

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 12TH DAY OF AUGUST 2014, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

# ADOPTED

SEP 09 2014

Board of Supervisors  
James City County, VA

**A. CALL TO ORDER**

**B. ROLL CALL**

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

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

**C. MOMENT OF SILENCE**

**D. PLEDGE OF ALLEGIANCE** – Ian Howard, Connor Loy, Daniel Robles, and Alexander Seymour; Cub Scouts, Pack 103, Den 4, led the Board and citizens in the Pledge.

**E. PRESENTATION**

1. VDOT Quarterly Update

Mr. Rossie Carroll, Williamsburg Residency Administrator for Virginia Department of Transportation, addressed the Board giving a summary of the VDOT Quarterly Report included in the Agenda Packet.

Mr. Kennedy thanked Mr. Carroll for VDOT's efforts in patching potholes in the area. He mentioned the signal synchronization on Route 60 and asked that it be looked into, and he requested a cost estimate for the mowing of center medians. He stated that with the high volume of tourists in the area our medians need to be mowed and neat.

Mr. McGlennon thanked Mr. Carroll for addressing the large bump in the road in Lake Powell Pointe, and for taking the time, before the meeting, to discuss the re-striping on Route 60.

Mr. Onizuk expressed his appreciation for the responsiveness of Mr. Carroll, and his office, when issues arise.

**F. PUBLIC COMMENTS**

1. Mr. John Pottle, 4233 Teakwood Drive, addressed the Board regarding the foundation of laws in this country.

2. Mr. Joseph Swanenburg, 3026 The Pointe Drive, addressed the Board in support of the John Tyler Highway Sewer Connection case later this evening.

3. Ms. Dorothea Neiman, 105 Broomfield, addressed the Board in opposition to the John Tyler Highway Sewer Connection case later this evening.

4. Ms. Betty Walker, 101 Locust Place, addressed the Board regarding Common Core.

5. Mr. Richard Gould, 309 Archers Mead, addressed the Board regarding the upcoming work session regarding the Kingsmill Master Plan changes and development.

6. Mr. Ed Oyer, 139 Indian Circle, addressed the Board regarding an off-street parking ordinance.

**G. BOARD REQUESTS AND DIRECTIVES**

Ms. Jones recognized the Planning Commission representative in attendance, Ms. Robin Bledsoe.

Mr. Kennedy stated that the weeds around the Service Authority building, and the other County offices on the Monticello corridor, are back and need to be taken care of. He requested that the Board have some work sessions with Mr. Bryan Hill regarding PDRs and the Primary Service Area (PSA).

Mr. McGlennon acknowledged the passing of Mr. Grant Olsen, Eleanor Armstrong, and Ian Homewood.

Ms. Jones stated that she, Mr. Onizuk, and Mr. McGlennon attended the ribbon cutting of Small Cakes on Saturday, July 26; and on Wednesday, August 6 she attended the grand re-opening of the Farm Fresh in Five Forks. She announced that the Board has hired a new County Administrator, Mr. Bryan J. Hill, effective September 8, 2014. She stated that she is very excited to have him and his family become part of the community.

**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. July 22, 2014, Regular Meeting
  - b. July 28, 2014, Continuation of Meeting
  - c. July 29, 2014, Continuation of Meeting

2. Grant Award – Victim’s Witness Program – \$120,348

**RESOLUTION**

GRANT AWARD – VICTIM’S WITNESS GRANT PROGRAM – \$120,348

WHEREAS, the Commonwealth Attorney for the City of Williamsburg and James City County has been awarded a \$120,348 Federal grant from the Victim’s Witness Grant Fund (Federal share \$79,565; State share \$26,521; and County match \$14,262) through the State Department of Criminal Justice Services; and

WHEREAS, this grant would fund the personnel costs for the continuation of two positions to provide comprehensive information and direct services to crime victims and witnesses beginning July 1, 2014, through June 30, 2015; and

WHEREAS, the grant requires a local match of \$14,262, which is available in the Commonwealth Attorney’s General Fund account.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the additional appropriation to the Special Projects/Grants Fund for FY 15 purposes described above:

Revenues:

Victim’s Witness Department of Criminal Justice Services (DCJS) Federal Revenue	\$ 79,565
Victim’s Witness Department of Criminal Justice Services (DCJS) State Revenue	26,521
James City County Matching Funds	<u>14,262</u>
Total	<u>\$120,348</u>

Expenditure:

Victim’s Witness Personnel	<u>\$120,348</u>
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3. Virginia Housing Development Authority Housing Counseling Grant acceptance - \$10,000

**RESOLUTION**

VIRGINIA HOUSING DEVELOPMENT AUTHORITY (VHDA)

HOUSING COUNSELING GRANT ACCEPTANCE

WHEREAS, funding for Housing Counseling assistance is available to units of local government through the Commonwealth of Virginia Housing Development Authority (VHDA) Grant; and

WHEREAS, James City County wishes to provide VHDA homeownership education and housing counseling services for its residents; and

WHEREAS, the James City County Office of Housing and Community Developments (OHCD) provides housing counseling services to first-time homebuyers seeking to purchase a home in James City County; and

WHEREAS, OHCD budgeted \$15,000 in its FY 15 budget for housing counseling; and

WHEREAS, OHCD was awarded a Housing and Urban Development (HUD) Housing Counseling Grant totaling \$25,000 from the VHDA.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby amends the budget authority for HUD housing counseling in the amount of \$10,000.

Revenue:

FY 14 HUD Housing Counseling Grant VHDA	<u>\$10,000</u>
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Expenditure:

FY 14 HUD Housing Counseling Grant	<u>\$10,000</u>
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4. Building E and JCSA Operations Building Lease Agreements with James City Service Authority (JCSA)

**RESOLUTION**

**LEASE AGREEMENTS WITH JAMES CITY SERVICE AUTHORITY (JCSA)**

WHEREAS, the James City Service Authority (JCSA) is the owner of certain real property identified as Building E of the Government Complex, 101 Mounts Bay Road, further identified as a portion of James City County Real Estate Tax Map No. 5010100009, and in the JCSA Operations Building, 107 Tewning Road, further identified as a portion of James City County Real Estate Tax Map No. 3910100003; and

WHEREAS, James City County (the "County") operates certain County departments out of Building E and at the JCSA Operations Building; and

WHEREAS, the County wishes to enter into leases for space in Building E and the JCSA Operations Building; and

WHEREAS, the Board of Supervisors is of the opinion that it is in the public interest to execute the lease agreement.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the Assistant County Administrator to execute any and all documents necessary to enter into the lease agreements with the JCSA.

5. Land and Water Conservation Fund Grant Amendment - \$147,499.50

**RESOLUTION**

**LAND AND WATER CONSERVATION FUND GRANT AMENDMENT**

WHEREAS, the Department of Conservation and Recreation, in cooperation with the National Park Service, has already allocated funds to be used for the development of Jamestown Beach Phase II; and

WHEREAS, additional funds are needed for the installation of water and sewer and construction of a permanent restroom building to complete Phase II of the Jamestown Beach project.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, accepts the \$147,499.50 grant amendment awarded by the Department of Conservation and Recreation in cooperation with the National Park Service to assist with the construction of Jamestown Beach Phase II.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following appropriation.

Revenue:

From the Dept. of Conservation and Recreation (024-307-2216)	<u>\$147,499.50</u>
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Expenditure:

Jamestown Beach Phase II Account (024-155-2216)	<u>\$147,499.50</u>
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**I. PUBLIC HEARING**

1. Case No. ZO-0008-2013. Accessory Apartments

Mr. Paul Holt, Director of Planning, addressed the Board giving a summary of the staff report included in the Agenda Packet.

Mr. McGlennon stated that he still has some reservations, but he is confident that staff has drafted the ordinance in such a way that allows the Board to have control over the applications.

As there were no other questions or comments, Ms. Jones opened the Public Hearing.

As no one wished to speak to the case, Ms. Jones closed the Public Hearing.

Mr. Kennedy made a motion to approve the ordinance.

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

**J. BOARD CONSIDERATIONS**

1. Case No. SUP-0006-2014. 2604 John Tyler Highway Public Sewer Connection

Ms. Ellen Cook, Planner III, addressed the Board giving a summary of the staff report, and additional information requested, included in the Agenda Packet.

Mr. Onizuk stated that he understands the arguments on both sides of this issue. He would like to facilitate this connection, as it would be the best for the environment, but he has serious concerns regarding the Primary Service Area (PSA) line. He clarified that there have not been any significant or “one lot” exceptions to the PSA line. He stated that staff has addressed most of his questions from the previous hearing on this case. He read a letter, received by the Board this evening, from the attorney for the applicant, Mr. Vernon Geddy, regarding the argument for against setting a precedent. Mr. Onizuk asked Mr. Rogers to comment on the letter and argument made by Mr. Geddy.

Mr. Rogers stated that Mr. Geddy’s argument is that approval would not set a precedent for “unbridled growth”. He stated that every decision of the Board sets a precedent in some form and Mr. Geddy is attempting to set some objective standard for measuring the precedent that would result from approving this case. He stated that at this point, he cannot comment on the assertions made by Mr. Geddy since the letter was just received this evening prior to the meeting.

Mr. Onizuk clarified that if the Board approved this case tonight, it would set the precedent for connections outside the PSA where the lot is already adjacent to either the water or sewer line.

Mr. Rogers stated correct, but he cannot say, at this moment, where else that would apply in the County.

Mr. Onizuk asked if the County would then be responsible for providing sewer to those residents that already have a water connection.

Mr. Rogers stated not necessarily. If a resident already has water, and there is a sewer line nearby, then the precedent would be there for them to connect if their lot did not perk. He stated that planning staff might have more information, or they may need to come back to the Board with information regarding the impacts of such a policy change.

Ms. Jones stated that in this case, the water line ran an additional 150 feet further than the sewer line. In her mind, the water and sewer line are connected and the lot is adjacent or nearby.

Mr. Kennedy stated that the County extended sewer to the Sand Hill neighborhood because septic systems were failing. After the lines were run, the neighborhood continued to be developed out. He questioned what the difference is between that situation and this case.

Mr. Rogers stated that when sewer lines were run to Sand Hill for health, wellness, and sanitation reasons, it extended to the entire development. In the case of this lot, it was subdivided and sold with no guarantee by the County or the Health Department that it would perk and be able to support a sewer system.

Mr. Kennedy stated that the Board needs to have a deeper discussion regarding the PSA. He stated that he has requested that the Board look at all of the available lots and land currently outside the PSA and evaluate the zoning. He suggested then leaving the zoning on those lots as it is and not allow for any rezoning outside the PSA. He stated that the applicant came to visit him and he did notify the Board of the meeting. He stated that he would like to approve this case, but he is concerned that the Board is not established enough in

the decision about what to do with the PSA. He asked for clarification on sewer system approvals that the County has no say in, that are approved by the Health Department.

Mr. Rogers stated that there are alternative sewer discharge systems, like mounds for example, which can receive approval by the Health Department.

Mr. Kennedy asked if that would open up portions of the County previously undevelopable because they did not perk.

Mr. Rogers stated that it has been several years since those systems were approved by the Health Department, and there has not been a proliferation of development utilizing them.

Mr. Hipple stated that he agrees with Mr. Kennedy about reevaluating the PSA. He stated that it is used to control growth and has worked for years, but now it needs to be reevaluated and a new system developed. He stated that a septic system on this particular lot will fail because the soil there is nothing but clay. It is fairly close to Gordon Creek, and a failing septic system would cause an environmental impact. He stated that he does not agree that approving this case will cause more development outside of the PSA. He stated that any request will still have to come through the Board and be made on the merits and circumstances of the case.

Mr. McGlennon stated that several different thought processes are being mentioned this evening, including that this case will not set a precedent, that the PSA is outdated and that the Board should make decisions about growth as applications are submitted. He stated that the true issue is the PSA, and the Board has relied on the PSA as a growth tool. If it is outdated, then the Board needs to revisit the issue, but until then, it is the only growth management tool that we have. He stated that in almost every case that is being discussed, the extension of the PSA was to accommodate growth already happening, not allow more growth to occur. He agreed with Mr. Kennedy about having the discussion about the PSA. He believes that if this case is approved, that more applications will come forward. The Board needs to find something that works for managing growth, and if the PSA is not the right tool, at least respect it until another tool is put into place.

Mr. Hipple stated that the Board is making a decision on one particular site. He does not believe that the PSA is working as effectively as it did years ago. He would like to see staff, the Board, and the citizens work together to find or develop a new growth management tool.

Mr. Kennedy stated that he can see both sides of the argument of this case. He would like to see that much broader discussion regarding zoning, rural lands, PSA, environmental impacts, and effectiveness.

Ms. Jones stated that it seems that everyone is in agreement that those discussions need to take place. She stated that Governor's Land and Greensprings West are outside of the PSA. She said that this application is about one piece of property. She stated that there is a legislative process for a reason; the Board can make decisions on a case-by-case basis. She believes that in fairness, this case should be approved. The water line continues to the property, but the sewer line was stopped 150 feet away from the property.

Mr. Onizuk stated that he has always supported the PSA because the Board does not have another tool to use. He stated that the Board needs to be very cautious about growth. He voiced his reluctance to support this application; however, the fact that the property already has water is causing him to reconsider. He stated emphatically that if the property did not have water, he would not even consider supporting the application. He stated that he needs some form of assurance that the integrity of the PSA will be maintained in order to support the case. He questioned the Board's ability to say "no" to a future application if this one is approved, even if it is brought before the Board on a case-by-case basis.

Mr. Kennedy stated that he is inclined to say no to this case without having that broader discussion first.

Mr. Onizuk asked if the approval of this case would negate the PSA.

Mr. Rogers stated no, but it would set a precedent for additional connections. There would need to be some objective criteria established for this new exception in order to prevent unbridled growth, and he believes that staff would have a hard time coming up with that objective criterion that would limit its applicability.

Mr. Kennedy questioned if Mr. Geddy's letter is a reasonable reason to pull back and look into this before voting.

Mr. Powell stated that Mr. Geddy's proposal is not something that can be agreed upon tonight, as staff just received the letter this evening.

Mr. McGlennon stated that the broader discussions are not going to happen in the span of the next Board meeting or two. He reminded the Board that if the application is denied, the applicant can resubmit again in a year and perhaps those broader decisions will have been made which would have a different outcome. He stated that the applicant could withdraw the application tonight as well.

Ms. Jones asked Mr. Geddy if he would like to address the comments made by Mr. McGlennon.

Mr. Geddy stated that the applicant would like to build in the not too distant future, but that they would be amenable to a one-month deferral to consider the proposal presented in his letter.

Mr. McGlennon does not see much changing in the next month.

Mr. Kennedy stated no, not in the broader sense, but this proposal could be evaluated.

Mr. McGlennon stated that he is not sure that the proposal will be able to guarantee much, and another homeowner has already come forward and stated that if this approved they will submit their own application.

Ms. Jones asked Ms. Bledsoe to come forward and speak to the discussion had by the Planning Commission.

Ms. Bledsoe stated that the Planning Commission vote was split on this application for all of the reasons that the Board has voiced tonight. She also stated that it was at the Planning Commission that a citizen stated that if the application was approved, that they would submit their own application.

Mr. Kennedy questioned if this other citizen's property is already connected.

Mr. Holt stated no, they do not have any connections at this point.

Mr. Rogers stated that he believes that there is a way to establish an exception to the "no connections" policy by adding specific language.

Mr. McGlennon made a motion to deny the application.

Mr. Hipple made a motion to defer the application for one month.

Mr. Rogers stated that the motion to defer takes precedent over the motion to deny.



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

Case deferred until the September 9, 2014 Board of Supervisors meeting.

**K. PUBLIC COMMENT**

1. Mr. Joseph Swanenburg, 3026 The Pointe Drive, addressed the Board regarding the ditches in front of Regency Square off of Longhill Road and backyard chicken keeping.

2. Ms. Mary Bressler, 4405 Pleasant View Drive, addressed the Board in opposition to the John Tyler Highway Sewer Connection case.

**L. REPORTS OF THE COUNTY ADMINISTRATOR**

Applications for the fall 2014 Good Neighbor Environment Matching Grant Program are due by 5 p.m., September 1, 2014. James City County neighborhood groups and homeowner associations are encouraged to apply for a grant award up to \$500. The Program, sponsored by the James City Clean County Commission, enhances the sense of community through neighborhood involvement in the development and accomplishment of an environmentally sustainable neighborhood project. Categories are Physical Improvement/Sustainable Landscaping and Multi-Neighborhood Project Partnerships. The application is available at [jamescitycountyva.gov/grants](http://jamescitycountyva.gov/grants). Completed applications can be sent via email to [dawn.oleksy@jamescitycountyva.gov](mailto:dawn.oleksy@jamescitycountyva.gov) or submitted (six copies per application) to the James City County General Services Department, Attn: Dawn Oleksy, 5320 Palmer Ln., Suite 2A, Williamsburg, VA 23188. The grant awards will be announced on September 15, 2014.

The Police Department is seeing an increase in vehicle break-ins throughout the County. As a matter of crime prevention, residents are encouraged to not leave valuables or electronics in plain sight and to lock the doors of their vehicle. If anyone has any information regarding the recent vehicle break-ins, please call the Crime Line, 259-5176.

Mr. Powell thanked the Board, staff, and citizens for their support during the last nine months while he has served as Acting County Administrator.

**M. BOARD REQUESTS AND DIRECTIVES - None**

At 8:47 p.m., Ms. Jones recessed the Board of Supervisors in order to conduct the James City Service Authority Board of Directors Meeting.

At 8:49 p.m., Ms. Jones reconvened the Board of Supervisors.

**N. CLOSED SESSION**

1. Consideration of a Personnel Matter, the Appointment of Individuals to County Boards and/or Commissions Pursuant to Section 2.2-3711(A)(1) of the Code of Virginia
  - a. Williamsburg Regional Library Board of Trustees

Mr. McGlennon made a motion to enter Closed Session pursuant to the Code Section listed on the Agenda.

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

At 8:50 p.m., the Board entered Closed Session.

At 8:55 p.m., the Board reentered Open Session.

Mr. McGlennon made a motion to certify the Closed Session.

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

**RESOLUTION**

**CERTIFICATION OF CLOSED MEETING**

WHEREAS, the Board of Supervisors of James City County, Virginia, (Board) has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by the Board that such closed meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge: i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies; and ii) only such public business matters were heard, discussed, or considered by the Board as were identified in the motion, Section 2.2-3711(A)(1), the consideration of a personnel matter, the appointment of individuals to County boards and/or commissions.

Mr. McGlennon made a motion to appoint Ms. Sally Andrews and Mr. Jorge Rivas to the Williamsburg Regional Library Board of Trustees for terms that will expire on July 31, 2018.

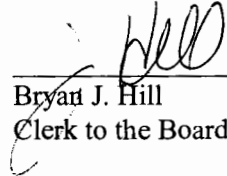
On a roll call vote, the vote was: AYE: Mr. Kennedy, Mr. Hipple, Mr. McGlennon, Mr. Onizuk, Ms. Jones, (5). NAY: (0).

**O. ADJOURNMENT** – until 7 p.m. on September 9, 2014, for the Regular Meeting

Mr. Onizuk 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 8:56 p.m., Ms. Jones adjourned the Board.

  
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Bryant J. Hill  
Clerk to the Board

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