

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE THIRTEENTH DAY OF OCTOBER. NINETEEN HUNDRED EIGHTY, AT 7:30 P.M. IN THE COUNTY GOVERNMENT CENTER, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

Jack D. Edwards, Chairman, Berkeley District  
 Abram Frink, Jr., Vice-Chairman, Roberts District  
 Gilbert A. Bartlett, Jamestown District  
 Perry M. DePue, Powhatan District  
 Stewart U. Taylor, Stonehouse District

James B. Oliver, Jr., County Administrator  
 John E. McDonald, Assistant to the Administrator  
 Frank M. Morton, III, County Attorney

B. MINUTES

Mr. Bartlett moved for the approval of the Minutes of the September 22, 1980 meeting. The motion carried by a unanimous roll call vote.

C. PUBLIC HEARING

1. Case No. Z-8-80/SUP-5-80 - Application of Mr. David B. Bates to rezone approximately 1.74 acres from R-2, Limited Residential to A-2, Limited Agricultural to apply for a Special Use Permit to allow the construction of two office buildings on the property.

Mr. William C. Porter, Jr., Director of Planning, presented this matter before the Board stating that Dr. Bates' proposal is in accordance with the Comprehensive Plan and the Planning Commission has recommended approval of the zoning application and special use permit. Mr. Porter asked the Board to approve the applications based on the conditions set forth by the Planning Commission.

Mr. Bartlett asked if the case has been advertised properly.

Mr. Porter answered that the case has been advertised four times in the newspaper; twice by the Planning Commission and twice by the Board of Supervisors.

Mr. Edwards asked if the county had received any objections to the application.

Mr. Porter answered that concern has been expressed with people making U-turns at Route 700, Brookwood Drive. He stated that the site plan proposes an entrance onto Lake Powell Road to eliminate that problem.

Mr. Edwards opened the public hearing. There were no speakers, therefore, the public hearing was closed.

Mr. DePue moved to approve the rezoning application with the conditions set forth by the Planning Commission. The motion carried by a unanimous roll call vote.

Mr. Taylor moved to approve the special use permit application with the conditions set forth by the Planning Commission. The motion carried by a unanimous roll call vote.

D. PRESENTATIONS

Mr. Edwards commented if there were no objections, the Board would hear agenda item no. 4, the Sand Hill Subdivision presentation first.

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#### 4. Sand Hill Subdivision Water Problem

Mr. Robert M. Murphy, Assistant to the Administrator, informed the Board that the cause of the Sand Hill problem has not been identified and test results done by the Health Department have not been received, but should be available within a few days.

Mr. Deward Martin, Water Development Engineer, commented that the Health Department had told several residents of the Sand Hill Subdivision to add chlorine to their wells and two weeks later the water was bad again.

Mrs. Suzanne Ferguson, resident of James City County, commented that she and her cousin lived approximately one-fourth mile from the Sand Hill Subdivision and both have recently had bladder problems.

Mr. DePue asked Mr. Brewer how many households have been affected.

Mr. Brewer answered that twenty-seven homes have been affected. He stated that the water problem has baffled the entire area and community wells may or may not be the solution to the problem.

Mr. Bartlett asked Mr. Brewer if he has formed a committee.

Mr. Brewer answered that he has talked with several people who are working with him and the Health Department to find a solution to the problem.

A resident of the Sand Hill Subdivision stated that rain seemed to make the problem worse.

Another resident mentioned that when the water was chlorinated and they were told to run their wells dry, within one-half hour all the water was back; therefore, she feels that the water level isn't the problem.

Mr. Oliver defined the county's role in the Sand Hill Subdivision's water problem. He stated that the county is very concerned about the health aspect of the problem, but the responsibility is split between private parties and state agencies. He said that based on information to date, the county's role is limited by state law, and while the county is interested in the problem, and wants to help find solutions, it is not a county project where total funds will be appropriated, but that it is a homeowner's problem with a developer. Mr. Oliver concluded that the county will offer any technical information to solve the problem and that Mr. Robert M. Murphy will be the county's contact person on the matter.

Mr. DePue commented that the county has been involved with this problem about two weeks, and the Health Department has been involved longer. He suggested that Dr. Gordon Bell of the Health Department be contacted to attend the Board's next meeting at which time some answers can be received.

Mr. Edwards agreed that Dr. Bell should be talked to, but not necessarily at the Board's next meeting.

There being no further comments, Mr. Edwards closed the presentation.

#### 1. Landfill Ordinance - An ordinance amending and reordaining Chapter 8, Article II of the James City County Code of 1972, as amended, concerning the operating policy and the establishment of user charges for the County landfill.

Mr. Edwards commented that at the last meeting, it was decided that the Board of Supervisors would listen to citizens' comments before making a final decision on the ordinance. He asked that speakers be brief and not repeat what was said at previous meetings.

Mr. David Clark, Utility Operations Engineer, stated the two main purposes of the landfill ordinance. They are (1) to encourage conservation of recoverable resources, and (2) to offset cost increases for operating the landfill. He asked that the Board adopt the ordinance.

Mr. Edwards asked if anyone in the audience wished to speak on the ordinance.

Mrs. Evelyn Adair, Chairman of the Virginia Beautification Committee, stated that the Committee opposes the implementation of the ordinance, adding that citizens will probably return to roadside dumping which will undo what the organization has done.

Mr. Ivan Perkins, stated that he has just moved to James City County from California, and can not understand why the county wants to adopt a landfill ordinance when area haulers are doing such a wonderful job. He asked the Board of Supervisors to leave things the way they are now.

Mrs. Mildred Walker, resident of James City County, spoke in opposition of the ordinance, stating that adopting the ordinance will force small businessmen out of business as well as return citizens to roadside dumping.

Mr. David Wallace, an area hauler, asked that the Board not adopt the ordinance because it will place a hardship on the small businessman as well as the citizens who pay for their service, particularly senior citizens and those who are on fixed incomes.

Reverend J. B. Tabb, area hauler, expressed his view on the ordinance, stating that he did not agree with the 70¢ a month fee as stated by the county. He commented that with inflation his customers would have to pay a \$2.00 increase to offset his own expenses. Rev. Tabb also stated that he had attended two public hearings on this ordinance, and everyone he heard speak opposed the ordinance.

A resident of James City County commented that the area haulers have done a fine job, and requested that the Board not adopt the ordinance.

Mr. Edwards closed the public discussion and asked Board members to express their feelings about the ordinance.

Mr. Bartlett summarized the events leading up to the amended ordinance requested by Mr. DePue and prepared by Mr. Frank M. Morton, County Attorney, which reduces the landfill user charge fee for residential users only to \$2.50 a ton rather than \$5.00 a ton (which applies to industrial and commercial materials). Mr. Bartlett moved to adopt the ordinance as amended.

Mr. DePue stated that he would vote against Mr. Bartlett's motion to adopt the amended ordinance because he could not support a fee on residents as a source of revenue.

Mr. Frink stated that he was concerned about the misinformation circulated about the impact of the user fee on area haulers, but stated that he would support Mr. Bartlett's motion to adopt the amended ordinance.

Mr. Edwards commented that he was concerned due to the misinformation about the impact of the user fee on area haulers. In response to citizens' comments, he stated that he appreciates the fine work of area haulers, however he stated that he does not feel that homeowners will resort to roadside dumping. He stated that although the amended user charge of \$2.50 as a compromise satisfies no one, he concluded that he would support the motion to adopt the amended ordinance.

Mr. Taylor stated that he has opposed the ordinance from the very beginning because the money it will generate in revenue will be spent on equipment and create new jobs. He stated that he would not support Mr. Bartlett's motion to adopt the amended ordinance.

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Mr. Bartlett's motion to adopt the ordinance as amended was approved by a 3-2 roll call vote with Mr. DePue and Mr. Taylor voting against the motion.

ORDINANCE NO. 116A-2

BOARD OF SUPERVISORS  
JAMES CITY COUNTY,  
VIRGINIA

AN ORDINANCE TO AMEND CHAPTER 8, HEALTH AND SANITATION, OF THE CODE OF THE COUNTY OF JAMES CITY, ARTICLE II, LANDFILL ORDINANCE.

BE IT ORDAINED, by the Board of Supervisors of James City County, Virginia, that Chapter 8, Health and Sanitation, of the Code of the County of James City be and the same is, hereby, amended by amending Article II, Landfill Ordinance, to read as follows:

CHAPTER 8

HEALTH AND SANITATION

Article II Landfill Ordinance

Section 8-8, In General

- (a) Policy. The purpose of this Ordinance is to insure the proper disposal of solid wastes within James City County, including wastes from households, commercial establishments, manufacturing, industry, and institutions, and to implement the provisions of the Resource Conservation and Recovery Act of 1976 (Public Law 94-580) and the Solid Waste Regulations of the Commonwealth of Virginia. It shall be the official policy of the County to encourage the conservation (recycling/reuse) of recoverable resources from solid wastes by the industries, businesses and citizens of the County.
- (b) Definitions. For purposes of this Ordinance, the following definitions shall apply:
- (1) Administrator. The County Administrator or his authorized designee.
  - (2) Commercial/Business Refuse. Refuse or wastes resulting from the operation of commercial or business establishments, including but not limited to stores, markets, offices, restaurants, shopping centers or theaters.
  - (3) Compacted Refuse. Refuse or waste which has been reduced in

volume by mechanical or hydraulic means and remains in this state of reduced volume until deposited at the landfill.

- (4) Director. The Director of Public Works or his authorized designee.
- (5) Hazardous Waste. Refuse or waste or combinations of refuse or waste, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.
- (6) Household Refuse. Refuse or waste resulting from residential operation.
- (7) Industrial Refuse. Refuse or waste resulting from industrial and/or manufacturing operations.
- (8) Institutional/Governmental Refuse. Refuse or waste resulting from operations or activities of the Commonwealth of Virginia, its political subdivisions or agencies, or the United States Government.
- (9) Person. An individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, any interstate body, or the Federal Government.
- (10) Uncompacted Refuse. Refuse or waste which has not been reduced in volume by mechanical or hydraulic means, or if so, has not been maintained in this reduced volume state during transportation to the landfill.
- (11) Waste Generator. The person who actually produces the commercial, household, industrial or institutional/governmental refuse intended for disposal at the landfill.
- (c) The Director shall be authorized to establish reasonable rules and regulations to determine the origin and type of refuse presented at the landfill for disposal.

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(d) No refuse originating outside the boundaries of James City County shall be accepted for disposal at the landfill unless an agreement exists between James City County and the jurisdiction in which the refuse originates.

(e) It shall be unlawful for any person to dispose of refuse at the County Landfill before weighing the vehicle containing said refuse, except in certain cases as described below.

Section 8-9, Household Waste

(a) Individuals using an automobile, station wagon, half-ton panel truck or half-ton pickup truck, with a valid County motor vehicle tag, decal, or sticker, for the purpose of

disposing of household refuse at the County Landfill will not be required to pay for disposal of refuse, provided that the refuse being disposed of was neither collected nor hauled for a fee.

(b) Household refuse originating outside the boundaries of James City County and delivered by an individual property owner, and commercial refuse operators/haulers regardless of the origin of the refuse shall pay the following fees:

\$5.00 per ton, computed on the basis of \$1.25 per each five hundred pounds or fraction thereof. Such charge shall be computed to the next highest one dollar. The minimum charge shall be \$2.00 per load; provided, however, commercial refuse operators hauling household refuse originating within the boundaries of James City County shall pay the following fees:

\$2.50 per ton, computed on the basis of 62.5¢ per each five hundred pounds or fraction thereof. Such charge shall be computed to the next highest one dollar. The minimum charge shall be \$2.00 per load.

Any person exempted from payment of the charge for the disposal of refuse as provided in Sec. 8-9 (a) above will not be assessed any charges as provided in this paragraph.

- (c) The Director may promulgate reasonable rules and regulations to permit certain materials (for example, soil or gravel) determined to be veneficial in the proper operation and maintenance of the Landfill to be disposed of without charge to the hauler.
- (d) Tires. Whenever more than two passenger car tires are disposed of on any occasion at the County Landfill by any person, firm or corporation, a separate fee of \$0.35 shall be charged for each tire above two. The Director may at his discretion authorize the disposal of tires other than passenger car tires, at a charge per tire to be negotiated between the Director and hauler disposing of the tires.

Section 8-10, Industrial Refuse

- (a) Prior to the acceptance of industrial refuse at the landfill, the person desiring to dispose of same shall secure a permit from the Director. Prior to the issuance of such a permit, the Director shall determine the compatibility of the specific refuse with the landfill method of disposal. In determining such compatibility, the Director shall consider disposal volume, difficulty of handling, employee safety, likelihood of equipment damage, any unusual health and environmental problems and current State and Federal regulations.
- (b) The disposal charge for industrial refuse that does not require disposal in a separate location (trench) from household or commercial waste shall be assessed on the basis of the charges defined in Section 8-9 (b) unless covered by Section 8-10 (d).
- (c) The disposal charge for industrial wastes requiring separate disposal locations shall be a minimum of \$5.00 per ton but may be higher as determined by the Director. In establishing the fee for disposal of a specific waste requiring separate disposal, the Director shall determine the costs to maintain

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the separate disposal and for special handling requirements, the potential for damage to landfill equipment, environmental effects the refuse may have, State and Federal rules and regulations regarding the waste, and other factors determined to be appropriate for the specialized handling of such waste.

- (d) Separate Contracts. The Administrator may negotiate separate contracts for industrial refuse with large waste generators if it is determined that the volume are predictable and

the wastes involved require minimal handling. Such contracts shall guarantee negotiated payments to the County annually, and may be offered to generators that exceed 8000 tons per year. No such contract will guarantee the County less than \$40,000 per year.

#### Section 8-11, Institutional/Governmental Waste

Institutional/governmental waste shall be accepted at the landfill, provided all other provisions of this Ordinance have been satisfied. The charge shall be the same as in Sec. 8-9 (b)

#### Section 8-12, Prohibited Waste

- (a) Refuse materials or wastes resulting from land clearing, demolition, construction, tree trimming activities or landfill operations, situate on other than County property and not under the supervision of the County, are declared to be incompatible with the method of landfill disposal in terms of volume, difficulty in handling and the potential for damage to equipment and as such shall not be accepted for disposal at the landfill, except as follows:

- (1) Tree trimming wastes that have been processed by a mechanical chipper; or
- (2) Tree trimming wastes and home repair wastes from residences within the County in quantities not exceeding 4 cubic yards per month from any one residence; or

- (3) Home repair or improvement wastes from persons so engaged not exceeding 4 cubic yards per month per person, so engaged.

- (b) Materials, whether solid, liquid or gaseous, which are classified as either hazardous or toxic in accordance with State and Federal rules and regulations are prohibited.

Section 8-13, User Charges by Volume

- (a) Until such time as scales are installed, or should the scales become inoperative for any reason, the following rates shall apply:
- (1) Uncompacted refuse which would qualify for the \$5.00 per ton fee - \$0.50 per cubic yard of truck capacity.
  - (2) Compacted refuse which would qualify for the \$5.00 per ton fee - \$1.25 per cubic yard of truck capacity.
  - (3) The minimum fee for refuse charged for on a volume basis shall be \$2.00 per load.

Section 8-14, Billing Procedure

- (a) The Department of Finance shall render bills monthly for service charges under this Ordinance. The Director of Finance shall promulgate procedures for the handling of billings under this Ordinance.
- (b) Payment of bills, delinquent charges, discontinuance of service:
- (1) Notices. Bills rendered under this Ordinance are due and payable at the office of the Treasurer upon presentment and shall be considered delinquent if not paid within thirty days of the date issued.
- If any bill is not paid within such thirty day period, an additional charge of one percent per billing period, on the unpaid charges shall be added thereto and collected therewith to cover cost collection.
- The Director or his designee shall refuse to dispose of any refuse brought to the landfill by any delinquent person, after giving five (5) days written notice thereof.

Section 8-15, Violation

Any person, who shall violate a provision of this Ordinance shall be guilty of a misdemeanor, and upon conviction shall be subject to a fine not exceeding One Thousand Dollars (\$1,000.00) or thirty (30) days imprisonment, or both, for each violation.

## 2. Kingspoint Sewerage Problem

Mr. Marion Garrison of the Kingspoint Subdivision, addressed the Board on the faulty septic systems in the Kingspoint Subdivision. He noted that in a 1977 staff report indicated that the permeability of land in some portions of the neighborhood was unsuitable for septic systems. He suggested that the Board of Supervisors develop a comprehensive sewerage system for the entire county.

Mr. Bill Wagner, also a resident of the Kingspoint Subdivision, commented that he has had dry wells dug with no guarantee that the problem will be solved. He said that he knew of eight or nine septic system failures in the area, but mentioned that residents deny that there is a problem when approached.

Mr. Bartlett asked Mr. Wagner if he could give the staff the names and addresses of other residents with the same problem.

Mr. Wagner answered that he could give the names in some cases, but some people have left the area or do not wish to become involved.

Mr. Oliver commented that Mr. Robert M. Murphy would be the staff's representative to work with the residents and the Health Department to find a solution to the problem.

Mr. DePue commented that he is beginning to think that the State Health Department does not have the highest standards, and he questions their ability; he stated that perhaps there is something the county should be considering to make the standards in the area of sewer and water higher.

There being no further discussion, Mr. Edwards closed the presentation.

## 3. National Business Women's Week

The Board of Supervisors approved a proclamation which designated October 19, 1980 through October 25, 1980 as National Business Women's Week.

### P R O C L A M A T I O N

#### NATIONAL BUSINESS WOMEN'S WEEK

WHEREAS, working women constitute forty-three (43) million of the nation's work force, and are constantly striving to serve their communities, their states and their nation in civic and cultural programs, and

WHEREAS, major goals of business and professional women are to help create better conditions for business women through the study of social, educational, economic and political problems; to help them be of greater service to their community; to further friendship with women throughout the world, and

WHEREAS, all of us are proud of their leadership in these many fields of endeavor,

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County that it hereby proclaims October 19 through October 25, 1980 NATIONAL BUSINESS WOMEN'S WEEK.

#### E. CONSENT CALENDAR

Mr. Edwards moved to approve all items on the consent calendar.

Mr. Taylor requested that item no. 9, the livestock claim for Mr. J. H. Wenger be removed from the consent calendar.

With the exception of item no. 9, the following items were approved by a unanimous roll call vote.

#### 1. Setting Public Hearing Date - Case No. SUP-6-80 - County Inn

A public hearing was set for the Board of Supervisors' November 10, 1980 meeting.

2. Setting Public Hearing Date - Second-Hand Ordinance

A public hearing date was set for the Board of Supervisors' November 10, 1980 meeting.

3. Setting Public Hearing Date - Utility Operating Policy Revisions

A public hearing was set for the Board of Supervisors November 10, 1980 meeting.

4. Case No. CUP-27-80 - Conditional Use Permit - Mr. Lanson Howell, Jr.R E S O L U T I O NCONDITIONAL USE PERMIT

WHEREAS, it is understood that all conditions for consideration of an application for a Conditional Use Permit have been met;

THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County that a Conditional Use Permit be granted for the placement of a mobile home on property owned and developed by the applicant as described below, and as detailed in the attached application and site location:

Applicant:	Mr. Lanson Howell, Jr.
Tax Map ID:	(35-2) (1-3)
District:	Powhatan
Zoning:	A-1, General Agricultural
Permit Term:	N/A
Further Conditions:	None.

5. Case No. CUP-28-80 - Conditional Use Permit - Mr. Rodo L. BanksR E S O L U T I O NCONDITIONAL USE PERMIT

WHEREAS, it is understood that all conditions for consideration of an application for a Conditional Use Permit have been met;

THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County that a Conditional Use Permit be granted for the placement of a mobile home on property owned and developed by the applicant as described below and as detailed in the attached application and site location:

Applicant:	Mr. Rado L. Banks
Tax Map ID:	(13-1) (1-2)
District:	Stonehouse
Zoning:	A-1, General Agricultural
Permit Terms:	N/A
Further Conditions:	None.

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6. Case No. CUP-29-80 - Conditional Use Permit - Mr. Ben TaylorR E S O L U T I O NCONDITIONAL USE PERMIT

WHEREAS, it is understood that all conditions for consideration of an application for a Conditional Use Permit have been met;

THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County that a Conditional Use Permit be granted for the placement of a mobile home on property owned and developed by the applicant as described below and as detailed in the attached application and site location:

Applicant:	Mr. Ben Taylor
Tax Map ID:	(31-3) (1-41)
District:	Powhatan
Zoning:	A-1, General Agricultural
Permit Terms:	N/A
Further Conditions:	None.

7. Poultry Claim - Mrs. Myrtle BrownR E S O L U T I O NPOULTRY CLAIM

WHEREAS, the poultry claim of Ms. Myrtle Brown has been investigated and found to be valid; and

WHEREAS, the value of the poultry destroyed has been estimated to be:

5 ducks at \$5.00 each = \$25.00

by the VPI & SU Extension Agent;

THEREFORE, BE IT RESOLVED that the Board of Supervisors hereby reimburses Ms. Myrtle Brown \$25.00 for poultry destroyed.

8. Poultry Claim - Mr. Robert E. GilleyR E S O L U T I O NPOULTRY CLAIM

WHEREAS, the poultry claim of Mr. Robert Gilley has been investigated and found to be valid; and

WHEREAS, the value of the poultry destroyed has been estimated to be:

1 goose at \$7.50 = \$ 7.50

by the VPI & SU Extension Agent;

THEREFORE, BE IT RESOLVED that the Board of Supervisors hereby reimburses Mr. Robert Gilley \$7.50 for poultry destroyed.

Mr. Taylor felt that a reimbursement of \$200 for a 100 pound calf was an inaccurate assessment.

After a brief discussion, the livestock claim was approved for \$100.00 instead of \$200.00

R E S O L U T I O N

LIVESTOCK CLAIM

WHEREAS, the livestock claim of Mr. J. H. Wenger has been investigated and found to be valid; and

WHEREAS, the value of the livestock destroyed has been estimated to be:

1 calf at \$100.00 = \$100.00

by the VPI & SU Extension Agent;

THEREFORE, BE IT RESOLVED that the Board of Supervisors hereby reimburses Mr. J. H. Wenger \$100.00 for livestock destroyed.

10. Certification of Warrants

R E S O L U T I O N

CERTIFICATION OF WARRANTS

WHEREAS, the Board of Supervisors of James City County must certify warrants under the Code of Virginia;

THEREFORE, BE IT RESOLVED, that on a motion made by Mr. Edwards and carried by a majority roll-call vote, the Board of Supervisors of James City County hereby certifies the following warrants for the month of September, 1980:

GENERAL FUND	Checks	11684-11985
	Totalling	\$1,124,179.16
GENERAL FUND PAYROLL	Checks	23590-24074
	Totalling	\$184,366.20
SANITARY DISTRICT NO. 1	Check	96
	Totalling	\$2,102.95
SANITARY DISTRICT NO. 2	Checks	191-198
	Totalling	\$1,755.34
SANITARY DISTRICT NO. 3	Check	1139
	Totalling	\$42,549.90
SUBDIVISION ESCROW		-0-
COMMUNITY DEVELOPMENT	Checks	199-227
	Totalling	\$144,885.88
REVENUE SHARING	Checks	681-683
	Totalling	\$67,832.04
JCC BOND SINKING FUND		-0-

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11. Sanitary District No. 3 Budget RevisionsR E S O L U T I O N

## SANITARY DISTRICT NUMBER 3 APPROPRIATION

WHEREAS, funds were appropriated on May 12, 1980 to carry out the activities of the Sanitary District Number 3 FY 81 Proposed Budget, and

WHEREAS, the assets and liabilities of the District were transferred to the James City Service Authority on August 18, 1980, with the issuance of \$2,120,000 in Revenue Bonds,

NOW, THEREFORE, BE IT RESOLVED, by the Board of Supervisors of James City County that the 1981 appropriations for Sanitary District Number 3 are reduced to:

REVENUES	\$41,660
EXPENDITURES	\$41,660

Mr. Oliver presented this matter to the Board requesting that they adopt a resolution to appropriate \$10,350 in funds to conduct a Vehicle Management Study.

Mr. DePue moved to adopt the resolution. The motion carried by a unanimous roll call vote.

R E S O L U T I O N

## Vehicle Management Program

WHEREAS, James City County has been awarded a grant in the amount of \$10,000 from the State Office of Energy and Emergency Services in order to conduct a study of County vehicle operating policies; and,

WHEREAS, the grant requires a local match of \$350 which is available within the grant match account;

NOW, THEREFORE, BE IT RESOLVED that \$10,350 is appropriated within the general fund for the purposes of conducting a vehicle management study.

2. Williamsburg Water System Connections

Mr. Oliver presented this item to the Board requesting that a resolution be adopted to approve the request of Beamer construction Corporation to connect Lot 13A and 13B to the City of Williamsburg's Water System.

Mr. Bartlett asked if the county's approval is a precondition for city application.

Mr. Wayland Bass, Director of Public Works answered that it is a precondition for the city's approval.

Mr. DePue moved to adopt the resolution. The motion carried by a unanimous roll call vote.

RESOLUTIONCONNECTIONS TO THE WILLIAMSBURG WATER SYSTEM

WHEREAS, the Beamer Construction Corporation owns Lot 13-A and Lot 13-B on Jamestown Road at its intersection with Spring Road; and

WHEREAS, a County water system is not available to serve these lots;

THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County hereby approves the request of Beamer Construction Corporation to obtain water for Lots 13-A and 13-B from the City of Williamsburg.

3. Full-Time Clerk Typist Position - Sheriff's Department

Ms. Darlene L. Burcham, Assistant to the Administrator, presented this item to the Board of Supervisors stating that due to the ever increasing backlog of clerical work, the Sheriff's Department is requesting that the part-time clerk typist position become a full-time clerk typist position.

After a brief discussion, at Mr. DePue's request, the Board elected to defer the item to the Board of Supervisors' next meeting.

4. Ware Creek Reservoir - Environmental and Engineering Studies

Mr. David Clark, Utility Operations Engineer, presented this matter to the Board and stated that the county received 12 proposals to perform the engineering work for the Ware Creek Reservoir, five firms were interviewed and Buchart-Horn was recommended for the engineering contract. The purpose of the resolution is to authorize the County Administration to execute an agreement between Buchart-Horn, Inc. for the environmental and engineering work for the Ware Creek Reservoir. He stated that \$120,000 for utility development is appropriated in the FY81 Capital Improvement Program to fund the work, which includes a \$55,000 grant from the Coastal Plains Resources Commission. Mr. Clark requested the Board of Supervisors to adopt the resolution.

Mr. DePue moved to amend the resolution to accept the bid of the second choice, the firms G. H. Johnson and Associates of Williamsburg and Henningson, Durham and Richardson. He commented that since they were a local firm and had completed the county's water plan, they should be reconsidered.

Mr. Oliver stated that Buchart-Horn, Inc. is also a local firm and is located at the Busch Corporate Center. Mr. Oliver said that G. H. Johnson and Associates is affiliated with another firm on this proposal which is also employed by the Chesapeake Corporation, the major landholder in the Ware Creek Reservoir. He added that even though Henningson, Durham and Richardson is an outstanding firm, their major office is located in Charlotte, North Carolina, with a branch office in Norfolk, and the distance caused some problems. Mr. Oliver also pointed out that the Buchart-Horn proposal was less costly. Therefore, he requested that the resolution be adopted as written.

Mr. DePue withdrew his motion based upon the concerns expressed by Mr. Oliver, County Administrator.

Mr. Bartlett moved to adopt the resolution. The motion carried by a unanimous roll call vote.

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R E S O L U T I O NWARE CREEK RESERVOIR

WHEREAS, the County Water Plan indicates that a surface water reservoir is necessary in the Ware Creek water shed;

THEREFORE, BE IT RESOLVED that the County Administrator is hereby authorized to execute an agreement with the engineering firm of Buchart-Horn, Inc., for the environmental assessment and preliminary engineering study of the Ware Creek Reservoir;

BE IT FURTHER RESOLVED that funds are hereby appropriated from the FY 81 Capital Improvements Program for utility development as follows:

Engineering Contracts	\$ 93,790.00
U. S. Geological Survey - Stream Gaging	2,700.00
Soil Borings and Analysis	15,000.00
Contingency	<u>8,510.00</u>
	\$120,000.00

G. MATTERS OF SPECIAL PRIVILEGE

1. School Contract

Mr. Edwards presented this item to the Board explaining that the city and county have been operating under a very difficult financial contract over the years and in recent weeks, he has met with the county staff, City of Williamsburg and the School Board to revise the contract. He stated that in past years it has been a very complicated budget-making and bookkeeping procedure because funding was on a per pupil basis for some items and a 50-50 basis for others, which did not allow shifting of funds to be easily done.

Mr. Edwards stated that the new formula is based on tax base and pupil population that allows the School Board to utilize funds more effectively and provides for decreases in school board membership for a locality if the percentage of appropriation drops below 25%. He also said he thought the formula attempted to put the school contract on a more logical funding basis - ability to pay (tax base) and numbers of students. He said that the county's percentage of school cost will go up.

Mr. Edwards asked that the Board of Supervisors adopt the resolution amending the school contract.

Mr. Taylor asked how much the county will be paying under the new formula.

Mr. Edwards estimated that it will cost the county \$72,000 based on a 1% difference in tax base.

Mr. Taylor expressed the opinion he did not feel the new amendment was an improvement, and therefore he was opposed to the change.

Further discussion followed. Mr. Edwards indicated he thought the amendments were good and should not be tied to annexation.

Mr. Edwards moved to adopt the resolutions. The motion carried by a 4 to 1 roll call vote. Mr. Taylor voted against the motion.

RESOLUTIONS (4)

Amended And Restated Contract For  
The Joint Operation Of Schools  
City Of Williamsburg And County Of James City

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WHEREAS, the Board of Supervisors, by resolution adopted February 26, 1979, adopted that certain document entitled "Amended and Restated Contract for the Joint Operation of Schools of the City of Williamsburg and County of James City".

WHEREAS, it is the desire of the said Board to make certain revisions to that amendment.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of James City County hereby adopts that document entitled "Amended and Restated Contract for the Joint Operation of Schools of the City of Williamsburg and County of James City", dated October 9, 1980.

AMENDED AND RESTATED CONTRACT FOR  
 THE JOINT OPERATION OF SCHOOLS  
 CITY OF WILLIAMSBURG AND COUNTY OF JAMES CITY

WHEREAS, the City of Williamsburg and the County of James City have since July 1, 1955, operated a consolidated school system pursuant to a certain Contract between the parties dated January 14, 1954, and amendments thereto dated June 16, 1955, August 8, 1963, June 6, 1965, October 11, 1965, July 10, 1969, and which Contract has been further amended by document entitled "School Board Voting Procedure Amendment" adopted by the James City County Board of Supervisors on September 25, 1978; by the City Council of the City of Williamsburg on October 12, 1978; and by the School Boards of both jurisdictions; and which Contract has also been amended by resolution adopted by the James City County Board of Supervisors on April 28, 1980; by the City Council of the City of Williamsburg on May 8, 1980; and by the School Boards of both jurisdictions; which last mentioned amendment pertains to the method of funding school operations, and by its terms is effective only from July 1, 1980 until June 30, 1981; and

WHEREAS, the parties will soon adopt a further amendment to said Contract which amendment will significantly change the method of determining each jurisdiction's financial contribution to the joint school operation and the method of allocation of such contributions, as well as the method of fixing school board representation of each jurisdiction; and

WHEREAS, said amendment will provide for the continued application of all previous contract provisions now in force which are not inconsistent therewith, and will further provide for revision to all prior contract provisions effective in the 1979-1980 fiscal year in event of annexation; and

WHEREAS, the parties wish to restate the contract as it now exists so as to delete all material contained therein which is no longer relevant and to combine all presently effective provisions in one document so as to reduce the probability of future confusion;

NOW, THEREFORE, THIS AGREEMENT, made this 9th day of October, 1980, by and between the COUNTY SCHOOL BOARD OF JAMES CITY COUNTY, VIRGINIA, and the COUNTY OF JAMES CITY, VIRGINIA, parties of the first part, hereinafter known as "County" and the SCHOOL BOARD OF THE CITY OF WILLIAMSBURG, VIRGINIA, and the CITY OF WILLIAMSBURG, VIRGINIA, parties of the second part, hereinafter known as "City".

WITNESSETH: That in consideration of the mutual promises of each of the parties to the other, it is understood and agreed as follows:

I. OWNERSHIP OF SCHOOLS

A. The two School Boards hold joint title to the following schools: Matthew Whaley School, Bruton Heights School, Rawls Byrd School, Berkeley School, Norge Elementary School, James Blair School and Lafayette High School.

B. Each of the said School Boards shall hold joint title to any other schools constructed under this Agreement regardless of the amount which may be expended by either party for additional construction or replacement as provided in Section IV and V of this Agreement.

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## II. DURATION OF THIS AGREEMENT

### A. This Agreement shall remain in full force and effect until:

#### 1. It is terminated by mutual agreement of the parties, or

2. Terminated by unilateral election to terminate either party, provided that both the School Board and the Governing Body of the jurisdiction desiring to terminate concur in such action. Such right of election may be exercised by said party at any time by filing a Petition in the Circuit Court for the City of Williamsburg and the County of James City, upon which the Court shall fix an appropriate time for the termination of said agreement, such termination to take place not less than one year nor more than three years after the filing of said Petition, and distribute the assets then jointly held by the parties as the equities may dictate. Such distribution shall be predicated upon the assumption that the contributions of the parties were equal at the inception of the joint school operation, and shall give credit to each party for funds thereafter provided for school construction, regardless of whether the funds provided by such party became available to it from local, state, federal or other sources. To the extent that distribution in kind of the assets then jointly held might not be practicable, the Court may require either the County or City to pay money, either immediately or over a period of time, as the equities may dictate.

## III. ADMINISTRATION

A. The administration of the public schools operated under this Agreement in the City and County shall be vested in the School Board of the City of Williamsburg and the School Board of James City County, and all matters pertaining to the operation of schools under this Agreement shall be determined at joint meetings of the School Boards. Decisions shall be made by majority of all members present and voting except that decisions relating to (a) hiring and retention of the superintendent, (b) location of new school facilities, and (c) appropriation of funds for or relating to the renovation of jointly owned capital facilities involving the hiring of an architect and/or the preparation of a feasibility report shall require a majority of those present and voting on the City Board and a majority of those present and voting on the County Board.

B. Each Board shall have the same number of members.

C. In the event that provision is made by law for the establishment of one School Board for both the City and County, there shall be equal representation of the City and County and the members present representing the City and County shall vote as above provided. Any provision herein which requires a majority of both Boards shall be construed to mean a majority of those representing the County and a majority of those representing the City.

D. A majority of the members of each Board must be present in order to constitute a quorum for any meeting.

## IV. ADDITIONAL CONSTRUCTION

A. The costs of additional construction (including the cost of land, furniture, equipment, architects' fees, additions to existing buildings and new buildings), hereafter authorized and approved by the School Boards of the City and County shall be borne by the City in that proportion that the number of pupils from the City bears to the total membership of the entire school system and by the County in that proportion that the number of pupils from the County bears to the total membership of the entire school system, both as determined by the actual membership as of December 1 of the year preceding that in which such construction is authorized and approved by the School Boards of the City and County. For the purposes of this paragraph "total membership" shall mean the total number of pupils attending from the City and County and shall not include pupils enrolled from other jurisdictions.

For example, if new school construction is authorized and approved by the School Boards on July 1, 1966, and the school membership of December 1, 1965, shows a total membership from the City and County of 4,000 pupils, 1,000 of whom reside in the City and 3,000 of whom reside in the County, the City's share of construction costs will be 25 percent and the County's share will be 75 percent.

B. No construction shall be authorized other than at the sites of James Blair, Matthew Whaley, Bruton Heights, Berkeley and Rawls Byrd Schools unless such additional construction be authorized by both School Boards approved by the governing bodies of the City and County.

#### V. COSTS SHARED EQUALLY

The following annual costs of the school system shall be borne equally by the City and County:

A. ADMINISTRATION. (Except compensation for the members of the School Boards which shall be borne by each of the respective jurisdictions.)

B. COORDINATE ACTIVITIES

C. OPERATION OF SCHOOL PLANTS.

D. MAINTENANCE OF SCHOOL PLANTS.

E. FIXED CHARGES.

F. CAPITAL OUTLAY. (Except for additional school buses and other costs in this category which are to be shared as set forth in Article IV above.)

#### VI. COSTS SHARED ON PER PUPIL BASIS

The following annual costs of the school system shall be borne on a per pupil basis with the share of each jurisdiction being determined in the manner herein provided for determining the share of costs of additional construction as set forth in Article IV above.

A. INSTRUCTION.

B. OTHER INSTRUCTIONAL COSTS.

C. OTHER AUXILIARY AGENCIES. (Cafeterias, except for the salary and transportation costs of the cafeteria supervisor which shall be shared equally.)

#### VII. DEFINITIONS AND OTHER PROVISIONS

A. The total costs of all of the schools shall be compared with the total membership of all the schools in allocating between City and County the sharing costs set forth in Article IV and Article VI above.

B. The categories set forth in Article V, Paragraphs A through F, inclusive, and in Article VI, Paragraphs A through C, inclusive, are as set forth in Virginia State Board of Education, Form S-2, 6-1-64, entitled, DISBURSEMENTS, Sheet No. 2 and Sheet No. 3, copies of which are hereto attached as Exhibit "A" and incorporated herein and hereby made a part of this document.

#### VIII. TRANSPORTATION

The County agrees that it will provide at its own cost and expense an adequate transportation system to transport all County pupils to the several schools and, in addition, will transport such pupils of the City as shall be directed by the City School Board and the City School Board shall have the right to designate reasonable points within the City of Williamsburg where such pupils are to be loaded and unloaded. The City agrees to pay the reasonable cost incurred by the County in transporting pupils who are residents of the City, it being contemplated that the County is to be reimbursed for its reasonable costs taking into consideration the number of pupils transported and the number of miles traveled. The amount to be paid by the City shall be determined by vote of the joint School Boards as provided in Section III and the decision of said School Boards shall be final.

#### IX. INCOME DERIVED FROM USE OF SCHOOL PROPERTY

Any income derived from the use of schools or school property shall be divided equally.

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## X. SCHOOL OFFERINGS OR STANDARDS

A. The high schools shall provide a balanced type of program frequently referred to in Virginia as the "Comprehensive High School". This program shall be of such quality as to be accredited by the Southern Association of Colleges and Secondary Schools.

B. The elementary schools shall provide a modern type of program with qualified teachers, shall have classes of reasonable size, shall have instruction in the fields of music, fine arts and industrial arts, and physical and health education.

C. The offerings and quality of instruction are to be comparable to the offerings and instruction of other communities in the State similar in size which are recognized by the State Department of Education as providing a good educational program. Any changes in quality or standards of work from those previously existing in Williamsburg shall be toward an improved level rather than a lower standard of education.

## XI. OTHER SCHOOLS

Each of the parties hereby agrees that all of the publicly educated pupils will attend consolidated schools operated under this Agreement unless a majority of both School Boards agree that other arrangements may be made for the education of said children.

## XII. ENFORCEMENT OF THIS AGREEMENT

In the event either City or County shall fail to abide by any decision of the School Boards or fail in any way to comply with this Agreement, the other party may have, in addition to any other remedies at Law or Equity, the right to obtain an injunction against the use of the schools by the party in default upon such terms as the Court may prescribe.

## XIII. CITY AND COUNTY CONTRIBUTIONS FOR FISCAL YEAR JULY 1, 1980-June 30, 1981

Notwithstanding the provisions of Articles IV, V, VI and VIII above, the following provisions shall govern City/County financial contributions for fiscal year commencing July 1, 1980 through June 30, 1981 at which time the provisions of Articles IV, V, VI and VIII shall again govern.

A. That for the year July 1, 1980 to June 30, 1981, the City of Williamsburg shall, on or before May 15, 1980, agree to contribute for the operation of the consolidated school system local funds in the amount of \$2,005,000, and the County of James City shall, on or before May 15, 1980, agree to contribute for the operation of the consolidated school system local funds in the amount of \$5,260,000.

B. Notwithstanding any other provision of the Contract dated January 14, 1954, as amended, for the year commencing July 1, 1980, and ending June 30, 1981, the School Board of the City and County shall determine in their sole judgment, without reference to said Contract, how the contributions set forth in paragraph A above shall be expended.

C. It is specifically agreed that the funding of the renovation of Matthew Whaley having previously been agreed upon is not a part of this amendment and shall be funded on a 50-50 basis.

R E S O L U T I O N

Joint Resolution To Amend The Restated Contract,  
For The Joint Operation Of Schools,  
City Of Williamsburg And County Of James City.

WHEREAS, it is the desire of the City of Williamsburg and the County of James City to make certain revisions to the "Amended and Restated Contract For The Joint Operation Of Schools For The City Of Williamsburg And County Of James City", adopted by this Board on October 9, 1980.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of James City County hereby adopts that certain resolution entitled "Joint Resolution To Amend The Restated Contract For The Joint Operation Of Schools, City Of Williamsburg And County Of James City", dated the 9th day of October, 1980.

BE IT FURTHER RESOLVED, that this amendment shall become effective at such time as the 1981 session of the General Assembly acts favorably on the City of Williamsburg's proposed amendment to their Charter, Section 9, which amendment would permit the City Council to appoint no more than five nor less than two members to the Joint School Board.

### RESOLUTION

Joint Resolution To Amend The Restated Contract,  
For The Joint Operation Of Schools,  
City of Williamsburg and County Of James City.

WHEREAS, the City of Williamsburg and County of James City have operated a consolidated school system since July 1, 1955, pursuant to a certain contract, between the parties and their respective School Boards dated January 1, 1954, as amended; and,

WHEREAS, the parties hereto have adopted an Amended and Restated Contract For The Joint Operation Of Schools City Of Williamsburg And County Of James City hereinafter referred to as Contract, which contract embodies the 1954 contract and amendments thereto in a single document; and,

WHEREAS, it is the desire of all parties to amend said Contract effective July 1, 1981;

NOW, THEREFORE, BE IT RESOLVED, that this amendment dated the 9th day of October, 1980 by the Council of the City of Williamsburg, the Board of Supervisors of James City County, and the respective School Boards of the City and the County that the Contract for operation of the consolidated school system dated January 14, 1954, as amended, shall be amended effective July 1, 1981 to read as follows:

1. Revenue, Expenditures, Surplus. Notwithstanding any existing provision of the Contract, any and all revenue/income shall be treated as revenues of the joint school system without regard to the local jurisdiction attributed to such revenues or contributing such revenues. Notwithstanding any existing provision of the Contract any and all expenditures, excluding debt service and compensation to School Board members, shall be made by the School Boards as they deem in the best interests of the school system; should a surplus of funds exist at the end of the fiscal year, such surplus shall be returned to the City and County in the same proportion to their local contributions for that fiscal year.

2. Local Contribution Formula. The annual contributions of the City and the County shall be determined on the basis of the following formula:

Percentage of students plus percentage of tax base, divided by two, equals percentage of school obligations.

$$\frac{\text{percentage of students} + \text{percentage of tax base}}{2} = \text{percentage of school obligations}$$

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The "percentage of students" shall be the average daily enrollment as of December 1. "Average daily enrollment" shall mean the sum of the total number of students enrolled on each day for the months of September, October and November of the current fiscal year divided by the sum of the number of days contained in such months.

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The "percentage of tax base" for a jurisdiction shall be computed as follows:

Real property tax base plus sales tax base divided by the sum of the combined real property tax base for the City and County and the combined sales tax base in the City and County.

Real property tax base	+	Sales tax base
Real property tax base in City and County combined.	+	Sales tax base in City and County combined.

The "real property tax base" (real estate + public service corporations) shall be established on September 1 of each year and shall be based on the most recent publication prior to the budget year under consideration of the "Virginia Assessment/Sales Ratio Study" published by the Virginia Department of Taxation.

The "sales tax base" shall be based on the local share of the Virginia Retail Sales Tax revenue (1%) actually received in the last fiscal year for which results [collection] are available on September 1, multiplied by 100.

3. School Board Representatives. Upon adoption of this agreement by the parties hereto, the School Board shall sit as a single Board to be called the Williamsburg - James City County School Board, and decisions shall be made by majority of all members present and voting; provided however, that decisions relating to the hiring and/or retention of the superintendent shall require a majority of those present and voting of the City's representatives, and a majority of those present and voting of the County's representatives.

Beginning January 1, 1984, the City and County shall have the following representation on their School Boards:

<u>If Jurisdiction Pays:</u>	<u>Representation</u>
25% or more of local funds	5 members
At least 20% but less than 25%	4 members
At least 15% but less than 20%	3 members
Less than 15%	2 members

No incumbent member of a School Board shall lose his term or any portion thereof by virtue of the jurisdiction's representation falling below five; however, the representation shall be properly adjusted at the earliest expiration of an incumbent's term. If prior to the expiration of such incumbent's term, the jurisdiction's contribution percentage increases so as to justify its current or a higher level of representation as set forth above, the jurisdiction shall maintain its current level or increase its representation to reflect the current contribution.

Annexation or Boundary Adjustment. This Resolution of amendment shall become null and void as of the fiscal year following any year in which an annexation or boundary adjustment decree between the parties becomes final; for purposes of establishing the local funding for the years subsequent to such a decree, the operation of the school system shall be determined according to the Contract, as amended, for the Joint Operation of Schools in effect for the 1979-80 fiscal year; provided however that in the event such a decree is entered, the parties shall initiate negotiations within 30 days to make such amendments to this agreement as are necessary to reach an equitable formula.

All other provisions of the existing Contract with amendments thereto not in conflict with this agreement are hereby continued in full force and effect.

H. REPORTS FROM THE COUNTY ADMINISTRATOR

Mr. Oliver informed the Board of Supervisors of Mr. William F. Brown's resignation from the Local Celebrations for the Yorktown Bicentennial, and requested that Fred Dolan, Fire Inspector, be considered to fill the position if the Board so desires.

Mr. Edwards asked if that was an indefinite appointment.

Mr. Oliver answered that it is an indefinite appointment.

Mr. Taylor moved to have Mr. Dolan replace Mr. Brown's position on the Local Celebrations for the Yorktown Bicentennial. The motion carried by a unanimous roll call vote.

There being no further business, Mr. Edwards moved to adjourn.

The meeting ADJOURNED at 10:15 P.M.

James B. Oliver, Jr.  
Clerk to the Board

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