

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 12TH DAY OF MARCH 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 – Tristan Locklin, a 3rd grade student at Stonehouse Elementary led the Board and citizens in the Pledge of Alliance.

E. PRESENTATION

1. FBI Training Recognition

Mr. McGlennon presented Deputy Sheriff David Hardin with a certificate of achievement for completing the three-month Federal Bureau of Investigations (FBI) Training Program. He also noted that Police Chief Emmett Harmon, Major Brad Rinehimer, and Major Steve Rubino have completed the FBI Training Program as well.

F. PUBLIC COMMENT

1. Mr. Glenn Carlson, 81 Teal Way, addressed the Board in regard to the appointment of Mr. Bradshaw. He stated that in the interest of transparency, the Board should have made that decision instead of the Circuit Court. He also questioned the upcoming County budget, and the County's spending.

2. Ms. Heather Cordasco, 113 Alexander Place, addressed the Board in regard to Ms. Jones' recent vote at the Hampton Roads Transportation Planning Organization. She stated that Ms. Jones made the right decision.

3. Mr. Joseph Swanenburg, 3026 The Pointe Drive, addressed the Board in regard to the application of the First Amendment in the Board Room.

4. Mr. Craig Metcalfe, 4435 Landfall Drive, addressed the Board as a representative of the Parks and Recreation Advisory Committee.

Ms. Jones asked for a point of order, stating that comments about Jamestown Beach should be made during the Public Hearing.

5. Mr. Nate Walker, 101 Locust Place, addressed the Board in regard to the prospective spending of taxpayer dollars by the County.

6. Ms. Betty Walker, 101 Locust Place, addressed the Board in regard to 2nd Amendment rights.

7. Mr. Chris Henderson, 101 Keystone, addressed the Board in regard to the upcoming construction in New Town's Courthouse Commons.

8. Mr. John Pottle, 4233 Teakwood Drive, addressed the Board offering an invocation.

9. Ms. Sue Sadler, 9929 Mountain Berry Court, addressed the Board in regard to the new State Stormwater Management Program.

10. Mr. Keith Sadler, 9929 Mountain Berry Court, addressed the Board in regard to Sheriff Deeds' statement that was removed from the County website.

11. Ms. Landress Skelly, 6572 Wiltshire Road, addressed the Board in regard to the new State Stormwater Management Program.

12. Mr. Jack Haldeman, 1597 Founders Hill North, addressed the Board in regard to Ms. Jones' recent vote at the Hampton Roads Transportation Planning Organization (HRTPO) Meeting. He stated the bill is flawed and he appreciates Ms. Jones for voting against it.

13. Mr. Les Skelly, 6572 Wiltshire Road, addressed the Board in regard to the new State Stormwater Management Program.

14. Ms. Rosanne Reddin, 2812 King Rook Court, addressed the Board in regard to the lack of citizen involvement at Board meetings and within the County.

15. Ms. Marjorie Ponziani, 4852 Bristol Circle, addressed the Board in regard to Ms. Jones' recent vote at the Hampton Roads Transportation Planning Organization Meeting.

16. Mr. Ed Oyer, 139 Indian Circle, addressed the Board in regard to a Williamsburg Area Transit Authority bus speeding through a red light.

G. BOARD REQUESTS AND DIRECTIVES

Ms. Jones stated that she attended the Hampton Roads Transportation Planning Organization (HRTPO) meeting on March 4, 2013. She stated that it was a special meeting that was called less than a week prior to that date. She stated that it was called specifically for any technical amendments to the Transportation Bill (House Bill 2313) to be submitted to the HRTPO for consideration and then submitted to the Governor. She stated that James City County was the only locality to submit any technical amendments. She stated that at

the meeting, prior to these technical amendments being discussed, a motion came forward to approve a resolution supporting the bill and it was put to a vote. She stated that she was under the impression that there would be a detailed and comprehensive discussion of the Transportation Bill and any technical amendments. She stated that she had concerns over the constitutionality of the bill due to the regional taxation component of the bill. She stated that the State Constitution, specifically Article 10, prohibits the General Assembly from levying different taxation rates for different localities. She also stated that the bill includes many increases in taxes, including a sales tax increase which has historically been put before the voters in a referendum. She stated that due to these numerous tax increases and the concern over the regional taxation component, she felt the most appropriate choice was to vote against the resolution. She stated that she would not have abstained from the vote because she did not have any conflict of interest.

Mr. McGlennon asked when Ms. Jones received notice that there would be a resolution and a vote at the meeting.

Ms. Jones stated that she noticed the resolution on the agenda the morning of the meeting.

Mr. McGlennon stated that his understanding is that the resolution and the forthcoming vote were communicated to the members of the HRTPO prior to the weekend before the meeting.

Ms. Jones stated that the purpose of the meeting was to discuss the technical amendments and that was her focus in preparing for the meeting.

Mr. McGlennon stated that his suggestion that she abstain from the vote came because he thought she was surprised at the vote on the resolution. He stated that he, and the other members of the Board, only found out about her vote by reading it in the newspaper the next day. He stated that he has a lot of issues with this Transportation Bill but he never had the opportunity to voice his concerns or his opinions.

Ms. Jones stated that she forwarded the meeting packet to the entire Board and asked for input.

Mr. McGlennon stated that she asked for input on the technical amendments. He stated that she did not feel it was worthwhile to notify the Board of the resolution and that she would be expected to vote on it.

Ms. Jones stated that she sent an email to the Board the next morning outlining the technical amendments, that the majority of the Board had contributed to, that were completely ignored at the HRTPO meeting and that a vote had been taken on the resolution.

Mr. Kennedy stated that he has issue with the HRTPO's protocol. He stated that there was precedence set in Virginia Beach where a vote was deferred so that local bodies could meet and vote their position. He stated that the information was released on a Friday afternoon, when the press is at home so that they cannot report the information out to the public. He stated that it was asked that the Board endorse the Transportation Bill without any citizen involvement or comment. He stated that he is concerned with the protocol of the HRTPO, that the information was given out with only the weekend to digest it, that the press was not allowed to disseminate the information to the public, and that the public was not involved. He stated that as members of the HRTPO, the Board should put them on notice that their actions are unacceptable.

Mr. McGlennon asked if there was an objection to the vote at the meeting.

Ms. Jones stated that there was not time.

Mr. McGlennon stated that he watched the meeting and that others were objecting.

Ms. Jones stated that she would move to take a vote on the HRTPO resolution.

Mr. McGlennon stated for what purpose.

Ms. Jones stated that if there is opposition to her vote then let the Board take a vote on the resolution.

Mr. McGlennon stated that his concern is that the Board was not aware that this issue was going to come up. The Board was not made aware prior to the meeting or after the meeting once a vote had been made.

Mr. Kennedy stated that this was a special meeting that was called and questioned if the HRTPO would have allowed a deferral of the vote or listened to the objections. He stated that the technical amendments were ignored.

Mr. McGlennon stated that he watched the meeting, and actually Virginia Beach proposed the same technical amendments that James City County did, and our amendments were rolled into theirs. Mr. McGlennon stated that the only issue he is addressing is that the vote on the resolution was not communicated to the Board prior to the meeting and only after it was reported in the newspaper. He stated that it would have been a courtesy for Ms. Jones to relay to the Board how she had represented them at the HRTPO meeting.

Mr. Kennedy stated that the Board was asked on a Friday afternoon, for a Monday morning meeting, to endorse this tax package. He stated that he has received little to no information on what this tax package includes and means for the citizens. He stated that as an elected body who is being asked to endorse something, the Board owes it to the citizens to bring it before them and allow them to make their comments known. He stated that we cannot do that with every vote the Board is asked to make at the HRTPO and the High Growth Coalition and every other committee that the Board members serve on, but for an issue of this magnitude it should have been communicated to the citizens. He stated that in situations like this, the Board needs to have a protocol for what the Board expects. He stated that perhaps it should be the subject of a work session. He stated also that for the School Liaison Committee Meeting, it should be videotaped. He stated that all of these meetings should be taped, and the Board has agreed to that. He stated that the Board should have a policy that James City County will not attend these meetings unless they are videotaped. It should not even be a question.

Mr. McGlennon stated that he communicated to the City that the Board would want the meeting taped.

Ms. Jones stated that when she was Chair, she worked with the Mayors and Chairs Committee, known as the Urban Crescent, to ask the Governor for regional transportation funding, not supporting any particular project but that transportation be a priority for the region. She stated that after the HRTPO meeting, a letter was issued by the Urban Crescent, which Mr. McGlennon is now serving on, to the Governor and the General Assembly thanking them for the proposed Transportation Bill. She stated this letter is an endorsement of the Transportation Bill and this is an example of Mr. McGlennon not informing the Board of what is being done with the Mayors and Chairs Committee.

Mr. McGlennon stated that it is not an endorsement of a particular plan; it is a letter thanking the Governor and the General Assembly for taking action on transportation. He stated that he informed the Board asking them to look at the letter, and if there were no objections, then he would sign the letter. He stated that he heard from Ms. Jones this morning, after the letter had already been sent. He stated that he said if he did not hear from a majority of the Board, then he intended to sign the letter. He stated that he heard from Mr. Kennedy, but he did not hear from Ms. Jones, so he signed the letter.

Mr. Kennedy stated that he requests that a letter be sent to the HRTPO expressing our displeasure at the situation that the Board was put in, and that a situation like this should not happen again.

Mr. McGlennon stated that he believes that the Board would be on stronger ground if Ms. Jones had objected to the vote at the meeting.

Ms. Jones stated that she appreciates Mr. McGlennon's input and she will make even more of an effort to report out the information from her regional committees. She stated that she receives no information about the High Growth Coalition Meetings that Mr. McGlennon attends. She stated that she made a decision at the time, and if she was not representative of the Board then she would move that the Board take a vote on the resolution right now.

Mr. McGlennon stated that the citizens of James City County will be remarkably impacted by this legislation and need to be aggressively represented. He stated that Ms. Jones needs to make sure she is accurately representing the Board at these meetings.

Mr. Kennedy stated again that he believes the Board should put the HRTPO on notice that this situation is unacceptable and will not be tolerated in the future.

Mr. Bradshaw stated that on Monday, March 4, he attended an event called Hands Together. He stated that there were over 300 volunteers and about 200 guests, all of which are experiencing some kind of homelessness. He stated that it was evident that this community cares about homelessness. He thanked Crosswalk Community Church who has indicated that they will be the sustainers of this event.

H. CONSENT CALENDAR

1. Minutes –
 - a. Work Session, February 26, 2013
 - b. Regular Meeting, February 26, 2013
2. Dedication of Streets within the Fenwick Hills Subdivision Section 4

RESOLUTION

DEDICATION OF STREETS WITHIN THE FENWICK HILLS SUBDIVISION, SECTION 4

WHEREAS, the streets described on the attached AM-4.3, fully incorporated herein by reference, are shown on plats recorded in the Clerk's Office of the Circuit Court of James City County; and

WHEREAS, the Residency Administrator for the Virginia Department of Transportation (VDOT) advised the Board that the streets meet the requirements established by the Subdivision Street Requirements of VDOT; and

WHEREAS, the County and VDOT entered into an agreement on July 1, 1994, for comprehensive stormwater detention, which applies to this request for addition.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests VDOT to add the streets described in the attached Additions Form AM-4.3 to the secondary system of State highways, pursuant to §33.1-229 of the Code of Virginia, and the Department's Subdivision Street Requirements.

BE IT FURTHER RESOLVED that the Board guarantees a clear and unrestricted right-of-way, as described and any necessary easements for cuts, fills, and drainage.

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Residency Administrator for VDOT.

Mr. Bradshaw made a motion to approve 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)

I. PUBLIC HEARINGS

1. Case No. SUP-0018-2012. New Zion Baptist Church Building/Parking Addition

Mr. Luke Vinciguerra, Planner I, addressed the Board giving a summary of the staff report included in the Agenda Packet.

Ms. Jones asked if the foundation of the Classroom structures would be permanent or modular in nature.

Mr. Vinciguerra stated that the applicant is indicating that the foundation is modular in nature.

As there were no other Board questions for staff or the applicant, Mr. McGlennon opened the Public Hearing.

As there were no comments, Mr. McGlennon closed the Public Hearing.

Mr. Bradshaw stated that he would be abstaining from the vote due to a conflict of interest.

Ms. Jones made a motion to approve the resolution.

On a roll call vote, the vote was: AYE: Mr. Icenhour, Mr. Kennedy, Ms. Jones, Mr. McGlennon, (4). NAY: (0) ABSTAIN: Mr. Bradshaw, (1).

RESOLUTION

CASE NO. SUP-0018-2012.

NEW ZION BAPTIST CHURCH BUILDING/PARKING ADDITION

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

WHEREAS, Ms. Beth Crowder of Hopke and Associates has requested an SUP amendment to allow an approximately 1,600-square-foot building expansion and 21 additional parking spaces at 3991 Longhill Road, zoned R-8 (Rural Residential) and further identified as James City County Real Estate Tax Map Parcel No. 3130100022; and

WHEREAS, the Planning Commission, following its public hearing on February 6, 2013, voted 7-0 to recommend approval of this application; and

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

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Case No. SUP-0018-2012 as described herein with the following conditions:

1. Master Plan: This SUP shall be valid for an approximately 1,600-square-foot building and parking expansion and other minor improvements to the site located at 3991 Longhill Road and further identified as James City County Real Estate Tax Map Parcel No. 3130100022 (the "Property"). Development of the Property shall occur generally as shown on the exhibit entitled "New Zion Baptist Church Classroom and Parking Lot Addition" dated January 29, 2013 (the "Master Plan") with changes limited to those that the Planning Director determines do not alter the basic concept or character of the development.
2. Lighting: All new exterior light fixtures, including building lighting, on the Property shall have recessed fixtures with no lens, bulb, or globe extending below the casing. Light poles shall not exceed 15 feet in height unless otherwise approved by the Planning Director. "Glare" shall be defined as more than 0.1 foot-candle at the boundary of the Property or any direct view of the lighting source from the adjoining properties.
3. Landscaping: The evergreen shrub planting buffer, as shown on the master plan, shall be planted prior to issuance of a certificate of occupancy for the building expansion in order to adequately screen the proposed building addition from the adjacent property to the satisfaction of the Planning Director.
4. Commencement of Construction: If construction has not commenced on this project within 36 months from the issuance of an SUP, the SUP shall become void.
5. Severance Clause: This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

2. Case No. SUP-0001-2013. Carolina Furniture Building Addition

Mr. Jose Ribeiro, Senior Planner, addressed the Board giving a summary of the staff report included in the Agenda Packet. Mr. Ribeiro stated that as Mr. Steele continues to work with architects, the original request of a 3,000-square-foot addition has been increased to 4,500 square feet. Therefore, staff recommends that the Board remand this application back to the Planning Commission for consideration at their April meeting.

Mr. Icenhour asked if the 2008 Site Plan for the back parcel of the property was an administrative approval.

Mr. Ribeiro stated yes.

Mr. Icenhour stated that if he remembers correctly there were office buildings and a storage facility proposed for that location.

Mr. Ribeiro stated that is correct.

Mr. Icenhour asked if when combined with the addition, if the area is still within the legal limits of a combined parcel.

Mr. Ribeiro stated yes.

As there were no other questions for staff, Mr. McGlennon opened the Public Hearing.

1. Mr. Joseph Steele, III, the applicant, addressed the Board giving background information. He explained that it has become necessary to make the building larger than originally requested in the application. He stated that he understands that the application needs to be amended and go back before the Planning Commission, but he requested that the case be brought back before the Board as quickly as possible.

As there were no other comments, Mr. McGlennon closed the Public Hearing.

Mr. Icenhour made a motion to remand this case back to the Planning Commission and to pre-advertise the case to come back before the Board at its first meeting in April.

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

3. Case No. Z-0008-2012/SUP-0017-2012. Jamestown Beach

Ms. Leanne Reidenbach, Planner III, addressed the Board giving a summary of the staff report included in the Agenda Packet.

Mr. McGlennon stated, for the benefit of the public, the point of this case is to rezone the property to Public Lands because there are improvements planned for the beach. He stated that in order to do those improvements to the beach, the land must be brought into the proper zoning category. He asked Ms. Reidenbach if that was correct.

Ms. Reidenbach stated yes, recreational facilities are not allowed in B-1, General Business.

Mr. McGlennon stated that the Board has to rezone this to be a public beach. He stated that there are plans to continue the beach restoration and provide some amenities, most importantly, restroom facilities.

Ms. Reidenbach stated correct.

Ms. Jones stated that for clarification, this case is not just about rezoning the land. She stated that there is also a SUP included to construct a community recreation center. She stated that approving the SUP provides authority to move forward with those items included in the master plan.

Mr. McGlennon stated that it only allows the items listed specifically in the SUP.

Ms. Reidenbach stated that it sets the stage for a longer range plan. She stated that it is a 20 plus year master plan.

Mr. McGlennon stated that it is incorporating the components of the Shaping our Shores Master Plan that was adopted by the Board. He stated that the Shaping our Shores Master Plan does incorporate the comments and concerns of the Board back in 2009, and is not the overly ambitious plan that was being proposed at the time. He stated that as Mr. Kennedy stated at the work session, this is mostly a passive park with the beach being the main focus. He stated that it is important to preserve the view sheds that are important to our community and to the citizens. He stated it is important to preserve the sight lines so that citizens and visitors can see the same sight line that was seen by those living here during the Revolutionary War and the earliest settlers. He stated that all of that is best experienced with little development done to the property. He stated that the Board expressed that opinion back in 2009, and he continues to support that now. He stated that the commercial development that was done in Yorktown, on the river front, is not the type of development that is consistent with what the Board has indicated as the vision for this property.

Mr. Kennedy stated that he could be supportive of this if the plan was spelled out. He stated that he is fine with the rezoning, the land is already owned by the County. He stated that he would propose doing minimal development. He stated that he would like to see the County plant trees, restore the beach, provide bathrooms, do environmentally friendly parking, create a bird sanctuary, create a native plant refuge, and nature trails. He stated he would like to see a passive park, one that is not heavily invested. He stated that he does not believe the County needs to be in the marina business. He stated that he feels the County should sell the marina. He stated that he could support bringing the beach back to a more natural setting if it was spelled out. He further stated that he is concerned that if the Board approves this now, that in five years a different Board can decide to take a more aggressive action because the previous Board said we could.

Ms. Jones stated that she frequently visits the beach and over the years there have been several erosion preventions implemented at the beach; however, it seems that the County has to go back and restore the beach. She stated that the erosion seems to be significant, and she is not sure if this restoration is something that is going to have to continually be done and be paid for over and over.

Mr. Icenhour asked how Phase I, the beach stabilization, was paid for.

Ms. Reidenbach stated that she would defer that question to Mr. John Carnifax, Director of Parks and Recreation.

Mr. Carnifax stated in the first phase it was a 50/50 match. There were approximately \$100,000 in grant funds, and then a matching contribution by the County. The second phase, which is what we are trying to accomplish is \$152,000 in grants and \$152,000 match by the County.

Mr. Icenhour stated that the first phase is done and the money is spent. For the second phase, he asked if the money is already allocated in the budget.

Mr. Carnifax stated that the Board approved an additional \$300,000 in the Capital Improvement Projects (CIP) for this year.

Mr. Icenhour stated that the second phase is already paid for then. The money has already been set aside.

Mr. Carnifax stated that was correct. He further explained that the project has not been completed, but the money is already allocated.

Mr. Icenhour asked with the SUP, and the list of recreational facilities listed that come from the Shaping our Shores Master Plan, how many of these items has the Board approved money for.

Mr. Carnifax stated that the Board only approves funds on an annual basis for the CIP. So, the Board has only approved the \$313,000 for FY13. He said it is important for the Board to realize that the Shaping our Shores Master Plan, which the Board approved, is what staff uses as a basis for bringing CIP projects to the Board to approve. He stated that if the Board wants to change the plan, then staff can do that and work in that direction.

Mr. Icenhour asked if the money that the Board has approved is being used to do any of the items on the SUP list.

Mr. Carnifax stated that the money is there already for the parking and the walkways. He stated that when the County met with the Health Department in regard to the bathrooms, the Health Department stated that a pump and haul cannot be used when public utilities are available.

Mr. Icenhour asked if, essentially, all staff can do with this SUP is what the Board has given staff money for.

Mr. Carnifax stated yes.

Mr. Icenhour stated that his concern over the Shaping our Shores Master Plan has been that it is a list of everything that the public could want if money was no object. However, money is a concern. He stated that he wanted to clarify that with approving the SUP, staff can only do projects that the Board approves and allocates money for.

Mr. Carnifax stated yes.

Mr. Icenhour stated he wanted that clarified because the Board must do this action if the public is to utilize the beach as it was intended.

Mr. Carnifax stated that was correct.

Mr. Kennedy questioned if by approving this action tonight, is the Board not embracing the Shaping our Shores Master Plan.

Mr. Carnifax said not in his opinion. He stated what the Board would be doing is bringing the park into compliance with existing regulations.

Mr. Carnifax stated then the Board is approving whatever particular project is listed in the CIP. That is how the Board approves projects.

Mr. Kennedy asked if any of these projects are on the waiting list for the CIP.

Mr. Carnifax stated that there are projects for the Jamestown Beach site that are included in the five-year CIP that will be included with the upcoming budget.

Mr. Kennedy asked what those projects would be.

Mr. Carnifax stated that they deal with infrastructure improvements, including bringing in the water and sewer lines.

Mr. Kennedy asked if the water and sewer lines would go all over the property and do a lot of land disturbing.

Mr. Carnifax stated that it could, depending on what the Board does with the Shaping our Shores Master Plan.

Mr. Middaugh asked Mr. Carnifax if the funds for the Vermillion House are in FY16.

Mr. Carnifax stated that he believes they are in FY15; however, Mr. John McDonald, Director of Financial and Management Services, may have pushed it back to FY16.

Mr. Kennedy stated that items on the SUP list are in the CIP plans then. He stated that concerns him. He stated that the Board needs to be more plan specific. He stated that he has no desire to see cabins go up and compete with the local hotel industry.

As there were no other questions for staff, Mr. McGlennon opened the Public Hearing.

1. Mr. Jay Lipscomb, 3144 Hollow Oak Drive, addressed the Board as a representative of the James City County Parks and Recreation Advisory Committee. He stated that the Committee supports the rezoning of the property to ensure that the land continues to operate as a public park.

2. Mr. Jack Haldeman, 1597 Founders Hill North, addressed the Board as a representative of the James City County Citizen Coalition (J4C). He stated that the J4C supports the rezoning of the property to preserve the natural and historical value of the land and the waterfront.

3. Mr. Ed Oyer, 139 Indian Circle, addressed the Board reminding them of what it is currently happening right now in Yorktown with their waterfront commercial development, and he stated that he would not want to see that happen here in James City County.

4. Mr. John Wright, 4305 Lydias Drive, addressed the Board in regard to the high cost of the Shaping our Shores Master Plan.

5. Ms. Landress Skelly, 6572 Wiltshire Road, addressed the Board in regard to return on the investment to the taxpayer. She stated that she does not understand why the Board is looking at rezoning the property when the future use of the property has not been decided.

6. Mr. Jim Brown, 4 Olney Circle, addressed the Board in support of the rezoning and the SUP.

7. Ms. Sue Sadler, 9929 Mountain Berry Court, addressed the Board in opposition to the rezoning because it opens a door to all of the other projects associated with Shaping our Shores Master Plan.

8. Mr. Chris Henderson, 101 Keystone, addressed the Board stating that this is an opportunity to utilize private enterprise and risk capital to do something that supports the community.

9. Mr. Keith Sadler, 9929 Mountain Berry Court, addressed the Board in opposition to the rezoning due to the beach being income negative.

10. Mr. Joseph Swanenburg, 3026 The Pointe Drive, addressed the Board in opposition to the rezoning stating that the beach will not generate income.

11. Ms. Rosanne Reddin, 2812 King Rook Court, addressed the Board in opposition to the case due to the expensive nature of the project that the citizens cannot afford to fund. She stated that the beach should stay natural and the way it is.

12. Ms. Marjorie Ponziani, 4852 Bristol Circle, addressed the Board in opposition to the rezoning as the business designation allows the possibility of business revenue. She stated that the Shaping our Shores Master Plan is an expensive and unnecessary plan.

13. Mr. Les Skelly, 6572 Wiltshire Road, addressed the Board stating that the community could come out and work together to improve the park and would be less expensive to the taxpayers.

As no one else wished to speak to the case, Mr. McGlennon closed the Public Hearing.

Mr. McGlennon stated that a few years ago, numerous citizens came out to help with the beach restoration and with clean-up of the beach-front.

Ms. Jones stated that she appreciated all of the citizen comments. She stated that she has been very open about her feelings that government should not be in the land acquisition business unless it is absolutely necessary. She stated that she does not believe that the County should have bought this property. She stated that the Board is considering taking 94 acres of land that is zoned B-1, General Business, off the tax rolls. She stated that there are some nice ideas about what to do with the property going forward. She stated that she agrees with Mr. Kennedy's idea about re-wilding the property and making it less intrusive. She stated that the Board needs to consider the reality of the economy, and this should not be a priority of the Board as it is not a priority to the citizens facing furlough notices. She stated that she is not supportive of the rezoning, and she would request that the County sell the property and get it back into the hands of the private sector.

At 9:31 p.m., Mr. McGlennon recessed the Board for a break.

At 9:39 p.m., Mr. McGlennon reconvened the Board.

Mr. McGlennon stated the Mr. Kennedy will be rejoining the meeting in a few minutes; he is taking time to exercise his injured leg.

Mr. Bradshaw stated that in any land use decision, he begins determining his position by looking at the Comprehensive Plan. He stated that since 1997, this particular piece of property has had some significant value to the community. He stated that that position was reinforced by the Shaping our Shores Master Plan. He stated that there are a lot decisions to be made along the way; however, preserving the land for the community has been a priority for decades. He stated that many have said that the County already owns enough land. He stated his reaction to that statement is that that is mainly a function of geography. He stated that many of those lands are protected because they are unsuitable for development and are a function of what our lands are like. He stated that he has heard that parklands are not a public function. However, the State Constitution has an article about conservation and that we should be conserving lands for protection, recreation, and historical protection. He stated that he has heard the observation that government should not compete with private industry. He stated that he agrees with that in many ways, and that we should be careful with what activities the property is used for in the future. He stated that the property was removed from the tax base the minute it was purchased and is no longer an argument for not moving forward with the case. He stated that to simply sell this B-1 property means that at the historic and sacred entrance to our County we could have novelty shops and restaurants. He stated that the other observation he has heard is that it will not generate revenue. He stated that while this is true, there are many intangible values that weigh equally, if not more, than the dollars that will

make off the venture. He stated that what he hears out in the community, and many of them did not come to the meeting, is that citizens want this land to be protected and preserved. He stated that the decisions on how to proceed with the project do not have to be made tonight, and Mr. Kennedy had some interesting ideas. He stated that in the coming years with the CIP process is when those decisions get made and approved. He stated that the County made a commitment to the citizens with the purchase of the property to protect the land and utilize it as a public park and recreational area, and we need to honor that commitment by going ahead with the rezoning.

Mr. Icenhour stated that this case is a land use decision and the rezoning will bring the land into conformity with the Comprehensive Plan. He stated that we are not dealing with the shortcomings or problems we have with the Shaping our Shores Master Plan this evening. He stated that the money for the projects cannot be spent without Board authorization, and if the Board wants to go back and change the Shaping our Shores Master Plan, then they can do that as well. He stated that this property was purchased for the specific purpose of protecting the corridor coming into the County from by-right business development that would be inconsistent with the historical nature of the area. He stated that the County owning the land and moving forward with this land use decision does not preclude the County from getting involved in public-private ventures or utilizing business leases, like what is going on out at Eco Discovery Park. He stated that he supports the rezoning and the SUP as a land use decision and conforming to the Comprehensive Plan.

Mr. Kennedy stated that he could be supportive of this case if the plan went back to a more passive use of the property. He stated that things have changed in the country and in the Commonwealth since 2009. He stated that he is concerned about approving things when there are items in the CIP that we say we will fix later. He is of the mind that those changes be made now and spell them out. He stated that the marina side should be kept passive if the County is going to keep it. He stated that it should be made into a kayak or canoe launch instead of a marina or yacht club. He stated that he has been a proponent of land acquisition and of greenspace. He stated that does not mean that we acquire land in all areas. He stated that this land should be kept passive and we should restore the beach as much as possible. He stated that he does disagree with having cabins on the property; our tourism is suffering enough as it is and we should not be competing with hotels. He stated that if we build something bigger and grander, then we will need staff to run it and maintain it. He stated that he does support the rezoning, but he believes the uses need to be refined and spelled out.

Mr. McGlennon stated that the Shaping our Shores Master Plan really is an expression of open government. He stated that 140 pages of the document is the laying out of the project. He stated 100 pages of the document are the technical aspects of the project. There were 10 pages of information in regard to the Chesapeake Bay Act and its impact on the project. There were 6 pages on soil information and how that helps to determine which uses of the land would be best. There were 6 pages on stormwater management. There were 81 pages analyzing the economic development of this land. There were 82 pages of staff responses to specific Board requests for information and Board guidance. There were 41 pages recounting the meetings attended by the public leading up to the adoption of the Shaping our Shores Master Plan. He stated that the report is full of information, but it needs to be taken into context. He stated that it provides lots of options, and the Board sent a pretty clear message to staff that it did not want all of those options. He stated that Appendix C, which has been referenced by several citizens, is the probable cost outline. He stated that this is where the \$62 million price tag comes from. The problem with this Appendix is that it includes all of the options in that price tag, much of which the Board already indicated that they are not interested in doing. He stated that even at its worst, the price tag that is being thrown about in comments is vastly higher than anything the Board ever stated that they would consider doing. He stated that even then, the Board has stated that they are going to take the development slowly. He stated that what we have here is a historically significant piece of land that we are trying to preserve. He stated that the block house from 1611 is still there near the Vermillion house, because it provides an unobstructed view of the James River. He stated that remnants of the Great Road, which leads to Berkeley Plantation, are still there on the property. He stated that Jamestown Beach Park and Mainland Farm are where the Battle at Greensprings took place. He stated that what we are doing for our community will last for the ages. He stated that we celebrated our 400th anniversary, and we can still point to the places where our

ancestors walked and slept. He stated that this is not just about building another a park; it is about utilizing this park while preserving our history. He stated that he believes that we need to move forward with this case, and he hopes that the Board can work with staff to refine the CIP and the plan to incorporate Mr. Kennedy's ideas.

Ms. Jones asked if the previous owners were aware of all the valuable artifacts and the historical value of the property.

Mr. McGlennon stated that he believes so. He stated that the previous owner felt that he was getting a fair price for the land and also felt that it was a good thing for the County to own it and preserve it.

Mr. Bradshaw made a motion to approve the resolutions.

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

RESOLUTION

CASE NO. Z-0008-2012. JAMESTOWN BEACH

WHEREAS, in accordance with §15.2-2204 of the Code of Virginia, and Section 24-13 of the James City County Zoning Ordinance, a public hearing was advertised, adjacent property owners notified, and a hearing scheduled for Case No. Z-0008-2012 for rezoning approximately 94.7 acres from B-1, General Business, to PL, Public Land; and

WHEREAS, the property is located at 2205 Jamestown Road and can be further identified as James City County Real Estate Tax Map No. 4630100005; and

WHEREAS, the Planning Commission, following its public hearing on January 9, 2013, voted 7 to 0 to recommend approval of this application.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, after a public hearing, does hereby approve Case No. Z-0008-2012 as described herein.

RESOLUTION

CASE NO. SUP-0017-2012. JAMESTOWN BEACH

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

WHEREAS, Ms. Nancy Ellis of James City County Parks and Recreation has applied for an SUP to master plan the Jamestown Beach park property for community recreation facilities in a PL, Public Land District; and

WHEREAS, the property is located at 2205 Jamestown Road and can be further identified as James City County Real Estate Tax Map/Parcel No. 4630100005; and

WHEREAS, the Board of Supervisors endorsed the Shaping Our Shores Master Plan by resolution on June 9, 2009 as a high-level planning document for Jamestown Beach; and

WHEREAS, the Planning Commission of James City County, following its public hearing on January 9, 2013, recommended approval of this application by a vote of 7-0; and

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

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, after a public hearing does hereby approve the issuance of SUP 0017-2012 as described herein with the following conditions:

1. **Master Plan.** This SUP shall permit a public community recreation facility and accessory uses thereto, including, but not limited to, restoration of the Vermillion house, event tents, interpretive areas, beach access and parking, special event areas, maintenance areas, concession stands, cabins, tent camping, a ropes course and performance venue on property located at 2205 Jamestown Road (the "Property"). Uses and layout of the Property shall generally be located as shown on the document entitled "Figure 2-2: Master Plan Jamestown Beach Campground," (the "Master Plan") prepared by Vanasse, Hangen, and Brustlin, Inc. (VHB) and as described in the *Shaping Our Shores* Master Plan ("SOS") report adopted by the Board of Supervisors on June 9, 2009 with only changes thereto that the Planning Director determines to be generally consistent with the Master Plan and the SOS report.
2. **Archaeology.** Additional archaeological studies for any area to be disturbed that is identified as 'potentially eligible' or 'eligible' for inclusion on the National Register of Historic Places and/or 'unknown (further work needed)' in the reports titled "Phase I Cultural Resource Survey of the James City County Campground and Yacht Basin Marina, James City County, Virginia" by Archaeological and Cultural Solutions, Inc. and dated February, 2009 and "Phase II Investigations of Archaeological Sites 44JC0101 and 44JC1212, James City County Campground and Yacht Basin Marina, James City County, Virginia" by Archaeological and Cultural Solutions, Inc. and dated July, 2009 shall be submitted to the Planning Director or his designee for review and approval prior to the commencement of any land disturbing activity on the property. If an additional Phase II study is necessary for any site, such a study shall be approved by the Planning Director or his designee and a treatment plan for said sites shall be submitted to, and approved by, the Planning Director or his designee for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If in the Phase III study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Planning Director or his designee prior to land disturbance within the study areas. All Phase I, Phase II, and Phase III studies shall meet the Virginia Department of Historic Resources' *Guidelines for Preparing Archaeological Resource Management Reports* and the Secretary of the Interior's *Standards and Guidelines for Archaeological Documentation*, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's *Professional Qualification Standards*. All approved treatment plans shall be incorporated into the plan of development for the site and the clearing, grading or construction activities thereon.

3. **Tree Clearing.** Tree clearing on the Property shall be limited to the minimum necessary to accommodate the proposed infrastructure improvements; recreational uses shown on the Master Plan; and related driveways, entrance improvements and facilities as determined by the Director of Planning or his designee.
4. **Master Stormwater Management Plan.** The applicant shall complete a Master Stormwater Management Plan for the Property prior to final development plan approval for the next significant development phase of the Property for which a conceptual plan has not been received by the adoption date of this resolution. The master Stormwater management plan shall be in accordance with the SOS report and the County's Sustainable Building Policy as adopted by Board of Supervisors resolution on March 23, 2010.
5. **Vermillion House.** The Vermillion house and associated dependencies identified within the SOS report shall remain on the property and shall not be demolished. No changes shall be permitted to these structures with the exception of alterations, maintenance, and/or modernizations that will not jeopardize their eligibility for future nomination to the National Register of Historic Places.
6. **Water Conservation Guidelines.** The applicant shall be responsible for developing water conservation standards to be submitted to and approved by the James City Service Authority (JCSA) prior to final site plan approval and subsequently for enforcing these standards. Water conservation measures addressed by the guidelines shall include, but not be limited to, limitations on the installation and use of approved landscaping design and materials to promote water conservation and minimize use of public water resources.
7. **Public Utilities.** The applicant shall install connections to public water and sewer infrastructure for bathrooms and other amenities on the Property prior to the development of any uses shown on the Master Plan that would be expected to generate higher park visitation rates including, but not limited to, the campground area, rental cabins, interpretive areas, special event areas, restoration of the Vermillion House, and performance venue.
8. **Severance Clause.** This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

J. BOARD CONSIDERATION - None

K. PUBLIC COMMENT

1. Mr. Joseph Swanenburg, 3026 The Pointe Drive, addressed the Board in regard to Sheriff Deeds' comments being removed from the County website.

2. Ms. Sue Sadler, 9929 Mountain Berry Court, addressed the Board in regard to Ms. Jones' vote at the HRTPO and her support of the County and the Constitution.

3. Mr. Chris Henderson, 101 Keystone, addressed the Board in regard to the Closed Session item regarding the purchase or disposition of public property. He stated that if the Board is considering purchasing more land; then it should be open for citizen involvement and comment.

4. Ms. Marjorie Ponziani, 4852 Bristol Circle, addressed the Board stating that she is opposed to the Transportation Bill and that she has concerns regarding the Closed Session discussion regarding public property.

5. Mr. Keith Sadler, 9929 Mountain Berry Court, addressed the Board and thanked Ms. Jones and Mr. Kennedy for representing the citizens with their vote tonight.

6. Ms. Landress Skelly, 6572 Wiltshire Road, addressed the Board stating that she would like to see a cost breakdown of the implementation of the new stormwater management program.

7. Ms. Rosanne Reddin, 2812 King Rook Circle, addressed the Board questioning the Closed Session item regarding public property.

L. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Middaugh stated that the walking track and the floor in the gymnasium at the Recreation Center has been completed and will be reopening. He also stated that the James City Clean County Commission's Annual Spring Cleanup will be held over three consecutive Saturdays - April 6, 13, and 20. The program is open to James City County civic, youth, and neighborhood groups and organizations. Applications are available at the County's website jamescitycountyva.gov/cleancounty. He stated that the City of Newport News, James City County, the City of Williamsburg, and York County have all partnered together to offer four separate business assistance seminars. He stated to contact the County's Economic Development Office, specifically Kate Sipes, for more information.

M. BOARD REQUESTS AND DIRECTIVES

Mr. Kennedy asked, as a follow up to the previous meeting, about the situation going on out at the Family Inn. He stated that he had heard that another locality is discussing not letting the homeless stay in hotels anymore. He stated that it is rather alarming that a locality would even consider doing something like that to its citizens.

Mr. Middaugh stated that in regard to the Family Inn, the situation there is mostly stabilized. He stated that as it turned out, there were numerous rooms at the Inn that were salvageable and able to be used. He stated that everyone has either been moved to different rooms or been relocated and are taken care of. He stated that now it is time for the owner to fix the units so that they can be reopened.

Ms. Jones stated that she wanted to thank her husband for relocating a family from the Family Inn and getting them situated at another location.

Mr. Middaugh stated that many citizens came out to help, and thanked the community for their efforts.

Mr. Icenhour asked Mr. Middaugh to look into the synchronization of traffic lights. He stated that the County had looked into this on Monticello Avenue, but a constituent brought up the lights on Route 199.

Mr. Kennedy stated that the County has been bringing up this issue since 2000.

Mr. Icenhour stated that the technology is not that expensive. He stated that the original response was to wait until the County was more built out, but he stated that we have hit our saturation point of lights on Monticello Avenue and Route 199.

Mr. Middaugh stated that he would speak to the district VDOT representative.

Mr. Kennedy asked if there would be another pothole blitz done soon.

Mr. Middaugh stated that VDOT is staying on top of them routinely but to let staff know if there are specific locations that need to be addressed.

Mr. Kennedy stated that the potholes are popping up again on Route 60. He also mentioned concern over the on and off ramp of Exit 227.

Ms. Jones asked that VDOT look at the bridge between Jamestown 1607 and the 7-Eleven, and check the integrity of the structure.

Mr. Icenhour stated that he attended the Black History Celebration put on by the County at Legacy Hall and he thanked staff for a wonderful event. He also stated that he attended the opening of the Jamestown's Legacy to the American Revolution demonstration. He stated that he wanted to thank the J4C for a very informative meeting with our stormwater management staff.

Ms. Jones asked that the Closed Session item regarding property acquisition be postponed until Mr. Kennedy is able to participate.

Mr. Middaugh stated that there would not be enough information for the Board to make a decision tonight anyways.

Mr. McGlennon suggested that it be discussed in individual briefings with Board members.

Mr. Icenhour made a motion to appoint Judge Wade Bowie to the Colonial Community Criminal Justice Board.

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

The Board decided to defer the appointments to the Board of Zoning Appeals and the Social Services Advisory Board until the March 26, 2013, meeting.

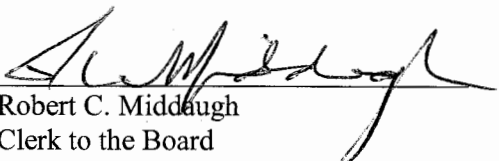
Mr. Kennedy excused himself from the meeting.

O. ADJOURNMENT – until 10 a.m. on March 13, 2013, for Joint Meeting

Ms. Jones made a motion to adjourn.

On a roll call vote, the vote was: AYE: Mr. Icenhour, Mr. Bradshaw, Ms. Jones, Mr. McGlennon, (4). NAY: (0) ABSENT: Mr. Kennedy, (1)

At 10:52 p.m., Mr. McGlennon adjourned the Board.


Robert C. Middaugh
Clerk to the Board