

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 22ND DAY OF NOVEMBER 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 – Zach Rauchwarg, a twelfth-grade student at Jamestown High School, led the Board and citizens in the Pledge of Allegiance.

E. PUBLIC COMMENT

1. Mr. Allan Finger, 1700 Founders Hill South, Commodore of the Two Rivers Country Club, stated that the personal property tax on boats in James City County is not competitive with other localities. He proposed that the Board establish a committee to review this issue.

2. Mr. Ed Oyer, 139 Indian Circle, congratulated those elected to office and everyone who ran for office. He asked when the County would have an at-large Board member. He stated that there has been some effort to improve 101 Indian Circle, but that it is still a problem. He noted that Gloucester County built an elementary school for \$18 million.

F. BOARD REQUESTS AND DIRECTIVES

Mr. Goodson noted that he received an award on behalf of the County at the Virginia Association of Counties (VACo) conference. The award was for Outstanding Customer Service for prospective employees.

Mr. McGlennon stated that he attended the meeting of the Clean County Commission and that Whitings Funeral Home was recognized for its new building and positive impact on Route 60. He thanked the members of the Clean County Commission for their service.

Ms. Jones asked that a committee be formed to look into the personal property tax on boats. The Board agreed by consensus and asked for an update at the December 13, 2011, Board meeting.

Mr. Icenhour stated that he represented the County at the James City County Volunteer Fire Department's awards ceremony. He thanked the volunteers for their good work. He also said that he attended the opening of the "Gateway to the Modern World" exposition, a joint venture between the Jamestown-Yorktown Foundation and the Virginia Museum of Fine Arts. He also stated that he attended the ribbon cutting for the Freedom Park Interpretive Center.

G. CONSENT CALENDAR

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

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

1. Minutes – November 8, 2011, Regular Meeting
2. Colonial Community Corrections (CCC) Appropriation of Fund Balance – \$10,000

RESOLUTION

COLONIAL COMMUNITY CORRECTIONS (CCC) APPROPRIATION OF FUND BALANCE - \$10,000

WHEREAS, Colonial Community Corrections (CCC) has accumulated a fund balance, as of June 30, 2011, of \$80,088; and

WHEREAS, funding will be used to fund operating costs and the unanticipated costs associated with replacing and installing a domain server.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the additional appropriation to the CCC for the purposes described above:

Revenue:

Fund Balance Revenue	<u>\$10,000</u>
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Expenditure:

Domain Server and Installation Costs	<u>\$10,000</u>
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3. Grant Appropriation – National Fish and Wildlife Foundation Chesapeake Bay Stewardship Grant – \$75,000

RESOLUTION

GRANT APPROPRIATION – NATIONAL FISH AND WILDLIFE FOUNDATION

CHESAPEAKE BAY STEWARDSHIP GRANT – \$75,000

WHEREAS, the National Fish and Wildlife Foundation has awarded James City County a 2011 Chesapeake Bay Stewardship Grant in the amount of \$75,000.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the appropriation of funds as follows:

Revenue:

2011 Chesapeake Bay Stewardship Grant	<u>\$75,000</u>
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Expenditure:

2011 Chesapeake Bay Stewardship Grant	<u>\$75,000</u>
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4. Contract Award – Buildings D and E Renovation – \$941,400

RESOLUTION

CONTRACT AWARD - BUILDINGS D AND E RENOVATION - \$941,400

WHEREAS, a Request for Qualifications to pre-qualify contractors for the Buildings D and E Renovation was publicly advertised and five firms submitted their qualifications. Five firms were determined to be qualified to submit bids for the renovation work; and

WHEREAS, four bids were submitted and David A. Nice Builders, Inc. was the lowest responsive and responsible bidder; and

WHEREAS, sufficient funds are available in the project budget for both the building renovation and the HVAC replacement.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the contract award for the Buildings D and E Renovation to David A. Nice Builders, Inc. in the amount of \$941,400.

5. Contract Award – Building D HVAC Replacement – \$506,944

RESOLUTION

CONTRACT AWARD - BUILDING D HVAC REPLACEMENT - \$506,944

- WHEREAS, the James City County Department of General Services is standardizing HVAC building controls and equipment in County facilities to promote operational efficiency and safety; and
- WHEREAS, the Building D HVAC controls and equipment is within the Building D project budget and will be replaced during the renovation project; and
- WHEREAS, it has been determined by General Services, in consultation with the Purchasing Office, that Damuth Trane is the only source practicably available to engineer and install the HVAC controls and equipment required; and
- WHEREAS, Damuth Trane submitted a proposal to perform the required services, the proposed rates have been determined to be reasonable and adequate funds are available in the Capital Improvement budget.
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the contract award in the amount of \$506,944 to Damuth Trane and Trane Corporate for the Building D HVAC controls and equipment.

6. Approval of Patriots Colony Bond Refinancing through the Newport News Economic Development Authority (EDA)

RESOLUTION

**APPROVAL OF PATRIOTS COLONY BOND REFINANCING THROUGH THE
NEWPORT NEWS ECONOMIC DEVELOPMENT AUTHORITY (EDA)**

- WHEREAS, the Economic Development Authority of the City of Newport News, Virginia, whose principal business address is 2400 Washington Avenue, 3rd Floor, Newport News, Virginia, 23607 (the "Authority"), has conducted a joint public hearing, after notice, on November 4, 2011, a date within 60 days prior to the date of the adoption of this resolution, on behalf of the Authority, James City County, and the City of Newport News on the plan of financing of Patriots Colony, Inc. (the "Patriots Colony"), whose principal business address is 6000 Patriots Colony Drive, Williamsburg, Virginia 23187, and which is an affiliate of Riverside Healthcare Association, Inc. and a not-for-profit Virginia corporation described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), that is exempt from tax under Section 501(a) of the Code, for the issuance of the Authority's revenue refunding bonds in an amount not to exceed \$25,000,000 (the "Bonds") to assist Patriots Colony in (a) refinancing the outstanding principal balance of the \$30,500,000 Residential Care Facility Revenue Bonds (Patriots Colony Project), Series 1997 issued by the Industrial Development Authority of the County of James City, the proceeds of which financed the acquisition, construction and equipping of a 150-unit continuing care retirement facility for the residence and care of the aged, consisting of a five-

story apartment building, a one-story community center and eight one-story attached villa courtyards, located at 6000 Patriots Colony Drive, Williamsburg, Virginia, 23187 on a site consisting of approximately 90 acres of land in James City County, Virginia (the "Project") and (b) financing certain issuance costs incurred in connection with the issuance of the Bonds; and

WHEREAS, Section 147(f) of the Code provides that the governmental unit having jurisdiction over the area in which any facility financed with the proceeds of private activity bonds is located must approve the issuance of the bonds; and

WHEREAS, the Project is located in James City County, Virginia (the "County"), and the Board of Supervisors of the County (the "Board") constitutes the highest elected governmental unit of the County; and

WHEREAS, the Authority has requested the Board to ratify the public hearing and approve the issuance of the Bonds and the plan of financing to comply with Section 147(f) of the Code and Section 15.2-4906 of the Code of Virginia of 1950, as amended (the "Virginia Code"); and

WHEREAS, a copy of the Authority's resolution approving the issuance of the Bonds, subject to terms to be agreed upon, (the "Authority Resolution"), a record of the public hearing and a fiscal impact statement have been filed with the Board.

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

1. The recitals made in the first "WHEREAS" clause to this resolution are hereby adopted as part of this resolution.
2. The Board hereby ratifies the joint public hearing held on its behalf by the Authority on November 4, 2011, and the publication of notice thereof.
3. The Board hereby concurs in the Authority Resolution adopted by the Authority on November 4, 2011, a copy of which is attached hereto.
4. The Board hereby approves the issuance of the Bonds by the Authority for the benefit of Patriots Colony, to the extent required by Section 147(f) of the Code and by Section 15.2-4906 of the Virginia Code.
5. Ratification of the joint public hearing, concurrence in the Authority Resolution, and approval of the issuance of the Bonds and the plan of financing do not constitute an endorsement to a prospective purchaser of the Bonds of the creditworthiness of the Project or of Patriots Colony, and, as required by Virginia law, neither the Commonwealth of Virginia nor any political subdivision thereof, including the County and the Authority, shall be obligated to pay the Bonds or the interest thereon or other costs incident thereto except from the revenues and moneys pledged therefore by Patriots Colony and its affiliates, and neither the faith and credit nor the taxing power of the Commonwealth or any political subdivision thereof, including the County and the Authority, shall be pledged thereto.
6. The County, including its elected representatives, officers, employees and agents, shall not be liable and hereby disclaims all liability for any damage to Patriots Colony, direct or consequential, resulting from the Authority's failure to issue the Bonds for any reason.
7. This resolution shall take effect immediately upon its adoption.

7. 2012 Legislative Program

RESOLUTION

2012 LEGISLATIVE PROGRAM

WHEREAS, James City County has developed a Legislative Program for the consideration of the 2012 session of the General Assembly which outlines certain legislative policies which the Board believes ought to guide the General Assembly and proposes certain legislation that would benefit the County; and

WHEREAS, the Board has carefully considered its legislative program and believes that it is in the best interest of the citizens of James City County.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the County's 2012 Legislative Program and commends it to the County's representatives in the General Assembly for action.

BE IT FURTHER RESOLVED that a copy of the County's 2012 Legislative Program be forwarded to the County's elected representatives to the General Assembly.

H. PUBLIC HEARINGS

1. Ordinance to Amend Chapter 7, Enterprise Zone, by Amending Section 7-2 and 7-8

Mr. Russ Seymour, Director of Economic Development, stated that the proposed ordinance changes the boundaries of the enterprise zone approved by the Virginia Department of Housing and Community Development in accordance with the application approved by the Board in March 2011. In addition, the proposed ordinance changed the enterprise zone administrator from the Assistant Manager of Community Services to the Director of Economic Development or his designee.

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

Mr. Goodson made a motion to approve the ordinance.

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

2. Case No. Z-0001-2011. Forest Height, Neighbors Drive, and Richmond Road Improvements

3. Disposition of Property in the Forest Heights Neighborhood Improvement Project Area

Mr. Leo Rogers, County Attorney, stated that staff was recommending deferral of both of these items until the December 13, 2011, meeting.

Ms. Jones opened the Public Hearings for both of these items; left them open, and stated that they would be considered by the Board at the December 13, 2011, meeting.

4. Case Nos. ZO-0006-2011. Development Standards Ordinance Amendments and ZO-0014-2011. Exterior Signage

Ms. Tammy Rosario, Principal Planner, stated that staff had drafted ordinances and policies for the development standards items including sound walls, outdoor lighting, landscaping, parking, private streets, pedestrian accommodations, timbering, floodplain, and exterior signage. Ms. Rosario stated that these items were reviewed by the Board at the July 26 work session and were recommended for approval by the Planning Commission at its October 5 meeting. She stated that staff recommends deferral of the ordinance amendment on exterior signage.

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

Mr. Icenhour made a motion to approve all of the development standards ordinance amendments except exterior signage.

Mr. Goodson asked Mr. Billy Apperson, James City County Forester for the Virginia Department of Forestry (VDoF), if the Department of Forestry is comfortable with the proposed ordinance on timbering.

Mr. Apperson stated that he felt the Planning Division did a thorough job looking at the Department of Forestry's recommendations and that he felt the proposed ordinance is the most reasonable approach at this time.

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

I. PUBLIC COMMENT

None.

J. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Middaugh stated that offices would be closed Thursday, November 24, and Friday, November 25, 2011. He also reminded the public that taxes are due December 5 and that leaf collection begins December 1.

Mr. McGlennon reminded citizens that leaf collection is scheduled based on election districts and that some residents live in different districts than last year.

K. BOARD REQUESTS AND DIRECTIVES

Mr. McGlennon expressed concern that the St. Bede Mausoleum has been deferred without a date. He asked the Board if it would be willing to ask the applicant to communicate its plan.

Mr. Rogers stated that the Board can set its agenda.

Mr. Kennedy noted that a cell tower case has been deferred for three years. Mr. Kennedy stated he could be supportive of a policy for the whole, not a subjective policy for an individual case.

Mr. McGlennon noted that in the case of the cell tower, the Board was informed that the applicant was looking at alternative sites and options, unlike the deferral on the St. Bede Mausoleum where no reason was given for the deferral.

Mr. Icenhour stated that the Board should develop a policy on deferrals.

L. ADJOURNMENT to 4 p.m. on December 13, 2011.

Mr. Goodson made a motion to adjourn.

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

At 7:37 p.m., Ms. Jones adjourned the Board until 4 p.m. on December 13, 2011.


Robert C. Madaugh
Clerk to the Board

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