

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 10TH DAY OF DECEMBER 2013, AT 7:00 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 - Absent  
Mary K. Jones, Vice Chairman, Berkeley District  
Michael J. Hipple, Powhatan District  
James O. Icenhour, Jr., Jamestown District  
John J. McGlennon, Roberts District

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

Ms. Jones stated that Mr. Kennedy would be absent from the meeting this evening due to a death in his family.

**C. MOMENT OF SILENCE**

**D. PLEDGE OF ALLEGIANCE** – Isaac Skeeter an 11th grade student at Lafayette High School and a resident of the Berkeley District, led the Board and citizens in the Pledge of Allegiance.

Ms. Jones recessed the Board of Supervisors meeting at 7:03 p.m. to conduct the James City Service Authority (JCSA) Board of Directors meeting.

At 7:05 p.m., Ms. Jones reconvened the Board of Supervisors meeting.

**E. PRESENTATIONS**

1. Lifesaving Recognition – James City County Recreation Center

Ms. Jones read the Lifesaving Recognition Resolution to the citizens and presented copies to Ms. Becky Duncan, Mr. Alister Perkinson, and Mr. Justin Taylor.

2. Resolution of Appreciation – John Moorman

Ms. Jones read the Resolution of Appreciation to citizens and presented it to Mr. John Moorman.

Mr. Moorman stated that it has been his pleasure to serve as Director of the Williamsburg Regional Library and commended the Board of Supervisors for its support of the Library over the years.

3. Resolution of Appreciation – Emmett Harmon

Ms. Jones read the Resolution of Appreciation to the citizens and presented it to Police Chief Emmett Harmon.

Chief Harmon stated that it has been his pleasure and highest honor to serve the citizens of James City County as Chief of Police. He thanked the Board of Supervisors for its continued support of police officers and the Department.

4. The Comprehensive Annual Financial Report – Dixon Hughes Goodman, LLP

Ms. Leslie Roberts, a representative of Dixon Hughes Goodman, LLP, gave a brief summary of the Annual Financial Report included in the Agenda Packet.

Mr. McGlennon thanked Ms. Roberts for highlighting the important aspects of the Financial Report.

**F. PUBLIC COMMENTS**

1. Mr. T. J. Cavaliero, 7648 Crestview Drive, addressed the Board in regard to amending the County Code and the Food Truck Ordinance.

2. Mr. Keith White, 6309 Adam's Hunt Drive, addressed the Board in regard to discrepancies on the County website in regard to expiration dates on Board/Commissions/Committees.

3. Ms. Sue Sadler, 9929 Mountain Berry Court, addressed the Board in regard to the newspaper accounts of a petition calling for the recall of some of the Supervisors.

4. Mr. Walker Ware, 5004 River Drive, addressed the Board congratulating the newly elected members of the Board of Supervisors and for making immediate changes for the good of the citizens.

5. Mr. Joseph Swanenburg, 3026 The Pointe Drive, addressed the Board in support of keeping personnel matters in Closed Session.

6. Ms. Carol Anderson, 34 Kirkland Court, addressed the Board stating her interest in running for public office.

7. Pastor Mark Marrow, 124 Yule Place, addressed the Board offering an invocation.

8. Mr. John Tusten, 5526 Riverview Road, addressed the Board introducing himself as the new park manager at York River State Park.

9. Mr. Ed Oyer, 139 Indian Circle, addressed the Board stating that he continues to ask for better traffic flow along Route 60.

10. Mr. Keith Sadler, 9929 Mountain Berry Court, addressed the Board stating that fiscal policy of the previous County Administrator was not appreciated by citizens.

11. Ms. Rosanne Reddin, 4700 President's Court, addressed the Board stating that Mr. Hipple and Mr. Onizuk should be applauded for taking action and following through on campaign promises for instituting change.

12. Mr. Eric Danuser, 4091 South Riverside Drive, addressed the Board in support of the zoning ordinance initiation for backyard chicken keeping.

#### **G. BOARD REQUESTS AND DIRECTIVES**

Mr. McGlennon noted that there have been passings of several citizens recently in the area including Mr. Stan Brown, who after working for the College of William and Mary spent many years working with the Williamsburg Land Conservancy and the Jamestown Rediscovery Project. He offered his condolences to Mr. Brown's family.

Mr. Icenhour stated that on December 6, he attended the Virginia Coalition for Open Government Annual Meeting held here in Williamsburg. He stated that the event was sponsored by the City of Williamsburg, the Virginia Gazette, and a local business, Johnny Timbers Tree Service. He stated that he was disappointed that the County was not involved with the event.

Ms. Jones requested that staff follow up on the citizen comment regarding the Food Truck Ordinance. She stated that she has received some comments and concerns from citizens out in the Peleg's Point area in regard to water issues. She stated that the Development Management staff was out in the area today looking at ways to mitigate the run-off issues. She stated that she has heard the citizen's concerns about the cost of the new fire station and requested to have a work session discussion about the details of the fire station build.

#### **H. CONSENT CALENDAR**

Mr. McGlennon made a motion to approve the Consent Calendar with the amended minutes that were placed on the dais this evening.

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

1. Minutes –
  - a. November 26, 2013, Regular Meeting
2. Lifesaving Recognition – James City County Recreation Center

### **RESOLUTION**

#### **LIFESAVING RECOGNITION – JAMES CITY COUNTY RECREATION CENTER**

WHEREAS, a patron suffered a lethal heart arrhythmias on November 18, 2013, while entering the racquetball court at the James City County Recreation Center; and

WHEREAS, James City County Recreation Center staff found him unresponsive without a pulse or respirations; and

WHEREAS, Mrs. Becky Duncan, Mr. Alister Perkinson, and Mr. Justin Taylor together performed Cardiopulmonary Resuscitation (CPR) in conjunction with the use of an Automated External Defibrillator (AED); and

WHEREAS, their quick efforts combined with EMS treatment resulted in a successful transportation of the individual to the hospital for further treatment.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby recognizes and thanks Mrs. Duncan, Mr. Perkinson, and Mr. Taylor for their heroic efforts in saving the life of a James City County citizen at the James City County Recreation Center.

3. Resolution of Appreciation – John A. Moorman, Director of Williamsburg Regional Library

**RESOLUTION**

**RESOLUTION OF APPRECIATION - JOHN A. MOORMAN,**

**DIRECTOR OF WILLIAMSBURG REGIONAL LIBRARY**

WHEREAS, at the age of eleven, John A. Moorman launched his career in library science, shelving books and moving a college library collection; and

WHEREAS, John used this experience to fuel a passion which resulted in his obtaining a Master's Degree and a Ph.D. in Library Science; and

WHEREAS, John has worked in libraries since 1972, served as a library director since 1975, and has served as Library Director for Williamsburg Regional Library since 2000; and

WHEREAS, during John's tenure as Library Director, Williamsburg Regional Library has received many honors, including four-star and five-star ratings from *Library Journal* and becoming a finalist for the National Medal for Museum and Library Services; and

WHEREAS, John has worked with elected officials and staff to establish trust with local governments through fiscally responsible stewardship of public resources; and

WHEREAS, John shepherded Williamsburg Regional Library through the Great Recession as a leader and role model, managing reductions in Williamsburg Regional Library's budget while maintaining levels of service and without laying-off staff; and

WHEREAS, John worked closely with the Williamsburg Regional Library Board of Trustees, the Williamsburg Regional Library Foundation Board, and the Friends of Williamsburg Regional Library Board to ensure the library offers excellent collections, programs, and services that inform, enrich, and strengthen our community; and

WHEREAS, John has served library users in the Williamsburg area and across the state as President of the Virginia Library Association and libraries across the country as a member of the American Library Association's Executive Board; and

WHEREAS, John will be retiring on December 31, 2013; and

WHEREAS, John's leadership and collaboration with the library's Boards and staff members have allowed Williamsburg Regional Library to advance and grow, leaving it with great potential and viability for the future.

NOW THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia hereby recognizes John A. Moorman for his outstanding contributions to the Williamsburg Regional Library and the library profession and extends appreciation for his legacy of leadership and service.

NOW BE IT FURTHER RESOLVED that the Board of Supervisors hereby expresses its best wishes to John A. Moorman in his retirement.

4. Resolution of Appreciation – Police Chief Emmett H. Harmon

**RESOLUTION OF APPRECIATION**

**POLICE CHIEF EMMETT H. HARMON**

WHEREAS, Police Chief Emmett H. Harmon is retiring from James City County after serving the citizens of James City County from December, 1979 through December, 2013; and

WHEREAS, Emmett was the first Police Officer hired by James City County when the County formed its new Police Department in 1979; and

WHEREAS, Emmett rose through the ranks serving as Patrol Officer, Sergeant, Lieutenant, Major, Deputy Chief, and Chief of Police; and

WHEREAS, Emmett has been the Chief of Police since September 2005; and

WHEREAS, under Emmett's leadership, the requirements for Senior and Master Officers were adjusted so that significantly more officers were able to move up and improve their standard of living; as well as, instituted another career ladder step (POII) to help address retention issues at the two and three year mark; and

WHEREAS, Emmett served as the Department's Accreditation Manager and helped the Department to obtain its first State accreditation, and has served as a Board member for the Virginia Law Enforcement Professional Standards Commission since 2007; and

WHEREAS, Emmett served as Treasurer for both the Hampton Roads Association of Chiefs of Police and the Virginia Law Enforcement Professional Standards Commission; and

WHEREAS, Emmett helped to ensure that our school system implemented the Rapid Responder System for emergency situations and helped to ensure that latest technology is available to the department, such as eSummons, Live Scan, AFIS, MDTs, in-car cameras; and

WHEREAS, under Emmett's leadership, the Department received the U.S. Coast Guard Admiral's Award for best Marine Patrol Unit in Hampton Roads area, received 1st place award in the National Law Enforcement Challenge for traffic safety for similar sized agencies, and received the State's Commonwealth Award for best traffic safety programs in Virginia for any sized agency.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby thanks and honors Emmett H. Harmon for his 34 years of service to the citizens of James City County.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, hereby expresses its best wishes to Emmett in all of his future endeavors.

## **I. PUBLIC HEARINGS**

Ms. Jones noted that the Board is looking to defer Item Nos. 1, 4, and 5, but that the Public Hearings would be opened and citizens would have the opportunity to speak to these items.

### **1. Ordinance Amendment to Chapter 2, Administration, Section 2-3, Designation, Population, and Election Cycle of Districts**

Mr. Rogers addressed the Board giving a summary of the memorandum included in the Agenda Packet.

Ms. Jones stated that in recognition of Mr. Kennedy's absence, she recommends that the Board defer this action until the next Board meeting.

As there were no questions for staff, Ms. Jones opened the Public Hearing.

1. Mr. Keith White, 6309 Adam's Hunt Drive, addressed the Board stating his opposition to the changes to this ordinance that keeps happening every time that there is a shift in the political majority on the Board. He requested that this item be put to the citizens as a referendum and allow the citizens to decide this issue.

2. Ms. Carol Anderson, 34 Kirkland Court, addressed the Board stating her agreement with the previous citizen that this item should be put on the ballot as a referendum.

As no one else wished to speak at this time, Ms. Jones stated that the item would be deferred until the meeting on January 14, 2014.

### **2. Case No. SUP-0012-2013. Olde Towne Road Human Services Building Communications Tower**

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

Mr. McGlennon stated that it is his understanding that the proposal was amended earlier today to offer a payment to the County for the space on County property.

Mr. Powell stated that is correct; however, that is probably more germane to the Lease which is listed on the Agenda as Item No. 3. He stated that the applicant has offered to provide a payment in the amount of \$250 per month to the County, which is new information received today.

On the advice of Counsel, Mr. Powell stated that it would be appropriate to open the public hearings for Item Nos. 2 and 3 since the cases are linked.

3. Lease of County Property Located at 5249 Olde Towne Road

Mr. Rogers stated that staff has not yet drafted the terms of this lease, but these types of leases have been drafted in the past. He stated that this lease is somewhat unusual in that it is a lease for a microwave tower, not a cellular tower. He stated that the applicant offered today to pay the County rent in the amount of \$250 per month for the space that would be used back behind the Human Services Building.

As there were no other questions for staff, Ms. Jones opened the Public Hearing.

1. Mr. Tom Davis, President and CEO of Davis Media, addressed the Board as the applicant for the Special Use Permit (SUP). He stated that Davis Media is the license holder for two FM radio stations in the area, WTYD-FM (The Tide) and WBQK-FM (Bach-FM). He stated that Davis Media has been broadcasting in Williamsburg since 2003 and began providing emergency services support for the County in 2006. He stated that in the event of an emergency, the radio station communicates with the Emergency Operations Center to deliver vital information out to the residents of the County. In the event that there is no staff in the radio station office, County officials have the ability to dial in via phone and take over the radio station broadcast to deliver emergency information. He stated that in 2006, a generator was purchased with funds from the Williamsburg Community Health Foundation Grant that was placed at the transmitter site to maintain the transmission of the radio station in the event of power outages. He stated that the generator remains the property of the County, but Davis Media provides the fuel and maintenance upkeep. He noted that private funds, in the form of the grant were used to purchase the generator and that no public tax dollars were used. He stated that the issue that has come up is that the transmission line, which is a T1 hard line through Verizon, has failed during every major weather event that has struck the County. He stated that during severe weather events, Verizon has no interest in going out to fix the failure in the T1 line. Davis Media's proposal is to fund a microwave tower to transmit information to the tower and not have to rely on the T1 line. He stated that the monopole would be located on land that is not usable or able to be developed by the County. He stated that Davis Media is willing to pay the County rent in the amount of \$250 per month for use of the County land and the County is welcome to place other communications equipment on the monopole if they wish. He stated that Davis Media is trying to cure the problems with T1 line so that the radio stations can stay on the air to provide emergency information out to citizens.

Ms. Jones stated that she had read that Davis Media had not been able to locate the maintenance records for the generator.

Mr. Davis stated that the records had been located. He stated that the maintenance agreement is \$270 per year and then any repairs are taken care of by Davis Media directly.

Mr. Hipple asked how many citizens listen to the stations, is there a way to quantify that.

Mr. Davis stated that the last time a survey was done by an independent group in New Town, about 65 percent of the citizens of the County were listeners.

Ms. Jones asked if the Federal Communications Commission (FCC) has approved this tower.

Mr. Davis stated that the FCC does not get involved with microwave links or microwave towers. He stated that Davis Media has a microwave license already. The FCC only gets involved with the FM transmitter and that license was just renewed last year.

Ms. Jones asked where the generator is specifically.

Mr. Davis stated that the generator is at the FM transmitter site in Barhamsville. He stated that the problem is that his engineers cannot fix the T1 line because it belongs to Verizon. He stated that his engineers can go out and fix the transmitter tower if there is a failure to keep the radio station on the air, but they have no control over Verizon and the T1 line.

Ms. Jones asked how common it is for radio stations to have agreements with local jurisdictions to allow the local government to take over their radio stations during emergencies.

Mr. Davis stated that in his years of media and broadcasting he has never seen it. He stated that his company has stations in North Carolina and they are in the process of setting up an agreement there as well. He stated that these agreements should be in place in his opinion. He stated that it is great for the station to be there to play music and to make money, but the original purpose back when the FCC began was to provide emergency communication to people.

Ms. Jones stated that she admires his willingness to serve the public. She stated that her concern and the concern that has been voiced by citizens is that you are promoting a specific news media outlet. By allowing this, the County would be advertising for a specific radio station. She stated that WYTD-FM (The Tide) is a news radio station, which means that the only news that would be heard would be from WY Daily, which would mean that the County is promoting one news media outlet.

Mr. Davis stated that he understands that concern. He stated that if this is not approved, then Davis Media will continue to operate as they have been for years. He stated that the problem will be that the time when Davis Media is not promoting their station, not promoting their business, is when the County will need them the most and they will not be on the air if the T1 line fails again.

Ms. Jones asked if other locations were considered.

Mr. Davis stated yes, but the problem is that the microwave tower needs line of sight with the transmitter tower. So it needs to be able to high enough to be seen over the trees, which is why the sight proposed is on a hill. He stated that putting the tower in the business park where Davis Media's office is located would have required a variance to the zoning.

Mr. Hipple asked for clarification on the agreement that the County could allow other co-locations on the tower and generate revenue from that.

Mr. Davis stated that if other groups wanted to place a repeater on the tower and pay the County for it, then that would be fine. He stated that Davis Media does not have a problem with the County generating other revenue from the tower. He stated that if the County wanted to extend the height of the pole to increase the opportunity for other revenue, then the Board could do that.

Mr. Hipple asked if extending the height is something that Davis Media would be willing to do and fund. He also asked the County Attorney about how high a tower could be in this area.

Mr. Rogers stated that the zoning ordinance allows towers of 120 feet in this area. He stated that a height limit waiver might be necessary. He stated that the agreement has not been worked out yet; however, his understanding is that Davis Media would build the tower to 100 feet with a four-foot antenna, then if the County or someone else wanted to extend the tower higher the County would pay for the extension and receive those revenues from it.

Mr. Davis stated that the proposed tower is a pole that is built in 10-foot sections, so if someone wanted to make it higher, then it would be easy to do so.



Mr. Rogers stated that if someone else wanted to extend the tower higher, then that would have to come back before the Board for approval. Mr. Davis would be guaranteed his 104 feet by the terms of the lease. He stated that while another user is not in the market right now, it would be stated in the lease that co-location is available and that those revenues would come to the County.

Ms. Jones stated that she would like more time to consider the proposal considering the new information provided tonight regarding a rent payment. She stated that she would like more information on what market rent is for a microwave tower. She stated that she would also like the input of Mr. Kennedy.

Mr. McGlennon asked if there is any plan for the use of this land that is owned by the County.

Mr. Powell stated that there is no future plan for the development of this land.

Mr. Davis stated that to clarify, there is no way for Davis Media to generate revenue by this proposed tower. All it will do is keep the radio station on the air during major weather events.

Ms. Jones asked if the tower would be taxed since it is on County property.

Mr. Rogers stated that it would not be taxed a real estate tax.

Mr. McGlennon asked Mr. Davis if there was a time constraint involved.

Mr. Davis stated that the cost estimate is not guaranteed indefinitely.

Mr. McGlennon stated that he is in favor of the proposal. He stated that if the Board feels it should defer action until the first regular meeting in January, then so be it, but he is in favor of moving forward. He stated that he would hope that the final lease agreement would be done by then as well.

Mr. Hipple stated that he appreciates the service provided by Davis Media. He stated that the concern he has heard has been regarding a private business utilizing public land. He stated that the offer of a rental payment has helped and citizens need to be made aware of that offer as well. He stated that he would like to hear from citizens regarding the new information brought forward this evening.

Mr. Davis stated that it is important to remember that Davis Media is building the tower and then offering to pay rent for that tower. He stated that he understands that the Board is being very mindful of spending tax dollars, which is why they offered to build and pay for the tower.

Ms. Jones asked how WMBG-AM in Williamsburg stays on the air.

Mr. Davis stated that he is not sure that they do stay on-air during major weather events. He stated that that station is only seven watts, so they do not reach anyone in the County. He stated that Davis Media stations are 6,000 watts and can reach everyone in the County.

Ms. Jones stated for clarification that the County has numerous ways of getting information out to residents including the County website, Twitter, and Facebook.

Mr. McGlennon stated that this kind of redundancy is important, because during an emergency a lot of the ways of getting information out will not be available.

2. Ms. Carol Anderson, 34 Kirkland Court, addressed the Board regarding concerns over microwave

radiation and the effects on citizens.

3. Ms. Sue Sadler, 9929 Mountain Berry Court, addressed the Board in opposition to the proposal. She stated that if they want a new tower, then they should buy their own land.

4. Mr. Joseph Swanenburg, 3026 The Pointe Drive, addressed the Board stating that this deal seems like crony capitalism.

5. Mr. Bobby Hornsby, 2 Kennington Court, addressed the Board stating that his family donated that property to the County and his father was a big proponent of working with the County.

6. Mr. Walker Ware, 5004 River Drive, addressed the Board in opposition to any public-private partnerships stating that government does not belong in business.

As no one else wished to speak at this time, Ms. Jones stated that she would be supportive of a deferral on these two items to allow for clarification on the new information provided and to allow citizens time to offer feedback. She stated that the Public Hearings would be left open for both items until the January 14, 2014, meeting.

Mr. Rogers stated that if the Board is in agreement then there is no need for a vote.

The Board members nodded their agreement to the deferral.

Mr. McGlennon requested a short recess.

At 9:09 p.m., Ms. Jones recessed the Board.

At 9:15 p.m., Ms. Jones reconvened the Board.

4. Authorization of the Sale of 225 Meadowcrest Trail

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

Mr. Powell stated that staff is recommending deferral on both Item Nos. 4 and 5, but the Public Hearings need to be opened for both items.

Ms. Jones asked if there were any questions for staff.

As there were none, Ms. Jones opened the Public Hearings for Item Nos. 4 and 5 stating that citizens were welcomed to speak, but these items would be deferred till the January 14, 2014, meeting.

1. Mr. Heath Richardson, Wellington Homeowners Association (HOA) President, addressed the Board requesting the deferral to allow time for the HOA Board to meet with Ryan Homes. He stated that the HOA Board remains generally in favor of residential development of this parcel.

2. Mr. Tim Cleary, 103 Lands' End Drive, addressed the Board in opposition to residential development on this land that is currently designated for greenspace.

3. Ms. Carol Anderson, 34 Kirkland Court, addressed the Board questioning why Ryan Homes does not invest in more affordable homes in their developments.

4. Mr. Walker Ware, 5004 River Drive, addressed the Board stating that if the County does not want this property than it should be advertised and sold at public auction.

5. Mr. Chris Craft, 8400 Beckenham Court, addressed the Board in opposition to affordable housing being built in Wellington.

6. Mr. Linwood Smith, 3919 Bournemouth Bend, addressed the Board in opposition to affordable housing being built in Wellington.

7. Ms. Patricia Craft, 8400 Beckenham Court, addressed the Board stating that the homeowners would like the opportunity to talk to Ryan Homes to see what their plans are for the build out if this case is approved.

Ms. Jones questioned the staff report referring to this 15-acre parcel as being raw, yet some parts of it adjoin existing roadway which means that there is existing infrastructure. She asked if this was factored in to the offer price.

Mr. Powell stated that staff would clarify that before the meeting on January 14, 2014.

Ms. Jones stated that the Public Hearing would be left open for Item Nos. 4 and 5 until the regular meeting on January 14, 2014.

## **J. BOARD CONSIDERATIONS**

### **1. Initiation of Consideration of an Amendment to the Zoning Ordinance Case No. ZO-0007-2013 – Chicken Keeping in Residential Areas**

Mr. Scott Whyte, Planner III, addressed the Board giving a summary of the memorandum included in the Agenda Packet.

Ms. Jones stated that she fully supports this initiation. She stated that there are several good model ordinances out there for consideration when working on a possible ordinance for the County. She requested that citizens be engaged fully in the process.

Mr. McGlennon stated that he is fine with this item going to the Policy Committee of the Planning Commission, but wonders if it would be helpful to give some guidance.

Ms. Jones stated that involving the citizens is important and to look at existing ordinances that are in other jurisdictions and might be applicable.

Mr. McGlennon stated that this issue arose because there were complaints about chicken keeping in residential neighborhoods, so he would be interested in hearing what zones that the Planning Commission would deem appropriate. He stated that he would also be interested in hearing how the Planning Commission would address the inherent problem of restrictive covenants in neighborhoods.

Mr. Icenhour stated that this issue arose because people filed complaints. He stated that he wonders how this is going to work for people currently living a neighborhood that do not want chickens around them. Giving them no say in the matter is just as egregious. He stated that there are expectations of homeowners with HOAs and then for the County to overrule that does not seem right.

Mr. Powell stated that staff has developed a draft public input process. He stated that staff would be contacting advocates, HOAs, and people that have complained. He stated that as this moves through the process, the hope is that there will be considerably more public input.

Mr. Hipple stated that there are areas of the County that are rural, but chickens are not allowed. He stated that he would like to see what has been done in other areas, what their problems are, and what their solutions were.

Ms. Jones made a motion to approve the resolution.

On a roll call vote, the vote was: AYE: Mr. McGlennon, Mr. Hipple, Ms. Jones (3). NAY: (0). ABSTAIN: Mr. Icenhour (1). ABSENT: Mr. Kennedy (1).

## **RESOLUTION**

### **INITIATION OF CONSIDERATION OF AN AMENDMENT TO THE ZONING ORDINANCE**

#### **CASE NO. ZO-0007-2013 – CHICKEN KEEPING IN RESIDENTIAL AREAS**

WHEREAS, in order to make the Zoning Ordinance more conducive to proper development, public review and comment of draft amendments is required pursuant to Virginia Code §15.2-2286; and

WHEREAS, the Board of Supervisors is of the opinion that the public necessity, convenience, general welfare, or good zoning practice warrant the consideration of amendments.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby initiate review of the Zoning Ordinance to consider adding to the language of Section 24-2, *Definitions* of Article 1, *In General* by adding definitions, Article II *Special Regulations*, by adding provisions and procedures relating to the raising of chickens in residential areas of James City County, and amending the language of Article V, *Districts* to add one or more of these uses as one(s) permitted as a matter of right along with appropriate regulations in one or more districts.

The Board of Supervisors shall hold at least one public hearing on the consideration of amendments of said ordinance.

#### 2. **Virginia Peninsula Public Service Authority (VPPSA) Curbside Recycling Program- Service Agreement**

Mr. John Horne, Director of General Services, addressed the Board giving a summary of the memorandum included in the Agenda Packet. Mr. Horne stated that there is a small change to the memorandum involving the size of the smaller cart available. He stated that the size of the smaller cart would be 35 gallons rather than the 48 gallons which was listed.

Mr. McGlennon stated that he appreciates that the County will be able to accomplish this recycling service at a reduced cost to the County.

Mr. Icenhour asked how the cost of the different sized carts will affect the various households.

Mr. Horne stated that the standard cart would be issued to the homeowner at no cost. He stated that if a homeowner would like to switch out their cart from the standard size cart to either the larger or smaller cart, then that would be at no cost to the homeowner. The cost comes when there is a request for an additional cart.

Mr. Icenhour asked the effective date of the agreement if approved.

Mr. Horne stated the agreement would be effective July 1, 2014.

Mr. Icenhour asked what timeframe the Virginia Peninsulas Public Service Authority (VPPSA) will be looking at for distributing the new size carts.

Mr. Horne stated that probably in the June timeframe. He stated that a lot of publicity and public outreach will be involved to make sure citizens are aware of the transition to the new roll-out carts.

Mr. Icenhour asked how this change to the recycling program will impact the County's recycling participation rate that is required under the State recycling mandate.

Mr. Horne stated that there is some research to show that roll-out bins do provide more popular access for people and does tend to bring up the participation rates.

Mr. McGlennon made a motion to approve the resolution on Page 129 of the Agenda Packet.

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

## **RESOLUTION**

### **VIRGINIA PENINSULAS PUBLIC SERVICE AUTHORITY (VPPSA)**

#### **CURBSIDE RECYCLING PROGRAM – SERVICE AGREEMENT**

WHEREAS, the Virginia Peninsulas Public Service Authority (VPPSA) provides services to James City County for curbside collection of recycling materials; and

WHEREAS, VPPSA has solicited proposals and is ready to award a contract for curbside recycling services in James City County; and

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

WHEREAS, it is necessary to approve a service agreement to allow access to this service in James City County.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to sign the curbside recycling service agreement between the County and VPPSA.

3. 2014 Legislative Program

Mr. Rogers addressed the Board giving a summary of the memorandum included in the Agenda Packet. He stated that the draft Legislative Program was included in the Packet and includes the amendments that were discussed during the last Work Session. He stated that Item Nos. 1-2 was amended and after doing some preliminary research, the \$10,000 exclusion limit would equal roughly \$35,000 today if adjusted for inflation over the past 30 years.

Mr. McGlennon made a motion to approve the resolution on Page 145 of the Agenda Packet.

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

**RESOLUTION**

**2014 LEGISLATIVE PROGRAM**

WHEREAS, James City County has developed a Legislative Program for the consideration of the 2014 session of the General Assembly which outlines certain legislative policies which the Board believes ought to guide the General Assembly and proposes certain legislation that would benefit the County; and

WHEREAS, the Board has carefully considered its Legislative Program and believes that it is in the best interests of the citizens of James City County.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the County's 2014 Legislative Program and commends it to the County's representatives in the General Assembly for action.

BE IT FURTHER RESOLVED that a copy of the County's 2014 Legislative Program be forwarded to the County's elected representatives to the General Assembly.

**K. PUBLIC COMMENTS**

1. Ms. Heather Cordasco, 113 Alexanders Place, addressed the Board wishing the Board and citizens a Merry Christmas.

2. Mr. Joseph Swanenburg, 3026 The Pointe Drive, addressed the Board wishing Mr. Icenhour well in his future endeavors as he leaves the Board.

3. Ms. Sue Sadler, 9929 Mountain Berry Court, addressed the Board wishing everyone a Merry Christmas.

4. Ms. Carol Anderson, 34 Kirkland Court, addressed the Board in regard to treating each other fairly and equally.

5. Mr. Jay Everson, 103 Branscome Boulevard, addressed the Board stating that the stormwater management system in Peleg's Point is overflowing and running into the yards of the residents on Branscome Boulevard.

6. Mr. Keith Sadler, 9929 Mountain Berry Court, addressed the Board wishing everyone a Merry Christmas and wished Mr. Icenhour well in his future endeavors.

7. Mr. Ed Oyer, 139 Indian Circle, addressed the Board in regard to the cost per student in this County and how the County spends more money on education per capita than any other jurisdiction in the region.

**L. REPORTS OF THE COUNTY ADMINISTRATOR**

Mr. Powell stated that if citizens missed their date for the curb-side leaf pickup, they can take their leaves to the County Convenience Center for free from January 2, 2014, through January 13, 2014. He also stated that the adjournment time listed on the agenda is incorrect and should state 4 p.m. on January 2, 2014.

**M. BOARD REQUESTS AND DIRECTIVES**

Mr. McGlennon stated that he requested the County Attorney to draft and send a resolution to the rest of the Board regarding the appointment of an Acting County Administrator. He stated that he believes the Board should designate someone that has the full authority of the office of the County Administrator. He stated that it is his understanding is that this request does not have the full support of the Board this evening. If that is the case, then he would like the Board's acknowledgement that the Assistant County Administrator, acting in the absence of a County Administrator, has the full authority of the County Administrator. He questioned if the reason the Board does not want to appoint an Acting County Administrator is because the Board feels that the Assistant County Administrator, in the absence of the County Administrator, has the full authority of that office.

Ms. Jones stated that she has no problem granting Mr. Powell signing authority if that is necessary, or if there is something that he needs authorization to sign, then the Board can certainly accommodate that. She stated that Mr. Powell serves in this capacity as part of his job description and as stated in the County Charter. She stated that if there is some question, legally, that arises then the Board can be available to accommodate.

Mr. McGlennon stated that he would ask that if there are discussions going on some alternative plan then please inform the Board fully. He asked if Board members had someone else in mind.

Ms. Jones stated that that would be discussed when the Chairman, Mr. Kennedy, returns from Connecticut.

Mr. McGlennon stated that it was his understanding that the Chairman is the one that proposed this resolution to appoint the Assistant County Administrator as the Acting County Administrator.

Ms. Jones stated that the Board could have this discussion when the full Board is seated.

Mr. McGlennon expressed his appreciation for Mr. Icenhour's eight years of service to the Board. He also expressed his appreciation for the service of Mr. Middaugh to the County.

Mr. Icenhour asked Mr. Rogers what possible litigation the Board could face over disclosing the reason behind the termination of Mr. Middaugh.

Mr. Rogers stated that he is answering a hypothetical question and will try to refrain from giving legal advice outside of a Closed Session. He stated that Mr. Middaugh could have an action against the County if the actions of the Board were hurting his possibilities for future employment. He stated that when employers call for a reference regarding former County employees, it is the County's practice to confirm their past employment with the County and the dates, but no other information. He stated that the County is very careful not to give out too much information that might affect the future employment of a former employee. He stated that he could not see any action coming from any outside source; however, that is not to say that it could not happen.

Mr. Icenhour stated that he still finds it incomprehensible that the Board cannot articulate the reasoning behind his termination. Mr. Icenhour asked, in regard to Fire Station 1, have there been any cost overruns to date.

Mr. Powell and Mr. Rogers both stated no. Mr. Rogers stated that it is still too early in the process, as the build has not even been put out to bid yet.

Mr. Icenhour asked if the bids come back over the budgeted amount can the Board refuse to award the contract and stick with the \$6 million that has been budgeted.

Mr. Rogers stated yes.

Mr. Icenhour stated, then for clarification, the Board has not taken an action that has taken the cost of Fire Station 1 over the amount that has been previously budgeted.

Mr. Rogers stated correct.

Mr. Icenhour stated that his understanding of the glass in the County Administration building is a decal not etched glass as citizens have been stating.

Mr. Powell stated that he believes that is correct.

Mr. McGlennon stated that there is no shower in the County Administrator's office either as was mentioned by a citizen earlier this evening.

Mr. Icenhour stated that this Board is a policy making body and it is really ineffective without a good quality staff.

Mr. Hipple asked Mr. Rogers if personnel matters, including hiring and firing of employees, are something that is normally discussed in public and in the newspapers.

Mr. Rogers stated no.

Mr. Hipple asked if Mr. Rogers would recommend that Board members discuss the termination of an employee.

Mr. Rogers stated no and he has previously given the Board the advice the less that is said the better.

Mr. Hipple asked if that recommendation is a protection for both parties involved.



Mr. Rogers stated that is accurate.

Mr. McGlennon asked if the terminated employee is the one requesting that the reason be made public is it then acceptable.

Mr. Rogers stated that yes it could. He stated that he does not believe that it would remove the liability from the County though.

Mr. Icenhour stated that during the Closed Session and in the Open Session he asked for a reason for the Board's action and he was not given one.

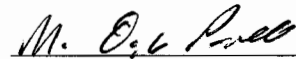
Ms. Jones wished Mr. Icenhour well in his future endeavors and wished all the citizens a Merry Christmas and a Happy New Year.

**N. ADJOURNMENT** – to 4 p.m. on January 2, 2014, for the Organizational Meeting.

Mr. Hipple made a motion to adjourn.

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

At 10:33 p.m., Ms. Jones adjourned the Board of Supervisors.



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Doug Powell  
Deputy Clerk to the Board