

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 27TH DAY OF MARCH 2012, 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  
John J. McGlennon, Vice Chairman, Roberts District  
W. Wilford Kale, Jr., Jamestown District  
James G. Kennedy, Stonehouse District  
James O. Icenhour, Jr., Powhatan District

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

**C. MOMENT OF SILENCE**

**D. PLEDGE OF ALLEGIANCE** – Nicholas Rubino, a 6th grade student at Toano Middle School, led the Board and citizens in the Pledge of Allegiance.

**E. PRESENTATIONS**

Ms. Jones individually read and presented Resolutions of Appreciation to Mr. A. Joe Poole and Mr. Jack Fraley for their dedicated service to the citizens while serving on the Planning Commission. Ms. Jones thanked them for their service and wished them the best in their future endeavors.

**F. PUBLIC COMMENT**

1. Mr. David Mastbrook, 103 Hoylake, gave an invocation to the Board.
2. Mr. Keith Sadler, 9929 Mountain Berry Court, Toano, addressed the Board concerning his opposition to the common pages in the Comprehensive Plan and his opposition to the process of regionalism.
3. Mr. Ed Oyer, 139 Indian Circle, addressed the Board regarding declining home values and Route 60 traffic problems.
4. Mr. Joe Swanenburg, 3026 The Pointe Drive, addressed the Board concerning his opposition to the Comprehensive Plan.

5. Ms. Paige Hewlett, 516 Neck-O-Land Road, addressed the Board concerning her opposition and views on the development of 78 homes in Peleg's Point. She stated that the area is in a floodplain and is situated on a dead-end road. She stated that there is only one way in and one way out. She stated that there are 400 families presently living on Neck-O-Land Road and the increased development will add another 150 vehicles. She urged the Board to consider purchasing the land to be used as a park.

#### **G. BOARD REQUESTS AND DIRECTIVES**

Mr. McGlennon reported that he attended a meeting on March 26, 2012, sponsored by Dominion Virginia Power to discuss a proposed route of a 500-KV line. He stated that the meeting was well attended. He stated that there were many issues raised at the meeting, with one of those issues being to put the wires under the water rather than building towers across the river.

Ms. Jones questioned the next phase in this process.

Mr. Middaugh responded that Dominion Virginia Power is in the process of organizing its application to send to the State Corporation Commission.

Mr. Kennedy stated that at the Board's March 13, 2012, meeting, a vote was made on a resolution for a grant application for Neighbors Drive. He stated that this issue concerned him. He stated that he recently toured the area and did research regarding the properties. He stated that his research indicated that most of the homes on Neighbors Drive were built from 2003 to 2008. He stated that those homeowners were aware that this was a gravel and dirt road. He stated that the lots are inside the Primary Service Area (PSA) and are not paved. He stated that there were waivers because the area was pre-plotted. He expressed concern about paving a road at taxpayers' expense while three or four of the homes, owned by one individual, are used for investment purposes. He also expressed concern about the values of the lots. He stated that some lots are twice the size of others and are valued the same. He expressed concern about the lots that were purchased by James City County in comparison to the valuations in the latest reassessment.

Mr. Kennedy spoke about certain homes and properties in Norge that have overgrown weeds and bushes. He stated that he has received concerned calls from County citizens.

#### **H. CONSENT CALENDAR**

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

On a roll call vote, the vote was: AYE: McGlennon, Icenhour, Kale, Kennedy, Jones (5). NAY: (0), with the exception of the minutes, Mr. Kale abstained.

1. Minutes –
  - a. March 13, 2012, Regular Meeting

2. Land and Water Use Conservation Fund Grant - \$150,000

**RESOLUTION**

**LAND AND WATER CONSERVATION FUND GRANT - \$150,000**

WHEREAS, funds are needed for several projects at Jamestown Beach to include restoration of a beach area, upgrades to parking and the entrance road, and installation of restrooms; and

WHEREAS, the Department of Conservation and Recreation may fund a park development project in James City County through the Land and Water Conservation Fund.

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

1. Any assistance received will be used for the specified projects at Jamestown Beach;
2. Match funding for the project will be available if the grant is approved;
3. Requests for payment will be made on a reimbursement basis in the format required;
4. The developed property will be placed in use and be retained in perpetuity as a public outdoor recreation area in accordance with the provisions and requirements of the Land and Water Conservation Fund Act of 1965, as amended;
5. No non-recreational uses will occur on the property without undergoing a conversion of use process and obtaining approval from the Department of Conservation and Recreation and the U.S. Department of the Interior/National Park Service;
6. Development will be in compliance with the National Environmental Policy Act, Endangered Species Act, Historic Preservation Act, and all other applicable State and Federal laws; and
7. Appropriate public comment opportunities were provided on this project through the Shaping Our Shores Master Plan process as required for approval.

BE IT FURTHER RESOLVED that the Board hereby supports and authorizes application for the Land and Water Conservation Fund Grant for Jamestown Beach.

3. Establishment of a Part-Time Regular Animal Control Officer Position

**RESOLUTION**

**ESTABLISHMENT OF A PART-TIME REGULAR ANIMAL CONTROL OFFICER POSITION**

WHEREAS, the Police Department's Animal Control Unit serves and protects the community by enforcing animal control laws within James City County and the City of Williamsburg; and

WHEREAS, it has been difficult to attract and retain qualified applicants for an existing on-call Animal Control Officer position that has been vacant since January 2011; and

WHEREAS, a part-time regular position would better assist the two full-time officers with regular and on-call workload; and

WHEREAS, funds are currently available in the Animal Control Unit's FY 12 budget to fund a part-time regular position for the remainder of this fiscal year.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby establishes one part-time regular (1,040 hours/year) Animal Control Officer position effective April 1, 2012.

4. Appointment to Fill a Vacancy on the James City Service Authority Board of Directors

**RESOLUTION**

**APPOINTMENT TO FILL A VACANCY ON THE JAMES CITY SERVICE AUTHORITY**

**BOARD OF DIRECTORS**

WHEREAS, there exists a vacancy on the James City Service Authority (JCSA) Board of Directors; and

WHEREAS, pursuant to §3.2 of the Charter of James City County and §24.2-228 of the *Code of Virginia*, on March 20, 2012, the Judges of the Ninth Judicial Circuit appointed Mr. W. Wilford Kale, Jr., to serve as the representative for the Jamestown District on the Board of Supervisors; and

WHEREAS, pursuant to §15.2-5113 of the *Code of Virginia*, the Board of Supervisors shall appoint a successor to fill a vacancy on the James City Service Authority Board of Directors.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby appoints Mr. W. Wilford Kale, Jr., as a member of the James City Service Authority Board of Directors and to serve in such capacity as long as he is a member of the James City County Board of Supervisors.

5. Resolutions of Appreciation – Mr. Jack Fraley and Mr. A. Joe Poole

**RESOLUTION OF APPRECIATION**

**MR. JACK FRALEY**

WHEREAS, Mr. Jack Fraley has served the citizens of James City County as a member of its Planning Commission from January 2004 to January 2012; and

WHEREAS, Mr. Fraley has served on the Development Review and Policy Committees; and

WHEREAS, Mr. Fraley has also served as the Chairman of the 2007 and 2010 Policy Committee; and

WHEREAS, Mr. Fraley has also served as the Vice-Chairman of the 2005 Planning Commission; and

WHEREAS, Mr. Fraley has also served as the Chairman of the 2006, 2008, and 2011 Planning Commission; and

WHEREAS, Mr. Fraley also served on James City County's Steering Committee for the 2009 Comprehensive Plan.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby extend its appreciation for dedicated service to the citizens of the County to Mr. Jack Fraley.

BE IT FURTHER RESOLVED that the Board of Supervisors wishes to express its best wishes to Mr. Fraley in his future endeavors.

### **RESOLUTION OF APPRECIATION**

#### **MR. A. JOE POOLE, III**

WHEREAS, Mr. A. Joe Poole, III, has served the citizens of James City County as a member of its Planning Commission from January 1996 to January 2005 and from January 2008 to January 2012; and

WHEREAS, during his second term, Mr. Poole has served on the Development Review Committee; and

WHEREAS, Mr. Poole has also served as the Chairman of the 2009 and 2011 Development Review Committee; and

WHEREAS, Mr. Poole also served on James City County's Steering Committee for the 2009 Comprehensive Plan.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby extend its appreciation for dedicated service to the citizens of the County to Mr. A. Joe Poole, III.

BE IT FURTHER RESOLVED that the Board of Supervisors wishes to express its best wishes to Mr. Poole in his future endeavors.

#### **I. PUBLIC HEARINGS**

1. **Acquisition of Sole Ownership by James City County and Conveyance of an Easement to the City of Williamsburg Over the Real Property Commonly Known as 5301 Longhill Road**

Mr. Middaugh provided history to the Board of the conveyance of this property that currently houses the community center. He stated that over the past couple of years there have been issues associated with revenues that have derived from a cell tower on the site. Mr. Middaugh stated that in order to clarify that matter and anything else relative to the property going forward, the County has tried to put together an agreement that will be fair to both the City of Williamsburg and James City County. He stated that the City currently owes the County approximately \$200,000 for expenditures made over the years for school property acquisitions. The County is suggesting waiving the amount owed. He stated that the return is substantial with regard to the balance sheet value. He stated that this resolution offers protection on the shared border to the City. There is an agreed-upon 50-foot no build zone. The next 100 feet would be restricted to any construction, other than Parks and Recreation in nature and would have to be reviewed with the City.

He stated that this resolution would clarify that James City County solely owns the property and the County would no longer have to seek approval from the City to make any changes to the building or property, unless it is in the narrow easement area.

Mr. Kennedy questioned if there were any terms for capital investment made by the City and County under the original contract.

Mr. Rogers responded that under the 1985 contract, the City had a set investment and the County had a set investment in the building.

Mr. Kennedy questioned if the investment was ongoing.

Mr. Rogers responded no.

Mr. Kennedy questioned if there were any shared maintenance agreement.

Mr. Rogers stated that any maintenance, inside and/or outside, was done by the County.

Mr. Kennedy questioned the amount of revenue that the County is receiving from the cell tower on the property and questioned how much the City would be entitled to.

Mr. Middaugh responded that the amount of revenue received is \$30,000 per year.

Mr. Rogers responded that the City would have an ability to make a claim for half of the amount of the rental proceeds since they own half the property.

Mr. Kennedy questioned if permission was received from the City in order to erect the cell tower.

Mr. Rogers responded yes.

Mr. Kennedy expressed his concerns for fairness to the citizens of James City County.

Mr. Icenhour questioned if there would be any adverse impact on the relationship with the City going forward.

Mr. Middaugh responded that over the years a good working relationship has been developed with the City in terms of recreation programming. He stated that both City and County residents have benefitted from this relationship. He stated that this agreement will have no impact on the relationship.

Ms. Jones opened the Public Hearing.

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

Mr. McGlennon made a motion to approve the resolution.

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

**RESOLUTION**

**ACQUISITION OF SOLE OWNERSHIP BY JAMES CITY COUNTY AND CONVEYANCE OF**

**AN EASEMENT TO THE CITY OF WILLIAMSBURG OVER THE REAL PROPERTY**

**COMMONLY KNOWN AS 5301 LONGHILL ROAD**

WHEREAS, the 21.31 acres of land on which the James City/Williamsburg Community Center is located commonly known as 5301 Longhill Road (the "Real Property") was jointly conveyed to the City of Williamsburg and James City County by the Commonwealth of Virginia by deed dated February, 26, 1985; and

WHEREAS, the City of Williamsburg currently owes James City County \$216,674 as reimbursement for the City's share of the acquisition of real property and construction costs for Warhill High School, Hornsby Middle School, and J.B. Blayton Elementary School; and

WHEREAS, the City of Williamsburg has agreed to transfer its joint interest in the Real Property in exchange for James City County waiving any claim to the aforesaid reimbursement of \$216,674; and

WHEREAS, James City County desires to have sole ownership of the Real Property, subject to an easement bordering the City of Williamsburg, in exchange for foregoing payment of the \$216,674 by the City of Williamsburg.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes and directs the County Administrator to execute a deed with the City of Williamsburg whereby James City County will receive sole ownership to the Real Property, subject to limited easements over a portion of land border the City of Williamsburg.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, hereby waives its claim to reimbursement of \$216,674 from the City of Williamsburg for a portion of the costs of acquiring and constructing Warhill High School, Hornsby Middle School, and J.B. Blayton Elementary School.

2. Conveyance of Utility Easement to Verizon Virginia, Inc.

Mr. Tom Pennington, Director of Information Resource Management, requested the Board grant conveyance of an easement to Verizon Virginia, Inc. in order for Verizon to provide wireless service to the citizens, but also to provide wired alarm and data services to the County. Mr. Pennington indicated that there is no cost to the County for the conveyance of the easement.

Ms. Jones opened the Public Hearing.

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

Mr. Icenhour made a motion to approve the resolution.

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

**RESOLUTION**

**CONVEYANCE OF UTILITY EASEMENT TO VERIZON VIRGINIA, INC.**

WHEREAS, James City County owns property commonly known as 101 Mounts Bay Road and further identified on the James City County Real Estate Tax Map Parcel No. 5010100009 (the "Property"); and

WHEREAS, Verizon Virginia, Inc. ("Verizon") has requested that the County convey a utility easement across the Property consisting of a five-foot-wide easement with a two-inch innerduct containing 48-strand fiber; and

WHEREAS, after holding a public hearing, the Board of Supervisors is of the opinion that it is in the best interests of the County and its citizens to convey the easement necessary for Verizon to obtain the easement for the innerduct with fiber.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to execute the appropriate documents to convey the easement to Verizon Virginia, Inc.

3. **Ordinance to Amend Chapter 2, Administration, Section 2-8, Meetings**

Mr. Rogers addressed the Board regarding the Ordinance to Amend Chapter 2. He stated that the ordinance has been on the books for about 30 years and it identifies the location of the County Board meetings. He stated that is done at the annual Board meeting and put on the calendar. He stated that it is not a necessary Code provision.

Ms. Jones opened the Public Hearing.

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

Mr. Kale made a motion to approve the ordinance.

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

**J. BOARD CONSIDERATION**

1. **Grant Award – Port Security Grant Program (PSGP) – \$350,000**

Mr. Emmett Harmon, Chief of Police, addressed the Board regarding a grant opportunity from the United States Coast Guard Port Security Grant Program (PSGP) which would allow the County to purchase a state-of-the-art 25-foot Secured All-Around Floatation Equipment (SAFE) boat. Chief Harmon introduced Sergeant William McMichael to talk about the advantages of the SAFE boat.

Sergeant McMichael presented the Board with a list of advantages and benefits of the SAFE Boat.

Mr. Kale questioned if the boat could be used in severe weather conditions.

Sergeant McMichael responded yes.



Mr. Kale questioned if the boat would be used to aid the Virginia Marine Police.

Sergeant McMichael responded yes.

Chief Harmon mentioned that the Volunteer Fire Department requested the old boat, which would allow them to get out to the river.

Mr. Icenhour made a motion to approve the resolution.

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

**RESOLUTION**

**GRANT AWARD – PORT SECURITY GRANT PROGRAM (PSGP) - \$350,000**

WHEREAS, the James City County Police Department has been awarded Port Security Grant Program (PSGP) funding for \$350,000 (\$262,500 VDEM; \$87,500 local match); and

WHEREAS, the matching funds are available in the County’s Grant Match account; and

WHEREAS, the funds are to be used to purchase a Secured All-around Flotation Equipment (SAFE) Boat; and

WHEREAS, the SAFE Boat is necessary for effective and safe maritime patrol by the Department’s Marine Patrol Unit and offers further support of fire suppression in the County’s waterways.

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:

Revenues:

PSGP – SAFE Boat (FY 09 Grant Program)	\$262,500
County’s Grant Match Account	<u>87,500</u>
Total:	<u>\$350,000</u>

Expenditure:

PSGP – SAFE Boat (FY 09 Grant Program)	<u>\$350,000</u>
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**K. PUBLIC COMMENT - None**

**L. REPORT OF THE COUNTY ADMINISTRATOR**

Mr. Middaugh reported that the County was successful at the March 14, 2012, Commonwealth Transportation Board to have a small section of Jolly Pond Road transferred to County ownership and County operational responsibility. He stated that the County is making preparations to get the road opened.

**M. BOARD REQUESTS AND DIRECTIVES - None**

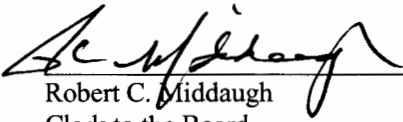
**N. CLOSED SESSION - None**

**O. ADJOURNMENT**

Mr. McGlennon made a motion to adjourn the meeting until April 10, 2012, at 7 p.m.

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

At 7:50 p.m., Ms. Jones adjourned the Board until April 10, 2012, at 7 p.m.

  
Robert C. Middaugh  
Clerk to the Board

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