

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 22ND DAY OF APRIL 2014, AT 7:00 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**

**MAY 13 2014**

Mary K. Jones, Chairman, Berkeley District  
Michael J. Hipple, Vice Chairman, Powhatan District  
James G. Kennedy, Stonehouse District  
Kevin D. Onizuk, Jamestown District  
John J. McGlennon, Roberts District

**Board of Supervisors  
James City County, VA**

M. Douglas Powell, Acting County Administrator  
Leo P. Rogers, County Attorney

**C. MOMENT OF SILENCE**

**D. PLEDGE OF ALLEGIANCE** – Claire Stemmann, a 10th-grade home-schooled student and a resident of the Berkeley District, led the Board and citizens in the Pledge of Allegiance.

**E. PRESENTATIONS**

**1. Mr. James Utterback, Virginia Department of Transportation (VDOT)**

Mr. Utterback and Mr. Steve Chapin, Consultant Project Manager, gave a presentation to the Board about the Interstate 64 widening.

Mr. Kennedy commented on the overall cost of the project and building new roads when there are existing roads, and roads and medians that are not being adequately maintained.

Mr. McGlennon asked Mr. Utterback to explain the slurry road coating to the Board.

Mr. Utterback explained different options to extend the life of roadways.

Mr. Onizuk asked about the total time to complete all phases of the Interstate 64 widening.

Mr. Utterback said that it is dependent on funding and that there is not a proposed date of completion.

Ms. Jones asked Mr. Utterback to look into what could be done to improve conditions on U.S. Route

## 2. Capital Projects Report

Mr. John Horne, Director of General Services, addressed the Board giving a presentation on the current status of Capital Projects in the County and stated that the status of all Capital Improvement Projects may be viewed on the County's website by visiting the following webpage: <http://www.jamescitycountyva.gov/generalservices/projects.html>.

Mr. Onizuk asked about the improvement for drainage improvement in the Brookhaven subdivision.

Mr. Darrell Cook, Project Manager, responded that the plan for an off-site stormwater management facility has been put on hold.

## F. PUBLIC COMMENTS

1. Mr. John Pottle, 4233 Teakwood Drive, addressed the Board and offered an invocation.
2. Ms. Carol Anderson, 34 Kirkland Court, addressed the Board regarding divine mercy.
3. Ms. Sue Sadler, 9929 Mount Bay Court, addressed the Board regarding Cool Counties.
4. Ms. Betty Walker, 101 Locust Place, addressed the Board regarding Common Core.
5. Mr. Randy O'Neil, 109 Sheffield Road, addressed the Board regarding K-12 Health.
6. Mr. Ed Oyer, 139 Indian Circle, addressed the Board regarding indexing of taxes and school issues.
7. Mr. Keith Sadler, 9929 Mountain Berry Court, addressed the Board regarding Cool Counties.
8. Mr. Les Skelly, 6572 Wiltshire Road, addressed the Board regarding Cool Counties and Common Core.
9. Ms. Landra Skelly, 6572 Wiltshire Road, addressed the Board regarding Cool Counties.
10. Mr. Joseph Swanenburg, 3026 The Pointe Drive, addressed the Board regarding Cool Counties.

## G. BOARD REQUESTS AND DIRECTIVES

Mr. Onizuk thanked Busch Gardens for its support of the USS Truman Carrier Strike Group and their families. He informed the Board and citizens of several events that the Greater Williamsburg Chamber and Tourism Alliance will be hosting and promoting.

## H. CONSENT CALENDAR

Mr. McGlennon made a motion to approve the Consent Calendar.

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

1. Minutes –
  - a. March 25, 2014, Work Session
  - b. March 25, 2014, Regular Meeting
2. Contract Award – Replacement Ambulance – \$235,692

### **RESOLUTION**

#### **CONTRACT AWARD - REPLACEMENT AMBULANCE - \$235,692**

WHEREAS, funds are available in the FY 2014 Capital Improvement Fund (CIP) budget for the purchase of a replacement ambulance; and

WHEREAS, cooperative procurement action is authorized by Chapter 1, Section 5 of the James City County Purchasing Policy and the Virginia Public Procurement Act, and the Houston-Galveston Area Council issued a cooperative purchasing contract to FESCO Emergency Sales as a result of a competitive sealed Invitation for Bid; and

WHEREAS, Fire Department, Fleet, and Purchasing staff determined the contract specifications meet the County's performance requirements for an ambulance and negotiated a price of \$235,692 with FESCO Emergency Sales for a Horton medium-duty ambulance.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute a contract with FESCO Emergency Sales for a Horton medium-duty ambulance in the amount of \$235,692.

3. Dedication of Utility Easement to James City Service Authority (JCSA) – Mid County Park

### **RESOLUTION**

#### **DEDICATION OF UTILITY EASEMENT TO JAMES CITY SERVICE AUTHORITY (JCSA) –**

#### **MID COUNTY PARK**

WHEREAS, James City County owns property commonly known as 3793 Ironbound Road and further identified as James City County Real Estate Tax Map Parcel No. 3830100010 (the "Property"); and

WHEREAS, the Board of Supervisors previously authorized construction of the Mid County Park Phase I Improvements; and

WHEREAS, James City Services Authority (JCSA) requires that the County dedicate a utility easement across the Property and centered over the utility.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the Acting County Administrator to execute the appropriate documents to dedicate the utility easement to the JCSA.

4. Contingency Transfer – Legal Services – \$72,000

**RESOLUTION**

**CONTINGENCY TRANSFER – LEGAL SERVICES – \$72,000**

WHEREAS, on January 10, 2014, the Virginia Supreme Court issued its opinion in *Board of Supervisors, et al., v. Windmill Meadows, LLC, et al.*, 287 Va. 170 (2014), which affirmed the Circuit Court decision against the County regarding the retroactive application of Section 15.2-2303.1:1 of the Code of Virginia and which also affirmed the Circuit Court's award of \$64,979.72 in attorney's fees, plus interest, against the County; and

WHEREAS, the Virginia Supreme Court also awarded \$915.30 in costs and appellate attorney's fees against the County; and

WHEREAS the amount of appellate attorney's fees is currently in negotiation.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes the transfer of \$72,000 from Contingency to Legal Services to pay for the attorney's fees, plus interest, awarded by the Circuit Court and for the \$915.30 in costs awarded by the Virginia Supreme Court.

**I. PUBLIC HEARING**

1. FY 2015-2016 County Budget

Ms. Jones opened the Budget public hearing for the Board of Supervisors and indicated that Mr. Kennedy would be opening the Budget public hearing for the James City Service Authority (JCSA) Board of Directors as well so that the hearings could run concurrently.

At 8:15 p.m., Mr. Kennedy opened the JCSA Board of Directors meeting for the purpose of conducting the Budget public hearing.

Ms. Sue Mellen, Assistant Director of Financial and Management Services, addressed the Board giving a presentation on the proposed budget for FY 2015-2016 that was released to the public on April 8, 2014. She highlighted that the property tax rate is proposed to stay the same and has not been raised since 1997. She stated that the budget is based on three spending priorities: Public Safety, Schools and Stormwater. She stated that a majority of revenue for the County is generated from property taxes and highlighted the breakdown of the allocations of the General Fund.

a. The Virginia Stormwater Management Ordinance

Mr. Scott Thomas, Director of Engineering and Resource Protection Division, addressed the Board giving a summary of the memorandum included in the Agenda Packet and highlighting changes made since the April 8, 2014, Work Session.

Mr. Hipple asked for clarification regarding the Closed Circuit TV (CCTV) Inspections, specifically if County staff would be conducting those inspections or if private inspectors would be conducting the inspections on behalf of the developers.

Mr. Thomas stated that the intent of the CCTV program is that the developer will outsource the work to a private inspector on his behalf and that certification would be part of the developer's application to the County. County staff would then review the materials that are submitted as part of the application process.

Mr. Kennedy clarified that the State's fees are set, meaning that those are fees that the State will collect regardless of whether the County charges a fee or not. So, if the County does not charge a Stormwater fee, then the County will have to find the monies elsewhere within the budget and pay those to the State.

Mr. Thomas stated correct. He stated that if the fees are reduced below what is recommended, then the County will not be able to pay the State its portion without cutting into the County's budget.

As there were no other questions for staff, Ms. Jones opened the Public Hearing on the Ordinance and stated that the public hearings on the proposed County Budget were also open.

1. Mr. Mark Duncan, President of the Board of Directors of the United Way of Greater Williamsburg, 4023 Chesapeake Avenue, addressed the Board highlighting its funding request included in the proposed budget and how those funds are used to benefit the members of the community.

2. Mr. Paul Scott, Executive Director of Child Development Resources, 719 Lafayette Street, addressed the Board thanking them for their continued support and highlighting how those funds are used to benefit members of the community.

3. Mr. David Jarman, a representative of Citizens for a Better James City County, 3646 South Square, addressed the Board regarding schools, stormwater, capital improvements, and land conservation portions of the proposed budget.

4. Ms. Judy Fuss, a representative of James City County Citizens Coalition (J4C), 3509 Hunter's Ridge, addressed the Board regarding the stormwater portion of the proposed budget and the lack of funding for projects, as well as land conservation funding.

5. Mr. Jay Everson, 103 Branscome Boulevard, addressed the Board regarding the James Blair Annex and its ability to solve middle school capacity issues with no capital costs until 2019.

6. Mr. Randy O'Neill, 109 Sheffield Road, addressed the Board regarding solutions from the public being ignored regarding capital projects and the schools.

7. Mr. Chris Henderson, 101 Keystone, addressed the Board regarding the stormwater management process in the County, the lack of need for more land conservation, the need for a public facilities master plan, and the preservation of the AAA bond rating.

8. Ms. Sue Sadler, 9929 Mountain Berry Court, addressed the Board regarding the middle school capacity issues and the proposed cost of building a new school.

9. Ms. Landra Skelly, 6572 Wiltshire Road, addressed the Board regarding the proposed stormwater management ordinance and the revenue decline in the JCSA budget.

10. Ms. Heather Cordasco, 113 Alexander's Place, addressed the Board stating that a clean State budget needs to be passed in order to fund schools and localities, as well as being fiscally responsible without losing sight of the big picture.

11. Ms. Carol Anderson, 34 Kirkland Court, addressed the Board regarding school capacity issues, common core curriculum, funding for the United Way, Greenspace programs, and the stormwater management ordinance.

12. Mr. Ed Oyer, 139 Indian Circle, addressed the Board regarding school capacity issues as the demographics in the County change, preserving the bond rating, and limiting debt.

As no one else wished to speak to the FY 2015-2016 Proposed County Budget, Ms. Jones closed the public hearing and stated that the Budget would be formally adopted at the Regular Meeting on May 13, 2014, following three scheduled Budget Work Sessions.

Mr. Kennedy asked if action was necessary tonight on the proposed Virginia Stormwater Management Ordinance.

Mr. Rogers stated that the public hearing for the ordinance may be closed, no action taken at this time, and the ordinance would be brought back before the Board on May 13, 2014, as a Board Consideration.

Mr. Kennedy stated that he is fine with the ordinance as it is written.

Mr. McGlennon stated that he would prefer to address the ordinance this evening as it has budget implications.

Mr. Onizuk agreed with Mr. McGlennon.

Ms. Jones stated that she would prefer to have action taken at the May 13, 2014, meeting to allow more citizen comment.

Mr. McGlennon stated that if the Board does not adopt the ordinance, then the Board needs to come up with an additional \$100,000 for the budget, which those discussions would need to take place during the Budget Work Sessions.

Ms. Jones stated that she would prefer that the ordinance be considered at the May 13, 2014, meeting prior to adopting the budget.

Mr. Kennedy stated that for clarification for the public, the stormwater ordinance fee schedule does not impact existing homeowners. This is for new construction and new development only. He stated that he supports the ordinance and is supportive of taking action on it this evening.

Mr. McGlennon agreed with Mr. Kennedy.

Ms. Jones asked the other members to voice their opinion.

Ms. Jones stated that her position on the ordinance is to not take action on it in the event that the State makes any additional changes prior to the deadline of May 15, 2014, when the ordinance must be adopted per the State. She stated that this is an unfunded mandate from the State that is being passed on to the citizens. She stated that she has hesitation on the additional fees above what is considered the State's cut, that consumers will be made to pay with this ordinance.

Mr. Onizuk asked Mr. Thomas for clarification on the fee schedule. He stated that the fee schedule, in the proposed ordinance, is the one recommended by the State and the County may go with a higher fee schedule,

but the County cannot go with a lower fee schedule without having to prove to the State that the County has the funding to go with the lesser amount.

Mr. Thomas stated correct.

Mr. McGlennon clarified that the County is going to have to pay the State's cost, which is the State's portion in the fee schedule, no matter what. He stated that money can either come from the General Fund and be passed on to every taxpayer or the fee schedule can be utilized and pass the cost on to the applicant.

Ms. Jones asked where the fees collected would go.

Mr. Powell stated that they would go in to the General Fund.

Mr. Thomas stated that he does not anticipate any additional changes being made at the State level. The law has been adopted. He stated there might be some related minor regulation changes, which would be the fee schedule. He stated that staff may not know which table might be affected, but the law has been passed and adopted.

Mr. Hipple asked what is the yearly cost for this item in the Stormwater budget.

Mr. Thomas stated that it is approximately 30-40 percent of the Stormwater budget. He stated that this program costs approximately \$700,000 and the Stormwater budget is roughly \$1 million.

Ms. Jones stated that she would look to the Board for a consensus on whether or not to act on this item tonight.

Mr. Kennedy stated that the \$100,000 revenue anticipated to be generated from this fee is an effort at recouping some of the cost of the program for the County, which is better than getting nothing at all.

Mr. Onizuk stated that this is an unfunded mandate from the State, which the County does not have a choice in implementing. He stated that the fee will only impact those coming in to the County, new construction and new development, not the residents already residing here. He stated that he is supportive of the ordinance and is willing to vote tonight or it can wait until the next meeting.

Mr. McGlennon stated that he does not mind waiting until the next meeting, but staff needs some form of guidance in regard to the impact on the budget, although it seems pretty clear what that guidance would be.

Mr. Kennedy stated that he would like to make a few comments on the budget and comments that have been heard this evening. He stated that the tax rate was not cut. He stated it was reduced several years ago to combat the almost double digit rise in assessments. He stated that these mandates are being passed down from the Federal and State level, which means that they are being passed along to the citizens, but the Board does not have a choice.

Ms. Jones thanked all of the citizens for their comments this evening. She stated that she appreciates the input regarding a public facilities master plan and is very supportive of seeing it move forward. She stated that the Board has taken a very conservative view of the recovery of the economy and has tried very hard to not pass these mandates down to the taxpayers and that needs to continue. She stated that it is important that the County continue on the path that led to the AAA bond rating.

Mr. McGlennon stated that in regard to the bond rating, the rating agency will be looking at the County's plan to meet its needs. He stated that one topic that has come up recently is deferred maintenance

projects on County facilities. He stated that taking money for maintenance and using it to fund facilities that it is believed that the County will need, then that will be looked at negatively by the rating agencies. He stated that this is something to keep in mind when talking about keeping our current bond rating.

Mr. Kennedy stated that he has mentioned before that he is concerned that the Board is not doing enough to address future and current needs. He stated that many needs have been put off, in an attempt to help the citizens through recession, but those needs eventually will come due. He stated that the Board needs to begin planning for when that happens.

Mr. Hipple stated that the Board should be focusing on what the County does have. He stated that he does not like any type of tax or fee, but he understands that at times they are necessary. He does believe that when those times arise, then it is the responsibility of the Board to look at the issue closely and from all angles. He stated that the County has a great staff, great buildings, and great quality of life, and those are the things that the Board should remain focused on.

Mr. Rogers asked for a point of order to clarify the status of the public hearing for the ordinance.

After discussion amongst the Board members, Ms. Jones closed the public hearing for the ordinance, and stated that citizens may comment on the ordinance during the Public Comment section of the May 13, 2014, meeting.

At 10:21 p.m., Mr. Kennedy moved forward with the rest of the JCSA Board of Directors Meeting.

At 10:24 p.m., Ms. Jones continued the remaining agenda for the Board of Supervisors.

**J. BOARD CONSIDERATIONS – None**

**K. PUBLIC COMMENTS**

1. Mr. Randy O'Neill, 109 Sheffield Road, addressed the Board regarding a letter received from a staff member.
2. Ms. Landra Skelly, 6572 Wiltshire Road, addressed the Board regarding Cool Counties.
3. Mr. Chris Henderson, 101 Keystone, addressed the Board regarding the Virginia Dominion Power transmission lines.
4. Mr. Ed Oyer, 139 Indian Circle, addressed the Board regarding sovereignty of the people.

**L. REPORTS OF THE COUNTY ADMINISTRATOR**

Mr. Powell stated that the final public meeting for the Longhill Road Corridor Study will be held on May 8 at New Zion Baptist Church, 3991 Longhill Road from 7-9 p.m. This meeting will include a presentation of the concept design for the road which has been refined since the public workshop in February. The meeting will also include information about the next steps for the corridor and strategies for implementing the study and phasing improvements in the future. For more information, please contact the Planning Division at 757-253-6685. He also stated that on April 26 the James City County Police Department and the Drug Enforcement Agency (DEA) will be at the James City County Recreation Center (5301 Longhill Road) from



10 a.m.-2 p.m. collecting potentially dangerous expired, unused, and unwanted prescription drugs for destruction. The program is anonymous and no questions will be asked. Prescription and over-the-counter solid dosage medications (i.e. tablets and capsules) will be accepted. Intra-venous solutions, injectables, and needles will not be accepted, nor will illicit substances such as marijuana or methamphetamines.

**M. BOARD REQUESTS AND DIRECTIVES**

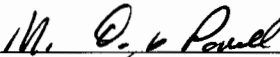
Mr. McGlennon stated that he, Mr. Onizuk, Mr. Powell, and several other staff members attended the Neighborhood Leaders Forum last week and the number one concern voiced by the neighborhood groups was stormwater management. He also asked the Board to consider having a Closed Session during one of the Budget Work Sessions to discuss the County Administrator candidates prior to meeting with the consultant, Mr. Andrews, on May 5, 2014.

**N. ADJOURNMENT** – until 4 p.m. on April 28, 2014, for the Budget Work Session.

Mr. McGlennon made a motion to adjourn.

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

At 10:36 p.m., Ms. Jones adjourned the Board.

  
\_\_\_\_\_  
M. Douglas Powell  
Clerk to the Board