2. Ordinance Amendments – Fee Waivers

Mr. Allen Murphy, Jr., Director of Planning/Assistant Development Manager, presented the Ordinance Amendment waivers for the Board to consider as amended. Attached for its consideration were ordinances amending Chapter 4, Building Regulations; Chapter 8, Erosion and Sediment Control; Chapter 19, Subdivisions; Chapter 22, Wetlands; Chapter 23, Chesapeake Bay Preservation; and Chapter 24, Zoning. In accordance with Virginia Code § 15.2-2204 et seq., the amendments to Chapter 19, Subdivisions, and Chapter 24, Zoning, have been reviewed by the Planning Commission following advertised public hearings.

Ms. Jones opened the Public Hearing.

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

Mr. McGlennon made the motion to adopt the revised ordinance.

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

3. Ordinance to Amend Chapter 16, Public Parks and Recreation Facilities, Section 16-2, Alcoholic Beverages and Controlled Substances Prohibited

Mr. Max Hlavin, a William and Mary student and an Intern with the County Attorney's office, presented an Ordinance to Amend Chapter 16, Public Parks and Recreation Facilities, and Section 16-2, Alcoholic beverages and controlled substances prohibited. Currently, the County Code prohibits the consumption of alcohol at any public park or recreational facility. This general prohibition has been in place since 1984; since that time, the County has acquired a number of non-traditional parks, including a yacht basin, two campgrounds (one of which is open and the other is not), a beachfront, and Legacy Hall, among others. The Director of Parks and Recreation (the "Director") proposes to amend the County Code and to leave the general prohibition on alcohol in place, but permit the ability to develop regulations which would allow alcohol to be consumed during a particular event or in a particular area of a park. The Director intends at this time to permit alcohol in three situations/areas: Legacy Hall, Chickahominy Riverfront Park, and specific events. The applicant must provide insurance coverage and provide a copy of the Virginia Alcohol Beverage License.

Ms. Jones opened the Public Hearing.

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

Mr. Goodson made the motion to adopt the ordinance.

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

4. Alternative to Acquisition and Sale of Real Property – 4346 Ironbound Road

Mr. Middaugh discussed with the Board the Alternative to Acquisition and Sale of Real Property. The acquisition of 4346 Ironbound Road was part of the original redevelopment plan for the Ironbound Square neighborhood. However, the owners and the County were not able to reach an agreement at the time that the County was attempting to acquire property prior to construction. Recent discussions between the property owners and the County staff led to a new proposal to purchase the property. This item was on the Board of

Supervisors agenda at its June 28 meeting, but deferred until the August 9 meeting. The Office of Housing and Community Development will arrange for the demolition of the house and Habitat for Humanity (Habitat) will pay the costs of the demolition. In exchange for Habitat's cooperation, the Williamsburg Redevelopment and Housing Authority (WRHA) will sell Habitat six lots in the Ironbound Square subdivision.

Mr. Kennedy asked if \$35,000 is the assessed value of the lots.

Mr. Middaugh replied that it is not the assessed value.

Mr. Rogers replied that it is the market price for the lots and its operating through a grant funded by the Regional Housing Authority.

Ms. Jones opened the Public Hearing.

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

No action was needed from the Board.

#### **I. PUBLIC COMMENT**

1. Mr. Ed Oyer, 139 Indian Circle, commented regarding a pool, the spending cost per student in schools, and rates being raised by the Newport News Waterworks.

#### **J. REPORTS OF THE COUNTY ADMINISTRATOR**

Mr. Middaugh reminded staff and everyone of the Household Chemical Collection, Saturday, August 13, Lafayette High School, 8 a.m.-noon. He commented that the James City Service Authority Board of Directors will hold a meeting following the Board of Supervisors meeting. He also commented on the Federal Government's bond rating and how it may not affect the County's rating.

#### **K. BOARD REQUESTS AND DIRECTIVES**

Mr. Icenhour read an article to the Board and citizens from a Roanoke newspaper article in reference to ICLEL.

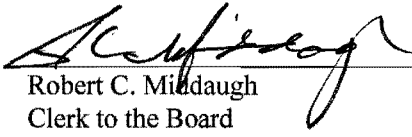
#### **L. ADJOURNMENT to 7 p.m. on September 13, 2011.**

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 7:48 p.m., Ms. Jones adjourned the Board until 7 p.m. on September 13, 2011.





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Robert C. Mindaugh  
Clerk to the Board

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