

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 26TH DAY OF FEBRUARY 2013, 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

John J. McGlennon, Chairman, Roberts District
Mary K. Jones, Vice Chairman, Berkeley District
James G. Kennedy, Stonehouse District
James O. Icenhour, Jr., Jamestown District
M. Anderson Bradshaw, Powhatan District

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

C. MOMENT OF SILENCE

D. PLEDGE OF ALLEGIANCE - Ronnie Littman, a third-grade student at Walsingham Academy, led the Board and citizens in the Pledge of Allegiance.

E. PRESENTATIONS

1. Williamsburg Area Arts Commission

Ms. Terry Buntrock, Chair of the Williamsburg Area Arts Commission, stated that for the last few years and especially in 2011, the Arts Commission focused on internal matters which included refinement of the grant application. She stated that they also reached out to the Regional Offices of Economic Development and the Tourism Alliance to broaden their perspective on the important role of the arts in our local economy.

Ms. Buntrock stated that the grant season this year brought better grant applications with fewer errors from 35 area organizations who requested more than \$262,000 for arts programming. The Commission was happy to see applications for both new and long-time programs that will enrich the community, teach the youth, broaden perspectives and be enticing to and provide enjoyment for visitors to the area. The Commission appreciates the support that the James City County Board of Supervisors has given to the arts in the past and urges continued support this year.

2. Planning Commission Annual Report

Mr. Tim O'Connor, 2012 Chair of the Planning Commission, gave the Board and citizens a brief overview of the Planning Commission Annual Report included in the Reading File section of the Agenda Packet.

Mr. Kennedy thanked Mr. O'Connor and the other members of the Planning Commission for their ability to work together and setting a good example of compromise.

Mr. McGlennon thanked Mr. O'Connor for his service as Chair of the Planning Commission and for the service and abilities of the other commissioners.

F. PUBLIC COMMENT

1. Mr. John Bookless, 3 Clarendon Court, addressed the Board in regard to the Family Inn Motel and the forced closing of the motel due to building inspection violations. He stated that the situation was not handled very well by the County and many homeless people will not have a place to live.

2. Mr. Dave Carlson, Governor's Land, addressed the Board in regard to primitive hunting operations within public areas. He thanked the Board for considering the Urban Archery Program.

3. Ms. Betty Walker, 101 Locust Place, addressed the Board in regard to the statement made by Sheriff Deeds, reaffirming his Constitutional Oath to the citizens of James City County. She asked that Sheriff Deeds' statement be reinstated to the Sheriff's website which is paid for by the citizens that elected him.

4. Mr. Ed Oyer, 139 Indian Circle, addressed the Board in regard to the statement made by Sheriff Deeds. He stated that Sheriff Deeds is an elected official and not subservient to the County employees.

5. Ms. Landriss Skelly, 6572 Wiltshire Road, addressed the Board in regard to the statement made by Sheriff Deeds and 2nd Amendment rights. She requested that the statement be reinstated to the Sheriff's website as it was a reaffirmation of his Constitutional Oath and not a political statement.

6. Ms. Sue Sadler, 9929 Mountain Berry Court, addressed the Board in opposition to the Jamestown Beach and Shaping our Shores Master Plan.

7. Ms. Rosanne Reddin, addressed the Board in regard to the statement made by Sheriff Deeds. She stated that his statement was a reaffirmation of his Constitutional Oath and not a political statement or opinion. She also spoke in regard to the Jamestown Beach project, and stated that it is not a sound investment.

8. Mr. Keith Sadler, 9929 Mountain Berry Court, addressed the Board in regard to the Jamestown Beach project and the project estimate. He stated that this project could affect the bills.

9. Mr. Nate Walker, 101 Locust Place, addressed the Board in support of the statement made by Sheriff Deeds.

10. Ms. Marjorie Ponziani, 4852 Bristol Circle, addressed the Board in regard to Sheriff Deeds' statement and the determination of the County staff to remove it from the Sheriff's website. She also spoke in opposition to the Jamestown Beach project.

11. Mr. Joseph Swanenburg, 3026 The Pointe Drive, addressed the Board in regard to Constitutional Oath given to all elected officials in the County. He questioned who decides what is considered a political statement.

12. Mr. Les Skelly, 6572 Wiltshire Road, addressed the Board in opposition to the Jamestown Beach project. He asked if anyone can provide an estimate of the associated costs of gaining all of the permits necessary to move the project forward.

Mr. Middaugh addressed the situation concerning the Family Inn Motel. He stated that the accounts in the media were written without any contact with the County. He stated that no one has been told to leave yet. He stated that the County is working very hard to relocate all of the people living there as soon as possible. He stated that the Family Inn Motel is unsafe and unhealthy and no one should be living there. He stated that the County will do the right thing by those living there and at the end of the day, they all will be cared for.

H. CONSENT CALENDAR

1. Minutes -
 - a. February 12, 2013, Regular Meeting
2. Grant Award – Office of Emergency Medical Services (OEMS) Supplemental EMS Training Equipment Special Initiative Grant – \$61,295.02

RESOLUTION

GRANT AWARD – OFFICE OF EMERGENCY MEDICAL SERVICES (OEMS)

SUPPLEMENTAL EMS TRAINING EQUIPMENT SPECIAL INITIATIVE GRANT – \$61,295.02

WHEREAS, the James City County Fire Department has been awarded a Supplemental EMS Training Equipment Special Initiative Grant for Accredited ALS Training Programs in the amount of \$61,295.02 from the Commonwealth of Virginia, Department of Health, Office of Emergency Medical Services (OEMS); and

WHEREAS, the funds are to be used for the purchase of EMS training equipment for training Advanced Life Support (ALS) providers in Virginia; and

WHEREAS, the grant requires no match.

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

Revenue:

EMS Training Equipment Special Initiative Grant	<u>\$61,295.02</u>
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Expenditure:

EMS Training Equipment Special Initiative Grant	<u>\$61,295.02</u>
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3. Grant Award - Commonwealth Attorney - V-STOP Grant Program - \$57,378

RESOLUTION

**GRANT AWARD - COMMONWEALTH ATTORNEY -
V-STOP GRANT PROGRAM - \$57,378**

WHEREAS, the Commonwealth Attorney for the City of Williamsburg and James City County has been awarded a \$57,378 grant from the V-STOP Grant Fund (Federal share \$28,372; County match \$29,006) through the State Department of Criminal Justice Services; and

WHEREAS, this grant would fund the personnel costs of a position to advocate for victims of crimes involving domestic violence, sexual abuse, and stalking beginning January 1, 2012, through December 31, 2012; and

WHEREAS, this grant requires a local cash or in-kind match of \$29,006, which is available in the Commonwealth Attorney's general fund account.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the additional appropriation to the Victim's Witness Fund through December 31, 2012, for the purpose described above:

Revenues:

CY 12 V-Stop Department of Criminal Justice Services Federal Revenue (DCJS)	\$28,372
CY 12 V-Stop James City County Matching Funds	<u>29,006</u>
Total:	<u>\$57,378</u>

Expenditure:

CY 12 V-Stop Grant Program	<u>\$57,378</u>
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4. Resolution of Support for Grant Application for Governor's Agriculture and Forestry Industries Development Fund (AFID) Planning Grant

RESOLUTION

**RESOLUTION OF SUPPORT FOR GRANT APPLICATION FOR GOVERNOR'S
AGRICULTURE AND FORESTRY INDUSTRIES DEVELOPMENT FUND (AFID)**

PLANNING GRANT

WHEREAS, the Board of Supervisors of James City County understands the value of rural economic development for agriculture, timbering, and agri-tourism; and

WHEREAS, the Board of Supervisors of James City County collaborated with the James City County Economic Development Authority to preserve Mainland Farm, which has been in continuous agricultural use since at least 1617; and

WHEREAS, the Board of Supervisors of James City County supports preservation of rural assets with such programs as land use value taxation, Agricultural and Forestal Districts (AFDs), and Purchase of Development Rights (PDR); and

WHEREAS, the Board of Supervisors of James City County supports the mission of the James City County Economic Development Authority's Rural Economic Development Committee; and

WHEREAS, the Board of Supervisors of James City County recognizes the opportunity to support and grow the agricultural, timbering, and agri-tourism resources and related businesses.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby supports the Agriculture and Forestry Industries Development Fund Planning Grant Application and the development of a rural economic development strategic plan to grow the local tax base while preserving existing rural resources.

5. James City County Urban Archery Program

RESOLUTION

JAMES CITY COUNTY URBAN ARCHERY PROGRAM

WHEREAS, the Virginia Department of Game and Inland Fisheries has implemented an Urban Archery program to give localities a means to reduce deer populations as well as provide for recreational archery hunting; and

WHEREAS, the Urban Archery program provides for an extended deer hunting season limited to archery hunting rather than firearms; and

WHEREAS, the County wishes to participate in the Urban Archery Program and meets the requirements to do so; and

WHEREAS, all other rules and regulations applicable to hunting shall remain in place.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that Robert C. Middaugh, County Administrator, is hereby authorized and directed to submit the proper notification and supporting materials to the Virginia Department of Game and Inland Fisheries prior to April 1, 2013, in order for James City County to participate in the Urban Archery program.

Mr. McGlennon stated that Mr. Bradshaw has requested that Item No. 4 be pulled from the Consent Calendar.

Ms. Jones stated that the Board Requests and Directives was skipped and asked if the Board could go back to that section after the Consent Calendar is voted on.

Mr. Icenhour made a motion to approve the remaining items on the Consent Calendar.

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

Mr. Russell Seymour, Director of Economic Development, addressed the Board giving a summary of the memorandum or the AFID Planning Grant included in the Agenda Project.

Mr. Bradshaw stated his thanks to the Economic Development Department and the Rural Economic Development Committee for their work over the last several years.

Mr. Bradshaw made a motion to approve Item No. 4 of the Consent Calendar.

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

G. BOARD REQUESTS AND DIRECTIVES

Mr. Kennedy stated that the article in the paper in regard to the Family Inn Motel was run on a Saturday and he did not find out about it until later. He stated that it is concerning with these issues going on, but he was very concerned about the way The Virginia Gazette reported the article and the light in which it painted the County.

Ms. Jones stated that she appreciated Mr. Bookless' comments and his efforts to help the homeless in our community. She stated that she learned of the situation from Mr. Kennedy. She stated her concern is that the notification was given late on Friday, with the evacuation scheduled for Monday. She stated that in that situation, the concern is for the people and them having access to County services. She stated that there was a breakdown in communication. She stated that the Board spends a lot of time talking about investments in greenspace and how to spend tax payer dollars, whereas the people of this community are a much more worthwhile investment. She also asked staff to follow up on the question raised by Mr. Skelly in regard to the permitting process for Jamestown Beach.

Mr. Middaugh asked for a point of clarification. He stated that the only project that staff is proposing out of that plan is the beach restoration. He stated that the beach restoration is fairly straightforward and uncomplicated. He stated that what it seems Mr. Skelly is referring to is the broader vision for that area. He stated that there is no plan before the Board for that, so he cannot answer the question about permitting for a plan that does not exist.

Ms. Jones stated that she strongly supports the statement made by Sheriff Deeds and does not see it as a political statement. She stated that Sheriff Deeds had been asked by citizens if he would continue to support the Constitution and the 2nd Amendment. She stated that in answer to those questions, he publicly reaffirmed his oath to uphold and defend the Constitution. She stated that she sees no reason why that statement cannot be on the County's website.

Mr. Icenhour stated that in the last two weeks, two new businesses have opened in the New Town area. He stated that he participated in the ribbon cutting for Movement Mortgage Company and the Grand Opening of Goodyear Tire. He stated that on February 19, he and Mr. McGlennon participated in a civics class project

at Hornsby Middle School. He stated that on February 20, he attended the Eco Discovery Park Forum as well. He also stated that he has revisited the Oak Tree Lane pothole and it is still there, so he wanted to pass that information along to staff.

Mr. Middaugh stated that staff has contacted the property developer and they are making arrangements to have it repaired as soon as the weather permits.

Mr. McGlennon stated that last Thursday evening, he attended a meeting with leadership from the area neighborhood associations. He stated that this was the first of what he hopes to be a series of meetings and open dialogue between the County and the community neighborhoods to better understand their needs and concerns. He stated that during the discussion one of the overwhelming themes was the preservation of open space and greenspace.

Mr. McGlennon asked the citizens to try and edit their comments to fit into the three-minute time frame allotted for public comment.

Ms. Jones stated that on Longhill Road there is a ground culvert that is collapsing and needs to be addressed soon before it causes a bigger problem.

Mr. Icenhour stated that it has been brought to the Virginia Department of Transportation (VDOT) attention before, but the County has not gotten much response.

Mr. Middaugh stated that staff would follow up with VDOT again.

I. PUBLIC HEARING – None

J. BOARD CONSIDERATION – None

K. PUBLIC COMMENT

1. Ms. Sue Sadler, 9929 Mountain Berry Court, addressed the Board in regard to bonds for greenspace which must be paid back.

2. Mr. Ed Oyer, 139 Indian Circle, addressed the Board in regard to the protection of citizen's speech during public meetings.

3. Ms. Landriss Skelly, 6572 Wiltshire Road, addressed the Board in regard to the free press when holding the local government accountable.

4. Mr. John Bookless, 3 Clarendon Court, addressed the Board in response to the comments made by Mr. Middaugh.

5. Ms. Marjorie Ponziani, 4852 Bristol Circle, addressed the Board in regard to the borrowing of monies to fund the Jamestown Beach project. She stated that now is not the time to be borrowing money and incurring more debt.

6. Mr. Joseph Swanenburg, 3026 The Pointe Drive, addressed the Board in regard to the Shaping our Shores document that was developed in 2009.

7. Mr. Les Skelly, 6572 Wiltshire Road, addressed the Board in regards to the Jamestown Beach project and the many unanswered questions.

L. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Middaugh stated that the James City County Economic Development Office is pleased to announce that the Crowne Plaza Williamsburg at Fort Magruder, managed by Crescent Hotels and Resorts, recently received the Outstanding Host Hotel award for 2012 from the National Softball Association (NSA).

Mr. Middaugh asked Mr. Leo Rogers, County Attorney, to address one of the free speech elements that were mentioned in the Public Comment section this evening.

Mr. Rogers stated that this is really not a 2nd Amendment issue; it is a citizen 1st Amendment issue which covers free speech. He stated that citizens have the right to free speech, but cannot speak at all public forums in the same way. He stated that he would give some examples to clarify. He stated that if a citizen is standing on the front steps of the courthouse, then they could say whatever they wanted and that is a typical open public forum. He stated that if a citizen walks into the courthouse and goes into a courtroom, that is not a public forum. Speech can be controlled. He stated that speaking before the Board in the Board Room is a limited public forum, citizens have the right to free speech, but that is because the Board grants the Public Comment Section. However, even that is limited; citizens have to give their name and address and are speaking on anything that is not subject to a Public Hearing.

Mr. Rogers stated that the County website is not a public forum. He stated that it is designed to provide services and information to the citizens. He stated that any statements regarding the Constitution or amendments are not the purpose of the County website. He stated the County could provide a link to the U.S. Constitution on the website and that would be providing information to the citizens. He stated that if the County website was opened to a Public Forum, it would lose the intention that it was designed for, which is to provide information. That is why the decision was made to take the statement down, to protect the intention of the website. He stated that Sheriff Deeds and any other citizen can express their opinion, as is their right; the County is just stating that the website is not the place to do it.

Ms. Jones stated that she respectfully disagrees. She stated that when someone who is reaffirming their oath of office it is not political or controversial. She stated that there are issues and agendas on the James City County website and initiatives that some could consider political in nature. She stated that she does not understand how Sheriff Deeds reaffirming his oath and his commitment to the Constitution is controversial and political.

Mr. Rogers stated that he absolutely does not disagree with Sheriff Deeds' right to express his opinion; the County website is just not the proper forum.

Ms. Jones stated that members of the Board all took the same oath to uphold the Constitution, so it is not a political statement.

Mr. McGlennon stated that it was said correctly earlier, one cannot pick and choose. He stated that the Board swore to uphold the Constitution, the whole Constitution.

Ms. Jones stated that Sherriff Deeds did that as well as single out a specific part of the Constitution.

Mr. McGlennon stated that part is a very controversial issue right now. He stated that Sherriff Deeds is a fine public servant, but he is not the chief law enforcement agent in the County. He stated that Sherriff Deeds function is the security of the court and to act as an agent of the court.

Ms. Jones stated that the Constitutionality of his position does give him that authority, whether it is exercised or not.

Mr. McGlennon stated that by the function of his position, if someone walks into the courthouse with a gun, he would have to deny them access to the courthouse or take the gun from them.

Mr. Rogers stated that Mr. McGlennon is correct.

Mr. McGlennon stated that when Sherriff Deeds says that he is not going to do anything that could impinge on someone's 2nd Amendment rights, in fact a part of his job is to take away weapons from people.

Ms. Jones stated that his job is not to take weapons away from people. His job is to protect the public safety and the safety of the courthouse. She stated that his job is not just sitting at the courthouse; it is far more reaching.

Mr. McGlennon stated that this discussion is illustrating that this is a controversial issue.

Ms. Jones stated that the debate is going on in other jurisdictions and localities, as well as at the Federal level. Other localities are talking about passing laws that would severely limit or take away the right of citizens to bear arms. She stated that is a legitimate concern.

Mr. McGlennon stated that he believes in the whole Constitution and that includes the judicial review of the actions of the legislative body and the executive branch. He stated that this is proving how controversial this issue is. He stated that if the Sherriff wants to start his own website, he is more than welcome to do so. He stated that Sherriff Deeds has indicated that he is more than willing to abide by the County's decision on this matter.

M. BOARD REQUESTS AND DIRECTIVES

Mr. Bradshaw stated that he wanted to clarify one matter that was stated earlier in the Public Comment. He stated that Jamestown Beach is in fact inside the Public Service Area (PSA). It currently is served by a private septic system, but it is inside the PSA.

Mr. Kennedy stated that the Board needs to have a better understanding about what the policy is for the County website. He stated that again, he was caught off guard at the last meeting and did not know about the statement being taken down. He stated that as technology changes, we need to take a look at our policies and procedures and make sure they are keeping up.

Mr. Kennedy stated that if the County is assisting homeless families by making arrangements with local motels, should the County be doing health and safety inspections. He stated that this is something that he would like to see the County take a look into. He stated that the City of Williamsburg went through this issue several years ago and perhaps the County should borrow some ideas from them. He stated that the issue of homelessness has been discussed and discussed, but we need to take action. He stated that there is a lot of responsibility there and we need to come up with a plan about what we are going to do.

Mr. McGlennon thanked Mr. Kennedy for his comments and stated that those are issues to keep in mind as we approach budget season. He stated that for the past several years, the County has been funding the Peninsula Commission on Homelessness. He stated that it is a comprehensive initiative to help combat the issue of homelessness. He stated that there is extra money in the budget to deal with emergencies like this one.

Mr. Kennedy stated that his greater point is the health and comfort or health and safety of these individuals.

1. Consideration of a personnel matter, the appointment of individuals to County boards and/or commissions pursuant to Section 2.2-3711(A)(1) of the Code of Virginia
 - a. Historical Commission
 - b. Colonial Community Criminal Justice Board
 - c. Board of Zoning Appeals

Mr. McGlennon stated that during the Work Session, Mr. Abbott was appointed to the Historical Commission and Mr. Powell was appointed to the Colonial Community Criminal Justice Board. He stated that the Board is deferring action on the appointment to the Board of Zoning Appeals.

O. ADJOURNMENT – to 7 p.m. on March 12, 2013, for the Regular Meeting

Mr. Icenhour made a motion to adjourn.

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

Mr. McGlennon adjourned the Board at 8:50 p.m.


Robert C. Middaugh
Clerk to the Board