

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

A. **ROLL CALL**

Perry M. DePue, Chairman, Powhatan District
 Abram Frink, Jr., Vice-Chairman, Roberts District
 Jack D. Edwards, Berkeley District
 Stewart U. Taylor, Stonehouse District
 Thomas D. Mahone, Jamestown District - **Absent**

James B. Oliver, Jr., County Administrator
 Darlene L. Burcham, Assistant County Administrator
 Frank M. Morton, III, County Attorney

B. **MINUTES** - September 26, 1983

Mr. Frink made the motion to approve the Minutes as amended.

On a roll call, the vote was AYE: DePue, Frink, Edwards, Taylor (4).

NAY: (0).

C. **PUBLIC HEARINGS**

1. Joint Public Hearing of the Planning Commission and the Board of Supervisors to consider Case No. Z-14-83. Proposed Reservoir Protection Overlay District

Mr. DePue introduced Mr. Fred Belden, Chairman of the Planning Commission who called the Planning Commission to order.

Mr. Oliver gave some background information on this case then introduced Mr. Louis Guy and Mrs. Victoria Gussman who then gave a presentation on the proposed ordinance.

Mr. Guy stated that he has been serving as consultant to the County for almost a year on issues relating to water supply and projecting the future water needs for the County. In reference to the proposed development in the watershed area, Mr. Guy stated that the experience across the State and elsewhere has shown that the biggest threat to the water quality in surface water reservoirs is from surface runoffs. He stated that the pollutants in surface runoff that occurs with development has a more damaging effect on the water quality in a reservoir than the issue of properly designed septic tanks versus properly designed central sewer. He further stated that the proposed ordinance is an attempt by the County to develop reasonable precautions to protect the Ware Creek watershed so that a future reservoir in that watershed would be able to have its water quality maintained.

Mr. Guy stated that the safest thing to do to deal with the protection problem would be for the County to buy all the land in the watershed and put a fence around it. He stated that alternative would be extremely expensive and does not appear to be necessary. He stated that he has seen other ordinances within Virginia and elsewhere that are far more demanding than the proposed ordinance. He concluded by stating that the County is concerned about the surface runoff that a development might generate. If the proposed development adequately addressed the protection of the reservoir from pollutants then the County would probably be inclined to approve the development.

Mrs. Gussman began by stating that the County portion of the proposed watershed is approximately 9,400 acres. She explained that the watershed is the area surrounding the proposed Ware Creek Reservoir. She

stated that it is bounded by Routes 607, 609, 60, 30, 601 and the New Kent borderline. She stated that approximately 900 acres of the proposal would be flooded by the reservoir and the remaining 8,500 acres would be affected by the proposed ordinance. She then reviewed the ordinance section by section. In conclusion, she summarized the major points in the ordinance: prohibition of hazardous substances in the watershed; area requirements, setbacks from streams and from the reservoir itself; and requirements for future commercial and industrial uses to secure a special use permit and prepare a watershed impact statement.

Mr. DePue opened the joint hearing of the Board and Planning Commission for public comment.

1. Mr. Bobby Hoar, Box 56, Norge, wanted to know why the County wants to control the watershed from the divide to the water stream when Williamsburg, Newport News and Richmond do not. He also wanted to know whether the County had considered a reservoir at either the Cranston Mill Pond or Jolly Mill Pond.

Mr. DePue stated that staff were recording questions but would not be able to answer questions at this time. Responses to questions would be answered through written correspondence.

2. Mr. Richard Abbott, Owens-Illinois, stated that Owens-Illinois shared the desire of the County to do something now about future water needs but had some concerns with the proposed ordinance and therefore requested a two-week study time on the proposal. He listed some of the plant's concerns of the proposal to be: sections of the ordinance prohibiting the bulk storage of petroleum products in excess of 1,320; transmission pipe lines for liquified natural gas or petroleum products; and that the plan as now written could cause roadblocks to any possible expansion.

3. Mr. Cecil G. Moore, attorney for Nice Properties Company, stated that he became aware of the proposed ordinance about two weeks ago and he has not had enough time to review its impact on his clients. He stated that the first section of Mirror Lake Estates, which is within the overlay district and has received approval from the County, is awaiting a final plat to be recorded and for the development to start. He stated that he and his clients should be given ample time to review and give some input into the ordinance. He stated that if this particular ordinance was being studied at the time they were trying to receive approval of the subdivision that they should have been advised of the proposed ordinance, in that it is having an adverse effect on the development of the property.

4. Mr. David Kleppinger, Director of Planning, New Kent County, stated that New Kent has a contractual agreement with the County in the development of the reservoir. He stated that his Board has a copy of the ordinance and is looking at it to see how applicable it will be to New Kent and its reservoirs. He provided the Board with zoning information, stating that the only way single-family dwellings are permitted in their agricultural district is on a 5 acre minimum lot.

5. Mr. R. M. Hazelwood, Jr., Stonehouse District, stated that the greatest concentration of nitrogen and phosphorous occurs on a farm and if the ordinance prohibits nitrogen and phosphorous products it will eliminate farming on affected property. He wanted to know what the present total assessment is of the 9,400 acres and what the assessment will be after the ordinance is imposed, eliminating uses. He stated that the ordinance will eliminate uses.

6. Mr. Douglas Johnson, 26 Magruder Lane, Roberts District, asked who drafted the ordinance and what their qualifications are. He also wanted to know what the true and known hazards are that exist in the other reservoirs. In conclusion he asked if the County knew what the property value would be for the property affected by the proposed restrictions.

Mr. Oliver explained that the Water Task Force consists of two appointed members of the Board and staff who have been looking at all of the water issues and that it is a working group created by the Board in public session in January or February of this year. He stated that it is the intention of the Board and Planning Commission to hear as much comment as possible and that we would try to answer some questions without getting too involved in interrupting public comments.

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7. Mr. Ted Fairbanks, Rt. 4, Box 285B, stated that he agreed with Mr. Hazelwood and Mr. Johnson's comments and felt that two hearings should be held in order to give the public time to comment on the proposed ordinance.

8. Mrs. Inez C. Mihalcoe, Rt. 4, Box 222B, asked whether it was necessary to include approximately 1/3 of the Stonehouse District to have a successful reservoir. She stated that this ordinance might set a precedent in that Newport News might want the same restrictions for its watershed areas. She stated that she was in favor of a County reservoir or water authority from the Pamunkey River but was not in favor of 11,000 acres or more being controlled by the County approximately 10 years prior to the actual existence of a reservoir. She requested that the answers to questions asked during this hearing be published in the newspaper so that all will have the benefit of the answers.

9. Mr. Vernon M. Geddy, Jr. stated that he agreed with the County's assessment of a need for a reservoir; that he is the owner of a $\frac{1}{4}$ interest in the Hankins Industrial Park, therefore he was speaking on his own behalf as well as other property owners in the Ware Creek watershed. He stated that they object to the proposed ordinance because they do not feel it is a reasonable way to accomplish protection of the reservoir in view of its onerous and oppressive effects upon landowners in the watershed. He stated that he has been advised that the property in the watershed will be depreciated by 50% or more in value if this ordinance is approved. He then asked how he would know where the buffer zone around the reservoir starts on his property. He stated that a permit from the Corps of Engineer would control the buffer zone issue but that the County has not received a permit from the Corps of Engineer. He stated that the special use permit requirement makes it uncertain that any commercial or industrial operation can be planned and located in the area. He said that there are alternative protective measures that can be taken that would not impose the onerous burden that this ordinance imposes on property in the watershed. They are: the County could purchase or condemn the lake site with a protective buffer around it as Newport News did in creating the Little Creek Reservoir; the County could construct erosion and pollution control basins and traps around the entire perimeter of the reservoir; that the County explore the Brandermill and Swifts Creek situation before deciding on this ordinance; and that the County purchase all the land within the watershed.

He stated that if it is an expense (purchasing all the land within the watershed) that results in a benefit to the entire County, he would suggest that the entire County should bear the expense and not just the property owners in the watershed. He requested that the County Attorney make available (under the Virginia Freedom of Information Act) for copying and inspection all documents and memoranda that have led the County to the conclusion that this ordinance is the best protective device. He then read a letter from Mr. Phillip O. Richardson urging the Board to be fair and equitable in its decision regarding the rules and regulations of land use in the proposed watershed.

10. Mr. Andy Bradshaw, P.O. Box 456, Toano, stated that he is in favor of planning for future water needs, but disapproves of the policy decision being made and the procedure with which the ordinance has been developed and the implementation of the policy. He stated he found the ordinance to be contrary to the Comprehensive Plan in that the Plan conflicts with the lot size requirements and the plan calls for a watershed protective zone that is a narrow band as little as 500 feet around the proposed reservoir.

He stated that he opposes the procedure used to develop this proposal. He stated that no one from the Stonehouse District was on the Water Task Force or involved in the planning of this ordinance. He also opposed the procedure used because to his knowledge, no study of the impact on land values and the future tax base has been made. He urged the Planning Commission to vote against referring this ordinance to the Board of Supervisors until the public has had time to understand it. He urged the removal of conditions in the ordinance that would strangle any development in the watershed area. He also urged the Commission to continue the public hearing to allow the public to express their views. He urged the Board to apply the ordinance to all areas affected by reservoirs in the County and not just the Stonehouse District. He urged the Board to explore the impact on land values and the tax base before taking action on the ordinance. He urged the staff to work with the landowners and developers.

11. Mr. Frederick R. Carter, Rt. 8, Box 205A, stated that he is conducting a small business in the affected area. He stated that the cost of complying with the regulations will exceed the cost of building a garage or dog house. He stated that he was not given adequate notice of the hearing and ordinance. He stated that there is no provision in the ordinance allowing him to present his construction plans to the County and for the County to decide whether or not his project will have a substantial environmental impact and give approval of the project. He stated that the ordinance goes much too far and that it should be tabled until a committee of citizens who reside, are property owners or do business in the area, address their concerns.

12. Ms. Carolyn Lowe, President of the Williamsburg Area League of Women Voters, stated that the League's statement of support has been submitted to the Planning Commission and Board of Supervisors. She read the statement for the benefit of the audience.

Mr. DePue stated that he received a note from Mrs. Karen Main of the U.S. Fish and Wildlife Service, stating the the Service supports the proposed reservoir protection district and a letter is being sent.

Mr. Taylor stated that he had been asked why didn't he know more about this proposal when it was being reviewed. He stated that he was notified of this proposal at the September 26th Board meeting. He stated that he made the statement at that time that he would vote against the public hearing because he felt this ordinance was being forced on the citizens. He stated that he did not know why he was not informed beforehand of this proposal. He stated that he was able to persuade the staff to send out the letters to the property owners affected by this ordinance and then contacted the newspapers to write an article to inform the citizens of the impact the proposal would have on them. He stated that he did not know whether there was that much need for the reservoir but felt that the first need and his concern is for the liberty and use of the citizens' property in the Stonehouse District. He stated that other reservoirs have been built in the County without the restrictions as proposed. He stated the procedures and the proposed ordinance is like confiscating the citizens' property without any compensation, i.e., expecting the citizens to pay taxes on the property and not be able to do anything with it. He suggested that the item be delayed to allow the citizens in the area to be fully informed.

Mrs. Sue Hill, Stonehouse District, stated that she is in favor of a reservoir but that more time is needed to research the issue. She requested that a meeting be held in the Stonehouse District where the people can easily attend.

Mr. DePue closed the public hearing and stated that the Planning Commission will now deliberate on the ordinance and then report back to the Board.

Mr. Fred Belden, Chairman of the Planning Commission stated that the Commission voted 8-1 to recommend that the Board defer action on the ordinance until the Commission has had additional time to discuss the matter.

Mr. Edwards made the motion to defer the matter.

On a roll call, the vote was AYE: DePue, Frink, Edwards, Taylor
(4). NAY: (0).

Mr. DePue suggested at this time the Board take a brief recess.

The Board of Supervisors recessed at 9:35 P.M. and returned to public session at 9:45 P.M.

Mr. DePue suggested that item E-1 be discussed at this time.

E. BOARD CONSIDERATION

1. James City County's 350th Anniversary

Ms. Sandra E. McPherson, Recreation Coordinator was present to answer any questions the Board might have. She stated that some members of the Citizens Advisory Committee were present and that the Committee respectfully requests the Board to support the celebration of the 350th Anniversary and authorize the appropriation of \$25,000.

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Mr. DePue made the motion to approve the Resolution.

On a roll call, the vote was AYE: DePue, Frink, Edwards, Taylor
(4). NAY: (0).

R E S O L U T I O N

APPROPRIATION FOR THE 350TH ANNIVERSARY OF
JAMES CITY COUNTY

WHEREAS, James City County was established as one of the eight original shires in 1634; and

WHEREAS, James City County will be 350 years old in 1984; and

WHEREAS, James City County desires to celebrate this historic event and honor its heritage.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors supports the celebration of the 350th Anniversary of James City County, and authorizes the following appropriation totalling \$25,000:

From:	Contingency	- \$25,000
To:	350th Anniversary	+ \$25,000

C. PUBLIC HEARINGS

2. Case No. SUP-23-83. James W. Smith

Mr. Riutort presented this matter to the Board recommending approval of the special use permit with conditions.

Mr. DePue opened, then closed the public hearing as there was no one wishing to speak.

Mr. Taylor made the motion to approve the Resolution.

On a roll call, the vote was AYE: DePue, Frink, Edwards, Taylor
(4). NAY: (0).

R E S O L U T I O N

SPECIAL USE PERMIT

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

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

Applicant:	Mr. James W. Smith
Real Estate Tax Map ID:	(13-4)
Parcel No.	(1-26)
District:	Stonehouse
Zoning:	A-1, General Agricultural
Permit Term:	The permit is valid only for the mobile home applied for. Replacement of the mobile home will require a new permit, approved by the Board of Supervisors. If unexercised, this permit shall expire one year from date of approval.

Further Conditions: The mobile home must be skirted, meet the requirements of the Virginia Industrialized Building Unit and Mobile Home Safety Regulations and the delapidated structure must be removed within 30 days of the approval of this permit.

3. Case No. SUP-24-83. Ilias Papis and Denise Heflin

Mr. Riutort presented this matter to the Board stating that staff recommends denial of this application based upon the area already being established for single family residences. He concluded that if a mobile home is permitted on the site, it would set a precedent for other mobile homes to be located in the area.

Mr. DePue opened the public hearing.

Ms. Denise Heflin spoke on behalf of Mr. Papis and herself. She submitted to the Board copies of letters from property owners from lots 19 and 21 supporting the placement of a mobile home on lot 20. She stated that they have no intentions of clearing the lot except for the area on which the mobile home is to be placed. She stated that the mobile home would not be visible from Route 60, and that there is a mobile home already on Route 60.

Mr. DePue closed the public hearing.

Mr. Edwards suggested that the Board defer action on this case until a condition can be placed on the permit as to where the mobile home would be located.

Mr. DePue made the motion to approve the Resolution.

On a roll call, the vote was AYE: DePue, Frink, Taylor (3). NAY: Edwards (1). The motion carried by a 3-1 vote.

R E S O L U T I O N

SPECIAL USE PERMIT

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

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

Applicant:	Mr. Ilias Papis and Ms. Denise Heflin
Real Estate Tax Map ID:	(2-4)
Parcel No.	(1-20)
District:	Stonehouse
Zoning:	A-1, General Agricultural
Permit Term:	This permit is valid only for the mobile home applied for. If the mobile home is removed, then this permit becomes void. Any replacement will require a new permit from the Board of Supervisors. If the permit is not exercised it shall become void one year from the date of approval.

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Further Conditions: The mobile home must be skirted, and meet the requirements of the Virginia Industrialized Building Unit and Mobile Home Safety Regulations.

4. Case No. SUP-25-83. James L. Simmons

Mr. Riutort presented this matter to the Board recommending approval of the special use permit with conditions.

Mr. DePue opened then closed the public hearing as there was no one wishing to speak. He then moved for the approval of the Resolution.

On a roll call, the vote was AYE: DePue, Frink, Edwards, Taylor (4). NAY: (0).

R E S O L U T I O N

SPECIAL USE PERMIT

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

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

Applicant:	Mr. James L. Simmons
Real Estate Tax Map ID:	(14-1)
Parcel No.	(1-16)
District:	Stonehouse
Zoning:	A-1, General Agricultural
Permit Term:	This permit is valid only for the mobile home applied for. If the mobile home is removed, then this permit becomes void. Any replacement will require a new permit from the Board of Supervisors. If the permit is not exercised it shall become void one year from the date of approval.

Further Conditions: The mobile home must be skirted, and meet the requirements of the Virginia Industrialized Building Unit and Mobile Home Safety Regulations.

5. Case No. SUP-26-83. John A. Pierce

Mr. Riutort presented this matter to the Board recommending that the public hearing be continued to the next meeting to give Mr. Pierce an opportunity to have his property surveyed to determine area and dimensions of the lot.

Mr. DePue opened the public hearing.

Mr. Edwards made the motion to continue the public hearing to the next meeting.

On a roll call, the vote was AYE: DePue, Frink, Edwards, Taylor (4). NAY: (0).

6. Case No. Z-11-83. Amendment to PUD-R District

Mr. Riutort presented this matter to the Board stating that the amendment to the ordinance would insert as a permitted use "nursing homes and facilities for the residence and/or care of the aged." He recommended approval of the amendment.

Mr. DePue opened, then closed the public hearing as there was no one wishing to speak.

Mr. Frink made the motion to approve the Ordinance.

On a roll call, the vote was AYE: DePue, Frink, Edwards, Taylor (4). NAY: (0).

ORDINANCE NO. 31A-79

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 20, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, ARTICLE IX, PLANNED UNIT DEVELOPMENT DISTRICTS, SECTION 20-151(a)(1), PLANNED UNIT DEVELOPMENT - RESIDENTIAL (PUD-R), PERMITTED USES.

BE IT ORDAINED by the Board of Supervisors of the County of James City, that Chapter 20, Zoning, of the Code of the County of James City, Article IX, Planned Unit Development Districts, Section 20-151(a)(1), Planned Unit Development - Residential (PUD-R), Permitted Uses, is hereby amended and reordained.

CHAPTER 20

ZONING

Article IX. Planned Unit Development Districts

Section 20-151. Planned Unit Development - Residential (PUD-R).

All Planned Unit Development Districts categorized as Residential (PUD-R) shall comply with the requirements of this Section.

(a) Permitted uses. In the Planned Unit Development District - Residential (PUD-R), all structures to be erected or land to be used shall be for one or more of the following uses held for rent, for sale, for sale by individual unit, or for sale in condominium:

(1) RESIDENTIAL USES.

Single-family attached and detached dwellings.
Two-family dwellings.
Townhouses and garden apartments.
Apartments with three or more stories.
Accessory structures for maintenance.
Parks, playgrounds, swimming pools, recreation buildings and clubhouses.
Churches.
Golf courses.
Schools, both private and public.
Marinas, boat docks and waterfront activities.
Coin laundries which are accessory to other residential uses and for the primary use of its residents.

Restaurants which are accessory to permitted private clubs and marinas.

Fire stations.
Off-street parking as required by this Chapter.
Signs, as permitted by this Chapter.
Nursing home and facilities for the residence and/or care of the aged.

(2) COMMERCIAL USES.

Retail food stores, bakeries, fish markets.
Dry cleaners and laundries.

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Department stores, wearing apparel, furniture, carpet, shoe, tailor, dressmaking, candy, ice cream, florist, furrier, locksmith, pet, picture framing, stamp and coin, travel bureau, upholstery, yard goods, toys, music and records, tobacco and pipes, jewelry sales and service, books, greeting cards and sporting goods stores.

Drug stores and barber or beauty shops.

Restaurants, tea rooms and taverns.

Banks and other financial institutions.

Plants and garden supply, hardware and paint, and home appliance sales and service, with storage under cover.

Automotive service stations, with major repair under cover, or retail sale of automotive accessory items.

Photography studios and sales, artist and sculptor studios, arts and crafts and handicraft shops, antique shops, reproduction and gift shops.

Corporate, business, and professional offices.

Doctors, dentists and other medical clinics or offices.

In-door theaters, museums and public meeting halls.

Public billard parlors, bowling alleys, dance halls, private clubs, lodges and other forms of amusement, with a Conditional Use Permit.

Schools, fire stations, post offices, public utilities, churches, libraries.

Funeral homes.

Radio and television stations, with a Conditional Use Permit required if any antenna or tower is to exceed sixty (60) feet in height.

(b) Requirements for commercial uses. If commercial uses specified in (2) of Subsection (a) above are included within the District, they shall be separate from residential uses, located in well planned commercial areas and so designated on the Master Plan. In a PUD-R, the commercial area or areas with accompanying parking shall not exceed a total of thirty (30) percent of the gross area of the District. The commercial areas shall be located adjacent to a collector street or major thoroughfare so that through traffic is not routed through residential areas of the PUD.

(c) Setback requirements. A landscaped setback of at least seventy-five (75) feet shall be maintained between residential structures and the right-of-way of public roads which abut the site. This may be reduced to fifty (50) feet in the case of commercial structures. No minimum setbacks shall be required from private roads which are internal to the site.

A minimum landscaped setback of at least thirty five (35) feet shall be maintained from all property lines. Where multi-family townhouse or commercial structures in a PUD-R adjoin an existing R-1, R-2, R-3, or R-6 District, the minimum setback shall be seventy-five (75) feet.

"Landscaped area", "landscaped setback", "landscaped strip", or "perimeter open space area" as herein used are defined as areas containing shrubs, trees, flowers, grass, mulch, etc. Such areas shall be shown on the Site Plan or a separate landscaping plan for the site which shows the size and type of existing trees, trees to be cleared or removed and new trees or vegetation to be planted. Such plan is subject to the approval of the Site Plan Review Committee. In general, where trees are required, they shall be of a minimum height of seven (7) feet, with one tree per thirty (30) linear feet of landscaped area and more or less evenly distributed. Where approved, hedges, shrubs, ground cover or flower beds may substitute in part for the planting of trees. Existing trees and natural vegetation shall be retained wherever possible, particularly where they border adjacent property. Setbacks may not be used for parking.

(d) Density. The number of dwelling units which may be constructed shall be determined by the number of net developable acres at the site and the use proposed. The net developable acres shall equal the total gross acres of the site minus stream beds, areas subject to flooding, marsh and areas with slopes exceeding a twenty-five (25) percent gradient. The number of units which may be constructed are:

USE	DWELLING UNITS PER ACRE
Single-family detached	5.5
Single-family attached or	

Two-family dwellings	7.5
Townhouses	13.0
Garden apartments	16.0
Apartments of three stories or more	18.0

7. Case No. Z-9-83. The Colony at Kingsmill

Mr. Riutort presented this matter to the Board stating that the Planning Commission at its August 23, 1983 meeting unanimously recommended approval of this application subject to the following:

1. Amending the Master Plan to reflect comments in the report.
2. Amendments to the Zoning Ordinance to add the permitted use of a nursing home and facility for the residence and/or care of the aged to the PUD-R District.
3. Development and approval of detailed site plans prior to construction.
4. There are several developments in the County which make use of the name Colony. The staff recommends that the developer rename this project in order to avoid confusion with other developments in the County.

Mr. Frink questioned the height of the buildings in this project.

Mr. Riutort replied that the highest building will be six stories.

Mr. DePue opened the public hearing.

Mr. Samuel T. Powell spoke on behalf of his client stating that the project will be renamed and that it would be visible from Route 199.

Mr. Edwards asked why the one-bedroom facilities cost less than other one-bedroom facilities for other projects of the same nature.

Mr. Powell replied that no deposit is required to obtain a unit and that if a potential buyer made a down payment the buyer would receive a refund if the occupant died or moved out.

Mr. William Brown, representing the Busch Corporate Center, stated that the project would be set back 300 feet from Route 199. He stated that some of the issues mentioned in the staff memorandum were unclear to him as to whether the items addressed were meant to be firm conditions or merely recommendations.

Mr. DePue closed the public hearing.

Mr. Powell stated that some of the issues raised in the memorandum will be reviewed during the site plan review process as agreed to by staff.

Mr. Edwards suggested the item be deferred until the next meeting to give the parties involved an opportunity to clear up the issues.

On a roll call, the vote was AYE: DePue, Frink, Edwards (3). NAY: Taylor (1). The motion carried by a 3-1 vote.

8. Ordinance Providing for Disposal of Unclaimed Personal Property

Mr. Morton presented this matter to the Board stating that because the ordinance provides an effective and efficient manner for disposing of unclaimed property, and he recommended adoption of the Ordinance. He stated that the Chief of Police has reviewed the ordinance and concurs with the terms thereof.

Mr. DePue opened, then closed the public hearing as there was no one wishing to speak.

Mr. Taylor made the motion to adopt the Ordinance.

On a roll call, the vote was AYE: DePue, Frink, Edwards, Taylor (4). NAY: (0).

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ORDINANCE NO. 55A-5

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 2, ADMINISTRATION, OF THE CODE OF THE COUNTY OF JAMES CITY, ARTICLE IV, OFFICERS AND EMPLOYEES, SECTION 2-16 BY ADDING A NEW SECTION, 2-16.2, TANGIBLE PERSONAL PROPERTY, ABANDONED OR UNCLAIMED.

BE IT ORDAINED by the Board of Supervisors of the County of James City that Chapter 2, Administration, of the Code of the County of James City, Article IV, Officers and Employees, Section 2-16 is amended by adding a new section, 2-16.2, Tangible Personal Property - Abandoned or Unclaimed.

Section 2-16.2. Tangible Personal Property - Abandoned or Unclaimed.

- a) Disposition generally. The Chief of Police is authorized to provide for the public sale of all unclaimed personal property which has been in possession of the County law enforcement agencies and unclaimed for a period of more than sixty (60) days. As used herein, "unclaimed property" shall be defined to include any personal property belonging to another which has been acquired by a law enforcement officer pursuant to his duties, which is not needed in any criminal prosecution, which has not been claimed by its rightful owner and which the State Treasurer has indicated will be declined if remitted under the Uniform Disposition of Unclaimed Property Act.
- b) Public Sale. Prior to the sale of any unclaimed item, the Chief of Police, or his designee, shall make reasonable attempts to notify the rightful owner of the property, obtain from the Commonwealth's attorney a written statement advising that the item is not needed in any criminal prosecution, and cause to be published in a newspaper of general circulation in the County, once a week for two successive weeks, notice that there will be a public sale of unclaimed personal property. Such property shall be described generally in the notice, together with the date, time and close of the sale. The costs of advertisement, removal, storage, investigation as to ownership and liens, and notice of sale shall be paid from the proceeds of the sale. The balance of the proceeds shall be held by the Chief of Police, or his designee, for the owner and paid to such individual upon satisfactory proof of ownership.

In the event no claim is made by the owner for the proceeds of the sale within sixty (60) days of the sale, the after costs proceeds shall be deposited in the general fund of the County. Any owner shall be entitled to apply to the County within three (3) years from the date of sale for the after-cost proceeds of the sale. If such a timely application is made, the County shall pay the monies properly due to the owner without interest or additional charges. No claim shall be made nor any suit, action, or proceeding be instituted for the recovery of such monies after three (3) years from the date of sale.

D. CONSENT CALENDAR

Mr. DePue asked the Board members if they wished to have any items removed from the Consent Calendar.

Mr. Frink made the motion to approve all items on the Consent Calendar.

On a roll call, the vote was AYE: DePue, Frink, Edwards, Taylor
(4). NAY: (0).

1. Set Public Hearing Date of November 16, 1983 for:
 - a. Case No. Z-13-83/SUP-29-83. Dr. Donald W. Cherry
 - b. Case No. Z-8-83/SUP-20-83. Leonard Legum
 - c. Case No. Z-10-83. Old Town Farms, Inc.
 - d. Case No. Z-12-83. Amendment to Zoning Ordinance

- e. Case No. SUP-18-83. James City County Sanitary Landfill
- f. Case No. SUP-19-83. Frederick D. Hirsh
- g. Case No. SUP-27-83. Curtis L. Wallace
- h. Case No. SUP-28-83. Frederick D. Hirsh
- i. Case No. SUP-30-83. Woodrow C. and Patricia L. Hockaday
- j. Proposed Amendments to Chapter 15-Riots, Unlawful Assemblies and Related Offenses
- k. Proposed Amendment to Chapter 18, Taxation
- l. Proposed Amendments to Chapter 11, Police Department
- m. Proposed Vacation-James Square/Shellis, Inc./Trust James 20-8 and 20-9

2. Report to Farmer's Home Administration - Sanitary District No. 2

R E S O L U T I O N

ADOPTION OF SANITARY DISTRICT NUMBER TWO
STATEMENT OF BUDGET, INCOME AND EQUITY REPORT

WHEREAS, the Board of Supervisors of the James City County authorized and issued Revenue Bonds for Sanitary District Number Two to the United States of America acting through the Farmers Home Administration; and

WHEREAS, the Farmers Home Administration requires yearly submittals of Statements of Budget, Income and Equity for bonds issued through them,

THEREFORE, BE IT RESOLVED that the Board of Supervisors does hereby adopt the Statement of Budget, Income, and Equity for the year ended June 30, 1983.

3. Kingsmill on the James Master Plan Amendments

R E S O L U T I O N
BUSCH PROPERTIES, INC.

WHEREAS, Busch Properties, Inc. has applied to amend the Master Plan of Kingsmill on the James by redesignating 9.4 acres located on the south side of Mounts Bay Road between the second and eleventh fairways of the Kingsmill Golf Course from 3.2 acres of residence "D", multi-family and 6.2 acres of residence "B", townhouses to 8.5 acres of residence "A" single family detached.

WHEREAS, the proposed change conforms to the intent of the R-4, Planned Community District and to the overall development limits of the Master Plan of Kingsmill on the James.

NOW, THEREFORE, BE IT RESOLVED that the Master Plan of Kingsmill on the James be amended as described herein and as detailed in the attached memorandum.

4. Case No. S-53-83. Randolph's Greene

R E S O L U T I O N
SUBDIVISION APPLICATION
CASE NO. S-53-83. RANDOLPH'S GREENE

WHEREAS, it is understood that all conditions for consideration of this application have been met;

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County that approval be granted for the proposed development of property owned by the applicant as described below and as detailed in the attached memorandum.

AAJ113

Applicant: William F. Brown on behalf of
Busch Properties, Inc.

District: Roberts

Zoning: R-4, Residential Planned
Community

Further Conditions: None

5. Case No. CUP-22-83. Shellis, Incorporated

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 temporary mobile home on property owned and developed by the applicant as described below and on the attached site location map.

Applicant: Shellis, Inc.

Real Estate Tax Map ID: (49-1)

Parcel No. (1-3A)

District: Jamestown

Zoning: R-5, Multi-Family Residential

Permit Term: The permit term shall expire at the end of six months from October 17, 1983 or the completion date of construction of the project, whichever is the later. However, this permit may be renewed one time for an additional period not to exceed six months if an application for renewal is submitted to the Zoning Administrator at least thirty days prior to the expiration date.

Further Conditions: All setbacks must be adhered to for the construction office trailer on this project.

6. Case No. CUP-23-83. Lafayette Square

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 temporary mobile home on property owned and developed by the applicant as described below and on the attached site location map.

Applicant: Lafayette Square

Real Estate Tax Map ID: (32-3)

Parcel No. (1-6)
 District:
 Zoning: R-2, Limited Residential

Permit Term: The permit term shall expire at the end of six months from October 17, 1983 or the completion date of construction of the project, whichever is first. However, this permit may be renewed one time for an additional period not to exceed six months if an application for renewal is submitted to the Zoning Administrator at least thirty days prior to the expiration date.

Further Conditions: All setbacks must be adhered to for the construction office trailer on this project.

F. MATTERS OF SPECIAL PRIVILEGE

Mrs. Sue Hill requested clarification on the Planning Commission's action regarding the Proposed Reservoir Protection Overlay District.

Mr. DePue and Mr. Edwards responded to her question.

G. REPORT OF THE COUNTY ADMINISTRATOR

1. Proposed Amendment - Discharging of Weapons In Or Near Recorded Subdivisions

Mr. Oliver presented this matter to the Board stating that this amendment was requested by Mr. DePue.

Mr. Taylor inquired as to whether or not the Middle Plantation subdivision would be affected by this ordinance.

Mr. Morton stated that only two portions of the subdivision are recorded and therefore would be affected by this ordinance.

Mr. DePue made the motion to set this item for public hearing on November 16, 1983.

On a roll call, the vote was AYE: DePue, Frink, Edwards (3). NAY: Taylor (1). The motion carried by a 3-1 vote.

Mr. Oliver provided the Board with copies of a memorandum by John E. McDonald, Director of Financial and Management Services, entitled "Legislative Fiscal Policy." He suggested that the Board set October 31 at 5 p.m. as a worksession to discuss the issues therein.

Mr. DePue suggested that a worksession be held after the elections on the Financial Policies issue. The Board agreed to a worksession on this item for November 28, 1983.

Mr. Edwards requested that the meeting of November 14th be changed to November 16th as a result of the annual conference of the Virginia Association of Counties being held November 13, 14, and 15. He stated that staff should be sure to change the date of the public hearings to the 16th of November. He then made a motion to change the meeting date in November.

On a roll call, the vote was AYE: DePue, Frink, Edwards, Taylor (4). NAY: (0).

AAJ113

RESOLUTIONCHANGE OF BOARD MEETING DATE

WHEREAS, the Board of Supervisors of James City County in recognition of the conflict between the previously scheduled November 14th meeting and the Virginia Association of Counties, has decided to change its meeting date in November to allow certain Board members and key staff to attend the conference;

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County hereby change its meeting date in November from the 2nd Monday to the 3rd Wednesday, being November 16th.

Mr. Oliver requested that the Board set worksessions on the following dates and concerning the following issues:

October 31st at 5:00 - Route 60 Development Study
November 16th at 5:00 - Human Services Report

Mr. Oliver then requested that the Board convene into Executive Session to discuss a real estate matter and personnel matters.

H. BOARD REQUESTS AND DIRECTIVES

Mr. Taylor requested a report from the staff on the installation of cable TV in Toano.

Mr. DePue stated that the reason for the haste in adopting the Proposed Reservoir Protection Overlay District was the number of recent filings for subdivisions in the affected area. He stated that there were good comments made during the public hearing.

Mr. Edwards made the motion to convene into Executive Session to discuss personnel matters and a real estate matter, pursuant to Section 2.1-344(a)(1) and (6) of the Code of Virginia 1950, as amended.

On a roll call, the vote was AYE: DePue, Frink, Edwards, Taylor (4). NAY: (0).

The Board convened into Executive Session at 11:10 P.M. and reconvened into Public Session at 11:25 P.M. at which time Mr. Frink nominated Mr. Tony Conyers to serve on the Community Action Agency, as his representative, and Mr. Edwards nominated Mr. Russ Lowry to serve another three-year term on the Peninsula Emergency Medical Services Council.

On a roll call, the vote was AYE: DePue, Frink, Edwards, Taylor (4). NAY: (0).

Mr. Edwards made the motion to Recess until 5:30 P.M., Friday, October 31, 1983 to discuss the proposed purchase of a park facility.

On a roll call, the vote was AYE: DePue, Frink, Edwards, Taylor (4). NAY: (0).

The Board of Supervisors meeting **RECESSED** at 11:28 P.M.


James B. Oliver, Jr.
Clerk to the Board

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