

MINUTES
JAMES CITY COUNTY BOARD OF SUPERVISORS
REGULAR MEETING
County Government Center Board Room
101 Mounts Bay Road, Williamsburg, VA 23185
January 9, 2018
5:00 PM

A. CALL TO ORDER

ADOPTED

B. ROLL CALL

FEB 13 2018

John J. McGlennon, Roberts District
James O. Icenhour, Jr., Vice Chairman, Jamestown District
P. Sue Sadler, Stonehouse District
Michael J. Hipple, Powhatan District
Ruth M. Larson, Chairman, Berkeley District

William C. Porter, Interim County Administrator
Adam R. Kinsman, County Attorney

C. MOMENT OF SILENCE

D. PLEDGE OF ALLEGIANCE

1. Pledge Leader - Kara Kinsman, a 3rd-grade student at Matoaka Elementary School and a resident of the Berkeley District

E. PUBLIC COMMENT

1. Mr. Andrew Lloyd Williams, 120 Captain Graves, addressed the Board in regard to the Hampton Roads Sanitation District (HRSD) sanitary sewer force main replacement.
2. Mr. Chris Swynford, Esquire, 4384 Landfall Drive, addressed the Board in regard to affordable, potable water.
3. Ms. Barbara Henry, 141 Devon Road, addressed the Board in regard to the Public Comment section of Board meetings, the starting time of the meetings and online County checkbook.
4. Mr. Michael McGurk, 117 Jeffersons Hundred, addressed the Board in regard to Carter's Grove Country Road and the lack of response by HRSD.
5. Mr. Joseph Swanenburg, 3026 The Point Drive, addressed the Board in regard to the start time of the Board of Supervisors meetings, water in the County and stormwater issues.

At approximately 5:23 p.m., Ms. Larson recessed the Board in order to conduct the James City Service Authority Board of Directors Meeting.

At approximately 5:29 p.m., Ms. Larson reconvened the Board of Supervisors.

F. PRESENTATIONS

None

G. CONSENT CALENDAR

A motion to Approve was made by John McGlennon, the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: McGlennon, Icenhour Jr, Sadler, Hipple, Larson

Mr. Icenhour referenced acceptance of streets and questioned the length of time before the streets are completed. He suggested an inventory of streets in the pipeline and the length of time they have been there.

Ms. Larson asked Mr. Porter if he could obtain that information.

Mr. Porter replied that he could.

1. Minutes Adoption
2. Contract Award for Banking Services
3. Dedication of the Streets in the Cottages at Stone Haven Subdivision
4. Dedication of the Streets in Section 5 of the White Hall Subdivision
5. Olde Towne Medical and Dental Center Addition of Nurse Practitioner/Physician's Assistant
6. Confirming Declaration and Ending of Local Emergency

H. PUBLIC HEARING(S)

1. Pre-Budget Public Hearing - FY 2019-2020 Biennial Budget

Ms. Sue Mellen, Director of Financial and Management Services, stated that the purpose of this Public Hearing is to invite comments and suggestions from citizens for the upcoming County Budget. She further stated that the comments and suggestions made at this Pre-Budget Public Hearing will help guide staff in preparing a budget proposal for the Board's review in April and May. She noted the County website shows the Budget timeline and request for funding from outside agencies. She further noted that emails with directions had been sent to people that normally received County funding and stated that funding requests are due by January 19. She remarked that the website will be updated with information for citizens throughout the process. She commented that no Board action is required at this time.

Ms. Larson inquired about the format for the upcoming April 11-14 Board of Supervisors community meetings and requested that Ms. Mellen email that information.

Ms. Larson opened the Pre-Budget Public Hearing.

1. Mr. Jay Everson, 103 Branscome Blvd., addressed the Board in regard to the School Board Capital Improvements Program.
2. Mr. Joseph Swanenburg, 3026 The Point Drive, addressed the Board in regard to previous points regarding stormwater and going into the Budget as well as money allotted for an electronic checkbook registry.

As there were no other registered speakers, Ms. Larson closed the Public Hearing.

2. SUP-0013-2017. The Kensington School

A motion to Approve was made by Sue Sadler, the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: McGlennon, Icenhour Jr, Sadler, Hipple, Larson

Mr. Scott Whyte, Senior Landscape Planner II, stated that Ms. Rachel Salmon had applied for a Special Use Permit (SUP) to open a second location for The Kensington School day-care center as indicated in the documents included in the Agenda Packet.

Mr. Tim O'Connor, Planning Commission member, stated the Planning Commission voted 6-0 in favor of approving this application at its December meeting.

Ms. Larson opened the Public Hearing.

1. Ms. Jennifer Andrews-Weckerly, Rector at Hickory Neck Episcopal Church, 8300 Richmond Road, addressed the Board in regard to The Kensington School.

As there were no other registered speakers, Ms. Larson closed the Public Hearing.

3. ZO-0002-2017. Zoning Ordinance Revisions to Permit Short-Term Residential Rentals

A motion to Deny was made by John McGlennon, the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: McGlennon, Icenhour Jr, Sadler, Hipple, Larson

Mr. Paul Holt, Director of Community Development, stated that staff understands there may be some advantages to discussing these proposed ordinance amendments in more detail, possibly at a future work session. He further stated that should the Board desire, staff is prepared to present the Board with the staff report and recommendations of the Planning Commission this evening, but to provide the Board with the opportunity to review this item at an upcoming work session, staff recommends to postpone the consideration of this matter to the May 22 work session. He commented that if the Board decides to postpone this item, it must still open the Public Hearing as these amendments had been advertised for tonight's meeting.

Mr. O'Connor stated that he would leave this item to the Board's guidance and was present in case the Board had any questions.

Ms. Larson opened the Public Hearing.

1. Mr. James Bradley, 104 Malvern Circle, addressed the Board in opposition to Item No. 3, ZO-0002-2017.
2. Ms. Beth Hull, 116 Lake Drive, addressed the Board in opposition to Item No. 3, ZO-0002-2017.

As there were no other registered speakers, Ms. Larson closed the Public Hearing.

Mr. McGlennon stated that he appreciated the suggestion of bringing this issue to the Board of Supervisor's work session in May, and embraces the idea of ways to address the question of short-term rentals; however, he believes it is important to address the ordinance amendments this evening in order to send a message that the Board did not have in mind the creation of by-right short-term rentals in all residential zoning districts. He further stated that he hopes to deny the ordinance amendments this evening.

General discussion ensued regarding this item.

Mr. Icenhour stated that he appreciated staff answering all his questions provided by email and he has spoken with many residents and homeowner associations and finds no support for this within the community. He further stated that he agreed with Mr. McGlennon and prefers to see this item denied and started again with a clean slate.

Ms. Sadler stated that her concern with this item is that the County is very diverse and to have a cookie-cutter approach to this would be a mistake. She further stated that hearing these items on a case-by-case basis gives the public the opportunity to voice its support or concerns. She remarked that supporting the SUP process makes sense for the community.

Ms. Larson reiterated that Mr. McGlennon's motion was a Denial and asked for the roll to be called on a Denial.

Mr. McGlennon confirmed that a "yes" vote would be to Deny the Ordinance amendments.

Ms. Larson replied correct and stated that she would like this to be brought into a work session. She gave kudos to the Lakewood neighborhood for doing a good job of staying involved and obtaining information on the Richmond level.

4. SUP-0011-2017. 3001 Ironbound Road Tourist Home

A motion to Approve was made by John McGlennon, the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: McGlennon, Icenhour Jr, Sadler, Hipple, Larson

Ms. Roberta Sulouff, Senior Planner, stated that Mr. Armando Contreras had applied for an SUP to allow for the operation of a tourist home at 3001 Ironbound Road as indicated in the documents included in the Agenda Packet.

Mr. O'Connor stated that the concerns of the Planning Commission were that this would not have an on-site manager and that rentals be limited to a one contract party per evening. He further stated that another concern was that there was not a good way to enforce noise as a condition, as that could be handled by the County Police. He noted that the Planning Commission voted 6-0 in favor of approving this application.

Mr. McGlennon inquired if the reason this case came before the Board of Supervisors was due to someone reporting that the tourist home was operating without a license.

Ms. Sulouff replied that it did come forward as a combination, meaning there was a complaint from a random source; however, the applicant wanted to come through the Conceptual Plan process.

Mr. McGlennon inquired if it was coming through at the same time.

Ms. Sulouff replied that she believed the applicant had planned to start the process due to prior cases.

Mr. Icenhour inquired about the language of the Ordinance where a condition states one party at one time, noting that it is a three-bedroom home; therefore, would three to six people be allowed.

Ms. Sulouff replied correct.

Mr. Icenhour inquired if they could stay for one night up to a maximum period of 30 days under the transient definition.

Ms. Sulouff replied that the definition of transient he was referring to is only the proposed draft language, not a definition in the existing Zoning Ordinance.

Mr. Icenhour inquired if there is a maximum length of stay allowed.

Ms. Sulouff replied that there is not a maximum length of stay for transient as defined by the current Ordinance.

General discussion ensued regarding the length of stay in relation to this item.

Ms. Larson opened the Public Hearing.

1. Mr. Armando Contreras, 116 Holly Hills Drive, although Mr. Contreras was present the spokesperson for Mr. Contreras was Ms. Marianne Lamier, addressed the Board in regard to Item No. 4, SUP-0011-2017.

Mr. McGlennon asked Mr. Contreras if he had any problems with a reasonable limitation on the amount of time an individual party could stay at the home.

Ms. Lamier stated that personally there was no problem with it; however, whether it was one or two months she believed it was intended as short-term.

Ms. Larson stated her concern of the County Police dealing with a noise complaint at what would be treated as a hotel.

General discussion ensued regarding this topic.

As there were no other registered speakers, Ms. Larson closed the Public Hearing.

Mr. Kinsman stated that this is an SUP for a tourist home, which is defined as a dwelling where lodging or lodging and meals are provided for compensation for up to five rooms which are open to transients. He further stated that the Zoning Ordinance does not define transients, but had looked to other sections of the County Code for that definition and Section 20-15,

Definitions for Transient Lodging Tax gives the definition of transient being an individual or group of same individuals, who for a period of fewer than 30 consecutive days, obtains lodging in any hotel. He remarked that it is fine to put a 30-day limit in the SUP, but he is able to get there through the Ordinance anyway.

5. ZO-0001-2017. Amendments to the Zoning Ordinance, Division 3, Floodplain Area Regulations

A motion to Approve was made by James Icenhour Jr, the motion result was Passed.
AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0
Ayes: McGlennon, Icenhour Jr, Sadler, Hipple, Larson

Ms. Christy Parrish, Zoning Administrator, stated that in response to recent guidance from the Federal Emergency Management Agency Region III and the Department of Conservation and Recreation, staff has identified the need to update the Floodplain Ordinance to address the construction regulations of small accessory structures in the special flood hazard area as indicated in the documents included in the Agenda Packet.

Mr. O'Connor stated that the Planning Commission recommended approval in a vote of 6-0.

Mr. McGlennon inquired if there are concerns about the possibility of pollution as a result of what may be stored within these facilities if they are in the floodplain during storms.

Ms. Parrish replied that there is a section in the Instruction Standards that does not allow certain chemicals, etc., to be stored in these facilities to ensure that there is not an issue with leakage.

Mr. McGlennon inquired if there was a way of enforcing that.

Ms. Parrish replied that they can be sited, depending on the situation.

Mr. McGlennon inquired if there is a fine associated if the person is improperly storing material and how many of these structures there are or would be.

General discussion ensued regarding Item No. 5, ZO-0001-2017.

Ms. Larson opened the Public Hearing.

As there were no registered speakers, Ms. Larson closed the Public Hearing.

6. SUP-0028-2016. Solar Electrical Generation Facility at Norge

A motion to Approve was made by Sue Sadler, the motion result was Passed.
AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0
Ayes: McGlennon, Icenhour Jr, Sadler, Hipple, Larson

A video was shown regarding this item.

Mr. O'Connor stated that this application was heard twice by the Planning Commission with amendments from the first application. He further stated that there was one descending vote, which was from Mr. Wright, who was more in favor because it was in the Primary Service Area (PSA) of reserving that for residential construction.

Ms. Larson opened the Public Hearing.

1. Mr. Dennis Cotner, 127 Wilson Circle, addressed the Board in opposition to Item No. 6, SUP-0028-2016.
2. Mr. Joseph Wilke, 4 Mile Course, addressed the Board in support of Item No. 6, SUP-0028-2016.
3. Mr. Sean Lawler, 172 Old Church Road, addressed the Board in support of Item No. 6, SUP-0028-2016.
4. Mr. Peter Toomey, Applicant and Senior Manager of Business Development for SunPower Devco, LLC, 102 West 38th Street, NY, addressed the Board in regard to Item No. 6, SUP-0028-2016 and gave an overview of a presentation he provided.

Mr. Icenhour inquired if the owner of this is Whisper Ridge, LLC.

Mr. Toomey replied correct.

Mr. Icenhour inquired about arrangements between Whisper Ridge, LLC and SunPower Devco, LLC, regarding a lease. He further inquired regarding approvals or agreements with Dominion Energy as well as landscaping concerns.

General discussion ensued regarding this item.

Mr. Hipple inquired would Dominion Energy be located on-site.

Mr. Toomey replied yes, there would be a project substation on-site.

Mr. Hipple inquired if the main line that is currently viewed for Dominion Energy, except larger, would be the only thing seen from Route 60.

Mr. Toomey replied correct.

As there were no other registered speakers, Ms. Larson closed the Public Hearing.

Ms. Sadler stated that she attended several public meetings held, along with Mr. McGlennon and Ms. Larson, and felt that the relocation of the entrance point of the construction remedied the majority of the construction traffic and issues with the bus stops. She further stated that Mr. Purse took her and Ms. Larson to a solar farm in Isle of Wight County and commented that the noise level was virtually silent. She sought confirmation of a Letter of Intent with Crosswalk Church for the off-site parking. She emphasized the necessity for buffering by use of landscaping and fencing.

Mr. McGlennon stated that ways of generating energy with methods that are more environmentally friendly are always being sought, and given the fact that this parcel would return to its original state, it gives a sense of confidence that better ways to preserve the agricultural lands that still exist in the County. He further stated that this proposal gives the County good opportunities to allow for the development of alternative sources of energy and to reduce the reliance on forms that are destructive to the environment, noting that he supports this proposal.

Mr. Hipple stated that he agreed with Mr. McGlennon regarding farmland perhaps being reused as farmland in the future and stressed that this renewable resource needs to be considered. He encouraged solar farm usage on area lands in the County.

Mr. Icenhour expressed his concern of this being a large prime piece of property that is zoned A-1, but is located inside the PSA. He further stated that this is where development is wanted to occur and noted the current struggle is to decide how to pay for current infrastructure on some of the developments already approved. He remarked that this provides a good, viable option to use this land in a way that allows a second chance to preserve it and noted his support.

Ms. Larson expressed her appreciation to Ms. Sadler for her time and energy into this issue keeping everyone informed. She extended her appreciation to Mr. Purse for providing the fieldtrip to the solar farm and agreed with Ms. Sadler's remarks concerning the level of noise or lack thereof. She remarked that the area is an older established, generational neighborhood and the Board took that into consideration.

I. BOARD CONSIDERATION(S)

1. Z-0004-2017. Powhatan Terrace Proffer Amendment

A motion to Approve was made by Michael Hipple, the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: McGlennon, Icenhour Jr, Sadler, Hipple, Larson

Ms. Savannah Pietrowski, Senior Planner, stated that on March 25, 2008, the Board of Supervisors rezoned approximately 16.5 acres of land located at 1676 and 1678 Jamestown Road from LB, Limited Business, and R-2, General Residential, to R-2, General Residential, with proffers, and with an SUP for a Cluster Overlay. She further stated that Powhatan Terrace was approved for the construction of six 2-story buildings containing a total of 36 townhouse units at a gross density of 2.18 units per acre as indicated in the documents included in the Agenda Packet.

Mr. O'Connor stated that this was an opportunity to create affordable housing opportunities in the community and was in keeping with the Comprehensive Plan.

Mr. Icenhour inquired who the owner is of the property.

Ms. Pietrowski replied that the current property owner is JRT Properties, LLC.

Mr. Icenhour stated that Housing Partnerships has asked to change the provisions of an SUP that goes back ten years and inquired about the financing option arrangements. He asked if there was a representative of the owner present this evening.

Ms. Pietrowski replied yes.

Mr. Icenhour asked the owner what is the financial arrangement, was he selling to Housing Partnerships, stating his concern about altering the conditions of an SUP and then finding out 8 or 9 years later that perhaps the deal did not go through for instance and now there is an amended SUP out there that may not have anything to do with Housing Partnerships because it is not tied to them.

The owner stated that they are obtaining special financing to buy the property, that he will not retain ownership and therefore is not familiar with what they are doing.

Ms. Brandie Weiler, Executive Director of Housing Partnerships, Inc., stated that this would not happen until 2019 and would wait to go before the state for funding.

General discussion ensued regarding Item No. 1, Z-0004-2017.

Mr. McGlennon inquired to Mr. Kinsman regarding protections as to this amendment still allowing the County to meet the general expectations that the Board had going into this proposal.

Mr. Kinsman stated that this is a rezoning and these are proffers, and they run with the land, not the current or future owner. He further stated that there would be no way of specifically tying this to Housing Partnerships or anyone in particular, if this is changed the result would be that it changed from sale units to rental units, with three remaining as for-sale units.

Mr. Icenhour inquired would everything else remain the same including the proffers.

Mr. Kinsman replied that all the original proffers from 2008 remain and stated that this is an application to change one phrase from "for sale" to "rent or sale." He noted that this required a level of trust with Housing Partnerships, as he could not legally force that deal to go through.

General discussion ensued regarding this topic.

J. BOARD REQUESTS AND DIRECTIVES

Mr. McGlennon referred back to a previous Public Comment item regarding the HRSD and noted that it is a failure to meet the conditions of restoring the country road and the easement they had received. He asked to express to HRSD concern that it seems to feel it needs to wait another month before resuming a schedule that is already at least six months out of date and to ask it to move more rapidly. He stated that it would be fundamental to the Board to receive a regular weekly report on progress that has been made in the restoration.

Mr. Porter stated that he has emailed the Executive Director and asked for a progress report along with Mr. Holt requesting this information from the Construction Manager for HRSD. He noted that they had each asked for weekly updates.

Mr. Icenhour referred to his previous comment regarding the inventory of roads and noted that they were approximately 3.5 years from construction to acceptance and expressed concern to the timeline. He stressed the need to have a handle on all of these so that there would not be any that slip through the crack so to speak.

Mr. Holt addressed this issue and discussion ensued regarding this matter.

Mr. Hipple stated that he had no further remarks.

Ms. Larson expressed her gratitude to staff for its help during the recent snowstorm and preparing for this meeting, and expressed her thanks to Ms. Teresa Fellows. She further expressed appreciation to the Planning Commission and staff for the job they do. She noted that a better communication line is needed. She further noted she would like discussion in a work session regarding things that the Board of Supervisors would like to start looking at, in an effort to avoid a lot of unnecessary work for staff, before returning the item to the Board.

Mr. Porter stated that perhaps the Board would need progress reports from the Planning Commission on Ordinances that had been put forward in order to see statuses and could then be given clarity if they are indeed on the right path.

Ms. Larson agreed and thanked Mr. O'Connor for his attendance this evening.

K. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Porter reported the following holiday closings in observance of Martin Luther King, Jr., day:

- The County offices will be closed on Monday, January 15;
- The Courthouse will be closed on Friday, January 12 and Monday, January 15;
- The Recreation Center and the Abram Frink Community Center will be open during regular hours;
- All County parks will remain open, please check the County website for the Parks stores and offices.

Mr. Porter noted that the public is invited to the Neighborhood Forum, January 10, 6:30 p.m., at the James City County Recreation Center, with Ms. Amy Jordon, Economic Development Director, as the featured speaker. He stated that Master Police Officer Alan McDowell will provide an update on upcoming events and programs hosted by the Police Department as well as crime prevention tips. He noted that if there are any questions to call Ms. Latara Branch, Civic Engagement Coordinator, at 259-4986. He remarked that the final Fort Eustis Land Use Study Community Workshop will be held Tuesday, January 16, from 6-8 p.m., at the Abram Frink Community Center multi-purpose room. He further remarked that Christmas tree recycling will end January 31 and noted that tree's will be accepted at the County's three Convenience Centers.

Ms. Larson noted that the Board is on WMBG between 5 or 5:15 p.m., on Wednesday's for approximately five to ten minutes, giving County updates and encouraged citizens to follow the County public information social media.

L. CLOSED SESSION

A motion to Enter a Closed Session was made by John McGlennon, the motion result was Passed.

AYES: 0 NAYS: 0 ABSTAIN: 0 ABSENT: 0

At approximately 7:39 p.m., the Board entered Closed Session.

At approximately 7:55 p.m., the Board re-entered Open Session.

1. Closed Session Certification

A motion to Certify the Closed Session was made by John McGlennon, the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: McGlennon, Icenhour Jr, Sadler, Hipple, Larson

2. 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 and pertaining to the Planning Commission, Thomas Nelson Community College Board, and Social Services Advisory Board

A motion to Appoint Individuals to Boards and Commissions was made by John McGlennon, the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: McGlennon, Icenhour Jr, Sadler, Hipple, Larson

Mr. McGlennon made a motion to reappoint Mr. Rich Krapf to the Powhatan Seat on the Planning Commission and to appoint Mr. Frank Polster to the Jamestown Seat on the Planning Commission. Both terms will begin on February 1, 2018 and expire on January 31, 2022.

Mr. McGlennon made a motion to appoint Ms. Pat Russo to the Social Services Advisory Board for a four-year term that would expire on January 30, 2022.

The Board asked that the Thomas Nelson Community College Board Appointment and the appointment for the At-Large Seat on the Planning Commission be brought back at its January 23 Work Session.

M. ADJOURNMENT

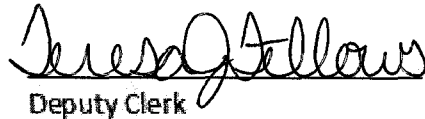
1. Adjourn until 9 a.m. on January 20, 2018, for the Board Retreat

A motion to Adjourn was made by Michael Hipple, the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: McGlennon, Icenhour Jr, Sadler, Hipple, Larson

At approximately 7:56 p.m., Ms. Larson adjourned the Board.


Deputy Clerk