

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 11TH DAY OF OCTOBER 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 – Hannah Fulton, a tenth-grade home schooled student, led the Board and citizens in the Pledge of Allegiance.

Ms. Jones recognized Mr. Tim O'Connor, representing the Planning Commission.

E. PUBLIC COMMENT

1. Mr. Keith Sadler, 9929 Mountain Berry Court, commended the Board for its opposition to the principals espoused by the International Council for Local Environmental Initiatives (ICLEI) and government's efforts to control private property in an unconstitutional manner.

2. Ms. Linda Reese, 511 Spring Trace, expressed her opposition to the mausoleum at St. Bede's and recommended that the Board watch the Planning Commission public hearing.

3. Mr. Ed Oyer, 139 Indian Circle, commented that he agreed with the recent Daily Press editorials concerning the Williamsburg-James City County Schools.

4. Mr. Bill Dowling, 176 Heritage Point, commended the Board's rejection of the sustainability issue and the concepts included under ICLEI and UN Agenda 21.

F. BOARD REQUESTS AND DIRECTIVES

Mr. Goodson commented on his recent visit to the Volunteer Fire Department Fish Fry and complimented Mr. Tony Berkeley, Henrico firefighter but also a volunteer, for designing a fund-raising T-shirt.

Mr. McGlennon advised the Board of a new policy of the Virginia Department of Transportation (VDOT) when resurfacing subdivision and corridor streets. The approach includes slurry, rough, and dusty roads with pebbles that damage cars and wash into the ditches. The roads cannot be striped for weeks at a time and act as a deterrent to bicycle or pedestrian traffic. It appears environmentally unfriendly to adjoining waterways. Mr. McGlennon suggested that VDOT return to the traditional repaving methods and that the County communicate its concerns to the Governor, the Secretary of Transportation, and legislators.

Mr. Icenhour advised the Board that the Hampton Roads Workforce Development Council has established a Hampton Roads Healthcare Workforce Partnership initiative and received a \$5 million grant for technical training in healthcare services. In addition, a long-anticipated Youth Career Café will have its grand opening at the Thomas Nelson Community College Historic Triangle campus on October 25 at noon.

Ms. Jones advised the Board that she welcomed the Virginia Community College Association to James City County at its conference on September 29.

G. CONSENT CALENDAR

Mr. Goodson requested the removal of Item No. 3 from the Consent Calendar.

Mr. Kennedy asked that Item No. 2 be removed as well.

1. Minutes -
 - a. September 27, 2011, Work Session
 - b. September 27, 2011, Regular Meeting

4. Appropriation of Grant Award - Virginia Department of Emergency Management - \$15,600

RESOLUTION

GRANT AWARD – CITIZEN CORPS PROGRAM – \$15,600

WHEREAS, the James City County Fire Department’s Division of Emergency Management has been awarded a Citizen Corps grant in the amount of \$15,600 from the Virginia Department of Emergency Management (VDEM) using funds from the Federal Department of Homeland Security’s State Homeland Security Program Grant; and

WHEREAS, the grant funds will be used to increase the safety, preparedness and resiliency of County citizens through citizen-focused programs including the Citizen Corps Council, Community Emergency Response Teams (CERT), Neighborhood Watch, and Volunteers In Police Service (VIPS); and

WHEREAS, the grant requires no match.

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

Revenue:

Citizen Corps-VDEM	<u>\$15,600</u>
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Expenditure:

Citizen Corps-VDEM \$15,600

Mr. McGlennon made a motion to approve the Consent Calendar, as amended.

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

2. Contract Award – Warhill Trail Dam Decommissioning – \$429,741.50

Mr. Darryl Cook, County Engineer, made a presentation of the proposal.

This project consists of modifications to an existing dam on Warhill Trail (State Route 830) to allow for its decommissioning – removal of its function as a dam. The Warhill Trail dam is owned by the County; the road is contained within an easement to VDOT. The dam is large enough to be regulated under the Virginia Dam Safety Program and needs to either be brought up to State standards or be modified so that it no longer functions as a dam. Staff decided, in consultation with the project design engineers, to decommission the dam as it is a less expensive alternative than improving the dam to meet State standards.

Mr. Kennedy asked if the absence of the impoundment would interfere with any current recreation activities on the lake, such as fishing or boating. Mr. Cook indicated that, to his knowledge, no one uses the impoundment for recreation purposes.

Mr. Cook also indicated, in a response to a question from Mr. McGlennon, that beavers have not been seen in the impoundment.

Mr. Kennedy made a motion to approve the resolution.

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

RESOLUTION

CONTRACT AWARD - WARHILL TRAIL DAM DECOMMISSIONING - \$429,741.50

WHEREAS, bids were publicly advertised for Warhill Trail Dam Decommissioning and funded by the Capital Improvement Program appropriated by the Board of Supervisors for FY 2010 on April 28, 2009, and FY 2012 on April 26, 2011; and

WHEREAS, nine bids were considered for award and Howard Brothers Contractors, Inc. was the lower responsive and responsible bidder; and

WHEREAS, sufficient funds are available to award the Base Bid amount of \$429,741.50.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute a contract up to the amount of \$429,741.50 with Howard Brothers Contractors, Inc. for Warhill Trail Dam Decommissioning.

3. Request of Appropriation for Fire Station 1 – \$30,000

Fire Chief Tal Luton presented the proposal for consideration. He introduced Mr. Phillip Murdoch, President of the James City-Bruton Volunteer Fire Department, and Mr. Richard Stone, Assistant Chief.

Concern exists regarding the structural integrity of Fire Station 1 in Toano. The Volunteer Fire Department owns the building, and James City County leases the land that it sits on to them. The building was constructed 50 years ago and is situated on the corner of Richmond Road and Forge Road in Toano. The apparatus floor that supports very heavy fire and EMS vehicles is sinking below the foundation footings in some areas, and with walls that are cracked and leaning, it has become necessary to conduct an emergency analysis of the structural integrity of the building and the land upon which it sits. The purpose of the analysis will determine if repair is possible. If repair is indicated, the analysis will provide the basis for a priority list of those repairs. If repair is not possible, the site will be analyzed to determine if it is suitable for a replacement building.

Mr. Middaugh commented on the very positive relationship between the County's Fire Department and the Volunteers and the long-standing service provided by the Volunteers.

Mr. Kennedy asked whether the capability existed on staff for the kind of structural engineering research needed.

Mr. Middaugh responded that the building's deficiencies could be determined by staff, but that a professional engineer would be needed to provide the Volunteers and the Board with the full range of options to correct the deficiencies.

Mr. Kennedy commented that the future of fire service in the upper end of the County should be considered and the current facility is inadequate. If a decision is made to build a new station on this site, including adding a second floor, this facility needs to be designed with the area's growth in mind.

Mr. Goodson made a motion to approve the resolution.

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

RESOLUTION

REQUEST OF APPROPRIATION FOR FIRE STATION 1 - \$30,000

WHEREAS, the James City Bruton Volunteer Fire Department has identified extensive repair needs for their building; and

WHEREAS, the James City Bruton Volunteer Fire Department has identified that a Structural and Site Engineering Analysis is necessary before continuation with needed repairs; and

WHEREAS, the cost for said analysis could be as much as \$30,000; and

WHEREAS, the Volunteer Fire Department provides a vital emergency response service to the citizens and visitors of James City County.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes a donation to the James City Bruton Volunteer Fire Department and authorizes the following budget transfer:

County Contingency	<u>(\$30,000)</u>
Fire Department-Capital Campaign	<u>\$30,000</u>

H. PUBLIC HEARINGS

1. Case No. ZO-0004-2011. Commercial Districts

Mr. Chris Johnson, Principal Planner, presented the proposed zoning ordinance amendments.

Planning staff has been working on the commercial districts (LB, B-1, M-1, and M-2) ordinances as well as the Commercial Special Use Permit (SUP) triggers (Section 24-11) and Development Review Committee (DRC) review criteria (Section 24-147) since the Board of Supervisors adopted the Zoning Ordinance update process methodology in May 2010. Draft ordinances included data from the Business Climate Taskforce were presented to the Policy Committee in June 2011, and comments from that meeting were further researched by staff prior to being incorporated into draft ordinances reviewed by the Board of Supervisors in June 2011. Staff presented the Board's changes to the Planning Commission at its meeting on September 7, 2011. The Planning Commission voted 6-0 (Krapf: Absent) to recommend approval of the four commercial district ordinances and the DRC review criteria ordinance. The Planning Commission voted 5-1 (Poole: NAY; Krapf: Absent) to recommend approval of the Commercial SUP trigger ordinance.

Mr. Johnson also extended his appreciation to the work of employees in several departments who have assisted in preparing these amendments.

Staff recommended approval of the six ordinance amendments.

Mr. McGlennon asked about the provision in several of these ordinances that set out tasks for a designee of the Planning Commission (PC) or the DRC.

Mr. Johnson indicated that the provision had been included in a 1999 amendment and focused on significant economic development projects that are provided expedited review. The Chairs of the PC and DRC appoint themselves or other members to meet critical timelines. Mr. Johnson did indicate that, to his knowledge, there is no formal designation of the "designees" identified in the ordinance, but the process is, and has been, used for projects such as those in the James River Commerce Park.

Mr. McGlennon indicated that he had previously asked for a comprehensive list of projects that have required an SUP in the past that would not with the proposed amendments to the ordinances.

Mr. Johnson indicated that the increase in the building size from 10,000 square feet to 20,000 would reduce the number, but that some projects under 20,000 square feet would still require a commercial SUP based on traffic generation.

Mr. McGlennon indicated that there have been several instances where the public interest was best served by a public hearing involving an SUP application and the proposed changes in the ordinances would reduce public involvement.

Mr. Goodson indicated his support for limiting the use of SUPs and that the process has been time-consuming and expensive for applicants in the past.

Ms. Jones opened the Public Hearing and, with no one choosing to speak, closed the Public Hearing.

After discussion the Board agreed to consider each amendment separately.

ARTICLE I. IN GENERAL. Sec. 24-11. Special use permit requirements for certain commercial uses; exemptions.

Mr. Goodson made a motion to approve the ordinance amendment.

Mr. Icenhour indicated that he would not support the amendment and would prefer to accelerate the current process rather than exclude public comments by changing the requirements for SUPs.

Mr. Goodson indicated his support of the amendment, that the study by the Business Climate Taskforce indicated that the County had the lowest threshold for SUPs of any neighboring community, and that some businesses did not even consider a James City County location because of the costs of the SUP process.

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

ARTICLE III. SITE PLAN. Sec. 24-147. Criteria for review.

Mr. Goodson made a motion to approve the ordinance amendment.

Mr. Icenhour expressed his concern that this transferred many decisions from a public process to an administrative function.

Mr. Goodson indicated his support to trust professional staff for these decisions with an appeal process to the DRC.

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

ARTICLE V. DISTRICTS. DIVISION 9, LIMITED BUSINESS, LB

Mr. Goodson made a motion to approve the ordinance amendment.

On a roll call vote, the vote was: AYE: Kennedy, Goodson, Icenhour, Jones (4). NAY: McGlennon (1).

ARTICLE V. DISTRICTS. DIVISION 10. GENERAL BUSINESS DISTRICT, B-1

Mr. Goodson made a motion to approve the ordinance amendment.

On a roll call vote, the vote was: AYE: Kennedy, Goodson, Icenhour, Jones (4). NAY: McGlennon (1).

ARTICLE V. DISTRICTS. DIVISION 11. LIMITED BUSINESS/INDUSTRIAL DISTRICT, M-1

Mr. Goodson made a motion to approve the ordinance amendment.

On a roll call vote, the vote was: AYE: Kennedy, Goodson, Icenhour, Jones (4). NAY: McGlennon (1).

ARTICLE V. DISTRICTS. DIVISION 12. GENERAL INDUSTRY DISTRICT, M-2

Mr. Goodson made a motion to approve the ordinance amendment.

On a roll call vote, the vote was: AYE: Kennedy, Goodson, Icenhour, Jones (4). NAY: McGlennon (1).

I. PUBLIC COMMENT

1. Ms. Linda Reese, 511 Spring Trace, inquired about the zoning ordinance amendments and the process.

J. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Middaugh reminded the Board about the Closed Session for appointments.

K. BOARD REQUESTS AND DIRECTIVES

Ms. Jones indicated that the Planning Commission consists of appointed public members and the role of the DRC will change to acting on appeals of administrative decisions.

Mr. McGlennon made the motion that Ms. Janet Gonzales be appointed to the Social Services Advisory Board.

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

L. CLOSED SESSION

Mr. Goodson moved that the Board go into Closed Session for the consideration of a personnel matter, the appointment of individuals to County boards and/or commissions, pursuant to Section 2.2-3711(A)(1) of the Code of Virginia relating to the appointment of a local representative to the Thomas Nelson Community College Board.

Following the Closed Session at 8:10 p.m., Ms. Jones reconvened the Board.

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

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

The Board discussed the possibility of scheduling an additional meeting on November 15 at 6 p.m. to hold the public hearing on the SUP for the St. Bede's mausoleum.

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.

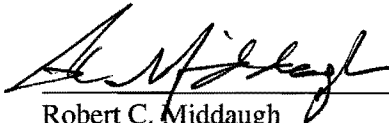
NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge: i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this 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, consideration of a personnel matter, the appointment of individuals to County boards and/or commissions.

M. ADJOURNMENT until 4 p.m. on October 25, 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 8:15 p.m., Ms. Jones adjourned the Board until 4 p.m. on October 25, 2011.



Robert C. Middaugh
Clerk to the Board