

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

A. ROLL CALL

Present:

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

Absent:

Perry M. DePue, Powhatan District (in the hospital)

Present:

John E. McDonald, Assistant to the County Administrator
 Frank M. Morton, III, County Attorney

B. MINUTES

Mr. Frink moved for the approval of the Minutes of the November 24, 1980 meeting. The motion carried by a unanimous roll call vote.

C. PRESENTATION

1. Sand Hill Subdivision - Water

Mr. Robert M. Murphy, Assistant to the County Administrator, addressed the Board on this matter. He stated that for the past several months the staff has been working with the residents of the Sand Hill area, the Williamsburg Health Department and the State Water Control Board to find a solution to the contamination of shallow wells in the neighborhood. He said that after the State Water Control Board concluded that the wells are contaminated because waste is infiltrating from the septic tank into the wells, the staff employed the consulting firm of Dvorak, Mathews, Inc. to analyze the problem. Mr. Murphy turned the presentation over to Dr. Mathews.

Dr. Harold L. Mathews explained the findings of their study. He stated that some wells in the Sand Hill Subdivision area had not been grouted or sealed properly which allowed the wells to become contaminated by surface runoff. As a result of their findings, Dr. Mathews recommended that the Board of Supervisors adopt an ordinance to control the drilling of shallow wells to insure that drilling techniques and design criteria are followed.

Dr. Gordon Bell of the Williamsburg Health Department asked the Board to endorse the consulting firm's recommendation that wells be drilled in a proper manner to eliminate the danger of water contamination in the County.

Mr. Murphy concluded the presentation of the Sand Hill Subdivision water problem outlining the four possible solutions listed below:

1. Extend water line from Owens-Illinois.
2. Establish a community well system.
3. Drill wells allowing four families to connect to each well
4. Drill individual deep wells.

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Mr. Murphy stated that the staff rejected the first two alternatives due to the estimated high costs to residents of the area, and will recommend Alternative Number 3 to residents of Sand Hill. He asked the Board to allow the staff to draft an ordinance setting forth standards for drilling wells.

A discussion followed concerning the legality of a well ordinance being developed and implemented. Dr. Mathews said that Fairfax County has developed a well ordinance.

Mr. Taylor stated that he objected to the staff drafting an ordinance because it would place an undue hardship on developers to build and sell homes.

Mr. McDonald commented that shallow water aquifers are gradually disappearing as options for a water system; therefore, the staff would like the Board to allow the staff to draft a well ordinance to closely monitor the drilling of shallow wells to avoid future water contamination in Sand Hill and other areas of the County.

Mr. Frink suggested that the Board allow the staff to proceed with a draft well ordinance for their consideration.

Mr. Taylor commented that he did not feel it appropriate for the staff to decide to reject Alternative Number 1 to extend a County water line from Toano to Sand Hill Subdivision to control development in the upper end of the County.

There being no further comments, the Board agreed to allow the staff to draft an ordinance to control the drilling of shallow wells.

D. PUBLIC HEARINGS

1. Vacation of Plat - Mr. Everette H. Newman, III
An ordinance to vacate a portion of that certain plat entitled, "Subdivision Plat, First Colony, Section 3, Owned By: First Land Corporation, Jamestown District, James City County, Virginia; and more particularly described as the common lot line dividing lot 98 and 99.

Mr. Frank M. Morton, III, County Attorney, presented this matter to the Board and asked that they adopt the ordinance.

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

Mr. Bartlett moved to adopt the ordinance. The motion carried by a 4-0 roll call vote.

ORDINANCE NO. 142

AN ORDINANCE TO VACATE A PORTION OF THAT CERTAIN PLAT ENTITLED, "SUBDIVISION PLAT, FIRST COLONY, SECTION 3, OWNED BY: FIRST LAND CORPORATION, JAMESTOWN DISTRICT, JAMES CITY COUNTY, VIRGINIA".

WHEREAS, application has been made by Mr. Everette H. Newman, III, owner of lot 98 and 99 to vacate the common lot line dividing lot 98 and 99, as more particularly described below; and

WHEREAS, notice that the Board of Supervisors of James City County would consider such application has been given pursuant to Section 15.1-482 and Section 15.1-431 of the Code of Virginia, 1950, as amended; and

WHEREAS, the Board of Supervisors did consider such application on the 8th day of December, 1980, pursuant to such notice and were of the opinion that such vacation would not result in any inconvenience and is in the interest of the public welfare;

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of James City County, Virginia:

1. That the common lot line dividing lots 98 and 99 as shown on that certain plat entitled, "Subdivision Plat, First Colony, Section 3, Owned by: First Land Corporation, Jamestown District, James City County, Virginia", dated June 29, 1963 and prepared by S. V. Camp III and Associates, and recorded in Plat Book 21, Page 9, in the Clerk's Office of the Courthouse for Williamsburg-James City County be and the same is hereby vacated.
2. That a new plat entitled, "Remainder of Lot 98, First Colony, Section 3, Jamestown District, James City County, Virginia, prepared by James K. Alvis, Jr., Land Surveyor, and dated August 6, 1980, which plat reflects a revised property line dividing lots 98 and 99, be put to record in the Clerk's Office of the Courthouse for Williamsburg-James City County, Virginia.

This ordinance shall be in full force and effect from the date of its adoption.

2. Disposition of Property - A public hearing to receive public comments on the disposal of that certain parcel of property described in Deed Book 24, Page 18 consisting of approximately one-half acre located on Diascund Creek, situated on the southwest boundary of property owned by M. E. and Glen D. Hazelwood.

Mr. Frank D. Morton, III, County Attorney, presented this to the Board. He explained that in 1927 James City County acquired property located on Diascund Creek owned by M. R. and Glen D. Hazelwood. He said that the staff has viewed the property and do not anticipate that it would be used by the County. Mr. Morton further stated that the Hazelwoods are interested in buying the property, which the Real Estate Assessor has valued at \$1,000. He asked the Board to sell the property to the Hazelwoods as a private sale, if their were no adverse comments during the public hearing.

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

Mr. Taylor moved to approve the private sale of the property to the Hazelwoods for \$1,000. The motion carried by a 4-0 roll call vote.

3. Cable Communications Ordinance - Amendment
An ordinance to amend Section 4-86.1.18 System Description and Service, Paragraph D. The amendment changes the current requirement for seven two-way channels to four two-way channels.

Mr. Allen A. Turnbull, Administrative Analyst, presented this matter to the Board. He explained that the Cable Communications Advisory Committee feels that four two-way channels would be more adequate for the County, therefore, he requested that the Board adopt this change, adding that all four proposals received by the County include provisions for four two-way channels.

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

Mr. Bartlett moved to approve the ordinance change. The motion carried by a 4-0 roll call vote.

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Section 4-36.1.18. System Description and Service

(a) Applications for a franchise may include proposals for the provision of public, education, local government, and leased access channels limited not only to video, but also including audio, FM, and data channels. Such proposals by a Grantee may be incorporated into the Franchise Certificate granted and, to the extent so incorporated, shall subject the Grantee to the following minimum requirements:

1. The Grantee shall have available a studio and equipment located within the County for local production and presentation of cablecast programs other than automated services and permit its use for the production and presentation of public access programs. This studio and equipment shall be operational no later than six months after the first subscribers begin receiving cablecasting. The Grantee shall not enter into any contract, arrangement, or lease for use of its cablecast equipment which prevents or inhibits the use of such equipment for a substantial portion of time for public access programming.
2. The grantee shall have no control over the content of access cablecast programs; however, this limitation shall not prevent taking appropriate steps to insure compliance with the operating rules described herein.
3. The public access channel(s) shall be made available to residents of the County on a nondiscriminatory basis, free of charge. Charges for equipment, personnel, and production of public access programming shall be reasonable and consistent with the goal of affording users a low-cost means of television access. No charges shall be made for the production of live public access programs not exceeding five minutes in length, or for the replay of user-supplied tapes which are in a form compatible with the Grantee's playback facilities. The grantee shall adopt operating rules for the public access channel(s), to be filed with the Cable Communications Administrator prior to the activation of the channel(s), designed to prohibit the presentation of: any advertising material designed to promote the sale of commercial products or services (including advertising by or on behalf of candidates for public office); lottery information; and defamatory, obscene or indecent matter, as well as rules requiring nondiscriminatory access, and rules permitting public inspection of a complete record of the names and addresses of all persons or groups requesting access time. Such a record shall be retained for a period of two years.

4. The education access channel(s) shall be made available for the use of local public educational authorities and private non-profit educational telecommunication entities free of charge. The Grantee shall adopt operating rules for the education access channel(s), to be filed with the Cable Communications Administrator prior to activation of the channel(s), designed to prohibit the presentation of: any advertising material designed to promote the sale of commercial products or services (including advertising by or on behalf of candidates for public office); lottery information and defamatory, obscene, or indecent matter, as well as a rule permitting public inspection of a complete record of the names and addresses of all persons or groups requesting access time. Such a record shall be retained for a period of two years.

5. The local government access channel(s) shall be made available for the use of local government authorities free of charge.

6. The leased access channel(s) shall be made available to leased users. Priority shall be given part-time users on at least one channel. The Grantee shall adopt operating rules for the channel(s), to be filed with the Cable Communications Administrator prior to activation of the channel(s), designed to prohibit the presentation of: lottery information, obscene or indecent matter and shall establish rules to this effect; and other rules requiring nondiscriminatory access, sponsorship identification, specifying an appropriate rate schedule and permitting public inspection of a complete record of the names and addresses of all persons or groups requesting time. Such a record shall be retained for a period of two years.

(c) The Grantee shall provide without charge one service outlet activated for regular subscriber service to each fire station, public school, police station, public library, and such buildings used for public purposes as may be designated by the County; provided, however, that if it is necessary to extend a Grantee's trunk or feeder lines more than three hundred (300) feet solely to provide service to any such school or public building, the County shall have the option either of paying the Grantee's direct costs for such extension in excess of three hundred (300) feet, or of releasing the Grantee from the obligation to provide service to such building. Furthermore, a Grantee shall be permitted to recover, from any public building owner entitled to free service, the Grantee's actual cost for any additional converters required and the direct cost of

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installing, when requested to do so, more than one outlet, or concealed inside wiring, or a service outlet requiring more than two hundred-fifty (250) feet of drop cable; provided, however, that the Grantee shall not charge for the provision of regular subscriber service to the additional service outlets so installed in public schools, police stations, fire stations, public libraries, and County offices in addition to any such other facilities as are specified in the Grantee's Franchise Certificate.

(d) The system shall be capable of two-way communication as defined by Article 2, Section 4-86.1.3-1 on at least four (4) channels.

(e) The Grantee shall incorporate into its cable communications system the capability which will permit the County in times of emergency to override the audio portion of all channels simultaneously. The Grantee shall designate a channel which will be used for emergency broadcasts of both audio and video. The Grantee shall cooperate with the County in the use and operation of the emergency alert override system.

4. CASE NO. SUP-9-80. Consideration of an application of Mr. E. H. Saunders for a Special User Permit to allow the construction of a nine unit motel and a coin laundry in the A-2, Limited Agriculture District.

Mr. William C. Porter, Jr., Director of Planning, presented this matter before the Board. He explained that the property is located on Route 5, west of the intersection of Route 615. He said that the Planning Commission voted to recommend approval of the case at their October 28th meeting based on the following conditions:

1. Uses be limited to those existing uses on the property of the campground and motel; the proposed motel expansion and coin laundry; and those other uses generally permitted in the A-2, Limited Agriculture District.
2. The motel and laundry be developed using the standards contained in the B-1, General Business District, including, but not limited to, setbacks and landscaping.
3. The motel and laundry be connected to public sewer.
4. The motel expansion and laundry use the existing access points onto Route 5, and no new entrances be developed.

Mr. Porter added that concern was expressed about any further development of motels along Route 5, however, since it is a small expansion to an existing facility, he asked the Board to approve the Special Use Permit application based upon the conditions set forth in the staff memorandum.

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

Mr. Bartlett moved to approve the Special Use Permit application with the conditions set forth by the Planning Commission. The motion carried by a 4-0 roll call vote.

5. CASE NO. Z-9-80 and SUP-8-80 - Consideration of applications of Mr. Paul N. Carrithers on behalf of Paul N. Carrithers, Inc. to rezone approximately three acres from A-1, General Agriculture, to B-1, General Business; and for a Special User Permit to permit the assembly, manufacture and sale of brass and other metal goods.

Mr. William C. Porter, Jr., Director of Planning, addressed the Board on this matter. He explained that at their October 28, 1980 meeting, the Planning Commission recommended approval of the rezoning application based upon the Comprehensive Plan and the fact that the area has already been developed into commercial uses under the less restrictive agricultural district. He asked the Board to approve the rezoning application and the Special Use Permit based on the conditions set forth in the staff's memorandum by the Planning Commission.

Mr. Edwards opened the public hearing.

Mr. Paul N. Carrithers, applicant, commented that he would like to expound on two issues. He said that the total parcel is 3.22 acres instead of the 2.25 acres as mentioned by Mr. Porter. The second was his request to extend the 18 month period to 24 months to begin construction because of the present high interest rates. Mr. Carrithers added that there will be several additional shops built that were not on the initial plans.

Mr. Edwards closed the public hearing.

A discussion ensued between the Board members, Mr. Porter, and Mr. Walter J. Scruggs, in regard to the Board approving the Special Use Permit with the additional shops Mr. Carrithers mentioned.

Based on the new information, Mr. Frink moved to defer the case until the staff has a chance to investigate the new information. The motion was defeated by a 2-2 roll call vote.

Mr. Scruggs, Chairman of the Planning Commission, said that he did not foresee any problems with the additional shops mentioned by Mr. Carrithers, adding that a site plan application would have to be filed and approved also.

There being no further discussion, Mr. Bartlett moved to approve the rezoning application based on the conditions set forth by the Planning Commission. The motion carried by a 4-0 roll call vote.

Mr. Bartlett moved to approve the Special Use Permit based on the conditions set forth by the Planning Commission. The motion carried by a 4-0 roll call vote.

E. CONSENT CALENDAR

Mr. Edwards read the items on the Consent Calendar and moved for their approval unless any Board member wished to remove any of the items.

Mr. John E. McDonald, Assistant to the County Administrator, asked that Item No. 5 be deleted from the Consent Calendar. There being no objections, the following items were approved:

1. Setting Public Hearing Date - Sanitary District Number 2

A public hearing was set on this item for January 12, 1981.

2. Setting Public Hearing Date - Case No. Z-10-80
James Newman - TK Oriental Arts, Inc.

A public hearing date was set on this item for January 12, 1981.

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3. CASE NO. CUP-26-80 - Mr. Joe Shouse
 Conditional Use Permit for Mobile Home

R E S O L U T I O N

CONDITIONAL USE PERMIT

WHEREAS, it is understood that all conditions for the 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 developed by the applicant as described below, and as detailed in the attached application and site location:

Applicant:	Mr. Joe Shouse
Tax Map ID:	(59-2) (1-29)
District:	Roberts
Zoning:	M-2, General Industrial
Permit Terms:	Not to exceed completion date, October 3, 1981.
Further Conditions:	None

4. CASE NO. CUP-38-80 - Mr. Douglas Lang
 Conditional Use Permit for Mobile Home

R E S O L U T I O N

CONDITIONAL USE PERMIT

WHEREAS, it is understood that all conditions for the 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 developed by the applicant as described below, and as detailed in the attached application and site location map:

Applicant:	Mr. Douglas Lang
Tax Map ID:	(9-1) (1-7)
District:	Stonehouse
Zoning:	A-1, General Agriculture
Permit Terms:	N/A
Further Conditions:	None

5. Transfer of Assets of the Carriage Road Water System from James City County to James City Service Authority

This item was deleted.

F. Peninsula Airport Commission

Mr. Robert M. Murphy, Assistant to the County Administrator, presented this matter to the Board. He commented that in the staff's recommendation regarding the Peninsula Airport Commission, the staff considered the fact that Patrick Henry Airport is a valuable asset to the County's continued economic growth, the Airport has a serious financial problem meeting its capital debt requirements; and the Commission has a right to request funding because James City County is one of the participating jurisdictions. Mr. Murphy asked the Board to adopt a resolution authorizing the County Administrator to execute a loan agreement with Peninsula Airport Commission based upon three conditions set forth in the resolution. He added that Mr. Robert White, Executive Director of Patrick Henry Airport, was present to answer any questions.

A discussion followed between the Board members and Mr. White. Mr. Edwards questioned the future of Peninsula Airport Commission as far as meeting their debts.

Mr. White answered that he could only respond in a positive manner as to the future of the Airport.

Mr. McDonald commented that the staff would recommend that the Board make the contribution as an advance against the sale of property owned by the Airport.

Mr. Taylor stated that he would not support the Commission's request at this time, particularly since the budget work session held earlier that evening indicated that James City County may need the money. He added that James City County cannot give everyone a handout.

Mr. Frink stated that he would not feel comfortable supporting the Peninsula Airport Commission's request with the budget process about to begin.

Mr. Bartlett commented that his basic concern is that the County is not a bank, but an entity handling taxpayer's money, and while the Airport benefits County citizens, he would prefer to see a formula developed whereby each jurisdiction's share would be prorated on a usage basis rather than a tax basis.

Mr. Murphy commented that any future loans should be based on the County's usage. He added that usage studies are rather complex and it is too late to start one now to use during this fiscal year.

Mr. Edwards said that his main concern is not whether the Airport is a valuable asset to the County, but whether or not deregulation will make the task extremely difficult. Therefore, he said that he does not see how the County can feel comfortable about granting the Commission's request at this time.

Mr. Edwards suggested that the matter be deferred to the Board's December 22, 1980 meeting with the hope that Mr. DePue would be present to vote on the matter.

There being no further discussion, the Board deferred the Commission's request to their December 22, 1980 meeting.

2. Banking Services - James City County

Mr. John E. McDonald, Assistant to the County Administrator, addressed the Board on this matter. He stated that as a result of the County's banking services study to obtain a contractual agreement with a County bank to maximize the County's investment income and provide professional management, the County Consultant, Management Improvement Corporation of America, recommends that the contract be awarded to United Virginia Bank vs. Old Colony Bank. He asked the Board to adopt a resolution authorizing the staff to accept United Virginia Bank's proposal with the understanding that the services will be resubmitted on a competitive basis every two years. Mr. McDonald added that Mrs. Frances Whitaker, Treasurer, was present to answer any questions.

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Mrs. Whitaker commented that she concurred with the staff's recommendation and the study developed by Management Improvement Corporation of America, adding that it would allow for a more accurate bookkeeping system that will consolidate cash balances and allow automatic pre-authorized cash balances overnight and on weekends.

A brief discussion followed.

Mr. Edwards moved to approve the resolution. The motion carried by a 4-0 roll call vote.

R E S O L U T I O N

BANKING SERVICES

WHEREAS, the Board of Supervisors of James City County seeks to maximize revenues through investment of temporarily idle funds in order to most efficiently manage the cash assets of the County; and

WHEREAS, a program has been developed by the County Treasurer to provide for maximum investment income; and

WHEREAS, the program was offered to both banks with branch offices within the jurisdictional boundaries of James City County so that each might compete in offering services to the County;

NOW, THEREFORE, BE IT RESOLVED, that the Chairman, Assistant to the County Administrator, and the County Treasurer are each hereby authorized to accept the proposal for banking services as submitted by United Virginia Bank and are authorized and directed to execute such agreements as are necessary to implement the contract as set forth in the proposal attached and made part of this resolution; and

BE IT FURTHER RESOLVED that the provisions of such services be resubmitted, on a competitive basis, no later than January 1, 1983 to all eligible banks.

H. MATTERS OF SPECIAL PRIVILEGE

None.

Mr. Edwards asked if anyone in the audience wished to address the Board on any matter. No one chose to speak.

I. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. McDonald asked the Board to consider a late item to be presented by Mr. Murphy.

Community Development Pre-application

Mr. Murphy presented this matter to the Board asking the Board to adopt a resolution authorizing the staff to submit a pre-application for Small Cities Community Development funding which is due in the HUD area office by December 15, 1980. He added that the program will be a three-year program which will provide \$1.5 million for housing rehabilitation throughout the County and public facility improvements in the Grove Community.

A brief discussion followed.

Mr. Frink moved to approve the resolution. The motion carried by a 4-0 roll call vote.

RESOLUTION

A Resolution to Authorize the
Filing of a Small Cities
Community Development Pre-Application

WHEREAS, James City County is eligible to receive Small Cities Community Development funding; and

WHEREAS, the Staff has prepared a Pre-Application for a three-year Comprehensive Community Development Program.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that:

1. The County Administrator is authorized and directed to file such application, including all understandings and assurances contained therein, with the United States Department of Housing and Urban Development.
2. The County Administrator is hereby designated as the authorized representative of James City County, Virginia, and is directed to act as such representative in connection with the application and to provide such additional information as may be required.

Mr. McDonald asked the Board's permission to advertise a pre-budget public hearing notice to be held on January 12, 1981, at 7:30 p.m. which will be a joint session to hear general comments from the community prior to the actual preparation of the budget. He added that it would also be a meeting with the County Administrator chairing the public hearing on the potential use of revenue sharing funds in accordance with the Office of Revenue Sharing departments under the retirement program.

The Board agreed to set the pre-budget hearing for January 12, 1981.

Mr. McDonald extended an invitation to the Board members to attend the County's annual Christmas luncheon to be held at 12:00 noon on Tuesday, December 23, 1980 in the Board Room. He informed the Board that Phyllis Cody, Citizens Assistance Officer, now has duplicating capabilities for citizen use at the EOC Building in Toano and a contract is being prepared to handle the per copy charge to offset the County's usage.

Mr. Edwards moved to go into executive session to discuss a pending legal matter and personnel matter, pursuant to Section 2.1-344 (a)(6) of the Code of Virginia, 1950, as amended. The motion carried by a 4-0 roll call vote.

The Board convened into executive session at 9:25 p.m. and reconvened to public session at 9:45 p.m.

Mr. Edwards moved to appoint Mr. Steve Montgomery to the Colonial Mental Health/Retardation Board. The motion carried by a 4-0 roll call vote.

Mr. Edwards moved to adjourn. The motion carried by a 4-0 roll call vote.

The meeting ADJOURNED at 9:50 P.M.


James B. Oliver, Jr.
Clerk to the Board

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