

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 10TH DAY OF SEPTEMBER 2013, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

ADOPTED

SEP 24 2013

Board of Supervisors
James City County, VA

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 – Christianna Brockman, an 11-year old home-schooled student and resident of the Jamestown District, led the Board and citizens in the Pledge of Allegiance.

E. PRESENTATION

1. Proclamation

Mr. McGlennon read a Proclamation declaring September as Hunger Action Month in James City County.

F. PUBLIC COMMENTS

1. Mr. Ralph Crandall, 193 Shoal Creek, addressed the Board in regard to sinkholes and storm drain issues in his neighborhood, Fairway Villas.

2. Mr. Keith Sadler, 9929 Mountain Berry Court, addressed the Board in regard to property rights and against Agenda 21.

3. Ms. Sue Sadler, 9929 Mountain Berry Court, addressed the Board in regard to campaign propaganda.

4. Mr. Christopher Schmedtje, 110 Ware Road, addressed the Board and offered an invocation.

5. Ms. Marjorie Ponziani, 4852 Bristol Circle, addressed the Board in regard to the role of governments to protect the rights of citizens.

6. Mr. John Haldeman, 1597 Founder's Hill North, addressed the Board congratulating the Parks and Recreation Department for the three awards received at the 59th Annual Virginia Recreation and Parks Society Conference.

7. Ms. Deborah Griesinger, 3309 Sawyer Way, addressed the Board in regard to the lack of an Agriculture and Natural Resources Agent at the local Cooperative Extension Field Office.

8. Ms. Betty Walker, 101 Locust Place, addressed the Board in regard to climate changes.

9. Ms. Laura Howell, 169 Waters Edge Drive, addressed the Board in regard to synchronization of the traffic lights on Monticello Avenue.

10. Mr. Gerald Johnson, 4513 Wimbledon Way, addressed the Board in regard to County governance and the solid financial standing of the County.

11. Mr. Mike Sloan, 2527 Manion Drive, addressed the Board in support of the Purchase of Development Rights (PDR) Program and the Greenspace Program.

12. Ms. Edith Heard, 1239 Oak Drive, addressed the Board in support of the efforts of the Board and staff to balance the budget and consistently having a surplus.

13. Mr. Randy O'Neill, 109 Sheffield Road, addressed the Board in regard to the lack of health programs and initiatives for the children in the public schools.

14. Ms. Rosanne Reddin, 2812 King Rook Court, addressed the Board in regard to the spending practices of the Board.

15. Mr. Chris Henderson, 101 Keystone, addressed the Board in regard to the planned spending of millions of dollars on the replacement fire station in Toano; he spoke in opposition to using public funds to fix the drainage issues in St. George's Hundred.

16. Mr. Ed Oyer, 139 Indian Circle, addressed the Board in regard to the planned spending by the School Board for a new administrative building and a new school.

17. Mr. Joseph Swanenburg, 3026 The Pointe Drive, addressed the Board in regard to campaign propaganda and the record of the current Board members.

18. Mr. R.J. Stewart, 180 Wellington Circle, addressed the Board in support of the drainage improvements in Saint George's Hundred on the agenda this evening.

G. BOARD REQUESTS AND DIRECTIVES

Mr. McGlennon mentioned that Mr. Icenhour would be attending the VACo meeting in November. He asked the Board to move a resolution authorizing Mr. Icenhour to vote on behalf of the Board at that meeting.

Mr. Bradshaw made the motion.

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

Mr. Icenhour stated that he had two items for the County Administrator. First, he has received an email from Settler's Mill regarding grinder pumps being a sanitation issue during extended power outages and requesting the County's help in being added to Virginia Dominion Power's priority list. Secondly, he has received a request from Mallard Hill residents to remove a thicket that blocks the line of sight of traffic coming out of the park; as well as, periodic police presence at the entrance onto Longhill Road to help control speeding.

Mr. Bradshaw stated that there are several neighborhoods with grinder pumps and all of those neighborhoods should be added to Virginia Dominion Power's priority list.

Ms. Jones requested that Mr. Icenhour send as much information from the VACo meeting back to the Board so that the Board may provide its input before he votes.

Mr. Icenhour stated that the agendas for the meeting in November will be available sometime in September and that he would make sure the information is forwarded to the Board.

Ms. Jones stated that she has requested that there be an increased police presence on Hickory Sign Post Road to help control speeding through the neighborhood.

Mr. McGlennon stated that he attended the Middle Passage Ceremony at Jamestown and a new National Historic Marker has been placed at that site. He stated that he attended the Lane Bryant store opening in the Premium Outlets. He stated that he attended a meeting, at the invitation of the School Board, regarding the Freedom of Information Act and Open Meeting Laws. He stated that he attended the 59th Annual Virginia Recreation and Parks Society Convention.

Mr. Icenhour requested that the County assist in whatever way possible to get the vacant positions at that Virginia Cooperative Extension Office filled as soon as possible.

Mr. Middaugh stated that the County would have people serving on the interview panels and participating in that process.

H. CONSENT CALENDAR

Ms. Jones requested that Item No. 7 be pulled for discussion.

Ms. Jones made a motion to approve Item Nos. 1-6.

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

1. Minutes –
 - a. August 13, 2013, Regular Meeting

2. Abandonment and Dedication of Portions of the Right-of-Way for Route 746 and US 30

RESOLUTION

ABANDONMENT AND DEDICATION OF

PORTIONS OF THE RIGHT-OF-WAY FOR ROUTE 746 AND US 30

WHEREAS, the White Hall Development Project modified the intersection of Route 746 and US 30 as well as the intersection of Route 746 and Route 1155 and has been completed; and

WHEREAS, the project sketch and the Virginia Department of Transportation (VDOT) Form(s) AM4.3, attached and incorporated herein as part of this resolution, defines adjustments required in the Secondary System of State highways as a result of construction; and

WHEREAS, certain segments identified on the incorporated Form AM4.3 appear to no longer serve public convenience and should be abandoned as a part of the Secondary System of State Highways; and

WHEREAS, certain segments identified on the incorporated Form AM4.3 are ready to be accepted into the Secondary System of State Highways.

NOW THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests the Virginia Department of Transportation to take the necessary action to abandon those segments identified on the attached AM4.3 Form and project sketch as a part of the Secondary System of State Highways, pursuant to § 33.1-155, Code of Virginia, 1950, as amended.

BE IT FURTHER RESOLVED that this Board requests the Virginia Department of Transportation to add the segments identified on the incorporated Form AM4.3 to the Secondary System of State highways, pursuant to § 33.1-229 of the Code of Virginia, for which sections this Board hereby guarantees the right-of-way to be clear and unrestricted, including any necessary easements for cuts, fills, and drainage.

BE IT FINALLY RESOLVED that a certified copy of this resolution be forwarded to the Virginia Department of Transportation.

3. Department of Motor Vehicles Grant Award - Alcohol Enforcement - \$22,095

RESOLUTION

DEPARTMENT OF MOTOR VEHICLES GRANT AWARD -

ALCOHOL ENFORCEMENT - \$22,095

WHEREAS, the James City County Police Department has been awarded a highway safety grant from the Virginia Department of Motor Vehicles (DMV) Highway Safety Office for \$22,095; and

WHEREAS, funds in the amount of \$620 will be used for training and conferences, \$2,995 will be used for the purchase of a LIDAR, and the balance will be used for overtime pay for traffic enforcement focusing on impaired driving; and

WHEREAS, the grant requires only an in-kind match, which is available through the fuel and maintenance costs for police vehicles that participate in traffic enforcement duties.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, accepts the \$22,095 grant awarded by the Virginia DMV.

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

Revenue:

FY14 DMV - Alcohol Enforcement	<u>\$22,095</u>
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Expenditure:

FY14 DMV - Alcohol Enforcement	<u>\$22,095</u>
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4. Department of Motor Vehicles Grant Award - Occupant Protection - \$4,620

RESOLUTION

DEPARTMENT OF MOTOR VEHICLES GRANT AWARD -

OCCUPANT PROTECTION - \$4,620

WHEREAS, the James City County Police Department has been awarded a highway safety grant from the Virginia Department of Motor Vehicles (DMV) Highway Safety Office for \$4,620; and

WHEREAS, funds are to be used toward traffic enforcement overtime where officers will focus on the enforcement of laws related to proper use of occupant restraints; and

WHEREAS, the grant requires only an in-kind match, which is available through the fuel and maintenance costs for police vehicles that participate in traffic enforcement duties.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, accepts the \$4,620 grant awarded by the Virginia DMV.

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

Revenue:

FY14 DMV - Occupant Protection Enforcement	<u>\$4,620</u>
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Expenditure:

FY14 DMV – Occupant Protection Enforcement \$4,620

5. Department of Motor Vehicles Grant Award - Speed Enforcement - \$15,708

RESOLUTION

DEPARTMENT OF MOTOR VEHICLES GRANT AWARD -

SPEED ENFORCEMENT - \$15,708

WHEREAS, the James City County Police Department has been awarded a highway safety grant from the Virginia Department of Motor Vehicles (DMV) Highway Safety Office for \$15,708; and

WHEREAS, funds are to be used towards speed traffic enforcement overtime; and

WHEREAS, the grant requires only an in-kind match, which is available through the fuel and maintenance costs for police vehicles that participate in traffic enforcement duties.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, accepts the \$15,708 grant awarded by the Virginia DMV.

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

Revenue:

FY14 DMV – Speed Enforcement \$15,708

Expenditure:

FY14 DMV – Speed Enforcement \$15,708

6. Service Agreements for Debris Removal, Reduction, and Disposal and Monitoring For Debris Removal, Reduction, and Disposal - VPPSA

RESOLUTION

SERVICE AGREEMENTS FOR DEBRIS REMOVAL, REDUCTION, AND DISPOSAL AND

MONITORING FOR DEBRIS REMOVAL, REDUCTION, AND DISPOSAL-VPPSA

WHEREAS, the Virginia Peninsulas Public Service Authority (VPPSA) provides access to contracts for debris removal, reduction, and disposal services and contracts for monitoring of debris removal, reduction, and disposal services for James City County; and

WHEREAS, VPPSA provides these services through service agreements with the County; and

WHEREAS, it is necessary to approve service agreements to allow the County to have access to these contracts.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to sign service agreements between the County and VPPSA for debris removal, reduction, and disposal and monitoring for debris removal, reduction, and disposal.

7. Williamsburg-James City County (WJCC) Year-End Fund Balance

Mr. John McDonald, Director of Financial and Management Services, addressed the Board giving a summary of the memorandum in the Agenda Packet.

Mr. Icenhour stated that a majority of the money listed is allocated for replacement buses. He stated that buses have not been replaced on a regular schedule, due to the downturn in the economy. He asked if looking forward, the buses would be replaced on a more regular basis.

Mr. McDonald stated that the replacement schedule has been deferred, due to the economy. He stated that the School Board is looking to get back on a more regular schedule; as well as looking into alternative fuels.

Mr. Middaugh stated that if the School Board is successful in getting alternative fuel buses, it would probably qualify for a fueling station which the County would benefit from as well.

Mr. Icenhour made a motion to approve Item No. 7.

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

RESOLUTION

WILLIAMSBURG-JAMES CITY COUNTY (WJCC) YEAR-END FUND BALANCE

WHEREAS, a provision of the April 2012 amendment to the City/County School Contract indicates that the local fund balance at year end becomes part of the appropriation of City and County funds for the following year unless the Schools submit a spending plan for the unexpended year-end funds and that spending plan is approved by both the City and County; and

WHEREAS, the School Board has estimated a June 30, 2013, year-end fund balance of \$1,238,093 and at its June 18, 2013, meeting, adopted a spending plan that includes \$1,041,893 for the FY 2014 operating budget for replacement buses and technology and \$196,200 for the FY 2014 capital budget for technology and energy efficiency; and

WHEREAS, the County share of the total is 90.83 percent or \$1,124,560, \$178,210 for capital, and \$946,350 for the operating budget.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby executes the following appropriation and budget amendment in the WJCC School Board's FY 2014 operating and capital budgets:

Revenue/Funding:

School Year-End Fund Balance	<u>\$1,124,560</u>
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Expenditures:

School Operating Budget	\$ 946,350
School Capital Budget	<u>178,210</u>
	<u>\$1,124,560</u>

BE IT FURTHER RESOLVED that this budget amendment will become effective when the Council of the City of Williamsburg has adopted a similar resolution.

I. PUBLIC HEARINGS

1. Case No. Z-0002-2013/SUP-0005-2013. Wellington, Windsor Ridge, Section 4

Mr. Christopher Johnson, Principal Planner, addressed the Board giving a summary of the staff report included in the Agenda Packet.

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

1. Mr. Heath Richardson, representative of the Wellington Homeowners Association (HOA) Board, addressed the Board stating that generally the HOA is in favor of the development of the 15-acre parcel.

2. Mr. Joseph Swanenburg, 3026 The Pointe Drive, addressed the Board asking why the property was not put out to bid for developers.

3. Mr. John Haldeman, 1597 Founder's Hill North, representing the James City County Citizen Coalition (J4C), addressed the Board stating that the proceeds from the sale of the property should be reinvested in Purchase of Development Rights (PDR) and greenspace programs.

4. Mr. Sasha Diggs, 3612 Ironbound Road, addressed the Board in opposition to the case and the giving up of greenspace that the County already owns.

5. Mr. Ed Oyer, 139 Indian Circle, addressed the Board stating his concern over the fact that no cash proffers are involved in the sale.

6. Mr. Tim Cleary, 103 Land's End Drive, addressed the Board stating the pros and cons of building 28 new homes in the County.

7. Ms. Marjorie Ponziani, 4852 Bristol Circle, addressed the Board asking the Board why the pre-negotiated sale was not put out for bid for local developers.

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

Mr. Kennedy offered background information on the history of this piece of property. He stated that he has issues with the speculative nature of the number of children that these potential homes will bring into

the school system. He stated that if no cash proffers are included, then why is this project not being offered to a small local developer. He stated that if the County is going to waive a considerable amount of money, then he would rather see that waived for people that are invested here in the County. He stated that he cannot be supportive of the case as it stands.

Mr. Bradshaw requested that staff clarify how the price of the property was arrived at.

Mr. Rogers stated that the property was not reassessed when it was rezoned from R-1 to Public Lands (PL). He stated that 28 homes are proposed, six of which are affordable housing which have some form of proffer attached. He stated that the price is about what would be paid for R-1 property plus the additional units. He stated that staff could go back and look at the price based on the value of the PL with additional proffers added. He stated that if the Board desires, staff can go back and renegotiate.

Mr. Bradshaw stated that by size and location, it is not suitable to be a school or park, the public uses that were originally intended. As for the price and the proffers, if the land was owned by someone other than the County and they came forward with a plan for development, the County would expect to receive roughly \$550,000 in cash proffers. He stated that the purchase price of \$600,000 leaves very little value in the land itself. He stated that the proffer value has been built into the purchase price; however, he does not believe that it is enough. He stated that he would prefer that the price be renegotiated.

Mr. Icenhour stated that he agrees with Mr. Bradshaw that the concept is a good one. He stated that the County did not go out and purchase this property for greenspace; it was given to the County as part of the proffers for Wellington. He stated that he did not realize that the cash proffers were going to be rolled into the purchase price. He stated that the money from the price of the land would go into the capital fund for the fire station in Norge, so it would be a transfer from one capital asset to another. He stated that he would be happy to see the price renegotiated and then the cash proffer policy applied so that that money would be set aside like all other cash proffers for the construction of schools. He stated whatever is determined to be the value of the land needs to be transferred into another capital investment. He stated that he cannot support the case as it stands. Mr. Icenhour formally requested a deferral for staff to renegotiate the price based on the comments and issues raised.

Mr. McGlennon stated that the cash proffer issue is more difficult in this case because the County is the landowner. He stated that the equivalent of a cash proffer must be determined and applied. He stated that there are unanswered issues with this case. He stated that the residents of Wellington are concerned that the land will eventually be developed and they would like to see it developed in such a way that will blend with their existing neighborhood.

Mr. Kennedy asked how the negotiation with Ryan Homes, Inc. came about.

Mr. Middaugh stated that the residents of Wellington asked the County to intercede on their behalf with Mr. Ashe who was developing the area on the other side of the lake that could be seen by the homes on the back side. He stated that it became apparent that the County had a piece of property there that was not going to be used and Ryan Homes was already developing infrastructure in the surrounding areas.

Mr. Kennedy asked if the discussion with Ryan Homes came about before or after the Board action last year to sell the property.

Mr. Middaugh stated that the discussion with Ryan Homes began before the Board action, because it was the only way to solve the dilemma that the Wellington residents asked for help with.

Mr. Rogers stated that sole source procurement allows for unique items to be purchased by the County without going out to bid. He stated that land, by its nature and location, is a unique item. He stated that land is not under the Public Procurement Act. He stated that if the Board would like to defer action and have staff go back and renegotiate, then he would recommend leaving the Public Hearing open.

Mr. Middaugh stated, for clarification, that the discussion with Ryan Homes began as a result of the issues that the Wellington residents were having with Mr. Ashe and by extension Ryan Homes. He stated at that time the sale of the property was not discussed. He stated that further discussion with Ryan Homes came after he asked the Board for guidance last year.

Ms. Jones stated that she would agree to the request for a deferral. She stated that she is supportive of selling the property and putting it back on the tax rolls. She stated that she has some issue with only talking to one developer, but she does understand the value of consistency for the residents of Wellington. She stated that it is important for citizens to understand that proffers are voluntary, that the County cannot force a developer to give up anything. She stated that while there is a fiscal impact when new families come into the County, there is also a contribution made to the County by those people.

Mr. McGlennon stated that the proffer policy is in place to allow a developer to contribute to the cost incurred by the County for the development. Prior to the policy being in place, the County rarely got any concessions from the developers for the costs. In this case the question is whether or not Ryan Homes has chosen to apply the proffer policy to the units they propose to build and his opinion is that they have.

Ms. Jones stated that apparently the lack of maintenance on the property by the County has caused some issues in the Wellington development due to storm run-off. She stated that in moving forward the County should remedy that situation.

Mr. McGlennon stated that he believes the real value of the property has not been taken into account in this case and would be supportive of a deferral to allow for renegotiation.

Mr. Rogers recommended continuing the case to a date certain. He stated that staff would readvertise the Public Hearing. He stated that he is suggesting this because if there are significant changes to the proffers or the contract, it may affect the rezoning case which would mean that the case would have to go back to the Planning Commission. He stated that staff would need at least 60 if not 90 days.

Mr. Bradshaw asked if it is continued to a date certain, then does a date need to be specified.

Mr. Rogers stated yes. He stated that it could be done at the first meeting in November, however, he would prefer the first meeting in December.

Mr. Kennedy stated that he has issue with the first meeting in November, because there will be a new Board member. He stated that he would prefer the first meeting in December.

Mr. Icenhour amended his motion to continue the case until the first meeting in December, which is December 10, 2013.

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

At 9:30 p.m., Mr. McGlennon recessed the Board for a brief break.

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

2. Case No. HW-0001-2013, A-B Brewery, Bulk Powder Storage Silo

Mr. Jose Ribeiro, Planner III, addressed the Board giving a summary of the staff report included in the Agenda Packet.

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

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

Mr. Bradshaw made a motion to approve the resolution.

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

RESOLUTION

CASE NO. HW-0001-2013. A-B BREWERY, BULK POWDER STORAGE SILO

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a Height Limitation Waiver process; and

WHEREAS, Mr. Michael Brandt has applied on behalf of Anheuser Busch, Inc. for a Height Limitation Waiver to allow for the installation of a bulk powder storage silo that is approximately 80 feet above grade (the "Silo"); and

WHEREAS, a public hearing was advertised, adjoining property owners notified, and a hearing conducted on Case No. HW-0001-2013; and

WHEREAS, the proposed expansion will be constructed in its entirety on property zoned M-2, General Industrial, further identified as Parcel No. (1-1) on James City County Real Estate Tax Map No. (51-3), and commonly known as the "Anheuser Busch Brewery" (the "Property"); and

WHEREAS, the Board of Supervisors finds that the requirements of Section 24-443(c) of the James City County Zoning Ordinance have been satisfied, in order to grant a height limitation waiver to allow for the erection of structures in excess of 60 feet in height.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Height Limitation Waiver HW-0001-2013 to grant the applicant a waiver to the height limitation requirements set forth in the James City County Code to allow for the erection of a single Silo up to 80 feet tall as described herein, pursuant to the following conditions:

1. Commencement of Construction: Construction on this project shall commence within 24 months from the date of approval of this Height Limitation Waiver or this Height Limitation Waiver shall be void. Construction shall be defined as the obtaining of permits for the construction of foundations and/or footings.
2. Severance Clause: This Special Use Permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

3. Proposed Updates to the Williamsburg, James City County, and York County Regional Bicycle Facility Plan

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

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

1. Mr. Joseph Swanenburg, 3026 The Pointe Drive, addressed the Board stating that the majority of citizens attending the Regional Bikeways meetings did not support the Regional Bikeway Plan.

2. Ms. Sue Sadler, 9929 Mountain Berry Court, addressed the Board stating that the consensus of the citizens attending the planning meetings was not in favor of the bike plan.

3. Mr. Scott Bartram, 102 Pageland Drive, member at-large of the Historic Triangle Bicycle Committee, addressed the Board in support of the plan presented.

4. Mr. Stephan Moreland, 116 Huntercombe, Chairman of the Historic Triangle Bicycle Committee, addressed the Board in support of the plan presented.

5. Mr. Rick Bartels, 501 Carters Neck Road, member of the Historic Triangle Bicycle Committee, addressed the Board in support of the plan presented.

6. Ms. Marjorie Ponziani, 4852 Bristol Circle, addressed the Board in opposition to the plan and asked if the funding for a regional plan means that James City County tax dollars are being used in other jurisdictions.

7. Ms. Rosanne Reddin, 2812 King Rook Court, addressed the Board in opposition to building more bike paths and catering to a special interest group.

8. Mr. Keith Sadler, 9929 Mountain Berry Court, addressed the Board stating that the majority of citizens attending the Regional Bikeways meetings did not support the Regional Bikeway Plan.

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

Mr. Kennedy stated for clarification purposes that there is not any additional spending included with the plan before the Board this evening.

Mr. Middaugh stated that was correct.

Mr. Bradshaw stated for clarity purposes the plan does not include Newport News.

Mr. Middaugh stated that was correct.

Mr. McGlennon stated for clarity purposes does the plan restrict any person's right to use an automobile.

Mr. Middaugh stated no.

Mr. McGlennon stated for clarity purposes does the plan offer extended opportunities for people who would like an alternative means of transportation.

Mr. Middaugh stated that was correct.

Mr. Kennedy stated that this plan provides no funding and he would not be supportive of funding for bike plans at this time, largely due to maintenance requirements. He stated that funding is his big issue; the County has more important issues at this time. He stated that he is not opposed to utilizing grant money, but would not be supportive of grants requiring matching dollars from the County.

Ms. Jones stated that she did not hear resounding support from the citizens that attended the Regional Bikeways meetings; in fact it did not seem to be a priority. She stated that the plan is not just bike paths, but "share the road" which involves road expansions and multi-use paths. She stated that no one knows how these paths and expansions will affect homeowners or how it would be paid for. She stated that Federal grants are still paid for by U.S. citizen's tax dollars, so even if the County is receiving grant money it is still taxpayer dollars. She stated that this plan is not a priority today and will not be supporting this case this evening.

Mr. Bradshaw stated that his understanding of the case is that it is a supplement to the Comprehensive Plan Update process and he does not feel the need to analyze each impact on each property owner. He stated that yes there are more urgent fiscal priorities now, but this plan is not presently costing the County anything. He stated that the plan allows the County to look to the future and is supportive of the case.

Mr. Icenhour stated that this plan truly is a supplement to the Comprehensive Plan, which tells everyone what we would like our County to look like over the next 20 years. Although it may not turn out that way, there needs to be a plan to start from. He stated that the plan does not commit the County to any purchase of property or the expenditure of any monies. He stated that yes, Federal Grant money is tax money, but that is our tax money and if the County does not take grant monies then other localities are getting our tax dollars. He stated that he has spent the better part of a year going door-to-door and has met with over 2,000 of his constituents and not one of them has said that the bike plan is a bad idea; so he will be supporting the case this evening.

Mr. McGlennon stated that there is no specific cost associated with this plan; however, he hopes that there will be opportunities to keep moving this plan forward in the future. He stated that the property in the County is at a premium and people are willing to pay those premiums because of the amenities offered throughout the County. He stated that this updated plan is much more realistic and strives to connect areas of the County instead of just having various bike paths throughout. He stated that the plan offers more choices for citizens and is supportive of the case.

Ms. Jones stated that she does not see the point of adopting a plan and spending taxpayer dollars on an amenity that is not utilized by the majority of the citizens in the County. If there is no intention by the Board to implement the plan then why adopt it.

Mr. McGlennon stated that the amount of funding possibly given to this plan depends on the priority given to it in the future. He stated that he would like to see some money spent on the plan, but it is not a critical need or a high priority. He agreed that it is an amenity, but it is an amenity that is highly valued by many citizens in the County.

Mr. Kennedy stated that perhaps the Board should look at usage data before moving forward on some of these types of projects. He stated that maintenance is always an issue after the project is completed and there is a cost that is ongoing. He stated that this plan is a better plan, a more efficient use of space, but the cost to maintain those trails needs to be part of the plan as well.

Mr. Icenhour made a motion to approve the resolution.

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

RESOLUTION

PROPOSED UPDATES TO THE WILLIAMSBURG, JAMES CITY COUNTY,

AND YORK COUNTY REGIONAL BICYCLE FACILITY PLAN

WHEREAS, as part of the Historic Triangle coordinated Comprehensive Plan review process, James City County, the City of Williamsburg, and York County have updated the Regional Bicycle Facilities Plan; and

WHEREAS, staff from the three jurisdictions have developed a revised map that strives to provide bicycle access to major destinations, eliminate routes with dead ends, recommend realistic facility types, and incorporate the multi-use paths, which cyclists would be permitted to use, as shown on the County's newly adopted Pedestrian Accommodation Plan; and

WHEREAS, Action T2.2 of the Comprehensive Plan recommends continuing the efforts of James City County, the City of Williamsburg, York County, and the Historic Triangle Bicycle Advisory Committee to coordinate and implement a regional bicycle network, including further joint planning and development of regional funding proposals; and

WHEREAS, Action T1.2.5 of the Comprehensive Plan recommends implementing strategies that encourage shorter automobile trips and accommodate walking, bicycling, and use of public transit; and

WHEREAS, on January 28, 2013, the Historic Triangle Bicycle Advisory Committee (HTBAC) endorsed the Plan; and

WHEREAS, on July 17, 2013, the Parks and Recreation Advisory Commission endorsed the Plan; and

WHEREAS, on August 7, 2013, following a public hearing, the Planning Commission recommended approval of the plan by a vote of 5-0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby adopt the Williamsburg, James City County, and York County Regional Bicycle Facility plan dated March 2013 to be used as the policy document identifying desired bikeway routes within the County.

J. BOARD CONSIDERATION

1. Operating Contingency Transfer - St. George's Hundred Drainage Improvement

Mr. John Horne, Director of General Services, addressed the Board giving a summary of the memorandum included in the Agenda Packet.

Mr. Kennedy asked for an explanation regarding the similarities between the situation before the Board and the situation in the Fernbrook neighborhood.

Mr. Horne stated that 15 years ago these large underground pipe systems were not typically installed in the County and the local industry was relatively inexperienced. He stated that both neighborhoods do have the same floodplain clay-type soil and if the installer was not particularly careful in the imbedding of the pipes, then this type of soil could cause these problems. He stated that staff does not feel that these pipes systems in these two neighborhoods were installed correctly.

Mr. Kennedy asked if there is a baseline cost that the County believes that the HOAs should have to incur before the County would get involved. He stated that he understands what needs to be done for health, welfare, and safety sake, but is worried about what other issues may be out there and where does the County draw the line.

Mr. Horne stated that the line is somewhat subjective, that there is no set dollar figure. He stated that the scale of the neighborhood association, the scope of the failure, and what is considered reasonable repairs based on the age of the pipes. This situation is an unreasonable failure. He stated that the pipes that run along the edge of the road are in the Virginia Department of Transportation's (VDOTs) right-of-way and VDOT is actively engaged in making those repairs.

Mr. Icenhour stated that there are mandatory HOAs, optional HOAs, and disbanded or nonexistent HOAs throughout the County. Even in the neighborhoods with active HOAs, these large scale repairs would really stretch their abilities. He stated that perhaps this is a discussion that needs to happen in a Work Session to determine at what point the County will get involved.

Ms. Jones stated she believes that the decision is subjective and will be evaluated on a case-by-case basis.

Mr. Kennedy stated he has issue with that because then the action of the Board becomes subjective when it should be uniform. He stated that if this project is done, how does the Board tell the next neighborhood that their repair project is too small or their HOA is too large to need the County's assistance.

Mr. Icenhour stated that prior to 2008 the County did not require the developers to have a permit or undergo an inspection to make sure these pipes were installed correctly. He stated that there could be many issues out there and the Board needs to come up with a plan about the County's involvement.

Mr. McGlennon stated that these issues will not be decided this evening and he recommended that the discussion be continued during the Work Session that is scheduled later in the fall.

Mr. Kennedy stated that once the Board takes this action, then it is done and a policy needs to be in place.

Mr. McGlennon stated that there are several old neighborhoods in the County and these infrastructure issues are going to continue to come up and the County needs to begin planning on how it is going to respond.

Mr. Middaugh stated that when a motion is made, he would like to add the notion that the County is in the process of negotiating an agreement with this HOA that establishes clearly the County's position moving forward, and finds that this action is all the County will do and future issues are the responsibility of the HOA.

Mr. Kennedy stated that is an unreasonable expectation.

Mr. Middaugh stated that staff does not have the manpower nor the resources to take on stormwater pipes and issues all across the County. He stated that the County is getting involved with this particular issue because it is the right thing to do, but the neighborhood needs to plan for problems and issues that may arise down the road.

Ms. Jones stated that a clear definition needs to be made between stormwater issues and infrastructure failures and made a motion to approve the resolution with the stipulation stated by Mr. Middaugh a few moments ago.

Mr. Kennedy stated that he is going to abstain from voting, because he is confused on how the Board can act before the discussion can be had on the policy.

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

RESOLUTION

OPERATING CONTINGENCY TRANSFER -

ST. GEORGE'S HUNDRED DRAINAGE IMPROVEMENTS

WHEREAS, the Board of Supervisors wishes to support the repair of neighborhood drainage facilities in the St. George's Hundred neighborhood; and

WHEREAS, the Board has determined that this repair is necessary to assist the St. Thomas's Hundred Homeowners Association (HOA) because of unusually rapid deterioration of drainage facilities that is beyond what should be normally expected, but does not alter the requirement that the HOA maintain the repaired facilities and other drainage facilities within the HOA portion of the neighborhood; and

WHEREAS, the funding for the repair is not available within budgeted account for this type of work.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize the transfer of \$40,000 from Operating Contingency to Water Quality Improvement.

K. PUBLIC COMMENTS

1. Mr. Ralph Crandall, 193 Shoal Creek, addressed the Board stating that there is a big issue with sinkholes in his neighborhood and the HOA has had to raise the dues to cover the cost of repairs.

2. Ms. Sue Sadler, 9929 Mountain Berry Court, thanked Ms. Jones for taking the time to learn and understand the issue of Agenda 21.

3. Mr. Chris Henderson, 101 Keystone, addressed the Board stating his displeasure at the action of the Board in regard to St. George's Hundred, a private property issue.

4. Mr. Joseph Swanenburg, 3026 The Pointe Drive, addressed the Board clarifying a few of his previous statements.

5. Mr. Ed Oyer, 139 Indian Circle, addressed the Board stating that the Board just spent \$40,000 to fix sinkholes that should be the responsibility of the developer, yet there is still storm debris all over his neighborhood.

L. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Middaugh stated that the Harvest Festival will take place on Saturday, September 21, from 11 a.m. to 4 p.m. at Chickahominy Riverfront Park. He also stated that the Army Corps of Engineers has started a permitting process and is taking comments for 30 days in regard to the Dominion Proposal for Transmission Line across the James River. He stated that the County has the right to request a public hearing and would like the Board's approval to send that request in writing.

M. BOARD REQUESTS AND DIRECTIVES

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) Clean County Commission
 - b) Board of Building Adjustments and Appeals

Mr. McGlennon stated that there is a recommendation to appoint Mr. Colgate to the Clean County Commission for a term expiring on September 30, 2016 and there is a recommendation to reappoint Mr. Guernsey and Ms. Crowder and appoint Mr. Ozmore to the Board of Building Adjustments and Appeals for terms expiring on September 30, 2018.

Mr. Bradshaw made a motion to appoint the individuals named by Mr. McGlennon.

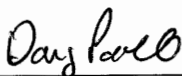
On a roll call vote, the vote was: AYE: Mr. Icenhour, Mr. Bradshaw, Mr. Kennedy, Ms. Jones, Mr. McGlennon (5). NAY: (0).

N. ADJOURNMENT – to 4 p.m. on September 24, 2013, for the Work Session.

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).

At 11: 15 p.m., Mr. McGlennon adjourned the Board.



Doug Powell
Deputy Clerk to the Board