

AT A WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 22ND DAY OF OCTOBER 2013, AT 4:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. CALL TO ORDER

**ADOPTED**

B. ROLL CALL

NOV 26 2013

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

Board of Supervisors  
James City County, VA

Doug Powell, Assistant County Administrator  
Leo P. Rogers, County Attorney

C. BOARD DISCUSSIONS

1. Virginia Local Disability Program (VLDP)

Mr. Middaugh stated that on the agenda this evening is an action to decide if the County will stay with the Virginia Retirement System (VRS) State-run disability program or if the County should opt out and go with a private carrier. Also there is a decision to be made as to whether the County should restructure leave time to be consistent with the leave time in the hybrid system.

Mr. James Peterson, Assistant Director of Human Resources, addressed the Board giving a presentation of the options available for the Board to act on that was included in the Work Session Agenda Packet.

Mr. Middaugh stated that it is important to note that any of the current staff, who wishes to take advantage of short-term disability options in the hybrid plan, may opt in to this plan beginning in January 2014.

Mr. Icenhour asked if this is a one-time opportunity for staff to opt in to this hybrid plan.

Mr. Peterson stated that was correct.

Mr. McGlennon noted that long-term care is not included in the Comparable Plans unlike the Virginia Local Disability Program (VLDP). He asked if the Comparable Plan is chosen what employees would do for long-term care.

Mr. Peterson stated that employees would have to opt to take long-term coverage through a company like Genworth, which is what employees do now.

Mr. McGlennon asked what the dollar value is in the 0.5 percent difference in the rate that VRS is offering versus the Comparable Plan rate.

Mr. Peterson stated that staff has not been able to get an exact figure for that yet.

Mr. Bradshaw asked if Mr. Peterson could share any thoughts on the administration of the plan by VRS.

Mr. Peterson stated that as of yet there have not been many problems like other VRS run plans. He stated that VRS has chosen Uninum Life which is an insurance company that handles short-term and long-term disability. He stated that if the County chooses a vendor, then the County will be handling the payroll and the records themselves.

Mr. Icenhour stated that for clarification, the rate is an employee contribution or is it an employer contribution.

Mr. Peterson stated the employer.

Mr. Icenhour stated so this is something that the employees are not being asked to pay.

Mr. Peterson stated that was correct.

Mr. Icenhour asked for clarification on what kind of short-term and long-term plans current employees have now.

Mr. Peterson stated that current employees do not have any disability coverage. Currently leave is used.

Mr. Icenhour stated that once the employee's leave is exhausted, they are on their own then until they reach the long-term disability point.

Mr. Peterson stated that is correct, but the County also offers a sick leave bank that employees may choose to participate in and can use portions of that money to bridge the gap.

Mr. Kennedy stated that on disability, essentially the employee receives the equivalent of their take-home pay, but they are responsible for the State and Federal taxes.

Mr. Peterson stated not exactly. On the short-term disability, the plan will pay roughly 60 percent of the employee's salary once they become eligible for disability. He stated that there is a one-year waiting period to become eligible unless the employee is injured on the job.

Mr. Icenhour asked if there are any lifetime cap limits to the program.

Mr. Peterson stated no there is not.

Mr. Icenhour stated that the level of benefit is tied to the employee's years of service.

Mr. Peterson stated that was correct.

Mr. Kennedy asked if the employee is still racking up time towards retirement while on disability.

Mr. Peterson stated yes.

Mr. Icenhour asked at what point an employee on long-term disability would be eligible to transition over to retirement. Would it be an early retirement or at a specified amount of years of service.

Ms. Carol Luckam, Director of Human Resources, stated she believes that under the hybrid plan, the employee would transition at the retirement age or service requirement. She stated that staff would follow up with a definitive answer. She also stated that the County is not allowed to pass the costs of these programs on to the employees, so if the Board decides to opt out any rate increase will stay and have to be paid by the County.

Mr. McGlennon asked for clarification on the requirements by the State if the County opts out of the VLDP.

Ms. Luckam stated that the County is required to provide comparable coverage except for long-term care.

Mr. Icenhour asked if the County provides employees with an option for long-term care at their own expense and if so, what the participation rate is.

Ms. Luckam stated that the County currently offers the option to employees and only a small percentage of employees participate because it is expensive.

Mr. Peterson stated that staff recommends that the County opt out of the VLDP.

Mr. Middaugh stated that the choice is irrevocable, which means that the County would have to accept rate increases. With opting out the rate plans are influenced by the market.

Mr. Peterson stated that if the County opts out of the VLDP the Board may wish to adopt a new leave policy. As it stands now, employees have unlimited sick leave accrual and the sick leave bank, which have acted similar to short-term disability. He stated that the Hybrid Plan will offer short-term disability insurance, so the Board may wish to adopt a new leave policy as outlined in the Work Session Packet.

Mr. Kennedy stated that from a business standpoint, if staff cannot carry leave over from year to year, is there a concern about having many employees burning up time toward the end of year.

Mr. Peterson stated that leave still has to be approved by a supervisor and staffing levels are taken into that account. There are times when leave cannot be authorized in order to prevent falling below minimum staffing.

Mr. Icenhour stated that under this new leave policy, employees would only be able to carryover one year's worth of leave, so basically a use it or lose type of policy. He asked if there would be some opportunity for employees to sell back any unused time before retirement.

Mr. Peterson stated that under the current VRS system, employees can do a leave pay-out, but only up to the maximum cap of two years.

Mr. Kennedy asked if there is concern about taking away the unlimited sick leave accrual and changing to the paid time off in this new leave policy. He asked if there is concern with employees losing six days of leave/sick time a year.

Ms. Luckam stated that under the Hybrid Plan, after five consecutive days the employee would transition into short-term disability. She stated that staff believes that this new leave plan would encourage more scheduled time off instead of employees just calling in sick because they have the time on the books. She stated that is not to say that our employees are doing anything wrong, it is just a consequence of the type of leave system we currently have. She stated that if the Board has any suggestions on the leave policy, staff is open to them.

Mr. Icenhour noted that under the new plan there is no requirement that employees use all of their paid time off before transitioning to short-term disability.

Ms. Luckam stated that was correct, but there is the option for the employee to use their remaining paid time off in conjunction with the short-term disability in order to raise their disability payment to 100 percent.

Mr. Peterson stated that the option to opt in or out of the VLDP is on the agenda for the Regular Meeting this evening. He stated that adopting the new leave plan would probably come before the Board at the first meeting in November.

Mr. Bradshaw and Mr. Icenhour stated that they believe that opting out is the best option.

2. General Permit VAR040037 for the Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems, Effective July 1, 2013

Mr. Middaugh stated that there was a lot of information included in the Work Session Packet and there are no actions required of the Board this evening. He stated that this presentation is to familiarize the Board with what the County is going to have to go through in regard to the new stormwater regulations.

Ms. Fran Geissler, Director of Stormwater, addressed the Board giving a presentation of the material included in the Work Session Packet.

Mr. Middaugh stated that until this permit, the Department of Conservation and Recreation (DCR) has been the regulating body. Now, as seen in the packet of information, the regulating body is the Department of Environmental Quality (DEQ) and so what you are seeing is a lot more bureaucratic requirements than the County has been accustomed to with the DCR.

Ms. Jones stated that the ongoing question has been how to measure these requirements and to quantify them. She stated that the General Assembly is still wrestling with that question.

Ms. Geissler stated that the permit sidesteps that question by giving the County an inelegant method by which the County must generate its loads. She stated that for better or for worse, the County is required to fulfill the permit by the load requirements for the James River and the portions of York River which are in the County. She stated that this is a new program for staff and it will require a lot of time to develop and implement plans.

Mr. Middaugh asked for clarification on the "target audience" when discussing the plans for public outreach and education.

Ms. Geissler stated that the “target audience” is the residents of the urbanized zone, specifically pet owners, but also other pet owners that utilize the trails and parks within the urbanized zone.

Mr. John Horne, Director of General and Capital Services, stated that just for clarification, a few months ago Mr. Scott Thomas, Director of Engineering and Resource Protection, did a Work Session Presentation on the new Stormwater Regulations and that is the construction regulation side of this same overall permit. He stated that there are significant changes on both the construction regulation side and the management side of the stormwater facilities.

Ms. Geissler stated that everything that goes on the construction side of the permit gets reported in the Annual Report that will come from the Stormwater Division.

Mr. Horne stated that localities all over the State are feeling the effects of this new regulation, but the County has been doing many of these things already, so the County is not starting from zero and is in a better place than many of our neighboring localities.

Mr. Bradshaw asked if there is hope for development of web-based tracking systems and software since all of the localities in the State have to follow these regulations.

Ms. Geissler stated that there is software currently on the market.

Mr. McGlennon stated that it seems the County has a good baseline based off some of the water-quality studies that have already been done.

Mr. Horne stated that was correct. He stated that in several areas of the County, staff already knows what needs to be done; the County just needs to ramp up the implementation and then track all of the results.

Mr. McGlennon asked for clarification on the benefits of stream restoration.

Ms. Geissler stated that the Bay Program has done a lot of research and has developed some very clear data on the reduction of pollutants per linear foot based on the type of restoration that is done. She stated that the County has done several of these high quality restorations that the County will get credit for. She stated that the stream restorations are very important to the County in the reduction of sediment.

Mr. Icenhour stated that there is a big concern over the influence that the County has on property that it does not own or control. He stated that the area of influence in the permit is still up in the air, so how does the County go about making sure that the final decision is based on reality and not wishful thinking.

Ms. Geissler stated that when the County develops the Total Maximum Daily Load (TMDL) action plan for the Chesapeake Bay Watershed, the County needs to develop the best possible package and understand what can be controlled and document the County’s position.

Mr. Icenhour asked Mr. Middaugh if this should be something that is rolled into the County’s Legislative Agenda.

Mr. Middaugh agreed. He stated that Virginia Municipal League (VML) or Virginia Association of Counties (VACo) might embrace this as well since it affects localities State-wide.

Mr. Middaugh asked how much of this is driven by the Environmental Protection Agency (EPA) instead of DEQ.

Ms. Jones stated that she had spoken with a State Delegate, who stated that the EPA is being very aggressive. She also stated that the members of the Planning District Commission (PDC) have been talking and looking at ways of pushing back on this overly regulatory and expensive permit.

Ms. Geissler stated that the likelihood of the EPA continuing its aggressive tract and forcing changes to the permit in 2018 is very great and that is the timeframe that this issue could come back at the County.

Ms. Geissler stated that there are maintenance agreements on file with the courts for repairing Best Management Practices (BMPs) that the County does not control. She stated that this makes the County vulnerable to statements by individuals saying that the County owns those facilities and the pollution that comes from them.

Ms. Geissler stated that staff is open to ideas and suggestions, especially in regard to public communication and education.

Mr. Middaugh stated that this is just the beginning of information that will be brought before the Board and thanked staff for their presentation.

### 3. Longhill Road Corridor Study – Update

Ms. Ellen Cook, Planner III, addressed the Board giving a summary of the memorandum included in the Work Session Packet. Ms. Cook introduced Mr. Carroll Collins from Kimley-Horn and Associates and stated that he would be providing the Board with an update on the study and had prepared a power point presentation.

Mr. Collins defined the study area for clarification and outlined the public involvement parameters of the study. He stated that the findings of the first public project symposium included concerns over safety, traffic operations/mobility, bike and pedestrian accommodations, and environment/neighborhood concerns. He stated that the next public workshop is scheduled for November 2013 to present the existing conditions analysis findings. He stated that improvement design concepts are to be presented at a public workshop in February 2014 and the corridor recommendations an action plan should be presented at a final public workshop in May 2014. He stated that interim update presentations are planned for the Board and the Policy Committee.

Mr. McGlennon stated he thought the first public workshop was very well done. He asked if the study would engage with Williamsburg Area Transit Authority (WATA) in regard to the future possibility of our transit system operating in a bi-directional fashion.

Mr. Collins stated definitely. He stated that there is a representative from WATA on the project advisory committee, but the recommendation from Mr. McGlennon will be brought up with WATA and looked into.

As there were no other Board questions, Mr. Middaugh thanked staff and Mr. Collins for their update.

### 4. Hybrid Wolf Discussion

Mr. Middaugh stated that recently there was a tragic incident where a hybrid wolf dog escaped from its enclosure and killed another dog and possibly another. He stated that the incident has caused quite a bit of

consternation in the neighborhood and several Board members had asked that this issue be brought forward for discussion. He stated that staff will update the Board on options for regulating hybrid canines and then the Board can give guidance on what they would like staff to bring back the Board.

Ms. Lola Perkins, Assistant County Attorney, addressed the Board and stated that Officer Shirley Anderson, Animal Control Supervisor, is in attendance with her as well. She stated that State Code has an article that specifically deals with hybrid canines and was enacted in 1996. She stated that the article allows localities to regulate, by ordinance, a permitting process for hybrid canines. She stated the permitting process is geared toward making sure that the hybrid canines are adequately confined and responsible ownership. She stated that the Code allows the locality to set requirements in the permit, including: expiration, limiting the number of hybrid canines an owner can have, requiring a permit for each hybrid canine owned, dictate where the animal is to be kept by setting parameters about where the animal can be kept, what information must be provided by the owner about the animal, can require identification tags, and require what kinds of safeguards the owner has to take when the animal is off the owner's property. She stated that the Code has outlined the consequences for violations of the permit, which can include jail time. She stated that the Code also provides a specific provision for steps if the hybrid canine kills, injures another dog, and for chasing livestock. She stated that there is also a provision for compensation if livestock or poultry are killed by a hybrid canine. She stated that at this time the Board has the ability to regulate hybrid canines through a permit, but because of the Dillon Rule, the Board does not have the ability to prohibit hybrid canines in the County.

Mr. Kennedy asked if these animals can be controlled by zoning, stating which areas of the County these animals could be kept in.

Ms. Perkins stated yes. More research would need to be done about specifying zoning, or the other option would be through the permit and requiring a certain amount of acreage in order to get a permit.

Mr. Kennedy stated that through his own research he has found that these animals require quite a bit of space to roam. He stated that he has learned that these animals are escape artists that can climb and dig their way out of enclosures. He stated that he has learned that there are no current vaccines for rabies that are effective on hybrid canines which is concerning. He also stated that other issues that concern him over this incident is that the owner did not call the County to say that his hybrid wolf was loose, also that these hybrid wolves stalk children and attack children because they are viewed as prey. He stated that he spoke to Senator Norment today who indicated his support in sponsoring legislation that would allow the County and other localities to ban these hybrid canines. He asked Ms. Perkins if staff knows how many of these animals are currently in the County.

Ms. Perkins stated no.

Mr. Kennedy stated that to be clear, he believes that people make dogs mean, not that dogs are born mean, but these hybrid canines are not like domesticated dogs, they are not pets.

Ms. Jones stated that she would appreciate hearing from the experts and would appreciate seeing the draft ordinance that staff is working on. She stated that she is very concerned about this incident and the impacts on the families and the communities.

Mr. McGlennon asked if the current licensing requirements for dogs in the County would extend to these hybrid animals.

Ms. Perkins stated yes.

Mr. McGlennon stated so in theory these animals should already be registered with the County and asked if the animal involved in the incident was licensed.

Officer Anderson stated yes.

Ms. Jones asked if they were licensed as hybrids or as a mix breed.

Officer Anderson stated that they were listed as mix breeds.

Mr. Bradshaw questioned if the animal being a hybrid is the reason why the wild/exotic provisions in place do not apply.

Ms. Perkins stated yes because there is a section in the State Code that deals with hybrid canines specifically.

Mr. Kennedy stated that he is supportive of regulating these animals since they are still legal in the State. He believes getting these animals out of highly residential areas and away from large populations of children.

Ms. Jones asked if there have been other incidents in the County regarding hybrid canines.

Officer Anderson stated that back in the early 1990s, near the James City County/New Kent County line there were two wolf hybrids that were livestock chasers, but they never did get into too much trouble. She stated that the hybrids eventually passed away and the owner did not breed them again.

Ms. Perkins stated that she is still waiting to hear from the State Veterinarian and would pass along the information when she receives it.

Mr. Icenhour stated that he would be appreciative of that information. He stated that he would like to see these animals away from densely populated lands and then to apply some very stringent regulations to the permit process. He also stated that he would be supportive of adding this issue to the Legislative Agenda.

Mr. Bradshaw stated that he agrees with Mr. Icenhour.

Mr. McGlennon stated that in addition he would like see minimum lot size requirements and the ability to track the animals.

Ms. Perkins stated that those items could be included as well.

Mr. McGlennon asked how does the County address owners that call these hybrids mixed breeds instead of admitting to them being hybrids.

Officer Anderson stated that people will call them a malamute mix or say that they do not know what the other breed is. She stated that the percentage of wolf in the hybrid can help determine by sight if the animal is a hybrid. She stated that there are differences in the appearance and the physique. She stated the lower the percentage of wolf, the lower the risk; however, there is still a conflict within these animals as one side is a pet and one side is a predator and one can never know when the predator will take over.

Mr. Kennedy stated that there are good owners and bad owners, but with these animals one never knows when they might turn on the owner or others in the community.



Mr. Bradshaw stated that perhaps the County's dog licensing ordinance needs to be looked at as well to mandate that wolf or coyote blood needs to be disclosed.

Mr. McGlennon thanked Ms. Perkins for responding quickly to the Board's request for information.

Mr. Middaugh stated that it seems that the Board is in favor of a complete regulatory scheme that is more not less, in regard to these hybrid canines.

The Board voiced its agreement.

**D. ADJOURNMENT**

Mr. McGlennon recessed at 6:26 p.m. until their Regular Meeting at 7 p.m.



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Doug Powell  
Deputy Clerk to the Board