

**AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 13TH DAY OF DECEMBER 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** – Joseph Hardin, a kindergarten student at D.J. Elementary School led the Board and citizens in the pledge.

**E. RECOGNITION**

Ms. Jones presented the annual Employee Chairman's Award to Ms. Kate Hale, Director of Emergency Management, and Ms. Margaret Tucker, Public Educator, for their contributions to the Citizen Emergency Response Team that has trained 342 citizens and certified nine organized neighborhood citizen response teams since its inception in 2003.

Ms. Jones presented the Volunteer Chairman's Award to Mr. Harry Walters, who provided the vision and leadership to a variety of programs recognizing veterans, including the erection of a tribute tower and a parade.

**F. PRESENTATIONS**

**1. Comprehensive Annual Financial Report**

Ms. Leslie Roberts, Partner of Dixon, Hughes, Goodman LLP provided a review of the FY 2011 Comprehensive Annual Financial Report. Ms. Roberts noted that the report included the James City Service Authority (JCSA). She also noted that the County received an unqualified opinion.

2. Resolution of Appreciation – Mr. Bruce C. Goodson

Ms. Jones presented a resolution of appreciation to Mr. Goodson for 12 years of dedicated service as the Board of Supervisors representative from the Roberts District. Mr. Goodson thanked the Board and the citizens of the Roberts District for allowing him the opportunity to serve.

**RESOLUTION OF APPRECIATION**

**MR. BRUCE C. GOODSON**

WHEREAS, Mr. Bruce C. Goodson has served as the James City County Board of Supervisors member representing the Roberts District for 12 years from January 1, 2000 to December 31, 2011; and

WHEREAS, Mr. Goodson served as Chairman of the Board of Supervisors in 2004, 2006, and 2008 and has served as Chairman of the James City Service Authority in 2002, 2009, and 2010; and

WHEREAS, Mr. Goodson has been a tireless advocate of regional cooperation and has served as the County's representative on the Hampton Roads Planning District Commission and Transportation Planning Organization, including a tenure as Chairman of the Hampton Roads Planning District Commission; and

WHEREAS, Mr. Goodson has served as Chairman of the Regional Issues Committee and as a member of the Executive Committee of the Williamsburg Area Chamber of Commerce; and

WHEREAS, Mr. Goodson served as the County's representative on the Workforce Investment Board where his efforts led to a more effective delivery of services to those who were unemployed or seeking to improve their job skills; and

WHEREAS, Mr. Goodson represented the County on many other boards and commissions, including the Community Action Agency, Hampton Roads Economic Development Authority, Hampton Roads Military and Federal Facilities Alliance, the 2007 Host Committee for the Jamestown 400th Celebration, the Local Enterprise Zone Association, and School Liaison Committee; and

WHEREAS, Mr. Goodson has been an advocate for business, supporting several key initiatives to improve the business environment in the County, including the Small Business Task Force and the Economic Opportunity Zone; and

WHEREAS, Mr. Goodson has been active in the Virginia Association of Counties, the National Association of Counties, the Virginia Municipal League, and was a member of the Board of Directors of the Virginia Association of Planning District Commissions; and

WHEREAS, Mr. Goodson served as Vice Chairman of the Governor's Commission on Welfare Reform and was appointed to the Virginia Industrial Development Advisory Board; and

WHEREAS, Mr. Goodson made many contributions to the community through his civic involvement, including Rotary International, where he served as President of the Virginia Peninsula Rotary Club, as well as worked with An Achievable Dream and the American Cancer Society.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby thanks and honors Mr. Bruce C. Goodson.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, hereby expresses its best wishes to Mr. Goodson in his future endeavors.

#### **G. PUBLIC COMMENT**

1. Ms. Sasha Digges, 3612 Ironbound Road, expressed concern about the postponement of the public hearing on the Mausoleum.

2. Ms. Kensett Teller, 126 Lake Drive, representing the Pet Health, Safety, and Welfare Group, spoke in favor of establishing a mandatory spay/neuter ordinance.

3. Mr. Robert Richardson, 123 Main Street, Waverly, Virginia, spoke about disenfranchisement.

Ms. Jones determined Mr. Richardson to be out of order.

4. Mr. Keith Sadler, 9929 Mountain Berry Court, spoke in opposition to staggered terms. He also requested confirmation that the County has not renewed its membership to the International Council for Local Environmental Initiatives (ICLEI).

5. Mr. Ed Oyer, 139 Indian Circle, stated that the County could not have a surplus and carry debt at the same time. He mentioned standing water on parts of Route 60 and reminded the County of the issues with 101 Indian Circle. He stated that he did not have a problem with abolishing staggered terms.

6. Mr. Jay Everson, 103 Branscome Boulevard, spoke in favor of abolishing staggered terms.

7. Mr. Jeff Ryer, 7154 Merrimac Trail, thanked the Board for considering a resolution to eliminate staggered terms. He stated that electing all Board members simultaneously increased accountability and equality among voters. He also thanked Mr. Goodson for his leadership in eliminating the County vehicle decal.

8. Mr. Wayne Moyer, 268 Peach Street, spoke in favor of maintaining staggered terms.

9. Mr. Jack Fraley, 104 Thorps Parish, thanked Mr. Goodson for 12 years of excellent service. He also congratulated Mr. McGlennon on his election as the Roberts District supervisor. He also expressed support of the proposed bonus for County employees. He further mentioned four items that he felt are priorities: an urban renewal program, economic development, a comprehensive open space plan, and new policies to preserve rural lands.

10. Ms. Deborah Kratter, 113 Longpoint, stated that she believed the proposal to end staggered terms needed more time for consideration.

#### **H. BOARD REQUESTS AND DIRECTIVES**

Mr. McGlennon requested that the Board ask the County Administrator to appoint a committee to review the proposal for a mandatory spay/neuter ordinance. He corrected a misstatement in an earlier meeting

and stated that he supported the 2008, 2009, 2010, and 2011 budgets. He asked Ms. Jones to explain the decision to cut off a speaker during public comment.

Ms. Jones replied that the County has basic rules, including that the speaker give their address, speak to an issue that is germane, and be respectful, but that the speaker was not following them.

Mr. McGlennon stated that the speaker did give his address, spoke to an issue that other speakers have addressed, and spoke in a tone that others have used.

Mr. Kennedy mentioned a pothole at the entrance to the Government Center.

Mr. Icenhour requested a work session to review the process for considering land use applications. He stated that he felt the Board should grant deferral for specific purposes for a specific time period. He stated that he does not feel cases should be allowed to remain open for years.

Mr. Kennedy said that he was generally supportive of Mr. Icenhour's suggestion. He would like to review the practices of other localities.

Ms. Jones confirmed that the County did not renew the ICLEI membership. She also thanked Mr. Goodson for his years of service.

Mr. Middaugh asked the Board if it wished to review the deferral policy. The Board agreed by consensus that it did.

## **I. CONSENT CALENDAR**

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

1. Minutes –
  - a. November 22, 2011, Work Session
  - b. November 22, 2011, Regular Meeting
2. Contract Awards – Annual Engineering Services

## **RESOLUTION**

### **CONTRACT AWARDS - ANNUAL ENGINEERING SERVICES**

WHEREAS, a Request for Proposals (RFP) has been advertised and evaluated for annual engineering services; and

WHEREAS, the firms listed below were determined to be the best qualified to provide the required engineering services in their respective groups.

Sub-Group A – Structural Engineering – TAM Consultants

Sub-Group B – Mechanical, Electrical, Plumbing Engineering – TAM Consultants

Design Services for Infrastructure Projects – Timmons Group and Parsons Brinckerhoff

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby awards the contracts for annual engineering services to the firms listed in this resolution.

3. Grant Award – Port Security Grant Program (PSGP) – \$23,418

**RESOLUTION**

**GRANT AWARD – PORT SECURITY GRANT PROGRAM (PSGP) – \$23,418**

WHEREAS, the James City County Police Department has been awarded Federal funds via the FY 2011 Port Security Grant Program (PSGP) in the amount of \$23,418; and

WHEREAS, the grant period for expenditures by James City County is September 1, 2011 through May 31, 2014; and

WHEREAS, the funds will be used to train and equip two current members of the Police Department as Public Safety Divers; and

WHEREAS, appointments do not create new positions within the Department or the County; and

WHEREAS, there is no match required of 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:

PSGP – FY 11 funding	<u>\$23,418</u>
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Expenditure:

PSGP – FY 11 funding	<u>\$23,418</u>
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4. Grant Appropriation – Clerk of the Circuit Court – \$47,176

**RESOLUTION**

**GRANT APPROPRIATION – CLERK OF THE CIRCUIT COURT – \$47,176**

WHEREAS, the State Compensation Board has awarded a Technology Trust Fund grant to the Clerk of the Circuit Court totaling \$47,176; and

WHEREAS, the grant will be used for the replacement of computer equipment and records modernization; and

WHEREAS, no local match is required for this grant.

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

Revenue:

Revenue from the Commonwealth                      \$47,176

Expenditure:

Clerk of the Circuit Court                                \$47,176

5. Memorandum of Agreement (MOA) – Joint Public Safety/Public Service Radio Communication System (800MHz) between James City County, York County, and Gloucester County

**RESOLUTION**

**MEMORANDUM OF AGREEMENT (MOA) – JOINT PUBLIC SAFETY/PUBLIC SERVICE**

**RADIO COMMUNICATION SYSTEM (800 MEGAHERTZ (MHz)) BETWEEN**

**JAMES CITY COUNTY, YORK COUNTY, AND GLOUCESTER COUNTY**

WHEREAS, James City County has participated in a Joint Public Safety/Public Services Radio Communication System called the 800-megahertz (MHz) system, sharing 50 percent of the costs of the system with York County for over five years; and

WHEREAS, the County of Gloucester has joined the 800-MHz system; and

WHEREAS, the localities wish to split the operation costs of the 800-MHz system with the County to pay 40 percent, York County to pay 40 percent, and Gloucester County to pay 20 percent of the costs; and

WHEREAS, the operation of the 800-MHz system has not been memorialized into a formal written agreement between the localities.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute the Memorandum of Agreement (MOA) for the Joint Public Safety/Public Service Radio Communication System (800 MHz) between James City County, York County, and Gloucester County.

6. Approval of Williamsburg Landing Bond Refinancing through the Mathews County Industrial Development Authority

**A RESOLUTION CONCURRING WITH THE ISSUANCE BY THE**  
**INDUSTRIAL DEVELOPMENT AUTHORITY OF MATHEWS COUNTY,**  
**VIRGINIA, OF ITS REVENUE BONDS IN AN AMOUNT NOT TO EXCEED**  
**\$17,500,000 FOR WILLIAMSBURG LANDING, INC.**

WHEREAS, there has been described to the Economic Development Authority of James City County, Virginia (the James City County Authority), the plans of Williamsburg Landing, Inc. (the Borrower), whose principal place of business is located in the County of James City, Virginia (the County), at 5700 Williamsburg Landing Drive, Williamsburg, Virginia 23185, for the issuance by the Industrial Development Authority of Mathews County, Virginia (the Mathews Authority), of its Revenue Bonds (the Bonds) in one or more series of bonds in an amount not to exceed \$17,500,000 to assist the Borrower in (a) financing renovations to the Borrower's facilities for the residence and care of the aged located in the County at 5700 Williamsburg Landing Drive, Williamsburg, Virginia, (b) paying the cost of issuing the Bonds, and (c) at the Borrower's election, in redeeming certain outstanding bonds which financed construction of the Borrower's facilities; and

WHEREAS, the above facilities are owned by the Borrower; and

WHEREAS, a public hearing with respect to the Bonds as required by Section 15.2-4906 of the Code of Virginia of 1950, as amended (the Virginia Code), and the Internal Revenue Code of 1986, as amended (the Code), was held by the Mathews Authority on behalf of Mathews County and the County of James City on November 22, 2011; and

WHEREAS, the Mathews Authority after such public hearing with respect to the Bonds adopted an approving resolution (the Mathews Authority Resolution) with respect to the Bonds on November 22, 2011; and

WHEREAS, Section 15.2-4905 of the Virginia Code provides that the Board must concur with the adoption of the Mathews Authority Resolution prior to the issuance of the Bonds; and

WHEREAS, the Code provides that the highest elected governmental officials of the governmental unit having jurisdiction over the area in which any facility financed with the proceeds of a private activity bond is located shall approve the issuance of such bonds; and

WHEREAS, the Bonds will finance or refinance property located in the County and the members of the Board constitute the highest elected governmental officials of the County; and

WHEREAS, a copy of the Mathews Authority Resolution, a summary of the comments made at the public hearing held by the Mathews Authority and a statement in the form prescribed by Section 15.2-4907 of the Virginia Code have been filed with the Board.

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

1. The Board concurs with the adoption of the Mathews Authority Resolution, and approves the issuance of the Bonds by the Mathews Authority to the extent required by the Code and Sections 15.2-4905 and 15.2-4906 of the Virginia Code.
  2. The concurrence with the Mathews Authority Resolution, and the approval of the issuance of the Bonds, as required by the Code and Sections 15.2-4905 and 15.2-4906 of the Virginia Code, do not constitute an endorsement to a prospective purchasers of the Bonds of the creditworthiness of the Borrower or the projects being financed and refinanced and the Bonds shall provide that no political subdivision of the Commonwealth of Virginia, including the County, shall be obligated to pay the Bonds or the interest thereon or other costs incident thereto and neither the faith or credit nor the taxing power of the Commonwealth of Virginia or any political subdivision thereof, including the County, shall be pledged thereto.
  3. The County, including its elected representatives, officers, employees and agents, shall not be liable and hereby disclaims all liability for any damage to the Borrower, direct or consequential, resulting from the Mathews Authority's failure to issue the Bonds for any reason.
  4. This resolution shall take effect immediately upon its adoption.
7. Resolution Providing for the Implementation of the Comprehensive Community Corrections Act, the Pretrial Services Act, and the Establishment of the Colonial Community Criminal Justice Board

RESOLUTION PROVIDING FOR THE IMPLEMENTATION OF THE COMPREHENSIVE  
COMMUNITY CORRECTIONS ACT, THE PRETRIAL SERVICES ACT, AND THE  
ESTABLISHMENT OF THE COLONIAL COMMUNITY CRIMINAL JUSTICE BOARD

- WHEREAS, the Virginia General Assembly has adopted legislation entitled the Comprehensive Community Corrections Act for Local Responsible Offenders, Article 9 (§ 9.1-173 et. seq.) of the *Code of Virginia*, 1950, as amended (the "CCC Act"), and the Pretrial Services Act, Article 5 (§ 19.2-152.2 et seq.) of the *Code of Virginia*, 1950, as amended (the "Pretrial Services Act" and, together with the CCC Act, the "Acts"); and
- WHEREAS, §§ 9.1-174 and 19.2-152.2 of the *Code of Virginia*, 1950 as amended (the "Virginia Code"), require counties and cities approved for a jail project pursuant to § 53.1-82.1 to develop and establish services in accordance with the Acts; and
- WHEREAS, §§ 9.1-178 and 19.2-152.5 of the Virginia Code require that each county and city establishing and operating local community-based probation and pretrial services establish a Community Criminal Justice Board (the "Board"), and in the case of multi-jurisdictional efforts, that each jurisdiction have an equal number of representatives or, in the alternative, mutually agree upon the number of appointments to the Board.

NOW, THEREFORE, BE IT RESOLVED that the Counties of Charles City, James City, New Kent, and York, and the Cities of Poquoson and Williamsburg (individually, a “Participating Locality” and together, the “Participating Localities”) agree to implement the services and programs required by the CCC Act and the Pretrial Services Act with the County of James City acting as the administrator and fiscal agent on behalf of the Participating Localities pursuant to § 9.1-183 of the Virginia Code.

BE IT FURTHER RESOLVED that the Colonial Community Criminal Justice Board (the “CCCJB”) is hereby established and the Participating Localities mutually agree to the following appointments to the CCCJB:

1. One representative from each Participating Locality;
2. Three Ninth Judicial Circuit judges, one of whom shall be drawn from a Juvenile and Domestic Relations Court, one of whom shall be drawn from a General District Court, and one of whom shall be drawn from a Circuit Court;
3. The Chief Magistrate of the Ninth Judicial Circuit;
4. One Commonwealth’s Attorney from one of the Participating Localities;
5. A public defender or an attorney experienced in the defense of criminal matters who is a licensed, active member of the Virginia State Bar and who regularly practices in the courts of the Participating Localities;
6. One sheriff from one of the Participating Localities. If no Sheriff is available, then the regional jail administrator responsible for the jail which serves the Participating Localities shall fill this appointment;
7. The chief law enforcement officer from one Participating Locality;
8. A Community Services Board Administrator from one Participating Locality; and
9. A representative of a local adult education program serving at least one Participating Locality.

BE IT FURTHER RESOLVED that this resolution supersedes and replaces all prior resolutions approved by the Participating Localities relating to the establishment of required services and the formation of the Colonial Community Criminal Justice Board.

BE IT FURTHER RESOLVED that this resolution is enacted in anticipation of the execution of a Governance Agreement between the Participating Localities setting forth in greater detail the administration of the Colonial Community Corrections program and the fiscal responsibilities of the Participating Localities, which Agreement the County Administrator is authorized to negotiate and execute.

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

Ms. Jones asked Mr. Goodson to chair the remainder of the meeting.

## **J. PUBLIC HEARINGS**

### **1. Case No. AFD-10-86-1-2011. Christenson’s Corner AFD – Newman Road Addition**

Mr. Jose Ribeiro, Senior Planner, stated that Mr. Mat Abbitt has applied on behalf of Abbitt Management, LLC to enroll two properties located at 7664 and 7680 Newman Road into the Christenson’s

Corner Agricultural and Forestal District (AFD). The acreage of each of the parcels is 410.7 and 156.8 acres respectively. The properties are mostly wooded, undeveloped, and located adjacent to properties already included in the Christenson's Corner AFD. At its October 12, 2011, meeting, the AFD Advisory Committee voted 6-0 to recommend approval of the application. At its November 2, 2011, meeting, the Planning Commission voted 6-0 to recommend approval of the application. Staff also recommends approval with conditions included in the ordinance.

Ms. Goodson opened the Public Hearing.

As no one wished to speak to the application, Mr. Goodson closed the Public Hearing,

Mr. Kennedy 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 Heights, Neighbors Drive, and Richmond Road Improvements

Ms. Ellen Cook, Senior Planner, stated that the County's Office of Housing and Community Development has applied to rezone 47.1 acres in the Forest Heights, Neighbors Drive, and Richmond Road Improvement Area from R-2, General Residential to MU, Mixed Use. Under the proposal, approximately 27.4 acres will be reconfigured through a combination of boundary line adjustments and subdivision to accommodate single-family detached residences. The Salvation Army is also located within the existing rezoning area and is proposed to contain new offices, community meeting space and gym, and other accessory uses associated with the Salvation Army's mission.

Ms. Cook stated that the project results in many significant benefits, including bringing nonconforming parcels into compliance with the Zoning Ordinance, many improvements to stormwater, road and utility infrastructure, and housing rehabilitation and construction.

Ms. Cook stated that there are three residences that don't meet the required 50 foot buffer from the public rights-of-way, and a 50 foot perimeter buffer in a mixed use district. The Planning Commission approved reductions of the buffers in these three cases as part of its recommendation in this case.

Ms. Cook stated that staff finds the proposal to be compatible with the 2009 Comprehensive Plan and recommends approval and acceptance of the voluntary proffers.

At its September 7, 2011, meeting, the Planning Commission recommended approval by a vote of 6-0.

Mr. Vaughn Poller, Director of the Office of Housing Community Development, provided historical background on the project and discussed that this project is the first phase in a two-phase project. He also stated that the County was able to get an agreement from all owners affected by the project in the project area. Mr. Poller further stated the benefits of the project: replaces unpaved roads, replaces substandard infrastructure, provides affordable housing, improves connectivity, improves traffic patterns, makes significant environmental improvements, is within the Primary Service Area (PSA), and is compatible with the Comprehensive Plan.

Mr. Goodson opened the Public Hearing.

1. Mr. Gary Moore, 158 Forest Heights Road, representing the Forest Heights neighborhood, stated that the whole neighborhood is in support of the rezoning application. He emphasized that the road improvements will make the neighborhood safer and easier for emergency response vehicles to access.

2. Ms. Shirley Baker, 116 Forest Heights Road, stated that she is giving up her property to make this project happen. She thanked the County for its help in improving the neighborhood.

3. Ms. Clarine Bouma, 143 Forest Heights Road, stated that she agreed with the previous speakers in support of the project.

Mr. Goodson recognized Mr. Jack Fraley representing the Planning Commission.

Mr. Goodson closed the Public Hearing.

Mr. Icenhour made a motion to approve the resolution. He thanked the citizens of the project area for their involvement in the project and staff for its effort in obtaining agreement of all affected property owners.

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

## **RESOLUTION**

### **CASE NO. Z-0001-2011. FOREST HEIGHTS, NEIGHBORS DRIVE,**

### **AND RICHMOND ROAD IMPROVEMENTS**

WHEREAS, in accordance with 15.2-2204 of the Code of Virginia, 1950, as amended, and Section 24-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified and a public hearing scheduled on Zoning Case Z-0001-2011, with Master Plan, for rezoning approximately 47.1 acres from R-2, General Residential, to MU, Mixed Use, with proffers applicable to the properties owned by the County and the Salvation Army; and

WHEREAS, the properties are located at the following James City County Real Estate Tax Map Nos. and addresses:

Tax Map ID	Address	Property Owner
3220100083	101 FOREST HEIGHTS RD	JAMES CITY COUNTY
3220100084	100 FOREST HEIGHTS RD	JAMES CITY COUNTY
3220100085A	174 FOREST HEIGHTS RD	JAMES CITY SERVICE
3220400001	112 FOREST HEIGHTS RD	STATEWIDE, INC
3220400002	113 FOREST HEIGHTS RD	MEEKINS, ELAINE
3220400003	115 FOREST HEIGHTS RD	JOHNSON, INDIA
3220400004	116 FOREST HEIGHTS RD	BAKER-GEORGE, SHIRLEY L
3220400005	120 FOREST HEIGHTS RD	GILLEY, GIL G
3220400006	119 FOREST HEIGHTS RD	JAMES CITY COUNTY

3220400007	125 FOREST HEIGHTS RD	ASHLOCK, LEROY
3220400008	124 FOREST HEIGHTS RD	TAYLOR, HAZEL & MORRIS E
3220400009	128 FOREST HEIGHTS RD	BROWN, PERNELL NELSON &
3220400010	127 FOREST HEIGHTS RD	JAMES CITY COUNTY
3220400011	129 FOREST HEIGHTS RD	STILL, AMY
3220400012	132 FOREST HEIGHTS RD	JOHNSON, EDITH MAE
3220400013	136 FOREST HEIGHTS RD	STONE, JOHN SAMUEL
3220400014	133 FOREST HEIGHTS RD	STILL, AMY
3220400015	137 FOREST HEIGHTS RD	ANDERSON, DORRIS
3220400016	138 FOREST HEIGHTS RD	HOUSING PARTNERSHIPS FUNDING GROUP
3220400017	142 FOREST HEIGHTS RD	MATCHETT, MICHAEL S & AMBER R
3220400018	141 FOREST HEIGHTS RD	BARTLETT, BETTY J
3220400019	145 FOREST HEIGHTS RD	BARTLETT, BETTY J
3220400020	146 FOREST HEIGHTS RD	VANDERBILT MORTGAGE
3220400022	149 FOREST HEIGHTS RD	BILLUPS, ALLEN J &
3220400023	153 FOREST HEIGHTS RD	BILLUPS, ALLEN &
3220400024	154 FOREST HEIGHTS RD	BILLUPS, ALLEN &
3220400025	158 FOREST HEIGHTS RD	MOORE, GARY C & GERALINE M
3220400026	161 FOREST HEIGHTS RD	JAMES CITY COUNTY
3220400027	165 FOREST HEIGHTS RD	ROBINS, JOHN T & ROBINS, JASON S
3220400028	162 FOREST HEIGHTS RD	MOORE, GARY C & GERALINE M
3220400029	166 FOREST HEIGHTS RD	ROBINS, JOHN T & ROBINS, JASON S
3220400030	169 FOREST HEIGHTS RD	ROBINS, JOHN T & ROBINS, JASON S
3220400031	173 FOREST HEIGHTS RD	GUTIERREZ, RUBEN ARROYO TRUSTEE
3220400032	170 FOREST HEIGHTS RD	VILLAGES AT WESTMINSTER HOMEOWNERS AS
3220100086	138 NEIGHBORS DRIVE	G GILLEY INVESTMENTS LLC
3220100087	139 NEIGHBORS DRIVE	MARTIN, EDWARD E
3220100088	104 NEIGHBORS DRIVE	BRABHAM, DENNIS J III & CHRISTINA
3220100090	101 NEIGHBORS DRIVE	WALLACE, LETTIE BELL EST
3220100116	140 NEIGHBORS DRIVE	WALLACE, LEVI JR & WALLACE LEVI Z II
3220500001	134 NEIGHBORS DRIVE	JAMES CITY COUNTY
3220500002	130 NEIGHBORS DRIVE	JAMES CITY COUNTY
3220500003	126 NEIGHBORS DRIVE	PRIOR, JANIE M
3220500004	122 NEIGHBORS DRIVE	DE LEON, VICTOR A & JACQUELINE B
3220500005	118 NEIGHBORS DRIVE	KNOX-GIVENS, YULONDA D & ROBINSON, R
3220500006	116 NEIGHBORS DRIVE	SMITH, JEFFREY D & LYND A
3220500007	135 NEIGHBORS DRIVE	G GILLEY INVESTMENTS LLC
3220500008	131 NEIGHBORS DRIVE	JAMES CITY COUNTY
3220500009	127 NEIGHBORS DRIVE	JAMES CITY COUNTY
3220500010	123 NEIGHBORS DRIVE	PEOPLES, KRISTOPHER T & KATHARINE L

3220500011	119 NEIGHBORS DRIVE	O'SHEA, KEVIN F II & LISA A
3220500012	115 NEIGHBORS DRIVE	WALLACE, LETTIE BELL EST
3220100076	6059 RICHMOND ROAD	MAGERAS, ANGELO TRUSTEE & MAGERAS, N
3220100077	6051 RICHMOND ROAD	BAKER, RUSSELL & MARY LIFE ESTATE
3220100078	6047 RICHMOND ROAD	TAYLOR, STANFORD &
3220100079	6043 RICHMOND ROAD	ROBINSON, EUNICE
3220100080	6039 RICHMOND ROAD	GRAY, MEL & SHANISE KOTINA
3220100081	6015 RICHMOND ROAD	SALVATION ARMY (THE)
3220100085	6001 RICHMOND ROAD	JAMES CITY COUNTY
3220100089	5981 RICHMOND ROAD	HERTZLER, DAVID L
3220100089	5981 RICHMOND ROAD	HERTZLER, DAVID L
3220100091	5941 RICHMOND ROAD	JAMES CITY COUNTY
3220100092	5943 RICHMOND ROAD	SMITH, ELSIE M
3220100093	5941 RICHMOND ROAD	SMITH, MARTHA LEE MAURICE
3220100094	5947 RICHMOND ROAD	SMITH, MARTHA LEE M
3220100095	5939 RICHMOND ROAD	TAYLOR, ELSIE LIFE RIGHT

WHEREAS, the Planning Commission of James City County, following its public hearing on September 7, 2011, recommended approval by a vote of 6-0; and

WHEREAS, the Board of Supervisors of James City County, Virginia, finds this use to be consistent with the 2009 Comprehensive Plan Land Use Map designation for this site.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, after a public hearing, does hereby approve Case No. Z-0001-2011 and accept the voluntary proffers.

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

Ms. Marion Paine, Planner for the Office of Housing and Community Development, stated that the County had purchased certain property for the Forest Heights Neighborhood Improvement Project. Board approval is required to sell this property, which will either become residential lots or used for infrastructure. Four lots will be sold to Habitat for Humanity. Proceeds from the sales will further the County's affordable housing efforts.

Mr. Goodson opened the Public Hearing.

As no one wished to speak to the application, Mr. Goodson closed the Public Hearing.

Mr. Icenhour 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**

### **DISPOSITION OF PROPERTY IN THE FOREST HEIGHTS NEIGHBORHOOD**

#### **IMPROVEMENT PROJECT AREA**

WHEREAS, on December 14, 2010, the Board of Supervisors of James City County, Virginia, authorized the Community Development Block Grant for the Forest Heights Neighborhood Improvement Project ("Project") and the acquisition of real property necessary to complete the Forest Heights Road and Neighbors Drive Concept Plan ("Concept Plan"); and

WHEREAS, pursuant to the above-described resolution, the County has purchased the properties known as James City County Tax Map Parcel Nos. 3220100083, 3220100084, 3220400006, 3220400010, 3220400026, 3220500001, 3220500002, 3220500008, 3220500009, 3220100085, and 3220100093 (the "Property"); and

WHEREAS, the Concept Plan includes development of residential lots to be used for single-family dwellings on the property; and

WHEREAS, the Board of Supervisors has considered and approved the Forest Heights Neighborhood Improvement Project Lot Sales Plan (the "Sales Plan"); and

WHEREAS, the Board of Supervisors held a public hearing on December 13, 2011, to receive public comment on the sale of all or portions of the property.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to sign on behalf of the County, any sale contract, development agreement, deed, and all other documents consistent with the Sales Plan to enable the County to develop and convey, in whole or in part, ownership of the property in the Forest Heights Neighborhood Improvement Project area.

#### 4. Case No. SUP 0010-2011. Wohlfarth Jolly Pond Road Family Subdivision

Mr. Jason Purse, Senior Planner, stated that Mr. Ed Carr has applied for a Special Use Permit (SUP) to allow a family subdivision resulting in a lot of less than three acres in size for family residential use. The lot is currently owned by Mr. Robert and Mrs. Murray Wohlfarth and is planned to be transferred to their daughter, Ms. Heidi Wohlfarth. The existing lot is seven acres; the proposed family subdivision would result in a new 1.8 acre lot and a remainder parent parcel of 5.2 acres.

Staff recommended approval of the SUP with conditions.

Mr. Goodson asked how long the family had owned the property.

Mr. Purse replied six years.

Mr. Goodson opened the Public Hearing.

As no one wished to speak to the application, Mr. Goodson closed the Public Hearing.

Mr. McGlennon made a motion to approve the resolution.

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

5. Case No. SUP 0008-2011. 2720 Chickahominy Road Manufactured Home

Mr. Jason Purse, Senior Planner, stated that Ms. Sandra Kimrey has applied for an SUP to allow for the placement of a manufactured home at 2720 Chickahominy Road. Manufactured homes not within the PSA in the R-8, Rural Residential District, require an SUP. An existing manufactured home (located in 1982) is located near the middle of the property and will be removed and replaced as part of this application. The proposed double-wide manufactured home would be roughly 28 feet by 44 feet.

Staff recommended approval with conditions.

At its November 2, 2011, meeting, the Planning Commission recommended approval by a vote of 6-0.

Mr. Goodson opened the Public Hearing.

As no one wished to speak to the application, Mr. Goodson closed the Public Hearing.

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**

**CASE NO. SUP-0008-2011. 2720 CHICKAHOMINY ROAD MANUFACTURED HOME**

WHEREAS, the Board of Supervisors of James City County has adopted by Ordinance specific land uses that shall be subjected to a Special Use Permit (SUP) process; and

WHEREAS, Ms. Sandra Kimrey has applied for an SUP to allow a manufactured home outside the Primary Service Area (PSA); and

WHEREAS, the proposed home shall be similar to the Oakwood brand VN28 series model manufactured home; and

WHEREAS, the property is located at 2720 Chickahominy Road on land zoned R-8, Rural Residential, and can be further identified as James City County Real Estate Tax Map/Parcel No. 2140100022; and

WHEREAS, the Planning Commission of James City County, following its public hearing on November 2, 2011, recommended approval of this application by a vote of 6-0; and

WHEREAS, the Board of Supervisors of James City County, Virginia, finds this use to be consistent with the 2009 Comprehensive Plan Land Use Map designation for this site.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, after a public hearing, does hereby approve the issuance of SUP No. 0008-2011 as described herein with the following conditions:

1. This permit shall be valid for a double-wide manufactured home Oakwood brand, series VN28 model (the "Manufactured Home"), as depicted on "Exterior Elevation Option 1," prepared by CMH Manufacturing and dated August 2, 2011, or a similar unit as determined by the Director of Planning.
2. The existing manufactured home shall be removed and a Certificate of Occupancy for the new Manufactured Home must be obtained within 24 months from the date of approval of this SUP or the permit shall become void.
3. The Manufactured Home shall meet the requirements of the Department of Housing and Urban Development Manufactured Home Construction and Safety Standards.
4. The Manufactured Home shall be placed so as to comply with all current setback and yard requirements in the R-8, Rural Residential Zoning District.
5. A single connection is permitted to the adjacent water main on Chickahominy Road with no larger than a ¾-inch water meter. Any lots created by a subdivision of the parent parcel will not be permitted to connect unless the PSA is extended to incorporate the parent parcel.
6. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

6. Case Nos. Z-0003-2011/MP-0002-2011. New Town Settler's Market (Section 9) Master Plan Amendment

Ms. Leanne Reidenbach, Senior Planner, stated that Mr. James Peters of AES Consulting Engineers has applied on behalf FCP Settler's Market, LLC to amend the master plan, proffers, and design guidelines for Case Nos. Z-0016-2005/MP-0015-2005, New Town Section 9 to reduce the maximum permitted residential density, separate the residential and commercial uses, and change the layout of the residential area of Section 9. The property is located at 4509 and 4520 Casey Boulevard, is zoned MU, Mixed Use, and designated Mixed Use on the Comprehensive Plan. The proposed master plan would allow up to 120 residential units and 350,000 square feet of commercial space. Ms. Reidenbach noted that some of the residential units would be affordable housing in accordance with previous proffers.

At its meeting on September 15, 2011, the New Town Design Review Board approved the master plan and design guidelines.

Staff recommended approval of the application.

At its meeting on October 5, 2011, the Planning Commission recommended approval by a vote of 7-0 and approved setback modifications for certain buildings Casey Boulevard, Settler's Market Boulevard, and Yield Street to be closer than 50 feet from the right-of-way. Since the Planning Commission meeting, the applicant has added Proffer No. 2 to clarify that the residential units will be incorporated into the existing New Town Residential Association rather than requiring them to join the New Town Commercial Association.

Mr. Goodson opened the Public Hearing.

Mr. Vernon M. Geddy, III, of Geddy, Harris, Franck, and Hickman, representing the applicant, reviewed the history of the project and highlighted the background and experience of the new owners.

Mr. Geddy emphasized that the residential units are reduced from a range of 215 to 278 to 120. He stated that the proposal is of high quality and is economically viable. It reduces impacts on the community compared to what is currently approved.

Mr. Goodson closed the Public Hearing.

Mr. Icenhour asked what changes would trigger a return to the Board.

Ms. Reidenbach stated that only a development that was not consistent with the master plan would require Board approval.

Mr. McGlennon asked if proffers were greater even with the reduction in the residential units.

Ms. Reidenbach replied that was correct.

Ms. Jones commented that she felt this proposal was an improvement and made a motion to approve the resolution. She thanked the applicant for their confidence in James City County.

Mr. Goodson concurred and stated that he was pleased this development was better than many other shopping centers in the region.

Mr. Kennedy stated that he was a little concerned about the reduction in residential units as the original concept relied on residential development to spur commercial development.

Mr. McGlennon stated that his disappointment with the proposal was the elimination of the mixed use buildings, but that he would still support the application.

Mr. Icenhour stated that he would support the application and thought citizens would like to see the transformation of the area from a parking lot. He expressed concern about road corridor in the area and the rising cost of road improvements.

Ms. Jones 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**

### **CASE NOS. Z-0003-2011/MP-0002-2011. NEW TOWN SETTLER'S MARKET (SECTION 9)**

#### **MASTER PLAN AMENDMENT**

WHEREAS, in accordance with §15.2-2204 of the Code of Virginia and Section 24-13 of the James City County Zoning Ordinance, a public hearing was advertised, adjacent property owners notified, and a hearing scheduled for Case Nos. MP-0002-2011/Z-0003-2011 for amending the master plan and proffers for approximately 9.3 acres from MU, Mixed Use, with proffers, to MU, Mixed Use with amended proffers; and

WHEREAS, the site can be further identified as Parcels (33-1C) and (33-2B) on James City County Real Estate Tax Map No. (38-4); and

WHEREAS, the New Town Design Review Board, following its meeting on September 15, 2011, approved the binding master plan and design guidelines; and

WHEREAS, the Planning Commission of James City County, following its public hearing on October 5, 2011, recommended approval of Case Nos. MP-0002-2011/Z-0003-2011, by a vote of 7 to 0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, after a public hearing, does hereby approve Case Nos. MP-0002-2011/Z-0003-2011 as described herein and accept the amended proffers.

7. Case Nos. Z-0003-2008/MP-0003-2008. The Candle Factory

Mr. Jose Ribeiro, Senior Planner, stated that Mr. Timothy Trant of Kaufman and Canoles, P.C. on behalf of Candle Development, LLC has applied to rezone approximately 64.45 acres from A-1, General Agricultural; M-1, Limited Business/Industrial; and MU, Mixed Use; to MU, Mixed Use with proffers. The properties subject to this rezoning are located at 551, 7567, and 7559 Richmond Road. The proposed development will allow the construction of 175 residential units, approximately 30,000 square feet of commercial space, and a 90,000 square foot assisted living facility with the capacity for 96 units.

Mr. Ribeiro noted two changes to the proffers. One was a change to allow proffers to be paid in a lump sum. The second change addressed the phasing of development so that the County would not be obligated to issue building permits for more than 87 dwelling units until a temporary or permanent certificate of occupancy has been issued for the assisted living facility.

On April 1, 2009, the Planning Commission recommended approval of this application by a vote of 4-3.

Staff recommended approval of the application with proffers.

Mr. Goodson opened the Public Hearing.

Mr. Trant provided background on the project and noted the level of coordination among neighbors on this proposal. He stated the timing of the assisted living facility has been a key question, and the applicant is now prepared to make a commitment on the timing of the assisted living facility. He further highlighted benefits of the project including that 1/3 of the residential units are affordable or workforce housing, positive fiscal impact, open space, and connectivity.

Mr. Charlie Martino, 4240 Birdella Drive, expressed support for the application, stating that it is a quality project that addresses community needs of affordable housing and elder care.

Ms. Deborah Kratter, 113 Longpoint, representing James City County Citizens Coalition (J4C), recommended that the Board deny the application. She stated that the project has a negative fiscal impact if the assisted living facility is not built and questioned whether affordable housing and the assisted living facility are economically viable given the current economy and real estate market.

Mr. Gary Massie, 8644 Merry Oaks Lane, urged the Board to approve the rezoning request. He stated that he is one of the owners of Norge Crossing across from the proposed development. He stated residential development is necessary for a vibrant commercial community. He stated that the Henderson family is local and has a history of quality and integrity.

Mr. David Todd, Rebkee Company, spoke in support of the application and stated that the project is a perfect combination of smart growth, sustainable development, and economic growth.

Mr. Jack Fraley, representing the Planning Commission, stated that the applicant incorporated certain elements into the proposal that are worth mentioning. He highlighted infiltration systems, state-of-the-art stormwater ponds with two forebays, open space design, and the inclusion of a variety of housing opportunities. He stated that he would have liked to have seen an area plan developed.

Mr. Michael Hipple, 112 Jolly Pond Road, representing Crosswalk Community Church, expressed the Church's support for the project. He stated that the applicant had worked extensively with the Church to address concerns.

Mr. Chris Henderson, 101 Keystone, spoke in favor of the project. He stated that the project was approved by the Planning Commission when he was a member of the Commission. He stated that there are many community improvements and that connectivity was one that had not been emphasized during earlier discussions. He also stated that affordable housing meets a community need.

Mr. Michael Hipple, 112 Jolly Pond Road, speaking on his own behalf, stated that the community needs more homegrown developers and builders.

Mr. Goodson closed the Public Hearing.

Mr. Icenhour asked for clarification about the Comprehensive Plan designation for the property.

Mr. Ribeiro replied that the designation changed with the 2009 Comprehensive Plan, and that the designation is now low density residential and mixed use.

Mr. McGlennon asked about the fiscal impact and questioned why the staff came to different conclusions than the applicant.

John McDonald, Manager of Financial and Management Services, stated that planned communities and adult care facilities generally have a positive financial impact.

Mr. McDonald said that the County generally assesses fiscal impact at build out. The County staff concluded fiscal impact is negative in this instance because of the prevalence of affordable housing, even with the assisted living facility.

Mr. McGlennon stated that the affordable housing in the proposal does not address affordable housing for lower incomes.

Mr. McDonald stated, in response to a question from Mr. Goodson, that the fiscal impact of the assisted living facility depends somewhat on the income levels of those who occupy the facility.

Dr. Don Messmer, Wessex Group and author of the fiscal impact study stated that he believes the fiscal impact will reach essentially a break-even point at buildout, and that there would then be small positive impacts thereafter. He stated that they did not consider the current housing market in their analysis.

Mr. Trant stated that the County's analysis of the fiscal impact study is at a specific point in time, at buildout, and does not necessarily consider the life of the project.

Mr. Goodson stated that the fiscal impact is dynamic, and that projects can affect other projects. This consideration is not part of fiscal impact studies.

Ms. Jones stated that the Board unanimously approved the Forest Heights rezoning earlier in the evening and that the project has a negative fiscal impact. She stated, however, that it is an investment in the community and has other positive impacts on the County. She said that the Candle Factory proposal is consistent with the Comprehensive Plan and Zoning Ordinance, and has the benefits of affordable housing. She stated that she would support the project and made a motion to approve the resolution.

Mr. McGlennon stated that he had respect for the applicant, but warned that should not be a motivating force for approving an application.

Mr. Icenhour stated that the bulk of the property is designated low density residential. He stated that the County does not have a good definition of mixed use. He also expressed concern that there is only one entrance to the development.

Mr. Kennedy said that he agreed with Mr. Fraley that this project should have been master planned. He stated that the Food Lion and CVS stores are doing very well and welcome additions to the community. He said the Candle Factory project improves connectivity and increases affordable housing. He said that he can be supportive of the project because of the changes to the application, specifically the phasing so that the assisted living facility is built earlier.

Mr. Goodson stated that this development is in the PSA where the County wants to direct development. This project is a balance development. Neighboring property owners are supportive and the fiscal impact is positive.

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

## **RESOLUTION**

### **CASE NOS. Z-0003-2008/MP-0003-2008. THE CANDLE FACTORY**

WHEREAS, in accordance with § 15.2-2204 of the Code of Virginia, 1950, as amended, and Section 24-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled on Zoning Case Nos. Z-0003-2008/MP-0003-2008; and

WHEREAS, Mr. Timothy Trent has applied to rezone properties located at 7551, 7567 and a portion of property located at 7559 Richmond Road and further identified as James City County Tax Map Nos. 2321100001D, 2321100001E, and 2321100001A, respectively (collectively, the "Properties") from A-1, General Agricultural District; M-1, Limited Business/Industrial District; and MU, Mixed Use District; to MU, Mixed Use, with proffers to allow the construction of a maximum of 175 residential units, approximately 30,000 square feet of commercial and office space, and a 90,000-square-foot assisted living facility; and

WHEREAS, the Properties are designated Low Density Residential and Mixed Use on the 2009 Comprehensive Plan Land Use Map; and

WHEREAS, on April 01, 2009, the Planning Commission recommended approval of the application by a vote of 4-3.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-003-2008/MP-0003-2008 described herein, and accepts the voluntary proffers.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the request to allow private streets as shown in the Master Plan for Case No. Z-0003-2008/MP-0003-2008.

8. Amendment to the Charter of James City County Chapter 2, Powers of County Request

Mr. Leo Rogers, County Attorney, stated that this resolution authorizes an amendment to the James City County Charter to allow the County to assess civil penalties, in amounts higher than currently permitted by State Code. This resolution is consistent with the Board's direction and the advice received by members of the County's legislative delegation. Staff recommended approval of the resolution.

Mr. Goodson opened the Public Hearing.

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

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**

**AMENDMENT TO THE JAMES CITY COUNTY CHARTER TO ALLOW THE ASSESSMENT**

**OF CIVIL PENALTIES FOR VIOLATIONS OF COUNTY CODE SECTION 10-4**

WHEREAS, the Board of Supervisors adopted the County's 2012 Legislative Program which, included in Item Nos. 1-4 seeking to amend Virginia Code to allow for increased civil penalties for owners of property upon which excessive trash and/or uncut grass is present; and

WHEREAS, County Code Section 10-4 provides that it is the duty of each owner, occupant and person in charge of any real property in the county to maintain such property at all times free from any accumulation of garbage, trash, litter, refuse or other waste matter, whether liquid or solid, which might endanger the health or safety of residents of the county or otherwise constitute a nuisance and to provide for the cutting on vacant developed or undeveloped property of grass, weeds and other foreign growth as often as may be necessary to prevent breeding and harboring places for insects, reptiles and rodents and to prevent other hazards to the health or safety of residents of the county or other nuisances; and

WHEREAS, civil penalties for a violation of Section 10-4 may not exceed \$50 for the first violation, or violations arising from the same set of operative facts, and may not exceed \$200 for subsequent violations not arising from the same set of operative facts within 12 months of the first violation; and

WHEREAS, the current amount of civil penalties assessed has not successfully deterred the continued violation of County Code Section 10-4 and an increase to such civil penalties would provide a benefit to the County by assisting to protect the health and safety of its residents; and

WHEREAS, the assessment of civil penalties for removal or disposal of trash and cutting of grass and weeds upon real property in an amount higher than \$50 for the first violation, or violations arising from the same set of operative facts, and \$200 for subsequent violations not arising from the same set of operative facts within 12 months of the first violation, would require an amendment to James City County's Charter by adding Section 2.5.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, having hereby conducted a public hearing on the issue, approves proceeding with a request to the General Assembly to grant an amendment to the James City County Charter to add a new Section 2.5 providing that in addition to the powers already held by the County to compel the removal or disposal of trash and the cutting of grass and weeds upon real property, the County may also assess civil penalties in the amount of \$200 for the first violation and up to \$500 for each subsequent violation.

9. Ordinance to Amend Chapter 2, Administration, by Adding Section 2-15.3, Bonuses for County Employees

Mr. Rogers stated that this ordinance amendment establishes the authority of the County Administrator to provide bonuses to County employees subject to the approval of the Board of Supervisors and appropriation of funds.

1. Mr. John Bookless, 3 Clarendon Court, said that he did not begrudge County employees a bonus. He specifically credited JCSA employees as helpful. He recommended, however, that the Board not forget where the revenue came from to fund the bonus. He said that the Board should take care of employees and citizens.

Mr. Goodson closed the Public Hearing.

Mr. McGlennon made a motion to approve the ordinance.

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

**K. BOARD CONSIDERATIONS**

1. Resolution Providing for the Authorization of a Bonus for Certain County Employees

Mr. Robert Middaugh, County Administrator, stated that this item was discussed at the last work session. He stated that the Board had committed to consideration of a bonus if funds were available at the end of FY 2011. Mr. Middaugh stated that surplus funds in the range of \$7 million to \$9 million are available.

Mr. Middaugh recommended a bonus rather than a permanent salary increase, and stated that lower wage earners will benefit most from the proposed bonus. Mr. Middaugh credited County employees for their excellent work and stated that he felt the investment was appropriate.

Mr. Kennedy stated that he believes it is premature to provide a bonus. He recounted a conversation with a business owner who has laid off 46 percent of his work force and the rest have taken pay decreases. He said he had paid \$38,000 in Business, Professional, and Occupational License (BPOL) taxes and had 38 employees. The business owner said that he would like to give his employees a \$1,000 bonus each if the County would refund his BPOL tax this year. Mr. Kennedy stated that he has been supportive of County employees and cited his advocacy for competitive public safety retirement benefits, the housing allowance, and the living wage. He stated, however, that he still believes it is premature to provide a bonus until at the least the Governor's budget is released.

Ms. Jones stated her tremendous appreciation for the job that County staff do. She said that she agreed, however, with Mr. Kennedy that it is too soon to expend these funds given budget uncertainties. She said that she would prefer to consider this proposal during the budget process.

Mr. Goodson said private businesses use bonuses to reward good work or a good year. He stated that the staff's job in bringing last year's budget under budget warranted a bonus. A bonus does not add to ongoing expenses.

Mr. McGlennon stated that the County has been slower than most other localities to address employee compensation. He stated that most citizens will see a lower tax bill because of declining assessments. Many employees are County citizens and the bonus will have a ripple effect throughout the County's economy.

Mr. Icenhour stated that he would support the resolution due to the work the staff did in bringing the budget in under budget.

Mr. McGlennon made a motion to approve Resolution A.

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

## **RESOLUTION (A)**

### **RESOLUTION PROVIDING FOR THE AUTHORIZATION OF A BONUS FOR**

#### **CERTAIN COUNTY EMPLOYEES**

WHEREAS, the Board of Supervisors recognizes that employees of the County are a critical resource in the provision of services to the community; and

WHEREAS, no adjustments in employee compensation have been made since October 2008 and the County is one of only three, out of 21, localities and public sector entities surveyed in the area that have not adjusted employee compensation in either 2011 or 2012; and

WHEREAS, financial savings in FY 2011 of \$1.5 million would provide sufficient funding for a one-time bonus in a flat dollar amount; and

WHEREAS, a one-time bonus in this calendar year will demonstrate the Board's appreciation for the work, dedication, and contributions of its employees to the community.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors authorizes the County Administrator to distribute a one-time bonus this calendar year, which will have no impact on base pay, to certain County employees who would normally have been eligible for performance increases, which means they (i) are employed by the County on December 1, 2011; (ii) have completed their initial introductory period by December 1, 2011; (iii) have attained a minimum rating of "*Meets Expectations*" on their FY 2012 performance evaluation; and (iv) are employed in full-time/part-time *Regular* or *Limited Term* County positions or full-time/part-time *Other* positions with the Commonwealth Attorney, Sheriff, or Colonial Community Corrections.

BE IT FURTHER RESOLVED that the one-time bonus will be in the amount of \$1,000 for full-time employees and \$500 for part-time employees.

BE IT FURTHER RESOLVED that the Board authorizes the following appropriation:

General Fund:

Fund Balance:	\$567,964
Personnel Contingency:	\$567,964

Social Services Fund:

Fund Balance	\$52,669
Administration	\$52,669

Community Development Fund:

Fund Balance	\$11,305
Personnel	\$11,305

Colonial Community Corrections Fund:

Fund Balance	\$14,535
Administration	\$14,535

2. Disclosure Policy

Mr. Kennedy asked that this item be tabled until the Board has a work session on the issue. The Board agreed by consensus.

**L. PUBLIC COMMENT**

1. Mr. Ed Oyer, 139 Indian Circle, said that if the County was going to address the spay/neuter issue, the County would have to deal with the feral side as well.

2. Mr. Jeff Ryer, 7154 Merrimac Trail, said that a previous speaker has said there had not been enough time for discussion on the issue of eliminating staggered terms. Mr. Ryer stated that there had been

discussion for six months. He also stated that a referendum was not held when staggered terms were originally implemented. He advocated "all at large" or "all at once."

3. Mr. Jack Fraley, 104 Thorp's Parish, said that he was not certain, while he was a Planning Commissioner, why he received two sets of fiscal impact studies. He stated that the process for fiscal impact studies should be defined.

4. Mr. Chris Henderson, 101 Keystone, thanked Mr. Goodson for his contributions to the County. He also recognized Mr. Fraley for his contributions to the County. He also mentioned Courthouse Commons is 97.5 percent leased and they are ready to begin Phase 2 of the project which is pre-leased.

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

Mr. Middaugh thanked the Board on behalf of employees for approval of the bonus.

He also distributed an update on the boat tax issue and said an official report should be available shortly after the first of the year.

He stated County offices are closed on December 23 and 26 and that the Board will hold a special meeting on December 20 to consider staggered terms.

#### **N. BOARD REQUESTS AND DIRECTIVES**

Mr. Kennedy asked for an update on the list of homes that have been given demolition orders and the homes that have been cited for trash and grass. He also thanked Mr. Goodson for his service.

Mr. McGlennon said that he hoped the committee looking at the boat tax will look at the issue broadly, and not just review the issue with the larger boats going out of dock on January 1, 2012. He said that the tax should be reviewed for all boats, and the County should not do anything that is less than revenue neutral.

Mr. Goodson thanked Ms. Jones for allowing him to chair his last meeting on the Board. He said that he enjoyed meeting and working with all of the people he has met.

Ms. Jones made a motion to approve the resolution recognizing Mr. Goodson for his years of service.

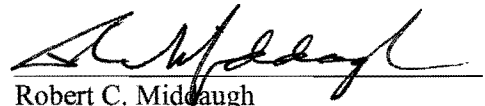
On a roll call vote, the vote was: AYE: Kennedy, McGlennon, Icenhour, Jones (4). NAY: (0). Abstain: Goodson (1).

Mr. Kennedy made a motion to appoint Mr. Goodson to the Thomas Nelson Community College Local Board.

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

#### **O. ADJOURNMENT to 7 p.m. on December 20, 2011.**

At 10:42 p.m., Mr. Goodson adjourned the Board until 7 p.m. on December 20, 2011.



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Robert C. Middaugh  
Clerk to the Board

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