

AT A WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 26TH DAY OF NOVEMBER 2013, AT 4:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

**ADOPTED**

JAN 14 2014

Board of Supervisors  
James City County, VA

**A. CALL TO ORDER**

**B. ROLL CALL**

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

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

**C. BOARD DISCUSSIONS**

Ms. Jones made a motion to go into Closed Session for the discussion of a personnel matter.

Mr. McGlennon asked that the nature of the personnel matter be clarified and stated for the record.

Ms. Jones stated that it is a personnel matter involving a review of the performance of the County Administrator.

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

At 4:03 p.m., the Board entered into Closed Session.

At 4:08 p.m., the Board came out of Closed Session.

Ms. Jones made a motion to certify the Closed Session.

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

Mr. Rogers stated that the action of the Board must be stated in the form of a motion.

Mr. Kennedy asked what the motion would be.

Mr. Rogers stated that the motion should be a motion of no confidence in the County Administrator and to terminate the employment of the County Administrator pursuant to the terms of his revised employment contract.

Ms. Jones moved the motion as stated by the County Attorney.

Mr. McGlennon stated that he would hope that the members that support this action would explain their reasons for taking this action.

Mr. McGlennon stated that he opposes the action and believes that the County Administrator has performed his functions in a very efficient and professional manner, and that he deserves the support of the Board. He stated that if the Board has lost confidence in the County Administrator and would like to replace him, then the public deserves to know why the Board lacks confidence in the current County Administrator. He stated that the failure of the Board to articulate the reasons for their decision makes their actions seem arbitrary.

Mr. Icenhour stated that he does not see how the public can accept that this Board is transparent, open, and above board when it takes an action like this without a clear explanation as to why. He stated that Mr. Middaugh is probably the best County Administrator that the Board has had.

As no one else wished to speak, Mr. Kennedy asked that the vote be called by Mr. Doug Powell, Assistant County Administrator.

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

1. Legislative Agenda Discussion

Mr. Rogers stated that in the Agenda Packet is a draft of the Legislative Agenda. He stated that the Board would have an opportunity to discuss any amendments to the legislative agenda prior to the State Legislators arriving at 5 p.m. Mr. Rogers began giving an overview of the draft legislative agenda.

In regard to Item 1.2, Mr. McGlennon stated that there is an exemption already for staff making less than \$10,000 based on the law as it was written back in 1970s and presumably it has not been kept up to date with the changes in salaries.

Mr. Rogers stated that his preference would be the striking of all the names of staff in correlation with the salaries; however a compromise of disclosing the names of employees that receive salaries of \$100,000 or more would be acceptable as well.

Mr. McGlennon stated that he does not believe that there will be much support in Richmond to change this law.

Mr. Rogers stated that even if the General Assembly updated the \$10,000 limit to reflect inflation, that would provide greater protection for the employees.

Mr. McGlennon stated that he would support that.

Mr. Kennedy asked if there could be a limit requested based on the scope of the position, perhaps supervisors and managers only would have their names disclosed.

Mr. Rogers stated that the Board could make that request of the State Legislators; however, the best argument is probably the one proposed by Mr. McGlennon.

Mr. Rogers clarified that the request would be to adjust the current \$10,000 limit for inflation and bring it up to date with current pay.

Mr. Kennedy stated that he would be supportive of that.

Mr. Rogers stated that the next three items on the Legislative Agenda deal specifically with hybrid canines.

Mr. McGlennon asked if it would be advisable to combine 1.3 and 1.5 regarding the definition and the requirement for veterinarians to report to the County if they treat a hybrid canine. He stated that 1.4, the prohibition of hybrid canines, is probably the most controversial and not likely to be picked up by a legislator.

Mr. Rogers stated that he believes the change to the definition might be somewhat difficult, but the reporting by veterinarians would probably be less so, which is why he separated them out.

Mr. Kennedy stated that this issue was met with much resistance in Richmond the last time it was introduced, and it may take several years to get any of these three items to pass. He stated that this why the Board adopted the ordinance to limit these animals by zoning.

Mr. Rogers explained Item 1.6, and stated that he is not sure how much support this item will get. He stated that he is working with the FOIA Council on this issue and trying to get something like this out.

Mr. Kennedy stated that last year this item never made it out of committee because of the newspaper lobbyists. He asked if Mr. Rogers knows the committee votes of any of these items that the Board has supported before. He stated that he is wondering if the Board is just spinning their wheels on some issues and not likely to get anywhere.

Mr. Rogers stated that none of the items that the Board has supported in the past were routinely dismissed in committee.

Mr. Rogers stated that Section 2 contains items that the Board is supportive of and thinks that the legislators from our area should be supportive of as they come up.

Mr. Icenhour stated that in regard to Item 2.2, he believes that the language should be somewhat stronger in regard to sustainable state funding if the secondary roads become the responsibility of the locality.

Mr. Rogers stated that the County does not want to take responsibility for the secondary roads, so this item is formulated as more of a principle statement. However, if more clarity is desired by the Board than he is open to suggestions.

Mr. McGlennon stated that he would put a period at the end of the statement that the County opposes the transfer of any new or existing roads. He stated that he would add that should any transfer happen, then the State must provide continuing funding, for the costs incurred, both now and in the future.

Mr. Kennedy agreed and stated that the keyword is "must."

Mr. Rogers stated that he can make that correction if that is the will of the Board.

Mr. Kennedy asked if there were any objections.

As there were no objections, Mr. Kennedy asked that the correction be made.

In regard to Item 2.3, Mr. Rogers stated that hotel rooms purchased online are not subject to the room occupancy tax like rooms that are purchased through the brick and mortar hotel. He stated that this item is an attempt to make the room occupancy tax equitable regardless of how the room is purchased.

Mr. McGlennon clarified that hotel rooms that are purchased online through one of the consolidated groups like Expedia, Travelocity, etc. are the ones that are not taxed. He stated that booking a room through a brick and mortar hotel's website still pays the occupancy tax.

Ms. Jones stated that people also book a room online and get a cheaper rate are more likely to come here and spend their money. She stated that she understands the fairness aspect, but she also believes in the fairness of the market. She stated that her preference has always been that the less you tax the more you encourage the free market.

Mr. Kennedy asked if the Hotel Association has taken a position on this item.

Mr. Rogers stated no they have not.

Mr. Kennedy stated that he would like to know their position, but he is supportive of this item.

In regard to the last item, Ms. Jones requested a copy of the supporting resolution from the Virginia Coalition of High Growth Communities. She stated that she would like to see their position on certain legislative issues. She stated that she would also like to see the current draft of the legislative programs for Virginia Municipal League and the Virginia Association of Counties. She stated that she would like some time to review their legislative programs before giving a full confidence vote.

Mr. Rogers stated that the Legislative Agenda is on the agenda for tonight's meeting under Board Considerations. Considering the request from Ms. Jones, he would recommend deferring the adoption of the Legislative Agenda until the next meeting on December 10.

Mr. Kennedy asked for clarification on which Board members attend the meetings of the Virginia Municipal League.

Mr. McGlennon stated that he has attended the meetings when they have been in the region. He stated that he does not attend the ones outside of the region that require an overnight stay.

Mr. Kennedy stated that the Virginia Municipal League is one of the more expensive memberships that the County pays for, and he wants to make sure that a return is being made on that investment, and perhaps that is something that should be looked at during the budget process.

Mr. Rogers stated that he would make the suggested changes and have them ready for the meeting with the State Legislators.

## 2. Board of Directors and Hampton Roads Sanitation District Consolidation Study Update

Mr. Larry Foster, General Manager of the James City Service Authority, addressed the Board giving a summary of the presentation that was included in the Agenda Packet.

As there were no questions for Mr. Foster, Mr. Kennedy recessed the Board for a break at 5:08 p.m.

At 5:13 p.m., Mr. Kennedy reconvened the Board.

3. Discussion Session with State Legislators

Mr. Kennedy stated that Delegate-Elect Monty Mason, Delegate Brenda Pogge, Alex Stevens, a representative from Senator Miller's office, and Senator Norment have joined the Board for a discussion session.

Mr. Rogers addressed the State Legislators stating that the Board has endorsed Section 1 of the Legislative Agenda, but would be deferring adoption of the Legislative Agenda until the December 10 meeting. He stated that he would be going through the Legislative Program item by item.

Senator Norment and Delegate Pogge both stated that they would be happy to pick up Item 1.1.

In regard to Item 1.2, Delegate Pogge asked if there was a suggested minimum for exclusion for the names and salaries of employees or if the County wanted to leave it open.

Mr. McGlennon stated that the County's Human Resources Office could determine what an equivalent salary would be today of the original \$10,000 limit that was written into law in the 1970s.

Senator Norment stated that he would be mindful of the timeframe that this would be considered. He stated that he believes that there will be a big push towards transparency and ethics in government. He stated that he believes that the proposal is harmless, but would caution about considering the tenor of the times.

Delegate Pogge stated that she would market the idea around and sees what comes of it.

Mr. Rogers stated that he would get a more concrete figure.

Senator Norment asked if any other localities are in support of this item.

Mr. Rogers stated that he would discuss the issue with both VML and VACo.

Senator Norment stated that having the support of VML or VACo on this item as an update to the Code for inflation would be helpful.

Delegate-Elect Mason stated that a group like VML or VACo would also have access to greater statistical information and could help come up with a better figure of inflation.

Mr. Rogers stated that the County is hoping that one of the Legislators would be willing to pick up and support 1.3 and 1.5 together.

Senator Norment stated that he believes several years ago there was legislation to regulate these animals and it got hung up in committee.

Mr. Rogers stated that is correct. He stated that there was considerable lobbying done by owners of these animals.

Mr. Kennedy stated that he had called Senator Norment when this issue occurred in the County. He stated that there are no rabies vaccinations that are effective on hybrid wolves, they are not recommended as pets, they are wild animals with a prey drive and that actively hunt. He stated that if you research incidents online, there are many incidents involving children, kids on skateboards, children that cry, all of which triggers the animal's natural instincts and drive to hunt. He stated that it is nothing against the animal itself, it is only doing what comes naturally, but it does not make them suitable pets or suitable for residential neighborhoods.

Senator Norment asked if there is a consensus among the Board for the authority to prohibit these animals in the County.

Ms. Jones stated yes, but as stated, the definition would need to be clarified.

Mr. Kennedy stated that there are many states that do not allow the ownership of these animals as pets, including Alaska, which he found very interesting.

Senator Norment stated that he is willing to take on Item 1.4 with the idea of rolling Item 1.3 in with it. He stated that he is willing to support this for the County to have the authority, and if the committee decides to turn it in to a prohibition across all localities, then so be it. He stated that he would need Mr. Rogers to help come up with an objective definition.

Delegate-Elect Mason stated that mention was made of the State Veterinarian, what was their stance.

Mr. Rogers stated that the State Veterinarian recommended that DNA testing be done which would determine the percentage of wolf in the animal. He stated that other states have used a standard of 10% wolf.

Mr. Rogers stated that Item 1.5 would require veterinarians to report hybrid animals that are reported to them as such.

Senator Norment asked how the determination would be made to do a DNA test if there is a prohibition in place.

Mr. Rogers stated that it would be best to work with the State Veterinarian and to see what other states have done when they have prohibited these animals.

Ms. Jones stated that she agrees that the most efficient way is to see what other states have done that has prohibited these animals.

In regard to Item 1.6, Delegate Pogee stated that this item has gone down in committee for the past several years. She stated that the argument is that not everyone has access to electronic communications or the internet, especially in more rural areas.

Senator Norment concurred with Delegate Pogee.

Ms. Jones asked if there was any value in continuing to support this item on the County's Legislative Agenda then.

Senator Norment stated that this idea is not very well received by the print media, so there is the business side against it as well as the access concern.

Mr. Rogers stated that the County is a captive audience for the print media businesses which means they can charge the County whatever they want. He stated that the County has attempted to address the access concern by adding in other avenues of notification including calling citizens or text messages.

Delegate Pogee stated that this item did not make it out of sub-committee last year.

Mr. Kennedy asked if this item could be tied to population to help address the issue of access. He stated that in our community, newspaper subscriptions are waning.

Senator Norment and Delegate Pogee both stated that that idea has been tried as well and not gotten very far.

Mr. Rogers suggested moving this item to Section 2, the items the County would like to see supported. He stated that perhaps he can work with VML, VACo, and the FOIA Council, which is not an advocacy group, on putting together a proposal for next year.

Senator Norment stated that he believes that would be constructive. He stated that there is a push for local governments to be more cost effective, so he would recommend putting together a figure of paid advertising across all 130 localities.

Mr. Rogers looked to the Board for confirmation of moving this item to Section 2.

Mr. Kennedy stated that he supported it, and the other Board members nodded in agreement.

In regard to Item 2.3, Senator Norment stated that this item has had to go through an educational cycle for the General Assembly. He stated that it did a little better last year.

Delegate Pogee stated that she spoke to the hoteliers last year and that they were not really sure what position to take. On the one hand, if the discounts put heads in beds then that is better than the room being empty. On the other hand, it eats into their margins.

In regard to Item 2.4, Delegate Pogee asked if this item was rolled in to the Transportation Funding Bill.

Senator Norment stated that it was not necessarily geographically specific, but yes. He stated that Mr. McGlennon probably knows more about it than he does. He stated that he believes the opportunity for mass-transit funding is available.

Mr. McGlennon stated correct. The opportunity for additional services could mean additional funding out of the Transportation Funding Bill.

Senator Norment asked if County would be competing against the same pot of money as the Southside with their LightRail.

Mr. McGlennon stated yes. He stated that most of the money is going to end up in Northern Virginia because that is where 90 percent of the mass transit in the state is located. He stated that WATA will receive an additional \$630,000 this year which is an increase of 30 percent in State funding here for mass transit services.

Delegate Pogee stated that this is not a one-time increase that it will roll from year to year.

Mr. McGlennon stated correct, it is built into the formula and will continue from year to year.

In regard to Item 2.6, Delegate Pogge stated that she believes this item will be up for discussion this session, specifically increasing funding, due to the incident that happened recently.

Senator Norment stated that he believes this issue is going to become more of a state-wide issue than it previously has.

In regard to Item 2.8, Senator Norment stated that he will continue to be an avid supporter of K-12 education funding.

In regard to Item 2.11, Senator Norment stated that progress is being made.

Ms. Jones stated that there is significant awareness and support in the region in regard to the encroachment issue of the military bases in the region. She stated that HRMFFA and the HRPDC has been working on increasing awareness in DC and in Richmond.

Senator Norment stated that they will continue to try to support these items and the items that they have supported in the past. He urged the County to continue to be in contact with them and communicate any issues or concerns.

Mr. Rogers thanked the Legislators for the access he has had with them and stated that he looks forward to working with them on the items they have agreed to pick up.

**D. ADJOURNMENT**

Mr. McGlennon made a motion to adjourn.

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

Mr. Kennedy adjourned the Board at 6:05 p.m. until their Regular Meeting at 7 p.m.

  
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M. Doug Powell  
Deputy Clerk to the Board