

**AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 12TH DAY OF JUNE 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** – Jalen Morris, a 5th grade student at James River Elementary School, led the Board and citizens in the Pledge of Allegiance.

**E. PRESENTATIONS**

1. 2012 Historical Preservation Award

Mr. Lafayette Jones, Chairman of the Historical Commission, presented a 2012 Historical Preservation Award to Mr. John Labanish for his initiation of the Norge Train Depot relocation project and to members of the Friends of Green Spring for their educational efforts to increase knowledge and awareness of the Historic Green Spring Plantation and its builder Governor William Berkeley. Mr. Jones noted that Mr. Labanish and the Friends of Green Spring both worked diligently to preserve and promote the local history of James City County.

2. Library Presentation

Mr. John Moorman, Director of the Williamsburg Regional Library, introduced two members of the Library Board of Trustees, Ms. Sara Hoagland and Ms. Lynda Byrd-Poller. Mr. Moorman provided the Board with an update on the services provided by the Williamsburg Regional Library. Mr. Moorman provided a history of the Library from its founding of 50 volumes in 1909 in the front hall of the historic Saint George Tucker House to present. Mr. Moorman advised the Board that the Williamsburg Library is 40,000 square feet and houses 180,000 volumes. He stated that the James City County Library is 35,000 square feet and houses 150,000 volumes. Mr. Moorman spoke about the Library's website and stated that it provides user friendly electronic access to programs and services offered by the Library. He stated that the Library has 60 computer

terminals and offers internet access to its members. Mr. Moorman advised the Board that the Williamsburg Library offers gallery space to local artists, sculptors, and photographers. He stated that the Library has a 267-seat auditorium that is used for a variety of reasons such as concerts and author visits. He stated that the Library serves as a community center and provides public room space where individuals can discuss ideas and concerns. Mr. Moorman spoke about the Library's Outreach Division that provides services to those who are unable to visit the Library. He stated that the Division provides monthly visits to 21 retirement and assisted living centers in the community. He stated that the Division also provides 14 weekly community stops and monthly service to 30 preschools and day-care centers. Mr. Moorman thanked the Board for its financial support which enables the Library to provide excellent service to the community.

Mr. McGlennon thanked Mr. Moorman, the Library Board, and the Library staff for continued excellent service that they provide to the community.

Ms. Jones thanked Mr. Moorman for the presentation.

#### **F. PUBLIC COMMENTS**

1. Mr. John Pottle, 4233 Teakwood Drive, Williamsburg, gave an invocation to the Board.
2. Ms. Sue Sadler, 9929 Mountain Berry Court, Toano, spoke about Robert's Rules of Order with respect to proper protocol when members of the assembly address the Board.
3. Mr. Joseph Swanenburg, 3026 The Point Drive, Lanexa, expressed concern about security and public safety at Board meetings. Mr. Swanenburg also talked about United Nations Agenda 21.
4. Mr. Ken Kievit, 3150 Cider House Road, Toano, addressed the Board regarding Richardson Mill Pond Dam. He stated that the dam has a hole. He stated that he has contacted the State Department of Conservation and Recreation and learned that there were plans to have the dam rehabilitated in 2007. Mr. Kievit requested that the Board contact the property owner and advise the owner to repair the hole in the dam.
5. Mr. Chris Henderson, 101 Keystone, Williamsburg, addressed the Board regarding a parking problem at the James City County Recreation Center on election days. Mr. Henderson stated that it is an inconvenience for voters to enter and exit the voting area. Mr. Henderson requested that the Board of Supervisors consider closing the Recreation Center on election days so that the voters can utilize the entire parking lot. Mr. Henderson also expressed to the Board his desire for having security at public meetings. He stated an officer's presence promotes decorum and peace. He encouraged the Board to consider having a uniformed police officer at its meetings.
6. Mr. Ed Oyer, 139 Indian Circle, Williamsburg, addressed the Board concerning traffic delays on Route 60. Mr. Oyer also commented on the Library presentation and stated that he feels the Library is a valuable resource.

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

Mr. Kale requested County staff to look into Mr. Henderson's request to close the James City County Recreation Center on election days.

Mr. McGlennon reported that he attended the Memorial Day services at Williamsburg Memorial Park. He stated that the services were excellent and well attended. Mr. McGlennon stated that he had the opportunity to visit Williamsburg Landing. He stated that Williamsburg Landing received a loan from the County's energy efficiency conservation block grant revolving loan fund which has allowed them to replace all street lighting with LED lighting. Mr. McGlennon stated that Williamsburg Landing will be able to repay the loan in three years with the savings they will realize from the energy efficient LED lights.

Mr. Icenhour presented Mr. Middaugh with petitions dealing with the Virginia Department of Transportation (VDOT) speed limit issue from residents of Seasons Trace. Mr. Icenhour reported that he attended a business appreciation event at the Colonial Williamsburg Visitor's Center. He stated that the event was very impressive. He informed the Board that on May 31, 2012, he attended a meeting at Windsor Meade to hear a presentation regarding New Town Section 12. He stated that the meeting was interesting and informative. He stated that on June 5, 2012, he attended the grand opening of the Williamsburg Landing Cove Café. He stated that on June 7, 2012, he and Chairman Jones attended the General Education Diploma (GED) graduation ceremony. He stated that it was an impressive ceremony. He also mentioned that on June 8, 2012, he attended the Virginia Association of Counties (VACo) Region II meeting in King and Queen County. Mr. Icenhour advised County staff that he received a citizen inquiry regarding the timing of the traffic light on Route 5, heading toward the fire station. He stated that sometimes people sit through two to three cycles at the light before they can make a left turn.

Mr. Kennedy stated that he had the task of relocating a business in the County and wanted to express his thanks and appreciation to staff for a job well done for making the relocation a pleasant experience. Mr. Kennedy requested that the Board consider forming a Landscaping Committee. He stated that he has talked to several landscapers who have looked at recent landscaped projects at the Pottery and other locations. He stated that the landscapers stated that the businesses were overplanting. He asked the County to consider utilizing the professional experiences of landscapers to assist office staff.

Ms. Jones stated that it was an honor to attend the GED graduation ceremony. She stated that the ceremony was very inspiring and she congratulated all of the graduates. Ms. Jones stated that on June 7, 2012, she and the County Administrator attended Virginia's Golden Crescent Summit meeting in Henrico County. She stated that it was a gathering of Mayors and Chairs from 56 communities. She stated that the purpose of the meeting was to get together, as one voice, to discuss the transportation infrastructure needs with the Governor and General Assembly. She stated that it was a very positive meeting.

Mr. Middaugh stated that the materials distributed at the Golden Crescent Summit meeting were prepared by the Hampton Roads Planning District Commission (PDC). He stated that he will make sure that Board members get a copy of the material.

Ms. Jones stated that the information will also be made available on the County's website.

## **H. CONSENT CALENDAR**

Mr. McGlennon noted that the Board received amended regular meeting minutes for the May 22, 2012, meeting. 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).

1. Minutes –
  - a. May 22, 2012, Work Session
  - b. May 22, 2012, Regular Meeting

2. Resolution of the Board of Supervisors of James City County, Virginia Declaring Its Intention to Reimburse Itself from the Proceeds of One or More Financings for Certain Costs of Capital Improvements

**RESOLUTION**

**RESOLUTION OF THE BOARD OF SUPERVISORS OF JAMES CITY COUNTY, VIRGINIA**

**DECLARING ITS INTENTION TO REIMBURSE ITSELF**

**FROM THE PROCEEDS OF ONE OR MORE FINANCINGS**

**FOR CERTAIN COSTS OF CAPITAL IMPROVEMENTS**

WHEREAS, James City County, Virginia (the "County") has determined that it may be necessary or desirable to advance money to pay the costs of certain capital improvements for public facility improvements, identified as the "Project" and adopted as part of the Capital Budget for the fiscal year ending June 30, 2013; and

WHEREAS, the Project includes the James River Elementary School Heating, Ventilation, and Air Conditioning (HVAC) system replacement, the Lafayette High School HVAC system replacement, the Toano Middle School refurbishment and HVAC system and roof replacements, and a replacement for Fire Station 1 in Toano.

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

1. The Board of Supervisors adopts this declaration of official intent under Treasury Regulations Section 1.150-2.
2. The Board of Supervisors reasonably expects to reimburse advances made or to be made by the County to pay the costs of the Project from the proceeds of one or more financings. The maximum amount of financing expected to be issued for the Project is \$20 million.
3. This resolution shall take effect immediately upon its adoption.

3. Colonial Community Corrections (CCC) Budget Adjustment - \$90,000

**RESOLUTION**

**COLONIAL COMMUNITY CORRECTIONS (CCC)**

**BUDGET ADJUSTMENT - \$90,000**

WHEREAS, the Board of Supervisors of James City County, Virginia, is the fiscal agent for Colonial Community Corrections (CCC) and approves both budgets and position requests for CCC; and

WHEREAS, CCC has entered into an agreement with the National Institute of Corrections (NIC) to reimburse the salary and fringe benefit costs of Ms. Katie Green, Program Director, for two years so that she might work with NIC on community correction programs; and

WHEREAS, CCC has requested a two-year limited-term position, funded from the monies reimbursed by the NIC, would allow the work to continue in Ms. Green's absence - at no additional cost to the County or the other locality partners in CCC; and

WHEREAS, a budget amendment of \$90,000 for both FY 2013 and FY 2014, the appropriation of the funds in FY 2013 and the creation of a limited-term position for two years (FY 2013 and FY 2014) need to be approved by the Board of Supervisors for CCC to execute this agreement.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby amends the adopted budget of CCC as follows and appropriates the funds for the fiscal year ending June 30, 2013;

<u>FY 2013</u>	Revenues – National Institute of Corrections	+\$ 90,000
	Expenditures – Personnel Services	+\$ 90,000
<u>FY2014</u>	Revenues – National Institute of Corrections	+\$ 90,000
	Expenditures – Personnel Services	+\$ 90,000

BE IT FURTHER RESOLVED that the Board of Supervisors authorizes a two-year limited-term position for the period beginning July 1, 2012, to act as the CCC Program Director.

**I. PUBLIC HEARINGS**

1. Expansion of James City County Enterprise Zone

Mr. Telly Tucker, Assistant Director of Economic Development, stated that the enterprise zone program is a partnership between the State and local government that stimulates job creation and private investment within designated areas throughout the State. Mr. Tucker informed the Board that James City County received its designation in 1996. He stated that as part of this designation, the County is allowed a total of 3,840 acres County-wide, consisting of no more than three non-contiguous areas. He stated that additionally an enterprise zone locality can reallocate 15 percent of its existing acreage per year. He stated that in order to maximize the potential benefit County-wide, staff created a three- to five-year amendment plan which would encourage job creation and private investment within other areas of the County. He stated that in 2011, Year One of the plan, the Board of Supervisors approved an amendment to remove 518 acres of Resource Protection Area (RPA) and wetlands in the southern portion of the County and reallocate that acreage, along with 384 acres previously unallocated which allowed the County to add the Busch Corporate Center area, portions of Route 60 corridor, Hankins and Jacobson Industrial Parks, and a portion of the Stonehouse Commerce Park area. He stated that staff is requesting authorization to make application to the State to continue the multi-year reallocation plan and remove enterprise zone designations from 537 additional acres of existing zone characterized by RPA, wetlands, and public lands, and re-designate 533 acres of industrial and commercial lands to include the remainder of Stonehouse Commerce Park and additional acreage along both side of the State Route 60 corridor, from the Stonehouse Commerce Park approximately 1.3 miles toward the intersection of State Route 60 and Croaker Road. He stated that staff is also requesting authorization to make application to the State to amend the local incentives within the James City County enterprise zone by reducing the capital investment threshold requirement for local incentives from \$1 million to \$500,000 and to add expedited review, fast-track permitting for all projects that meet the capital investment qualifications criteria in the enterprise zone. He stated that the proposed incentive changes are designed to provide enterprise zone incentives for smaller businesses and technology based businesses that make significant capital investment within the enterprise zone, triggering an increase in taxes paid to the County. He stated that the proposal was presented to the Economic Development Authority (EDA) on May 17, 2012. He stated that the proposal received EDA support. Mr. Tucker advised the Board that he would answer any questions that it may have regarding the proposed changes to the enterprise zone.

Mr. McGlennon questioned if the Economic Development Office ever determined the employment impact as a result of the enterprise zones.

Mr. Tucker responded that in 1984 when the program was created, it required that companies hire either people who lived in the enterprise zone or people who met the low to moderate income requirement. He stated that in 2005 the General Assembly completely overhauled the program due to the fact that the program's intent to encourage those hiring decisions within those areas had insignificant results. He stated that the State did away with the requirement that stated businesses have to hire people who live in the zone. He stated that it serves very little purpose to have residential areas be part of an enterprise zone as there are currently no incentives in place for residential property.

Mr. McGlennon questioned if the program had any type of priority in improving the employment situation for individuals who are unemployed or under-employed.

Mr. Tucker stated that this priority is part of the program. He stated that the requirement is that a company must hire at least four new full-time positions. He stated that the position must pay at least \$12.69 per hour and the employer must offer to pay at least 50 percent of the employee's health insurance.

Ms. Jones opened the Public Hearing.

1. Mr. William H. Beck, 7988 Richmond Road, Toano, addressed Mr. Kennedy and stated that he did not know anything about the enterprise zone until the morning of June 12, 2012. He stated that he read 533 acres were going to be taken out of the County and questioned how much of the acreage was in Stonehouse.

Ms. Jones advised Mr. Beck that during the public comment section that there is not dialogue with the Board.

Mr. Beck questioned if he could ask his supervisor for an answer.

Ms. Jones advised Mr. Beck no, not directly.

2. Mr. Ed Oyer, 139 Indian Circle, Williamsburg, questioned if a business located in the enterprise zone could chose not to participate in the incentives offered of the enterprise zone.

Ms. Jones advised Mr. Oyer that his question would be answered by Mr. Tucker after she closed the Public Hearing.

3. Mr. Dwight Wolf, 1113 Patrick Lane, Newport News, advised the Board that he owns land zoned as heavy industrial in the enterprise zone area. Mr. Wolf expressed concern regarding the wetlands delineation. He stated that roads will be built crossing wetlands areas and that the County should not eliminate the wetlands from the enterprise zone.

Ms. Jones closed the Public Hearing.

Mr. Tucker responded to comments made during the Public Hearing. He stated that enterprise zone program no longer requires any business within the enterprise zone to hire residents who live in the enterprise zone. He stated that the requirement was eliminated in 2005 when the program became a cash grant program as opposed to a tax credit program. In regard to the RPA meets and bounds, Mr. Tucker stated that in his experience, the Department of Housing and Community Development (DHCD) is willing to work with any business even if a portion of their property is not included in the enterprise zone. He stated that DHCD

protocol is to look at where the physical building is located and the percentage of property located in the enterprise zone. He stated that if a majority of the property is located in the enterprise zone, then an investor would be able to include those costs when applying for incentives. Mr. Tucker stated that if there was a situation where something was left out, the County has the ability to amend the zone once every 365 days and the amendment becomes retroactive to the first of the year.

Mr. Middaugh addressed Mr. Beck's concerns regarding if acreage is going to be removed from the County. Mr. Middaugh stated that acreage was going to be reallocated within the County from an area that cannot utilize the enterprise zone designation to an area that is zoned and can utilize the designation.

Mr. Icenhour commented that the Enterprise Zone designation expires on December 31, 2015, and expressed his desire that the legislation is extended or renewed.

Mr. Icenhour made a motion to adopt the resolution.

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

## **RESOLUTION**

### **EXPANSION OF JAMES CITY COUNTY'S ENTERPRISE ZONE**

WHEREAS, James City County has a total of 3,840 acres which can be included as part of designated Enterprise Zone that will expire on December 31, 2015; and

WHEREAS, the County's existing Enterprise Zone contains approximately 3,836 acres; and

WHEREAS, the existing Enterprise Zone contains large areas of public lands, wetlands, or property designated by the Chesapeake Bay Preservation Act as a Resource Protection Area (RPA); and

WHEREAS, the Virginia Enterprise Zone Program regulations allow for an annual 15 percent reallocation of existing Enterprise Zone acres; and

WHEREAS, the Virginia Enterprise Zone Program regulations allow for local incentives to be amended once per 365 days.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes staff to submit an Enterprise Zone Boundary and Incentive Amendment Application to the Virginia Department of Housing and Community Development to remove Enterprise Zone designation of 537 acres from the existing Enterprise Zone identified as wetlands, RPA, and publicly owned land, and designate 533 acres in the following manner:

- Expand the County's existing Enterprise Zone to include additional acreage along the SR-60 corridor from the existing Zone boundary farther east toward Croaker Road.
- Expand the existing Enterprise Zone to include additional acreage in the Stonehouse Commerce Park per the approved master plan.
- Reduce the capital investment threshold requirement from \$1 million or more to \$500,000 or more in commercial or industrial investment in the zone.
- Add a new incentive which will provide expedited processing and/or fast track permitting for all projects that meet the capital investment qualification criteria within the Enterprise Zone.

2. Zoning Ordinance Updates

a. Case Nos. ZO-0011-2011, ZO-0012-2011, and ZO-0013-2011. Procedural Descriptions, Submittal Requirements and Administrative Items, and Nonconformities

Mr. Jose Ribeiro, Senior Planner I, informed the Board that, as part of the zoning ordinance update process, staff has revised ordinance language. He stated that staff has also drafted policies regarding traffic impact and environmental constraints and established a set of guidelines to be used for fiscal impact submittals. Mr. Ribeiro stated that language revisions reflect different needs ranging from updates based on the State Code, clarification of procedures, correction of minor grammatical errors, reorganization of information, and introduction of new language. He stated that staff also consolidated a narrative regarding master plans. Mr. Ribeiro stated that a fee schedule resolution was going to be proposed; however, on the advice of the County Attorney, the fee schedule will remain as an ordinance. Mr. Ribeiro stated that he would answer questions from the Board.

Mr. McGlennon questioned if the administrative fees were back in the ordinance.

Mr. Ribeiro stated yes. He further responded that staff was going to submit a resolution authorizing the Board of Supervisors the authority to review fees through a fee schedule. He stated that as per a consultation with the County Attorney, staff realized that they would not proceed with the resolution. The idea behind the resolution was to streamline the process. He stated that currently the Board has to go through a public hearing in order to amend the fee schedule. He stated it was staff's initial thought that if the fee schedule was removed from the ordinance the public hearing process would be eliminated. He stated that he was advised by the County Attorney's Office that that would not be the case.

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 adopt three ordinances and two resolutions.

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

**RESOLUTION**

**TRAFFIC IMPACT ANALYSIS SUBMITTAL REQUIREMENTS POLICY**

WHEREAS, the Traffic Impact Analysis Submittal Requirements Policy ("Policy") is designed to provide guidance to applicants regarding the minimum submittal requirements for a Traffic Impact Analysis (TIA); and

WHEREAS, the Policy is consistent with the Virginia Department of Transportation's Traffic Impact Statement (VTIS) submittal requirements; and

WHEREAS, the Policy Committee endorsed the Policy on September 15, 2011; and

WHEREAS, the James City County Planning Commission, after a public hearing, endorsed the Policy on \_\_\_\_\_ by a vote of \_\_\_\_\_.



NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the Traffic Impact Analysis Submittal Requirements Policy.

## RESOLUTION

### ENVIRONMENTAL CONSTRAINTS ANALYSIS FOR LEGISLATIVE CASES

WHEREAS, in order to fully understand the impacts of a development on the local environment, consistent information should be provided to Planning staff and members of the Planning Commission and Board of Supervisors prior to approval of a legislative case (special use permits and rezonings); and

WHEREAS, a thorough environmental analysis will ensure that development is not planned for areas which may not be able to accommodate it due to environmental constraints; and

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

Any application for a use requiring a special use permit and/or rezoning, shall be accompanied by an Environmental Constraints Analysis containing, at a minimum, the information below. All or portions of the Environmental Constraints Analysis may be excluded from legislative cases application as determined by the planning director.

#### **I. Hydrologic Features:**

1. Location of all bodies of water such as streams, ponds, lakes, impoundments, rivers;
2. Name of watershed in which the project is located;
3. Approximate location of tidal and non-tidal wetlands (e.g. sinkholes, wetland, springs, seeps, etc);
4. Approximate location of perennial and intermittent streams;
5. Description of receiving streams; and
6. Floodplain delineation for 100 and 500-year storm events including tidal flooding, if applicable.

#### **II. Physical Features:**

1. Approximate location of steep slopes greater than 25 percent based on County GIS or better source (all sources must be referenced). The scale for which this shall be provided is at the discretion of the engineering and resource protection director;
2. Soils, especially prime agricultural lands and Hydrologic Soil Groups (HSG) A&B, based on the County soil survey;
3. Soils erodability based on the County soils survey;
4. Areas of forest, woodland cover and wildlife corridors; and
5. Pre-development topography based on County GIS or alternate source approved by the engineering and resource protection director (all sources must be referenced).

**III. Prohibited or Restricted Development Areas:**

1. Location of required buffers and existing conservation easements;
2. Sites with known populations of rare, threatened or endangered species of plants or animals per studies done in accordance with the Natural Resource Policy;
3. Location of trees to be preserved in accordance with the Chesapeake Bay Preservation Ordinance; and
4. Preliminary location of Resource Protection Areas and legal wetlands.

**IV. Existing and Proposed Changes to the Site:**

1. The nature of existing and approved but not yet built development(s) on the site;
2. Location of surrounding properties and neighborhoods;
3. Proposed limit of disturbance and a disturbance area estimate;
4. Calculation of existing and proposed pervious and impervious areas (e.g. parking areas, roads, sidewalks, buildings, etc);
5. If used, description of Better Site Design or Low Impact Development techniques (e.g. pervious pavement, walks, infiltration areas, etc.);
6. Description of how disturbance is being minimized, indigenous vegetation is being preserved, and impervious cover is being reduced; and
7. Proposed conceptual stormwater management plan, including pre and post-development discharge analysis.

**V. Narrative Analysis of Environmental Constraints and Recommended Environmental Measures to Conform with the Proposed Environmental Analysis**

b. Case No. ZO-0014-2011. Exterior Signs

Ms. Leanne Reidenbach, Senior Planner, II, advised the Board that as part of the comprehensive zoning ordinance review, staff has developed recommendations for changes to the exterior signage ordinance. Ms. Reidenbach stated that the Planning Division staff and the Office of Economic Development held a meeting in March to present the ordinance to certain business interests to receive input. She stated that feedback about the changes were primarily positive. She advised the Board that proposed changes included 1) clarifying the definitions for back-lit signs, channeled letter signs and flashing signs; adding graphics to visually show sign types and how to measure the gross sign area; 2) allowing shopping center signage to be split on either side of the shopping center's entrance; 3) adding the ability to allow tenant names on shopping center signs in mixed use areas that are governed by design guidelines, a design review board, and a master plan, and allowing the size of the signs to be up to 42 square feet; 4) allowing sign-mounted lighting along the Community Character Corridors (CCCs) and Community Character Areas (CCAs); 5) allowing a seven-foot height limit for directional signage; and 6) amending the ordinance to reflect the County's current practice and agreement with VDOT regarding the removal of and penalties for signs that are placed within the right-of-way. Ms. Reidenbach stated that the amendments make the sign ordinance easier to understand, provide more flexibility, options for business signage, and reflect current staff practices. Ms. Reidenbach informed the Board that on May 2, 2012, the Planning Commission recommended approval of the exterior signage ordinance subject to including an additional graphic on how to calculate sign area and adding language to clarify that where tenant names are allowed on a sign that the shopping center name has to be at least, rather than exactly, one third of the sign area. Ms. Reidenbach advised that she would answer any questions from the Board.

Mr. McGlennon commented that this is the Board's first opportunity to discuss the draft ordinance. Mr. McGlennon stated that the original decision to allow sign-mounted lighting in mixed use areas was conditioned because those areas have smaller setbacks with larger sidewalks and would not have the opportunity for landscaping and up lighting the signs. He questioned if the proposal is a general provision to allow sign-mounted lighting, even in the CCCs and CCAs.

Ms. Reidenbach stated that was correct.

Mr. McGlennon questioned whether there were examples of sign-mounted lighting in the Mixed Use (MU) area and how much that option was selected.

Ms. Reidenbach replied that it is used often in the MU area for blade signage. She stated that there are restrictions that the bulb has to be hidden by landscaping or a hood over top of the light.

Mr. McGlennon stated that a lot of effort and thought went into ground-mounted lighting with the requirement that the light be camouflaged by landscaping. He stated that this will not be the case with the sign-mounted lighting. He stated that the lighting fixture will be visible and stated that he has concerns on how this will affect the CCCs and CCAs. Mr. McGlennon noted the language change for areas designated as MU for shopping center areas having larger signs. He inquired as to where this would have an impact, noting that it has to have a Design Review Board.

Ms. Reidenbach responded that currently New Town is the only area where this would apply.

Mr. McGlennon questioned if LED signage used at gas stations in all zoning districts would be allowed to flash.

Ms. Reidenbach stated that signs cannot flash or scroll in any zoning district.

Mr. McGlennon questioned if the 42-square-foot sign would only be allowed in shopping centers that have master plans and Design Review Boards.

Ms. Reidenbach stated that the 42-square-foot sign would be allowed only if tenant names were included on the sign. She stated that the sign was increased from 32 square feet to 42 square feet to account for sign legibility. Any other sign would still be capped at 32 square feet.

Mr. McGlennon questioned if the 42-square-foot sign could be split.

Ms. Reidenbach responded that splitting the sign is only permitted when only the shopping center name is on the sign. The total area is still capped at 32 square feet.

Mr. McGlennon questioned the calculation of the 42-square-foot sign.

Ms. Reidenbach responded that the calculation depends on how the sign is designed. She stated that for a cabinet sign that is illuminated from the inside, the whole background, including the text, is illuminated. She stated in that circumstance the entire box would count toward the sign area. She stated that in the circumstance where letters are mounted individually to a wall or monument style sign, there is a lot of leeway and the area calculation is subject to interpretation by the Zoning Administrator as to whether each letter or each work is measured separately.

Mr. McGlennon questioned whether the ordinance specifies a maximum physical size within the 42 gross square feet for signage versus open area.

Ms. Reidenbach responded that there is a height restriction but indicated that there is not an overall area restriction for signs.

Mr. McGlennon expressed concern about how large the sign could be with tenant names on it and questioned if any thought has been given to setting a maximum size for sign.

Ms. Reidenbach responded no. She added that the same size calculations proposed for tenant signage are currently used for all signs in the County.

Mr. McGlennon stated that the County should have a cap on the size of signs.

Mr. Icenhour stated that he agrees with Mr. McGlennon and expressed his concerns that if the County has a maximum sign size, the County should also have ratio guidelines that keep the monument in proportion to the sign size. Mr. Icenhour questioned the change to the definition of flashing sign. Specifically, he asked about changeable LED gas prices and that it is not considered a flashing sign if the message is changed fewer than four times in a 24-hour period. He questioned if the number came from the business community.

Ms. Reidenbach responded that staff wanted to provide businesses with the opportunity to change the gas prices if they did fluctuate. She noted that staff would be open to considering other numbers of time the price could change.

Mr. Kale questioned if tenants names can be put on both entrance signs if the signs were split.

Ms. Reidenbach responded no. She stated that the section that permits tenants to be on the sign permits one maximum 42-square-foot free standing sign per primary entrance.

Mr. Kale questioned if signs were split, if one sign could be larger than the other.

Ms. Reidenbach responded yes. She stated that when the signage is split, the total of the sign area has to be less than 32 square feet and can only display the shopping center name. She further clarified that if the tenant names are included on a sign, the sign can be 42 square feet, but the shopping center will only be allowed one sign at the primary entrance. She stated that these were the two different options on how to sign a shopping center entrance.

Mr. Kale stated that the ordinance is not clear.

Mr. Kennedy shared that he personally went through a signage issue in the County and stated it was an easy process.

Mr. McGlennon stated that he wants to make sure that the policy is clear and consistent. He also stated his concerns regarding the policy to include sign-mounted lighting in the CCCs and the lack of a maximum overall size of a sign. Mr. McGlennon stated that he was going to request a deferral after the public hearing was closed.

Ms. Jones opened the Public Hearing.

1. Mr. Jim Costillo, Development Director of Settlers Market, advised the Board that he worked with the Planning staff in regard to the sign ordinance. He stated that he is very pleased with the changes to the sign ordinance.

Ms. Jones closed the Public Hearing.

Mr. McGlennon noted that staff did a good job on the ordinance; however, due to the fact that this was the first opportunity that the Board had to review the ordinance, Mr. McGlennon requested a deferral of the policy.

It was the consensus of the Board to defer the matter until July 10, 2012.

3. Ordinance to Amend and Reordain Chapter 20, Taxation, Article II, Exemption of Certain Persons from Real Estate Taxes, Section 20-10, Qualifications for Exemption and Section 20-12, Application

Mr. Bryan Soukup, summer Law Clerk, advised the Board that the amendments to the ordinance were requested by the Commissioner of the Revenue in response to citizens voicing confusion as to the correct time frame for the real estate tax exemption. He stated that the proposed amendments will clarify the time frame for which the valuation of assets and income, the application for exemption, and real estate tax billing period, are based by adding qualifying language. He stated that certain age, disability, and income requirements are necessary in order to be eligible for the exemption. He stated that the tax year for real property is based on a fiscal year, commencing on July 1 and ending on June 30. He stated that the Code currently is based on a taxable year, an ambiguous term that could be interpreted as calendar year or fiscal year, which leads to confusion as to the billing cycle which the exemption is subject. He stated the amendments will eliminate confusion by replacing year and taxable year with the term fiscal year. He stated that the amendments are for the benefit of the citizens and will not alter the exemption, nor will it change the method on which the Commissioner of the Revenue applies the exemption. Mr. Soukup advised the Board that the Commissioner of the Revenue was present to also answer any questions from the Board.

Mr. McGlennon noted that different government offices have different fiscal years. He stated that some fiscal years begin on October 1 and wondered if this posed a concern for confusion.

Mr. Rogers advised the Board that the County is required to have a fiscal year of July 1 to June 30, which is defined in the Code and Charter.

Ms. Jones opened the Public Hearing.

1. Mr. Ed Oyer, 139 Indian Circle, Williamsburg, asked the Board to consider indexing the tax rate for property owners.

Ms. Jones closed the Public Hearing.

Mr. Icenhour made a motion to adopt the ordinance.

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

4. Ordinance to Amend and Reordain Chapter 13, Motor Vehicles and Traffic, Article I, In General, Section 13-7, Adoption of State Law; and Article II, Driving Automobiles, Etc. While Intoxicated or Under the Influences of Any Drug, Section 13-28, Adoption of State Law, Generally

Mr. Bryan Soukup, Summer Law Clerk, stated that the amendments to the ordinance are done annually to keep in compliance with State Code. Mr. Soukup advised the Board that Police Chief Emmett Harmon was present to answer any questions that the Board may have.

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 adopt the ordinance.

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

5. Ordinance to Amend and Reordain Chapter 13, Motor Vehicles and Traffic, Article I, In General, Section 13-24, Temporary Removal and Disposition of Vehicles Involved in Accidents

Mr. Bryan Soukup, summer Law Clerk, stated the amendment was requested by the James City County Police Department. He stated disabled automobiles that are involved in accidents will remain planted on highways impeding the free flow of traffic. He stated that the proposed amendment will codify current Police practice, authorized by the Virginia Code, allowing Police to remove vehicles to a separate storage area for safekeeping away from the site of the accident at the owner's expense. He stated that the towing will be performed by companies on a rotating list. He stated that the towing companies meet specific Police Department requirements. He stated that Police are required to report the removal of the vehicle to the Virginia Department of Motor Vehicles and to the owner. Mr. Soukup advised the Board that Police Chief Harmon was present to answer any questions that the Board may have.

Mr. Icenhour questioned Chief Harmon as to whether it was the State or local Police Department that handled accident investigation.

Chief Harmon responded that for the past couple of years the James City County Police Department have worked the vast majority of automobile crashes. He stated that this is done to expedite service to accident victims.

Mr. Kale questioned Chief Harmon if cars would be towed to the Law Enforcement facility or if they would be towed to a private facility.

Chief Harmon responded that the vehicles are taken to the towing company's lot. He stated that one of the requirements to be on the towing company rotating list is that the company must have a secure lot in order to store vehicles. Chief Harmon stated that the Law Enforcement Center has very limited space. He stated that the Law Enforcement space is used to store vehicles that were involved a traffic fatality or a serious crime.

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 adopt the ordinance.

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

**J. BOARD CONSIDERATIONS**

1. Courthouse Statue

Mr. Middaugh advised the Board that the request was made by retired Judge Powell who has been working over the past several years to position three statues to commemorate different aspects of the County's colonial heritage at the Courthouse that is jointly used by the City of Williamsburg and James City County. Mr. Middaugh stated that the first statue is in place at the Courthouse and that Judge Powell has obtained funding for the second statue. Mr. Middaugh stated that Judge Powell is in the process of trying to obtain funding for the third statue. Currently, Judge Powell has a foundation award of \$25,000 and is requesting the City and the County to each contribute \$12,500 to finish the purchase of the statue. Mr. Middaugh advised the Board that the City expressed interest to have money for the statue paid out of a joint fund that is used to maintain the Courthouse. He stated that the fund currently has a balance of \$230,000. Mr. Middaugh stated that it would be beneficial for both jurisdictions if the Board chose to pay for the statue from the joint account. He advised the Board that they could talk about other options if they chose to do so.

Mr. McGlennon thanked the County Administrator for talking with the City and bringing forward the Courthouse statue resolution. Mr. McGlennon stated that the County will see a benefit of \$150,000: the three statues for a contribution of \$12,500. He stated that the statue would provide another attraction for those going to New Town.

Mr. Kennedy stated that he will not be supporting the resolution.

Ms. Jones stated that she will not be supporting the resolution. She expressed concern regarding the current financial times and stressed that there could have been other fund-raising alternatives.

Mr. Kale expressed his views in support of the statue.

Mr. McGlennon moved for the adoption of the resolution.

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

**RESOLUTION**

**COURTHOUSE STATUE**

WHEREAS, the Board of Supervisors of James City County, Virginia, has been requested to partially fund the third of three statues at the Williamsburg-James City County Courthouse ("Courthouse") to honor the contributions of the English settlers, Native Americans, and African Americans for their contributions to the birth of this country; and

WHEREAS, the requested contribution of \$12,500 is 25 percent of the funds needed to complete the statue and would match the contribution of the City of Williamsburg; and

WHEREAS, the preferred funding source is available through the City of Williamsburg with funds dedicated to the Courthouse in the Courthouse Maintenance Fund; and

WHEREAS, as an alternative, a Tricentennial Fund established in 1976 has a current balance of approximately \$12,147 and, with a modest supplement from Operating Contingency, could be used to pay for the County's contribution.

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

1. The Board of Supervisors authorizes the County Administrator to pay \$25,000 as the City/County share to fund the third of three statues at the Courthouse from the Courthouse Maintenance Fund.
2. At the discretion of the County Administrator and as an option, the Board of Supervisors authorizes the Treasurer to close the Tricentennial Fund and deposit all proceeds in the General Fund of the County to offset a substantial portion of the costs of the statue. Any residual would come from Operating Contingency.
3. This resolution shall take effect immediately upon its adoption.

2. Case No. Z-0006-2011. Stonehouse Development Proffer Amendment – Conservation Easement Dedication

Ms. Ellen Cook, Senior Planner, II, advised the Board that in 2007, GS Stonehouse Greenland Sub LLC received approval of a master plan and proffer amendment for the Stonehouse development. She stated that the amended proffers included several that relate to environmental protection, including one subsection on conservation easements. She informed the Board that Mr. Vernon Geddy, III, on behalf of GS Stonehouse Greenland Sub LLC, is seeking approval of an amendment to the proffer to eliminate the obligation to grant conservation easements to the Williamsburg Land Conservancy or other land conservation organizations, in addition to the County. She stated that the owner is seeking this amendment as the Land Conservancy has indicated that it does not wish to hold conservation easements on the areas required by the proffer due to time and resource constraints. She stated that the County will be granted conservation easements for the Chesapeake Bay Preservation Ordinance. She stated that the Planning Commission on June 12, 2012, voted 7-0 to recommend the application. Ms. Cook advised the Board that Mr. Geddy was present to answer any questions that the Board may have.

Mr. McGlennon made a motion to adopt the resolution.

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

**RESOLUTION**

CASE NO. Z-0006-2012. STONEHOUSE DEVELOPMENT PROFFER AMENDMENT –

CONSERVATION EASEMENT DEDICATION

WHEREAS, upon finding that the amendment proposed by Case No. Z-0006-2012 Stonehouse Development Proffer Amendment – Conservation Easement Dedication, does not affect use or density, the Board of Supervisors waives any public hearing requirement pursuant to Virginia Code Section 15.2-2302; and

WHEREAS, Case No. Z-0006-2012 proposes to strike Subsection 10.4, Conservation Easements, from the existing proffers and retain all other proffers; and



WHEREAS, the site can be further identified as Parcel Nos. (1-8A) and (1-19) on James City County Real Estate Tax Map No. (13-1); Parcel No. (1-1) on James City County Real Estate Tax Map No. (6-4); Parcel Nos. (1-47) and (1-48) on James City County Real Estate Tax Map No. (12-1); Parcel Nos. (1-12), (4-1C), (1-17), (1-16), (7-1A), (1-2), (1-11), (1-15), and (6-1A) on James City County Real Estate Tax Map No. (5-4); Parcel Nos. (1-22), (1-14), (1-23), (1-21), (1-9), (1-25), (1-20), (1-10), and (1-24) on James City County Real Estate Tax Map No. (5-3); Parcel Nos. (1-25), (1-26), (1-28), and (1-29) on James City County Real Estate Tax Map No. (4-4); Parcel Nos. (1-6), and (1-5) on James City County Real Estate Tax Map No. (6-3); and

WHEREAS, the Planning Commission of James City County, following its consideration on June 6, 2012, recommended approval of Case No. Z-0006-2012, by a vote of 7 -0 .

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-0006-2012 as described herein and accept the amended proffers.

**K. PUBLIC COMMENT**

1. Mr. Ed Oyer, 139 Indian Circle, Williamsburg, advised the Board that when he went to vote at James River Elementary School he experienced a parking problem due to the fact that school was in session. Mr. Oyer also advised the Board that VDOT is doing a traffic count on Route 60.

**L. REPORT OF THE COUNTY ADMINISTRATOR**

Mr. Middaugh advised the Board that Dominion Virginia Power submitted its application for the new transmission crossing that will run from Surry County Hog Island Preserve to James City County BASF property. He stated that the route submitted is for an aerial route. He stated that a sub-aqueous route is not part of the proposal. He mentioned that he and the County Attorney have been given authority from the Board to take action on this matter. He stated that he will provide the Board at the next meeting with more information about the potential of having to retain outside counsel to officially intervene with the Federal Communications Commission (FCC) process. Mr. Middaugh also mentioned that hurricane season has begun, which runs from June 1 to November 30. He stated that there has been a Board consensus to make appointments to the Economic Development Authority and Colonial Health Behavioral Board in an open session. He stated that the Board concurred to withdraw the other closed session item regarding the Purchase of Development Rights (PDR) parcel. He advised the Board that the matter would be brought back to them at a later date.

**M. BOARD REQUESTS AND DIRECTIVES**

Mr. Kennedy spoke about the septic problems at the Greensprings Mobile Home Community and requested the Board to consider allowing the community to hook into County sewer and rezone the area with proffers protecting residents from land use changes who are currently residing in the mobile park.

Mr. McGlennon nominated Mr. Paul Gerhardt for the Economic Development Authority and Mr. Doug Powell to the Colonial Behavioral Health Board.

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

Mr. Kale asked if there was a consensus of the Board to look into the matter that Mr. Kennedy proposed in regard to the Greensprings Mobile Home Community.

It was the consensus of the Board to have staff look into the matter that was proposed by Mr. Kennedy.

Mr. Middaugh advised the Board that the staff did talk about this matter and stated that the suggestion that Mr. Kennedy proposed is the only way to assure residents any measure of security through a rezoning.

Mr. Icenhour asked the County Attorney to explain the difference between rezoning and a Special Use Permit (SUP).

Mr. Rogers stated that there is a lot more flexibility with a voluntarily offered proffer that is a part of rezoning, which is recorded in the land records and binds future property owners. He stated that the County would not be able to protect existing homeowners with an SUP in the same way that the property owner would be able to protect them by offering a proffer with rezoning.

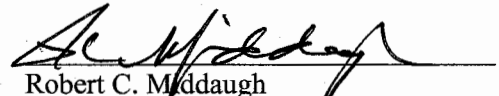
**N. CLOSED SESSION - None**

**O. ADJOURNMENT**

Mr. McGlennon made a motion to adjourn the meeting.

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

At 9:17 p.m., Ms. Jones adjourned the Board until 4 p.m. on June 26, 2012.

  
Robert C. Middaugh  
Clerk to the Board

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