

**A G E N D A**

**JAMES CITY COUNTY BOARD OF SUPERVISORS**

**County Government Center Board Room**

**September 23, 2003**

**7:00 P.M.**

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**A. ROLL CALL**

**B. MOMENT OF SILENCE**

**C. PLEDGE OF ALLEGIANCE**

**D. PRESENTATIONS**

1. Recognizing The Williamsburg Youth League 10-Year-Old World Series All-Star Team
2. Recognizing The Host Committee Members of the Cal Ripken 2003 10-Year-Old World Series
3. FY 03 Strategic Management Plan Year-End Report – Rona Vrooman

**E. HIGHWAY MATTERS**

**F. PUBLIC COMMENT**

**G. CONSENT CALENDAR**

1. Minutes
  - a. September 9, 2003, Regular Meeting
2. Recognizing The Williamsburg Youth League 10-Year-Old World Series All-Star Team
3. Recognizing The Host Committee Members of the Cal Ripken 2003 10-Year-Old World Series
4. Strengthening Families Program-Grant
5. Carry Forward of Funds – Records Management System
6. Appropriation – FY 04 Commonwealth Mass Transit Capital Matching Grant (Williamsburg Area Transport)
7. Budget Transfer - Commonwealth Attorney's Office

**H. PUBLIC HEARINGS**

1. Case No. Z-6-03. and MP-4-03. New Town Section 2 and 4 Amendment
2. Case No. Z-5-03. and MP-6-03. WindsorMeade Marketplace
3. Adoption of the 2000 Edition of the Virginia Statewide Fire Prevention Code
4. Consideration of a Resolution to Amend the County's Operating and Capital Budgets

**I. BOARD CONSIDERATION**

1. Yarmouth Creek Watershed Management Plan (Deferred from September 9, 2003)

**J. PUBLIC COMMENT**

**- CONTINUED -**

**K. REPORTS OF THE COUNTY ADMINISTRATOR**

**L. BOARD REQUESTS AND DIRECTIVES**

**M. CLOSED SESSION**

1. Consideration of the Appointment of Individuals to County Boards and/or Commissions, Pursuant to Section 2.2-3711(A)(1) of the Code of Virginia
  - a. Wetlands Board

**N. ADJOURNMENT**

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MEMORANDUM

DATE: September 23, 2003  
TO: The Board of Supervisors  
FROM: Rona J. Vrooman, Training and Quality Performance Coordinator  
SUBJECT: FY 03 Strategic Management Plan Year-End Report

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On May 14, 2002, the Board approved the FY 03 Strategic Management Plan. A copy of the FY 03 Strategic Management Plan Year-End Report is provided in the Board's Reading File.

The purpose of the staff presentation is to update the Board concerning the status of the plan's objectives and to provide the Board an overview of accomplishments.

No action is requested on this presentation.

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Rona J. Vrooman

RJV/gb  
endrpt03.mem

**AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 9TH DAY OF SEPTEMBER, 2003, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.**

**A. ROLL CALL**

Jay T. Harrison, Sr., Chairman, Berkeley District  
Bruce C. Goodson, Vice Chairman, Roberts District  
John J. McGlennon, Jamestown District  
Michael J. Brown, Powhatan District  
James G. Kennedy, Stonehouse District

Sanford B. Wanner, County Administrator  
Frank M. Morton, III, County Attorney

**B. PLEDGE OF ALLEGIANCE**

Hannah Bolash, a Junior at Jamestown High School, led the Board and citizens in the Pledge of Allegiance.

**C. MOMENT OF SILENCE**

Mr. Harrison requested the Board and citizens observe a moment of silence.

Mr. Harrison recessed the Board for a James City County Transit meeting at 7:02 p.m.

Mr. Harrison reconvened the Board at 7:04 p.m.

**D. PRESENTATION**

1. 2003 County Fair Report – Loretta Garrett

Ms. Loretta Garrett, County Fair Chair, provided the Board with an overview of the 2003 County Fair attendance and the impact of the inclement weather on the Fair.

The Board and Ms. Garrett discussed the future outlook for the County Fair and the Board's interest to assist the continuance of the Fair financially.

The Board and Ms. Garrett agreed to have the County Fair Committee continue to update staff on the Fair's status and that staff would then in turn keep the Board updated.

**E. PUBLIC COMMENT**

1. Mr. Jack Barnett, 3900 Poplar Creek Lane, stated concern that staff and team members developing the Yarmouth Creek Watershed Management Plan have not kept landowners apprised of the current watershed restrictions or of the proposed additional buffers on the Resource Protection Area.

Mr. Barnett also requested that since a certain proposed development fell through, that the easement that was conveyed to the County by him as part of the development agreement be returned.

2. Ms. Carolyn Lowe, 50 Summer East, commended those who developed the Yarmouth Creek Watershed Management Plan, requested the Board's approval of the Plan, proposed use of the Purchase of Development Rights program to protect sensitive parts of the watershed, and proposed the establishment of the Friends of Yarmouth Creek Association.

3. Mr. Ed Oyer, 139 Indian Circle, encouraged the development of other watershed management areas such as Skiffe's Creek, commented on an article in the Daily Press regarding denial of developments by York County, and encouraged the focus of the development of the third high school curriculum on solid and basic academics.

4. Mr. Eric Fenley, 153 Brookhaven Drive, representing Mt. Pleasant Church, requested an update on the abandonment agreement for a portion of Old Ironbound Road right-of-way and the request for an alternate layout for the bike path.

Mr. O. Marvin Sowers, Planning Director, stated that the Board deferred action on the abandonment in April and that staff will be ready to bring the item back before the Board in October for consideration.

**F. CONSENT CALENDAR**

Mr. McGlennon made a motion to adopt the items on the Consent Calendar.

On a roll call vote, the vote was: AYE: McGlennon, Brown, Goodson, Kennedy, Harrison (5). NAY: (0).

1. Minutes –

a. August 12, 2003, Work Session

b. August 12, 2003, Regular Meeting

2. Appointment of Alternate to the Virginia Peninsulas Public Service Authority Board

**RESOLUTION**

**APPOINTMENT OF ALTERNATE TO VIRGINIA PENINSULAS**

**PUBLIC SERVICE AUTHORITY BOARD**

WHEREAS, the County Administrator is appointed as the County's representative on the Virginia Peninsulas Public Service Authority (VPPSA) Board of Directors; and

WHEREAS, there are occasions that the representative is unable to attend VPPSA meeting.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that John T. P. Horne is appointed as the County's alternate to the VPPSA Board.

3.a. Dedication of Streets in Wexford Hills

**RESOLUTION**

**DEDICATION OF STREETS IN WEXFORD HILLS**

WHEREAS, the streets described on the attached Additions Form SR-5(A), fully incorporated herein by reference, are shown on plats recorded in the Clerk's Office of the Circuit Court of James City County; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation advised the Board that the streets meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation; and

WHEREAS, the County and the Virginia Department of Transportation entered into an agreement on November 1, 1993, for comprehensive stormwater detention which applies to this request for addition.

WHEREAS, the County guarantees the necessary surety amount of \$16,500 to provide for all loss, cost, damage, or expense incurred to correct faulty workmanship or materials, associated with the construction of the streets and/or related drainage facilities. The effective period of this surety obligation will last one calendar year from the day the streets are added to the Secondary System of State Highways.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests the Virginia Department of Transportation add the streets described on the attached Additions Form SR-5(A) to the secondary system of State highways, pursuant to §33.1-229, of the Code of Virginia, and the Department's Subdivision Street Requirements.

BE IT FURTHER RESOLVED, the Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills and drainage.

BE IT FURTHER RESOLVED, this Board hereby rescinds the resolution adopted August 12, 2003, requesting dedication of these same streets into the Secondary System of State Highways.

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

3.b. Dedication of Red Oak Landing Road and Raleigh Street

**RESOLUTION**

**DEDICATION OF RED OAK LANDING ROAD AND RALEIGH STREET**

WHEREAS, the streets described on the attached Additions Form SR-5(A), fully incorporated herein by reference, are shown on a plat recorded in the Clerk's Office of the Circuit Court of James City County; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation advised the Board that the streets meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation; and

WHEREAS, the County and the Virginia Department of Transportation entered into an agreement on November 1, 1993, for comprehensive stormwater detention which applies to this request for addition; and

WHEREAS, the County guarantees the necessary surety amount of \$3,750 to provide for all loss, cost, damage, or expense incurred to correct faulty workmanship or materials, associated with the construction of the streets and/or related drainage facilities. The effective period of this surety obligation will last one calendar year from the day the streets are added to the Secondary System of State Highways.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests the Virginia Department of Transportation add the streets described on the attached Additions Form SR-5(A) to the secondary system of State highways, pursuant to §33.1-229, of the Code of Virginia, and the Department's Subdivision Street Requirements.

BE IT FURTHER RESOLVED, the Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills and drainage.

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

3.c. Dedication of Street in Temple Hall Estates

**RESOLUTION**

**DEDICATION OF A STREET IN TEMPLE HALL ESTATES**

WHEREAS, the street described on the attached Additions Form SR-5(A), fully incorporated herein by reference, is shown on a plat recorded in the Clerk's Office of the Circuit Court of James City County; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation advised the Board that the street meets the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation; and

WHEREAS, the County and the Virginia Department of Transportation entered into an agreement on November 1, 1993, for comprehensive stormwater detention which applies to this request for addition; and

WHEREAS, the County guarantees the necessary surety amount of \$3,750 to provide for all loss, cost, damage, or expense incurred to correct faulty workmanship or materials, associated with the construction of the street and/or related drainage facilities. The effective period of this surety obligation will last one calendar year from the day the street is added to the Secondary System of State Highways.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests the Virginia Department of Transportation add the street described on the attached Additions Form SR-5(A) to the secondary system of State highways, pursuant to §33.1-229, of the Code of Virginia, and the Department’s Subdivision Street Requirements.

BE IT FURTHER RESOLVED, the Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills and drainage.

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

4. Office of Emergency Medical Services Grant Award

**RESOLUTION**

**OFFICE OF EMERGENCY MEDICAL SERVICES GRANT AWARD**

WHEREAS, the Commonwealth of Virginia Department of Health, Office of Emergency Medical Services has approved a Rescue Squad Assistance Grant providing \$3,000 to the Fire Department for medical fluid temperature control equipment for fire apparatus; and

WHEREAS, local matching funds of \$3,000 are available in the Donation Trust Fund.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following appropriation amendment to the Special Projects/Grants Fund:

Revenue:

Transfer from Donation Trust Fund	\$3,000
Office of Emergency Medical Services	<u>3,000</u>
Total	<u>\$6,000</u>

Expenditure:

EMS Medical Equipment - FY 04	<u>\$6,000</u>
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5. Award of Contract – Ambulance Replacement

**RESOLUTION**

**AWARD OF CONTRACT - AMBULANCE REPLACEMENT**

WHEREAS, funds are available in the Capital Improvement Program budget for the purchase of a replacement ambulance; and

WHEREAS, bids for the purchase of the ambulance were received on April 15, 2002, with Performance Specialty Vehicles, LLC, submitting a responsive bid of \$119,461; and

WHEREAS, the bid included a contract extension provision for future purchases through calendar year 2006.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes the County Administrator to execute a contract between James City County and Performance Specialty Vehicles, LLC, in the amount of \$124,355.14.

6. Appropriation of Funds – Department of Criminal Justice Services, One Time Special Request Fund Grant

**RESOLUTION**

**APPROPRIATION OF FUNDS - DEPARTMENT OF CRIMINAL JUSTICE SERVICES,**

**ONE TIME SPECIAL REQUEST FUND GRANT**

WHEREAS, James City County has received a One Time Special Request Fund Grant from the Department of Criminal Justice Services in the amount of \$1,870; and

WHEREAS, the grant will allow for the purchase of hitched bike racks for the Community Services Unit Bike Patrol Officers; and

WHEREAS, local matching funds of \$467 are available in the Police Department budget.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the acceptance of the grant and the following budget amendments and changes in appropriations to the Special Projects/Grants Fund:

Revenues:

Department of Criminal Justice Services	\$1,403
Police Department Budget	<u>467</u>
	<u>\$1,870</u>

Expenditure:

Department of Criminal Justice Services	
One Time Special Request Fund Grant	<u>\$1,870</u>

7. Appropriation of Funds – U. S. Bureau of Justice Assistance Block Grant

**RESOLUTION**

**APPROPRIATION OF FUNDS - U.S. BUREAU OF JUSTICE ASSISTANCE BLOCK GRANT**

WHEREAS, James City County has received a Local Law Enforcement Block Grant from the Bureau of Justice Assistance in the amount of \$14,529; and

WHEREAS, the grant will allow for purchase of law enforcement training, technology, and equipment; and

WHEREAS, local matching funds of \$1,614 are available in the Police Department budget.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the acceptance of the grant and the following budget amendments and changes in appropriations to the Special Projects/Grants Fund:

Revenues:

Bureau of Justice Assistance	\$14,529
Police Department Budget	<u>1,614</u>
	<u>\$16,143</u>

Expenditure:

Bureau of Justice Assistance	
Local Law Enforcement Block Grant	<u>\$16,143</u>

8. Chesapeake Bay Gateways Network Grant

**RESOLUTION**

**CHESAPEAKE BAY GATEWAYS NETWORK GRANT**

WHEREAS, the Chesapeake Bay Gateways Network, in cooperation with the National Park Service’s Chesapeake Bay Program Office, has made 50/50 matching funds available for the development of gateway sites; and

WHEREAS, funds are needed to make site improvements to include refurbishing an existing boat ramp, regrading and adding vegetative plantings, constructing a floating pier, and creating a kiosk and interpretive signs at James City County’s Chickahominy Riverfront Park.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, accepts the \$51,200 grant awarded by the Chesapeake Bay Gateways Network as funded by the National Park Service to help with the improvements at the Chickahominy Riverfront Park.

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

Revenues:

Chesapeake Bay Gateways Grant - CRFP \$51,200

Expenditures:

Chickahominy Riverfront Park \$51,200

- 9. Chesapeake Bay Preservation Ordinance Violation – Civil Charge – G. Baxter Stanton, Barry L. Hale, Richard F. Scott, and David R. Baldwin

**RESOLUTION**

**CHESAPEAKE BAY PRESERVATION ORDINANCE VIOLATION - CIVIL CHARGE -**

**G. BAXTER STANTON, BARRY L. HALE, RICHARD F. SCOTT, AND DAVID R. BALDWIN**

WHEREAS, G. Baxter Stanton, Barry L. Hale, Richard F. Scott, and David R. Baldwin are the owners (“Owners”) of a certain parcel of land, commonly known as 278 Ivy Hill Road, designated as Parcel No. (1-13) on James City County Real Estate Tax Map No. (11-3), hereinafter referred to as the (“Property”); and

WHEREAS, on or about April 24, 2003, trees and understory vegetation were removed from the Resource Protection Area (RPA) on the Property; and

WHEREAS, the Owners agreed to a Restoration Plan to replant 600 seedlings per acre on the Property, within areas of the RPA buffer impacted by the silvicultural activities, in order to remedy the violation under the County’s Chesapeake Bay Preservation Ordinance and the Owners have provided surety to the County to guarantee the completion of the restoration for the RPA on the Property; and

WHEREAS, the Owners have agreed to pay \$5,000 to the County as a civil charge under the County’s Chesapeake Bay Preservation Ordinance; and

WHEREAS, the James City County Board of Supervisors is willing to accept the restoration of the impacted areas and the civil charge in full settlement of the Chesapeake Bay Preservation Ordinance violation, in accordance with Sections 23-10 and 23-18 of the Code of the County of James City.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to accept the \$5,000 civil charge from the Owners as full settlement of the Chesapeake Bay Preservation Ordinance Violation.

10. Chesapeake Bay Preservation Ordinance Violation – Civil Charge – Denton and Elsie Woodward

**RESOLUTION**

**CHESAPEAKE BAY PRESERVATION ORDINANCE VIOLATION -**

**CIVIL CHARGE - DENTON AND ELSIE WOODWARD**

- WHEREAS, Denton and Elsie Woodward are the owners of a certain parcel of land, commonly known as 5224 Ivey Lane, designated as Parcel No. (2-5) on James City County Real Estate Tax Map No. (8-30); hereinafter referred to as the (“Property”); and
- WHEREAS, on or about May 30, 2003, understory vegetation consisting of 63 trees and shrubs were removed from the Resource Protection Area on the Property; and
- WHEREAS, Denton and Elsie Woodward agreed to a Restoration Plan to replant 140 trees and shrubs, on the Property in order to remedy the violation under the County’s Chesapeake Bay Preservation Ordinance; and
- WHEREAS, Denton and Elsie Woodward have agreed to pay \$3,000 to the County as a civil charge under the County’s Chesapeake Bay Preservation Ordinance; and
- WHEREAS, the James City County Board of Supervisors is willing to accept the restoration of the impacted areas and the civil charge in full settlement of the Chesapeake Bay Preservation Ordinance violation, in accordance with Sections 23-10 and 23-18 of the Code of the County of James City.
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to accept the \$3,000 civil charge from Denton and Elsie Woodward as full settlement of the Chesapeake Bay Preservation Ordinance Violation.

11. Underground Utility Agreement – Dominion Virginia Power

**RESOLUTION**

**UNDERGROUND UTILITY AGREEMENT - DOMINION VIRGINIA POWER**

- WHEREAS, the James City County Board of Supervisors determined that placing certain overhead utilities underground would enhance the scenic beauty of James City County; and
- WHEREAS, staff has worked with Dominion Virginia Power to accomplish this work at several locations in the County; and
- WHEREAS, Dominion Virginia Power has completed design and is ready to move ahead with construction of the project on Route 5 in the vicinity of Williamsburg Crossing Shopping Center.
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to enter into an agreement with Dominion Virginia Power in the amount of \$194,543.25.

12. Code Violation Lien – 136 Magruder Avenue

**RESOLUTION**

**CODE VIOLATION LIEN - 136 MAGRUDER AVENUE**

WHEREAS, the Zoning Administrator has certified to the Board of Supervisors of James City County, Virginia, that the property owners as described below have failed to pay a bill in the amount listed, for cutting of grass and weeds or removal of trash and debris, although the County has duly requested payment; and

WHEREAS, the unpaid and delinquent charges are chargeable to the owners and collectible by the County as taxes and levies and constitute a lien against the Property.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors, James City County, Virginia, that in accordance with Sections 10-7 and 10-5 of the Code of the County of James City, Virginia, the Board of Supervisors directs that the following delinquent charges for services rendered, plus interest at the legal rate from the date of recordation until paid, shall constitute a lien against the Properties to wit:

Cleaning of Trash/Debris and/or Cutting of Grass, Weeds, etc.:

ACCOUNT:	Ronnie Dean Carter 136 Magruder Avenue Williamsburg, VA 23185
DESCRIPTION:	136 Magruder Avenue
TAX MAP NO.:	(59-1)(02-0-0013-)
FILING FEE:	\$ 5.00
TOTAL AMOUNT DUE:	\$3,840.00

**G. PUBLIC HEARINGS**

1. Case No. SUP-15-03. Custom Culinary Connections: Barnes Road

Mr. Matthew Arcieri, Planner, stated that Jeffrey and Christy Aczel applied for a special use permit (SUP) to construct and operate a catering kitchen adjacent to their existing residence on two acres zoned A-1, General Agricultural, at 8757 Barnes Road, further identified as Parcel No. (1-22C) on the James City County Real Estate Tax Map No. (10-1).

Staff found the proposal to be consistent with the surrounding zoning and development and, with the proposed conditions, consistent with the Rural Lands Development Standards of the 1997 Comprehensive Plan and with the 2003 Comprehensive Plan.

The Planning Commission, at its meeting on August 4, 3003, recommended approval of the SUP application by a vote of 5-0.

Staff recommended approval of the special use permit with conditions.

Mr. Harrison opened the Public Hearing.

1. Ms. Nancy McNelly, 203 Riverview Plantation Drive, stated support for the proposal and its potential benefits to the community, and requested the Board's approval of the application.

As no one else wished to speak to this matter, Mr. Harrison closed the Public Hearing.

Mr. Kennedy made a motion to adopt the resolution.

Mr. Kennedy stated concern about the potential for traffic impacts with the entrance to the site being close to a blind curve.

On a roll call vote, the vote was: AYE: McGlennon, Brown, Goodson, Kennedy, Harrison (5). NAY: (0).

## **RESOLUTION**

### **CASE NO. SUP-15-03. CUSTOM CULINARY CONNECTIONS: BARNES ROAD**

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a special use permit process; and

WHEREAS, food processing and storage is a specially permitted use in the A-1, General Agricultural, zoning district; and

WHEREAS, the Planning Commission of James City County, following its public hearing on August 4, 2003, recommended approval of Case No. SUP-15-03 by a 5-0 vote to permit the construction and operation of a catering kitchen adjacent to the existing residence at 8757 Barnes Road and further identified as Parcel No. (1-22C) on James City County Real Estate Tax Map No. (10-1).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-15-03 as described herein with the following conditions:

1. This Special Use Permit shall be valid for the operation of a detached catering kitchen of up to 2,000 square feet and accessory uses thereto. No articles shall be displayed or otherwise offered for sale upon the premises. The existing residence shall continue to be used primarily as a single-family dwelling with any exterior modifications approved by the Planning Director.
2. The property shall be developed generally in accordance with the master plan submitted with the application, with minor changes, including the location, design, and landscaping of the driveway and parking in order to effectively screen it from Barnes Road, approved by the Planning Director.
3. Only one entrance shall be allowed onto Barnes Road.
4. A minimum 75-foot undisturbed buffer, free of structures and paving, shall be provided along Barnes Road with the exception of clearing necessary for improvements to the existing driveway. Tree clearing on the entire property shall be limited to the minimum necessary to accommodate the catering kitchen and

related driveway, entrance improvements, and facilities as determined by the Planning Director.

5. Prior to final site plan approval, architectural elevations, building materials, and colors, shall be submitted to the Director of Planning for review and approval for all structures on the site. The intent of this condition is to ensure that all future buildings on the site are uniform and compatible with existing structures in terms of design, materials, and colors, have a residential appearance, and are designed for minimal visual impact.
6. Any new exterior site lighting shall be limited to fixtures which are horizontally mounted on light poles not to exceed 15 feet in height and/or other structures and shall be recessed fixtures with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side. No glare, defined as 0.1 footcandle or higher, shall extend outside the property lines.
7. One freestanding sign shall be permitted on the site. The sign shall be ground mounted and shall not exceed a cumulative size of 16 square feet or a height of six feet and approved by the Planning Director. The sign shall not be illuminated.
8. Construction on this project shall commence within twenty-four months from the date of approval of this special use permit or this permit shall be void. Construction shall be defined as obtaining permits for building construction and installation of footings and/or foundations.
9. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

2. Tax Increase – Real Property

Ms. Suzanne R. Mellen, Director of Budget and Accounting, stated that the Real Estate Land Book has been completed and notices have been mailed to all James City County property owners where changes in assessment has occurred; and that the total valuation exceeds the assumptions built into the Fiscal Year 2004 Budget adopted by the Board in April by approximately \$158,760.

Ms. Mellen provided the deadline dates for real property appeals as September 30, 2003, to appeal to the Office of Real Estate Assessments and October 30, 2003, to appeal to the Board of Equalization.

Ms. Mellen stated that the increase in amount of value deferred due to the Land Use is a combination of substantial increases in market value of acreage parcels and the reduction of the use rates issued by the State, and requested the Board reaffirm the tax rate of \$.87 per \$100 of the assessed value of the property.

The Board and staff discussed the Debt Services cost, Land Book Values, impacts of reducing the tax rate by 1 cent, impacts of anticipated revue levels, the benefits of a Contingency Fund and how it has been used in the past.

Mr. Harrison opened the Public Hearing.

1. Mr. Lee Reed, 2245 Lake Powell Road, requested the Board remember the citizens on fixed incomes and requested the Board freeze the tax value on homes.

2. Mr. Donald S. Baker, 107 Formby, requested the Board keep in mind the future planning when it considers assessments and budgets.

3. Mr. Ed Kissell, 5 Berkeley Circle, requested the Board look at the inequity of the tax assessment within neighborhoods and keep assessments within reason.

4. Mr. Bob Warren, 104 Gullane, stated that the effective tax rate has been rising and that his rate has increased 40 percent in the past five years to a rate of \$1.22 and stated opposition to the increasing property tax assessments.

5. Mr. Ed Oyer, 139 Indian Circle, stated opposition to his real property assessment taxes increasing by 25 percent over the past two years while there are still trailers on the fence line and sewers on the other side of the circle.

As no one else wished to speak to this matter, Mr. Harrison closed the Public Hearing.

Mr. Brown made a motion to adopt a revised resolution to reduce the real property tax rate for FY 2004 to 86 cents per \$100 of assessed value.

The Board and staff held a discussion regarding the motion including factors such as the General Fund Balance, annual debt services, fiscal impacts of a proposed third high school, tax exemptions available to citizens, impacts of developments on property values and assessments; and other possibilities that would affect real property taxes such as cash proffers on new developments, affordable housing, possibility of other revenue sources, and funding the School Budget.

On a roll call vote, the vote was: AYE: Brown, Goodson, Kennedy, Harrison (4). NAY: McGlennon (1).

## **RESOLUTION**

### **TAX DECREASE – REAL PROPERTY**

WHEREAS, the Board of Supervisors has adopted a budget for the Fiscal Year 2004 and appropriated funds based on a real estate tax rate of 87 cents per \$100 of assessed value; and

WHEREAS, the Real Estate Land Book, issued with an estimate of values as of July 1, 2003, shows total billable, taxable property assessments increased by \$469,574,000 (8.5 percent) and 57 percent of that increase resulted from changes in the reassessment of property values; and

WHEREAS, the increases due to reassessment constitute a tax increase despite the fact that the current tax rate has not changed; and

WHEREAS, the Board of Supervisors notes that sufficient unencumbered funds are available to offset a one cent per \$100 of assessed value reduction in the real property tax rate appropriated for the current FY 2004 budget; and

WHEREAS, the Board of Supervisors further notes that market-driven James City County real property annual reassessments have been rising at rates significantly higher than the combined rates of growth and cost of living.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby changes the real property tax rate for FY 2004 to 86 cents per \$100 of assessed value from the 87 cents per \$100 of assessed value established in the FY 2004 adopted budget.



Mr. Harrison recessed the Board for a brief break at 8:37 p.m.

Mr. Harrison reconvened the Board at 8:48 p.m.

Mr. Wanner stated that staff will advertise a public hearing on a FY 04 Budget amendment to be held during the October 14 Board meeting.

## **H. BOARD CONSIDERATION**

### **1. Yarmouth Creek Watershed Management Plan**

Mr. John T. P. Horne, Acting General Services Manager, presented the Yarmouth Creek Watershed Management Plan (Plan) and an executive summary of the Plan as developed by staff with the assistance of the Center for Watershed Protection and the James River Association, and input from landowners and other stakeholders.

The Board and staff discussed the composition of members serving on the Stormwater Management Citizen Advisory Committee, buffer requirements in the Plan, notification and invitations to all affected property owners of meetings regarding the Plan, and opportunities to utilize the Purchase of Development Rights Program for preserving parts of the Watershed.

Mr. Kennedy requested the Board defer action on this item until October 14, during which time he would have an opportunity to meet with concerned stakeholders regarding the Plan.

Mr. Wanner stated that Newport News Waterworks would partner with the County regarding Little Creek Reservoir issues and impacts to the Watershed.

The Board discussed deferring action to September 23 rather than October 14 and holding a Work Session with the Stormwater Management Citizen Advisory Committee regarding the development of Priority No. 3 of the Plan.

The Board concurred to defer action on the Plan until September 23.

## **I. PUBLIC COMMENT - None**

## **J. REPORTS OF THE COUNTY ADMINISTRATOR**

Mr. McGlennon introduced the group of the SHARPE Program participants in attendance.

Mr. Wanner stated that September 11 is the United Way Day of Caring.

Mr. Wanner recommended the Board to go into Closed Session pursuant to Section 2.2-3711(A)(1) of the Code of Virginia to consider personnel matters, the appointments of individuals to County Boards and/or Commissions.

## **K. BOARD REQUESTS AND DIRECTIVES**

Mr. McGlennon, without objection from the Board, recommended the Board not go into Closed Session and made a motion to reappoint Betty Costa to the Williamsburg Arts Commission for a three-year

term, term to expire on August 31, 2006; and to reappoint Betty Cutts to a three-year term on the Williamsburg Area Performing Arts Center, term to expire on July 1, 2006.

On a roll call vote, the vote was: AYE: McGlennon, Brown, Goodson, Kennedy, Harrison (5). NAY: (0).

Mr. Kennedy advised staff to keep a close eye on the Skate Park and if the lack of supervision at the site becomes a concern, that staff promptly act as not to lower the County's safety standards.

Mr. Kennedy requested a letter be sent to all the election candidates to notify them of guidelines for posting political signs along right-of-ways.

Mr. Wanner stated that staff will follow up with the Virginia Department of Transportation regarding the political signs along right-of-ways and stated that the unsupervised Skate Park is a pilot program and would be regulated if needed.

Mr. Harrison stated that he has arranged for a Board tour of the Highland Springs Tech Center on September 17 if the Board is interested in viewing an alternative for the proposed third high school facility.

Mr. Wanner recommended that if a quorum would be present during the tour, that the Board recess to 8 a.m. on September 17 at the conclusion of this meeting.

Mr. Kennedy stated that on September 20 and 27 there will be the Grove and Chickahominy Days and invited citizens to attend.

Mr. Harrison requested invitations be extended to members of the School Board to attend the tour of the Highland Springs Tech Center.

Mr. Wanner stated that he would notify the School Superintendent to invite the School Board.

**L. RECESS**

Mr. Kennedy made a motion to recess to 8:00 a.m. on September 17, 2003.

On a roll call vote, the vote was: AYE: McGlennon, Brown, Goodson, Kennedy, Harrison (5). NAY: (0).

Mr. Harrison recessed the Board at 9:07 p.m.

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Sanford B. Wanner  
Clerk to the Board

MEMORANDUM

DATE: September 23, 2003  
TO: The Board of Supervisors  
FROM: Doug Powell, Acting Assistant County Administrator  
SUBJECT: Recognizing the Williamsburg Youth League 10-Year-Old World Series All-Star Team

---

The Williamsburg Youth League, co-sponsored by the James City County Division of Parks and Recreation, formed an All-Star Team during the summer that hosted the 2003 Cal Ripken 10-Year Old World Series in James City County. The All-Star Team finished as the undefeated Champions of the Cal Ripken District III Tournament and was the undefeated champions of the James City County Moose Invitation Tournament. In addition, they won the first World Series game ever won by the Williamsburg Youth League and finished fifth among ten teams from the entire country in the World Series. The team compiled a final record of 14-3 during their summer season.

The dedication and accomplishment of the team and coaches are a positive reflection on the Williamsburg Youth League and the community.

Staff recommends approval of the attached resolution recognizing the team and coaches for their outstanding efforts.

---

Doug Powell

DP/gs  
allstar.mem

Attachment

**RESOLUTION**

**RECOGNIZING THE WILLIAMSBURG YOUTH LEAGUE**

**10-YEAR-OLD WORLD SERIES ALL-STAR TEAM**

WHEREAS, during the summer of 2003, the Williamsburg Youth League, co-sponsored by the James City County Division of Parks and Recreation, had open tryouts and formed a traveling all-star team to represent James City County in the Cal Ripken 10-year-old World Series; and

WHEREAS, in June and July of 2003, the all-star team finished as the undefeated Champions of the Cal Ripken District III Tournament and also were the undefeated Champions of the JCC Moose Invitation Tournament held at the District Sports Complex and finished their summer baseball season with an astounding 14-3 record; and

WHEREAS, those extra efforts and hard work paid off with their successful participation in the 2003 Cal Ripken 10-year-old World Series, the farthest a team can advance by finishing 5th of all the 10-year-old Ripken all-star teams in the World; and

WHEREAS, the many members of this World Series team provided both James City County and the Williamsburg Youth League their first ever thrilling World Series game 1 win in 50 years with their dramatic come from behind fashion showing great heart and determination.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby congratulate the Williamsburg Youth League, the host team members and coaches of the 2003 Cal Ripken 10-year-old World Series for their amazing efforts in one of the most successful World Series history, and we recognize and respect the hard work, dedication, and accomplishment your entire team has brought to the Williamsburg Youth League and to our community.

---

Jay T. Harrison, Sr.  
Chairman, Board of Supervisors

ATTEST:

---

Doug Powell  
Acting Deputy Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 23rd day of September, 2003.

allstar.res

MEMORANDUM

DATE: September 23, 2003

TO: The Board of Supervisors

FROM: Doug Powell, Acting Assistant County Administrator

SUBJECT: Resolution Recognizing the Host Committee Members of the Cal Ripken 2003 10-Year-Old World Series

---

The Williamsburg Youth League served as host for the 2003 Cal Ripken 10-Year-Old World Series. The members of the Host Committee volunteered hundreds of hours to assure the success of this tournament.

Due to the efforts of the Host Committee, James City County and its parks and recreational facilities were showcased to thousands of visitors. The success of the tournament may result in the County becoming host on a rotating or even permanent basis for the Cal Ripken 10-Year-Old World Series.

Staff recommends approval of the resolution recognizing the Host Committee for its outstanding efforts.

---

Doug Powell

DP/gs  
ripkencmte.mem

Attachment

**RESOLUTION**

**RECOGNIZING THE HOST COMMITTEE MEMBERS OF THE**

**CAL RIPKEN 2003 10-YEAR-OLD WORLD SERIES**

WHEREAS, on April 19, 2002, Dan Clayton, the president of the Williamsburg Youth League, co-sponsored by the James City County Parks and Recreation, signed a contract to bring the Cal Ripken 10-year-old World Series to Williamsburg, Virginia; and

WHEREAS, the event increased visitation to the area, and thereby increased retail sales and hotel occupancy; and

WHEREAS, this occasion brought many name brand national sporting goods company sponsorships to know the Greater Williamsburg Community and the benefits offered by locating a competition as large as this in James City County, Virginia; and

WHEREAS, the many members of this committee volunteered hundreds of hours to assure the success and possible future relocation of this event to James City County's District Park Sports Complex on a rotating and even permanent basis.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby congratulate the Williamsburg Youth League and the Host Committee Members of the 2003 Cal Ripken 10-year-old World Series for their amazing efforts in running one of the most successful World Series in the history of this event, which brought honor to James City County and financial support to the many supportive merchants that benefitted from this event.

BE IT FURTHER RESOLVED that you made a substantial difference in the lives of the fourteen local players that represented the Williamsburg Youth League and James City County as our host team and the nine other teams that came and played in an event that will be a part of their lives forever.

\_\_\_\_\_  
Jay T. Harrison, Sr.  
Chairman, Board of Supervisors

ATTEST:

\_\_\_\_\_  
Doug Powell  
Acting Deputy Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 23rd day of September, 2003.

MEMORANDUM

DATE: September 23, 2003  
TO: The Board of Supervisors  
FROM: Nancy Ellis, Superintendent of Recreation/Director of Youth Services  
SUBJECT: Strengthening Families Program - Grant

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James City County has received a \$4,025 grant from the Historic Triangle Substance Abuse Coalition to implement the Strengthening Families Program. This free program is for parents or caregivers and their youth, ages 10 to 14 years old, to help parents with their parenting skills and assist youth in developing skills in handling peer pressure. The grant will pay for the entire cost of the program.

Staff recommends approval of the attached resolution appropriating the funds for the program.

---

Nancy Ellis

CONCUR:

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Anthony Conyers, Jr.

NE/gs  
familygrant.mem

Attachment

**RESOLUTION**

**STRENGTHENING FAMILIES PROGRAM - GRANT**

WHEREAS, James City County has received a grant to implement the Strengthening Families Program.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following appropriation to the Special Projects/Grants Fund:

Revenue:

Historic Triangle Substance Abuse Coalition	<u>\$4,025</u>
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Expenditure:

Office of Community Services	<u>\$4,025</u>
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Jay T. Harrison, Sr.  
Chairman, Board of Supervisors

ATTEST:

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Doug Powell  
Acting Deputy Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 23rd day of September, 2003.

familygrant.res



MEMORANDUM

DATE: September 23, 2003  
TO: The Board of Supervisors  
FROM: Kenneth W. Middlebrook, Deputy Chief of Police  
SUBJECT: Carry Forward Funds – Records Management System

---

The Department of Criminal Justice Service (DCJS) awarded a Records Management Grant during FY 02 to the Police Department in the amount of \$134,900 (\$101,175 DCJS funds and \$33,725 in matching funds). The Police Department added an additional \$36,500 for training, travel, and equipment purchases that weren't covered by the Grant. The Grant was accepted on January 8, 2002, by the Board of Supervisors. Since that time, \$150,588 has been expended or obligated. It is requested that the remaining \$20,812 be declared a continuing appropriation into the FY 04 Budget for completion of this project.

Staff recommends approval of the attached resolution.

---

Kenneth W. Middlebrook

KWM/gb  
grantDCJS.mem

Attachment

**RESOLUTION**

**CARRY FORWARD FUNDS – RECORDS MANAGEMENT SYSTEM**

WHEREAS, the Police Department applied for and received a grant from the Department of Criminal Justice Services for a new Records Management System in the amount of \$134,900 in FY 2002; and

WHEREAS, the Police Department added an additional \$36,500 for training, travel, and equipment purchases that weren't covered by the grant; and

WHEREAS, the Board of Supervisors approved the acceptance of the grant and the necessary matching funds on January 8, 2002; and

WHEREAS, the Police Department will have expended or obligated \$150,588 of any grant funds by June 30, 2003.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, declare \$20,812 as a continuing appropriation from the FY 03 Police Department's budget (001-062-0530) to be carried forward to the FY 04 Budget for the purpose of completing the Records Management System.

\_\_\_\_\_  
Jay T. Harrison, Jr.  
Chairman, Board of Supervisors

ATTEST:

\_\_\_\_\_  
Doug Powell  
Acting Deputy Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 23rd day of September, 2003.

grantDCJS.res

MEMORANDUM

DATE: September 23, 2003  
TO: The Board of Supervisors  
FROM: Richard Drumwright, Transit Director  
SUBJECT: Appropriation - FY 04 Commonwealth Mass Transit Capital Matching Grant (Williamsburg Area Transport)

---

Funding for Williamsburg Area Transport is provided by the Commonwealth of Virginia to help offset local contribution for public transportation capital needs. The Virginia Department of Rail and Public Transportation approved a capital matching grant of \$85,000 for additional bus stop shelters and two operational support vehicles.

Matching grant revenues includes \$68,000 in pass-through Federal Revenues and \$6,800 in State matching revenues, requiring a local contribution of \$10,200. The \$10,200 in local match can be met through \$17,600 in proceeds from sale of replaced buses.

These resources are important to operations, and thus staff recommends approval of the attached resolution authorizing the receipt of these grant funds.

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Richard Drumwright

CONCUR:

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Anthony Conyers, Jr.

RD/gb  
appropriation04.mem

Attachment

**RESOLUTION**

**APPROPRIATION - FY 04 COMMONWEALTH MASS TRANSIT**

**CAPITAL MATCHING GRANT (WILLIAMSBURG AREA TRANSPORT)**

WHEREAS, the Commonwealth of Virginia has made matching capital revenues available to assist public transportation; and

WHEREAS, the Board of Supervisors is desirous of securing said funds in support of Williamsburg Area Transport operations.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes the County Administrator to accept this capital award in the amount of \$85,000 for bus shelters and two operational support vehicles.

BE IT FURTHER RESOLVED that the Board of Supervisors makes the following appropriation to the FY 04 Williamsburg Area Transport Budget:

Revenues:

Federal Matching Funds	\$68,000
State Matching Funds	6,800
Local Matching Funds	<u>10,200</u>
	<u>\$85,000</u>

Expenditure:

Williamsburg Area Transport	<u>\$85,000</u>
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Jay T. Harrison, Sr.  
Chairman, Board of Supervisors

ATTEST:

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Doug Powell  
Acting Deputy Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 23rd day of September, 2003.

appropriation04.res

MEMORANDUM

DATE: September 23, 2003  
TO: The Board of Supervisors  
FROM: Sanford B. Wanner, County Administrator  
SUBJECT: Budget Transfer - Commonwealth Attorney's Office

---

Commonwealth Attorney Mike McGinty seeks to hire an experienced attorney to replace Deputy Commonwealth Attorney Rich Rizk. Mr. Rizk is resigning to go into private practice after seven years with the Commonwealth Attorney's Office.

The candidate to fill the vacancy that the Commonwealth Attorney would like to hire has 11 years experience as a prosecutor with another Virginia locality. She is mature, has an excellent record in court, has received positive references from judges with whom she has worked, and has ties to our community. As an African-American, she also presents an exciting opportunity to add diversity to the staff.

The State Compensation Board, the primary funding source for the Commonwealth Attorney's Office, will not provide sufficient funds to match this individual's current salary. Using just Compensation Board funding, the individual would realize a pay cut of over \$14,500. I am requesting a transfer from Operating Contingency to cover the difference so that the individual can maintain current salary.

Staff recommends that the Board of Supervisors approve the attached resolution authorizing the transfer of \$14,615 from Operating Contingency to the Commonwealth Attorney's Office.

---

Sanford B. Wanner

SBW/gs  
attyhire.mem

Attachment

**RESOLUTION**

**BUDGET TRANSFER - COMMONWEALTH ATTORNEY'S OFFICE**

WHEREAS, the position of Deputy Commonwealth Attorney is vacant; and

WHEREAS, an experienced prosecutor from a neighboring locality is qualified for the position; and

WHEREAS, additional funding in the amount of \$14,615 is needed to match her current salary; and

WHEREAS the necessary funds are available in Operating Contingency.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that \$14,615 in funds budgeted in FY 2004 Operating Contingency be transferred to the Commonwealth Attorney's Office.

---

Jay T. Harrison, Sr.  
Chairman, Board of Supervisors

ATTEST:

---

Doug Powell  
Acting Deputy Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 23rd day of  
September, 2003.

attyhire.res

MEMORANDUM

DATE: September 23, 2003  
TO: The Board of Supervisors  
FROM: Richard M. Miller, Fire Chief  
SUBJECT: Adoption of the 2000 Edition of the Virginia Statewide Fire Prevention Code

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The Board of Supervisors last adopted the Virginia Statewide Fire Prevention Code ("SFPC") on June 24, 1997. The Virginia Code empowers the Virginia Board of Housing and Community Development ("BHCD") to adopt and promulgate a Statewide Fire Prevention Code (SFPC). The BHCD recently amended the SFPC and incorporated by reference the International Fire Code/2000. The amendments will be effective October 1, 2003, and be known as the Virginia Statewide Fire Prevention Code - 2000 Edition.

In order for Chapter 9, Fire Protection, of the James City County Code to remain current, the Virginia Statewide Fire Prevention Code - 2000 Edition needs to be adopted. The attached Ordinance amends Chapter 9, Article I, Fire Prevention Code, Section 9-1, Adoption of Virginia Statewide Fire Prevention Code; Section 9-2, Definitions; Section 9-3, Amendments; and Section 9-4, open burning of yard waste, to reference the model code and standards adopted by the BHCD.

Staff recommends adoption of the attached Ordinance to amend and reordain Chapter 9, Fire Protection of the Code of James City County.

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Richard M. Miller

CONCUR:

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Michael H. Drewry

RMM/gs  
chpt9art1.mem

Attachment

ORDINANCE NO.

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 9, FIRE PROTECTION, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, FIRE PREVENTION CODE, SECTION 9-1, ADOPTION OF VIRGINIA STATEWIDE FIRE PREVENTION CODE; SECTION 9-2, DEFINITIONS; SECTION 9-3, AMENDMENTS; AND SECTION 9-4, OPEN BURNING OF YARD WASTE.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 9, Fire Protection, is hereby amended and reordained by amending Article I, Fire Prevention Code, Section 9-1, Adoption of Virginia Statewide Fire Prevention Code; Section 9-2, Definitions; Section 9-3, Amendments; and Section 9-4, Open burning of yard waste.

Chapter 9. Fire Protection

Article I. Fire Prevention Code\*

**Sec. 9-1. Adoption of Virginia Statewide Fire Prevention Code.**

Pursuant to section 27-97 of the Code of Virginia, the ~~1996~~ 2000 edition of the Virginia Statewide Fire Prevention Code is adopted by James City County, except as otherwise modified or amended in this article, and the same is hereby incorporated fully by reference. This code shall be referred to in this chapter as the “fire prevention code” *or* “*SFPC.*” The fire department shall enforce the fire prevention code under the direction of the fire official.

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**Cross reference**-Fire protection requirements in subdivisions, § 19-63.

*\*State regulation reference-13 Virginia Administrative Code 5-51-Virginia Statewide Fire Prevention Code.*



**Sec. 9-2. Definitions.**

The following words and terms used in the fire prevention code shall have the definitions ascribed to them in this section:

~~Chief appointing authority or appointing authority.~~ *Local governing body.* The James City County Board of Supervisors.

~~Chief authority or chief administrative officer.~~ The county administrator of James City County.

~~Deputy.~~ The James City County Deputy Fire Marshal.

*Fire official.* The fire marshal of the county or his duly authorized representative. For the purposes of this code, the term code official shall also mean fire official.

*IFC. International Fire Code /2000*

*Jurisdiction.* The County of James City, Virginia.

~~Legal counsel~~ *department of the jurisdiction.* The county attorney or an attorney appointed by the board of supervisors to represent the county in legal matters.

~~*Open burning.* Any burning wherein the products of combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber. A chamber shall be regarded as enclosed when, during the time combustion takes place, only apertures, ducts, stacks, flues or chimneys necessary to provide air and to permit the escape of gas are open.~~

*Yard waste.* Include leaves, brush, grass, stumps, scrub vegetation, bushes, and twigs or branches.

### **Sec. 9-3. Amendments.**

The fire prevention code is hereby amended, modified and changed as set out in the following subsections of this section.

- (1) ~~*SFPC Section F-107.2.3*~~ **107.2, Permits required**, is hereby amended to read as follows **added**:

Permits shall be obtained, when required, from the fire official. Permits shall be available at all times on the premises designated in the permit for inspection of the fire official. Fees for such permits, and for inspections, shall be in such amounts as are from time to time established by resolution of the board of supervisors.

- ~~(2) — *Section F-107.2.3.1, Permits required, is hereby added.*~~

With exception of mandatory permits for explosives and blasting agents, the county shall require permits issued as a part of the Statewide Fire Prevention Code for the following:

- (a) Fireworks.
- (b) Open burning of debris waste as a result of land clearing, refuse as result of agricultural and forestal management practices, and bonfires.

(32) ~~Section F-107.2.4.1, Local Fees~~ *SFPC Table 107.2 - Operational Permit Requirements* is hereby ~~amended~~ *added*:

- (a) \$100.00 per event or \$200.00 per calendar year (at same site with similar displays) for fireworks.
- (b) \$50.00 for each waste open burning permit.
- (c) \$25.00 for each bonfire permit.

~~State law reference - Authority of county to adopt fire prevention code, Code of Va., §27-97.~~

(43) ~~Section F-113.2.1.1, Board of Appeals~~ *SFPC Section 112.1, Local Board of Fire Prevention Code Appeals (BFPCA)*, is hereby ~~amended to read~~ *added*:

The James City County Board of Building Code Appeals is hereby constituted as and shall serve as the James City County Board of Fire Prevention Code Appeals.

(54) ~~Section F-113.2.3~~ *SFPC Section 112.2.1, Chairman* is hereby ~~amended to read~~ *added*:

The chairman of the James City County Board of Building Code Appeals shall also serve as chairman of the James City County Board of Fire Prevention Code Appeals.

(65) ~~IFC Section F-311.1.1~~ *503.2.2, Specifications Authority* is hereby ~~amended to read~~ *added*:

Fire lanes *apparatus access roads*, when required, shall conform to the specifications issued by the fire official. The fire official shall maintain records of those properties which are required to establish and maintain fire lanes *apparatus access roads*.

(76) *IFC Section F-403.3-307.2.2, Allowable burning Prohibited open burning*, is hereby amended to read *added*:

Open burning shall be allowed without prior notification to the fire official for recreational fires, highway safety flares, smudge pots and similar occupational needs, and the burning of yard waste, and household debris, except garbage, when conducted in accordance with this code; provided, however, pursuant to section 10.1-1142 of the Code of Virginia, that:

- (a) It shall be unlawful for any owner or lessee of land to set fire to, or to procure another to set fire to, any woods, brush, logs, leaves, grass, debris or other inflammable material upon such land unless he previously has taken all reasonable care and precaution, by having cut and piled the same or carefully cleared around the same, to prevent the spread of such fire to lands other than those owned or leased by him. It shall also be unlawful for any employee of any such owner or lessee of land to set fire to or to procure another to set fire to any woods, brush, logs, leaves, grass, debris or other inflammable material upon such land unless he has taken similar precautions to prevent the spread of such fire to any other land.
- (b) *Except as provided in subsection (c),* ~~During~~ during the period beginning February 15 and ending April 30 of each year, even though the precautions required by the foregoing subsection have been taken, it shall be unlawful in this county *or any portion thereof organized for forest fire control under the direction of the state forester*, for any person to set fire to, or to procure another to set fire to, any brush, leaves, grass, debris or field containing dry grass or other inflammable material capable of spreading fire located in or within three hundred feet of any

woodland, brushland or field containing dry grass or other inflammable material, except between the hours of 4:00 p.m. and 12:00 midnight.

The provisions of this subsection shall not apply to any fires which may be set on federal lands. ~~and, between February 15 and March 1 of each year, on lands owned by the Department of Game and Inland Fisheries.~~

*(c) Subsection (b) shall not apply to any fire set between February 15 and March 1 of each year, if:*

- 1. The fire is set for “prescribed burning” that is conducted in accordance with a “prescription” and managed by a “certified prescribed burn manager” as those terms are defined in Va. Code section 10.1-1150.1;*
- 2. The burn is conducted in accordance with Va. Code section 10.1-1150.4;*
- 3. The state forester has, prior to February 1, approved the prescription for the burn; and*
- 4. The burn is being conducted for one of the following purposes: (i) control of exotic and invasive plant species that cannot be accomplished at other times of the year; (ii) wildlife habitat establishment and maintenance that cannot be accomplished at other times of the year; or (iii) management necessary for natural heritage resources.*

*The state forester may on the day of any burn planned to be conducted pursuant to this subsection revoke his approval of the prescription for the burn if hazardous fire conditions exist. The state forester may revoke the certification of any certified prescribed burn manager who violates any provision of this subsection.*

(~~c~~d) Any person who builds a fire in the open air, or uses a fire built by another in the open air, within 150 feet of any woodland, brushland or field containing dry grass or other inflammable material shall totally extinguish the fire before leaving the area and shall not leave the fire unattended.

(~~d~~e) Any person violating any of the provisions ~~of subsections (a), (b) or (c)~~ of this section shall be guilty of a Class 3 misdemeanor for each separate offense. If any forest fire originates as a result of the violation by any person of any provision of this section, such person shall, in addition to the above penalty, be liable to the Commonwealth for the full amount of all expenses incurred by the Commonwealth in suppressing such fire. Such amounts shall be recoverable by action brought by the ~~S~~state ~~F~~forester in the name of the Commonwealth on behalf of the Commonwealth and credited to the Forestry Operations Fund.

(87) *IFC Section ~~F-403.5-307.3~~, Location requirements, is hereby amended to read **is added**:*

~~The location for any open burning shall not be less than 50 feet from any structure and provisions shall be made to prevent the fire from spreading to within 50 feet of any structure. Fires in approved containers shall be permitted; provided, that such fires are not less than 15 feet from any structure.~~

~~Exception:~~ The location of any open burning conducted for the disposal for land clearing refuse which has been permitted in accordance with regulations concerning open burning issued by the Virginia Department of Environmental Quality shall not be less than 500 feet from an occupied dwelling.

(98) ~~IFC Section F-403.5.1~~ **1404.3**, ~~Open burning prohibited-Construction sites~~, is hereby added:

Open burning of construction waste, demolition waste, refuse or any other type of waste is prohibited when located at a construction or demolition site. The removal of such waste from a construction or demolition site and the subsequent burning of the same at another location in James City County is also prohibited.

Exception: Approved open burning for the disposal of land clearing refuse shall be allowed on construction sites when conducted in accordance with the regulations concerning open burning issued by the Virginia Department of Environmental Quality and this Code.

(109) ~~IFC Section F-403.6, 307.2.2~~ ~~Open burning stipulations~~ **Prohibited open burning** is hereby amended to read **added**:

~~Notwithstanding any other provision of this chapter,~~ ~~o~~ Open burning shall not be used for waste disposal purposes, the quantity of material to be burned shall not exceed five feet in any dimension, and the fuel shall be chosen to minimize the generation and emission of air contaminants.

Exception: Approved burning for forest management and agriculture practices and open burning for disposal of land clearing refuse when conducted in accordance with regulations concerning open burning issued by the Virginia Department of Environmental Quality.

(~~11~~10) *SFPC Section ~~F-3101.2~~ 3301.2, Permit required*, is hereby ~~amended to read~~ *added*:

A permit shall be obtained from the fire official for the display or discharge of fireworks. Upon written application by an organization or association representing a fair or amusement park or by any administrator, organization or group of individuals to the county fire department, a permit may be issued for the display of fireworks; provided, that such display shall be held under proper supervision and at a location safe to persons and property. Such application shall include a description of the types of fireworks to be displayed and the location to be used to ensure the safety of those in attendance. The permittee shall furnish a bond *or certificate of insurance* in the amount required by section ~~F-3103.4~~ *3301.2.4.2* of the Virginia Statewide Fire Prevention Code. A permit, when issued, shall be for a stated period. No such permit shall be issued by the fire official to any organization or association or group of individuals unless the fire official is satisfied that the display will be held at an appropriate site. A member of the fire department shall, prior to the issuance of such a permit, inspect the scene for its appropriateness for the display of fireworks. An authorized member of the fire department may revoke any such permit during the display if such is conducted in any manner not in keeping with the application or in compliance with this section and the display shall thereupon be immediately stopped.

(~~12~~11) *SFPC Section ~~F-3102.1~~ 3302.1, Definitions, general*, is hereby amended to read:

The following words and terms shall, for the purpose of this chapter and as stated elsewhere in this Code, have the meanings shown herein.

"Fireworks." ~~shall mean and include a~~ Any item known as a firecracker, torpedo, skyrocket or other substance or thing, of whatever form or construction, that contains any explosive or flammable compound or substance and is intended or commonly known as fireworks and which explodes, rises into the



air, or travels laterally, or fires projectiles into the air. The term "fireworks" shall also include pinwheels, sparklers, fountains or Pharaoh's serpents. The term "fireworks" shall not include auto flares or caps for pistols.

*“Permissible fireworks.” Any auto flares or caps for pistols.*

~~(13) Section F-3103.1, General~~ is amended to read:

~~The rules and regulations for fireworks shall be in accordance with NFPA 1123, 1124 and 1126 listed in Chapter 44.~~

~~(1412) SFPC Section F-3103.4 3301.2.4.2, Bond for display~~ *Fireworks display* is amended to read:

The permit holder shall furnish a bond *or certificate of insurance* at a minimum ~~in the~~ amount of \$1,000,000.00 for the payment of all potential damage caused by either to the person or property due to the permitted display, and arising from any acts of the permit holder or agent of the permit holder, *employees*, or agent of the permit holder. The property owner shall agree in writing to the bond *or certificate of insurance* amount prior to the permit being issued.

#### **Sec. 9-4. Open burning of yard waste.**

The fire prevention code is hereby amended, modified and changed as set out in the following subsection of this section:

- (1) ~~IFC Section F-403.3.1~~ **307.2.2, *Burning yard waste Prohibited open burning***, is hereby added.
- (a) Notwithstanding any other provision of this Code, open burning of yard waste by any person shall be unlawful within the county except in those areas zoned A-1, General Agriculture; provided, however, even within A-1 acres, yard waste shall not be burned in platted subdivisions consisting of five or more lots of which at least three lots have occupied dwellings or in manufactured home parks. In those areas where the open burning of yard waste is otherwise permitted, it shall be unlawful for any person to burn yard waste during the period beginning February 15 and ending April 30 of each year, except between the hours of 4:00 p.m. and 12:00 midnight.
- (b) Open burning of yard waste performed in an area permitted in paragraph (a) shall comply with any applicable provisions of state law and this article.
- (c) Notwithstanding paragraphs (a) and (b), open burning of yard waste shall be allowed for farming activities and pursuant to a permit for forest management and agriculture practices and open burning for disposal of land clearing refuse when conducted in accordance with regulations concerning open burning issued by the Virginia Department of Environmental Quality.

**State law reference**-Code of Va., §§ 27-97 and 10.1-1142.

This Ordinance shall become effective October 1, 2003.

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Jay T. Harrison, Sr.  
Chairman, Board of Supervisors

ATTEST:

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Doug Powell  
Acting Deputy Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 23rd day of September,  
2003.

chpt9art1.ord

MEMORANDUM

DATE: September 23, 2003  
TO: The Board of Supervisors  
FROM: John T. P. Horne, Acting General Services Manager  
SUBJECT: Yarmouth Creek Watershed Management Plan

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The Board of Supervisors considered this plan at its meeting on September 9, 2003, and at the recommendation of Mr. Kennedy, deferred the Yarmouth Creek Watershed Management Plan to the September 23, 2003, meeting. A summary of the Plan is included in the Reading File.

Staff continues to recommend approval of the attached resolution adopting the Plan.

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John T. P. Horne

JTPH/gs  
YCWPdefer.mem

Attachment

**RESOLUTION**

**YARMOUTH CREEK WATERSHED MANAGEMENT PLAN**

WHEREAS, the Yarmouth Creek Watershed is a resource of local and national significance; and

WHEREAS, the Board authorized staff to prepare a Management Plan to help the County and landowners protect the watershed and its natural resources; and

WHEREAS, stakeholders, staff, and consultants have met over a period of 12 months to share information, set goals, and develop the Watershed Management Plan.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby adopts the Yarmouth Creek Watershed Management Plan dated July 14, 2003, with the exception of Priority No. 3, Special Stormwater Criteria.

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Jay T. Harrison, Sr.  
Chairman, Board of Supervisors

ATTEST:

\_\_\_\_\_  
Doug Powell  
Acting Deputy Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 23rd day of September, 2003.

YCWP.res.