

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 17TH DAY OF APRIL, NINETEEN HUNDRED EIGHTY-NINE, AT 1:02 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

Thomas D. Mahone, Chairman, Jamestown District  
Stewart U. Taylor, Vice-Chairman, Stonehouse District

Jack D. Edwards, Berkeley District  
Perry M. DePue, Powhatan District  
Thomas K. Norment, Jr., Roberts District  
David B. Norman, County Administrator  
Frank M. Morton, III, County Attorney

B. MINUTES - March 30, 1989 - Special Meeting  
April 3, 1989 - Regular Meeting

Mr. Mahone asked if there were corrections or additions to the minutes.

Mr. Mahone corrected Mr. Sasha Digges' statement to: "preferred the architect draft one design for several schools."

Mr. Mahone made a motion to approve the minutes as corrected.

On a roll call, the vote was AYE: Norment, Taylor, Edwards, DePue, Mahone (5). NAY: (0).

C. HIGHWAY MATTERS

Mr. Frank Hall, Resident Engineer for the Virginia Department of Transportation, stated that Longhill Connector Road work would begin within the next few days, and the Chickahominy Road project had been delayed due to inclement weather.

Mr. Norment asked the status of the speed limit study in Grove.

Mr. Hall replied the speed limit would be reduced from 45 mph to 40 mph.

Mr. DePue asked if a time limit for work completion applied on the Longhill Connector Road.

Mr. Hall replied in the negative.

Mr. Taylor asked for the time limit for work completion on Chickahominy Road.

Mr. Hall replied the end of July.

Mr. Edwards asked if a shortage of civil engineers existed.

Mr. Hall stated the Highway Department has an engineer program for graduates, basically a two-year orientation type training program.

D. PUBLIC HEARINGS

1. Case No. SUP-9-89. Irving M. Stewart

Mr. Allen Murphy, Jr., Principal Planner, stated that Mr. Irving M. Stewart had submitted an application for a special use permit to allow the replacement of a manufactured home on 2.72 acres, which he owns, zoned A-1, located at 9019 Barnes Road.

Staff recommended approval with the conditions listed in the resolution.

Mr. Mahone opened the public hearing, and as no one wished to speak, he closed the public hearing.

Mr. Taylor made a motion to approve the resolution.

On a roll call, the vote was AYE: Norment, Taylor, Edwards, DePue, Mahone (5). NAY: (0).

R E S O L U T I O N

CASE NO. SUP-9-89. IRVING M. STEWART

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

NOW, 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 manufactured home on property owned and developed by the applicant as described below and on the attached site location map.

Applicant:	Irving M. Stewart
Real Estate Tax Map ID:	(10-2)
Parcel No.:	(1-1)
Address:	9019 Barnes Road
District:	Stonehouse

Zoning: A-1

Conditions:

1. This permit shall be valid only for the manufactured home applied for. If the manufactured home is removed, this permit shall become void. Any replacement shall 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.
2. The manufactured home shall be skirted and meet the requirements of the Department of Housing and Urban Development Manufactured Home Construction and Safety Standards.
3. The number of bedrooms shall not exceed two.
4. A description of the manufactured home shall be provided to the Planning Division prior to the placement of the manufactured home on the property. The description shall include the size of the manufactured home, the identification number, and the year and make of the manufactured home.
5. The proposed manufactured home shall be set back at least 250 feet from Barnes Road.

2. Case No. SUP-10-89. Douglas L. Brown

Mr. Murphy stated that Mr. Douglas L. Brown had submitted an application for a special use permit to allow the replacement of a manufactured home, on 1 acre, which he owns, zoned A-1, located at 3054 Jolly Pond Road.

Staff recommended approval with the conditions listed in the resolution.

Mr. Mahone opened the public hearing, and as no one wished to speak, he closed the public hearing.

Mr. DePue made a motion to approve the resolution.

On a roll call, the vote was AYE: Norment, Taylor, Edwards, DePue, Mahone (5). NAY: (0).

R E S O L U T I O NCASE NO. SUP-10-89. DOUGLAS L. BROWN

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

NOW, 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 manufactured home on property owned and developed by the applicant as described below and on the attached site location map.

Applicant: Douglas L. Brown

Real Estate Tax Map ID: (30-3)

Parcel No.: (1-18)

Address: 3054 Jolly Pond Road

District: Powhatan

Zoning: A-1

Conditions:

1. This permit shall be valid only for the manufactured home applied for. If the manufactured home is removed, this permit shall become void. Any replacement shall require a new permit from the Board of Supervisors. If the permit is not exercised within one year from the date of approval, it shall become void.
2. The manufactured home shall be skirted and shall meet requirements of the Department of Housing and Urban Development Manufactured Home Construction and Safety Standards.
3. The number of bedrooms shall not exceed three.
4. Existing vegetation shall be maintained within 20 feet of all property lines except where clearing is required for utilities and necessary entrances.
5. The existing manufactured home shall be removed from the site within 30 days of the placement of the manufactured home approved by this special use permit.

## E. CONSENT CALENDAR

Mr. Mahone asked if any Board member wished to remove any item from the Consent Calendar.

Mr. Mahone made a motion to approve the Consent Calendar.

On a roll call, the vote was AYE: Norment, Taylor, Edwards, DePue, Mahone (5). NAY: (0).

1. FY 90 Emergency Housing Repair Grant ApplicationR E S O L U T I O NAUTHORIZATION TO SUBMIT AN APPLICATION TO ADMINISTER ANEMERGENCY HOME REPAIR PROGRAM - FY 90

WHEREAS, the Commonwealth of Virginia Department of Housing and Community Development has issued a Notice of Funding Availability and Request for Proposals under the Emergency Home Repair Grant Program; and

WHEREAS, assistance is needed to effectively and adequately address the emergency home repair needs of low-income persons within James City County; and

WHEREAS, an application for a grant under this program has been prepared.

WHEREAS, James City County agrees to provide emergency home repair services to those in need in conformance with the regulations and guidelines of this State Program; and

WHEREAS, the County Administrator can act on behalf of James City County and will sign all necessary documents required to complete the grant transaction; and

WHEREAS, a local dollar for dollar match is required under the program and will be provided in the amount of \$15,000.

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to apply for and accept the grant in the amount of \$15,000 and enter into a grant Agreement with the Department of Housing and Community Development and undertake any and all actions and responsibilities in relation to such Agreement.

## F. BOARD CONSIDERATIONS

1. FY 1990 Budget

Mr. John McDonald, Manager of Financial and Management Services, stated the resolution was consistent with the proposed budget and amendments made during the work sessions.

By consensus, the Board provided the Williamsburg Area Chamber of Commerce an opportunity to make a comment on the FY 90 budget.

1. Mr. Tom Austin, Chairman, Convention and Visitors Bureau Executive Committee, urged the Board to increase the County's percentage of rooms tax funds to the level contributed by surrounding jurisdictions.

Mr. Mahone requested staff to prepare a monthly report in the area of training for personnel.

Mr. Norman replied in the affirmative.

Mr. Edwards made a motion to approve the resolution of appropriation.

The Board commended the staff for an excellent job of preparing the budget, gave support for the school goals, and indicated the meals tax revenue would cover debt service on capital expenditures for schools.

Mr. Mahone made a motion to reduce the tax rate from \$.67 by \$.01 to \$.66 per \$100 real estate assessed value, and directed staff to make recommendations to adjust the budget accordingly. Mr. Mahone reasoned that reassessments raise taxes on open land.

The Board discussed holding a special meeting on April 24, 1989, at 7:00 p.m., reducing the meals tax by \$.01 rather than the real estate tax rate, and confirmed there would be no change to the school appropriation.

On the roll call on the motion to reduce the real estate tax rate by \$.01, the vote was: AYE: Taylor, DePue, Mahone (3). NAY: Norment, Edwards (2).

Mr. Mahone asked staff to present the recommendations for budget adjustment later during the meeting, if possible.

2. Ordinance Amendment, Chapter 18, Taxation, Meals Tax

Mr. McDonald stated that approval of the ordinance amendment would establish a four cents meals tax, effective June 1, 1989.

Mr. Norment made a motion to approve the ordinance amendment with a proviso that all proceeds would be used towards capital debt service for the schools.

Mr. Edwards made a motion to split the motion into two motions.

On a roll call, the vote was: AYE: Taylor, Edwards (2). NAY: Norment, DePue, Mahone (3).

Mr. Mahone suggested a change to Section 18-40, Tips and service charges, to add "or employees" in the first sentence "Where a purchaser provides a tip for an employee . . . ."

Discussion ensued about the tip or service charge that is added to the price of the meal by the seller, and Section 18-46, Violations of article.

On a roll call on the motion to pass the ordinance with the change suggested by Mr. Mahone, the vote was: AYE: Norment, DePue, Mahone (3). NAY: Taylor, Edwards (2).

### 3. Ordinance Amendment, Landfill Fees

Mr. McDonald stated approval of the ordinance amendment would change the Landfill tipping fee from \$17 to \$21 a ton, effective July 1, 1989.

Mr. Mahone made a motion to approve the ordinance amendment.

On a roll call, the vote was: AYE: Norment, Edwards, DePue, Mahone (4). NAY: Taylor (1).

Mr. DePue made a motion to approve the amount of \$18,854,658 in the budget for the school's operating budget.

On a roll call, the vote was: AYE: Norment, Taylor, DePue, Mahone (4). NAY: Edwards (1).

### G. PUBLIC COMMENT - None

### H. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Norman requested an executive session for personnel and legal matters.

Mr. Morton stated that he had prepared an emergency ordinance for acquisition of the Nancy Gatewood Brown property consisting of 62± acres located in Toano at the intersection of Richmond Road and Chickahominy Road for purposes of constructing a middle school.

Mr. Edwards made a motion to approve the emergency ordinance.

On a roll call, the vote was: AYE: Norment, Edwards, DePue, Mahone (4). NAY: Taylor (1).

### I. BOARD REQUESTS AND DIRECTIVES

Mr. Norment referred to the reading file item to consider enacting a smoking restriction ordinance.

Mr. DePue requested a report and comments on enforceability, and administrative issues involved in such an ordinance.

The Board further advised that the report be done only on public buildings under the ownership and control of James City County.

Mr. Norman responded that a report would be prepared.

Mr. DePue requested staff to contact the other Board members prior to the May 1, 1989, meeting for comments on the A-1 ordinance amendment. Mr. DePue stated that he was receptive to the special use permit and thought that inclusion of wineries on the list of restrictions might be a good idea. He further stated that the ordinance should address equally the regulations for small and large landowners.

Mr. Edwards asked staff to consider an ordinance amendment permitting therapeutic massages.

Mr. Mahone recessed the Board for a break and a James City Service Authority Board of Directors work session and meeting at 3:00 p.m.

Mr. Mahone reconvened the Board into open session at 4:17 p.m.

F-1. FY 1990 Budget

Mr. Norman stated that Mr. McDonald had a recommendation for a reduction in the budget to reflect the \$.01 reduction in the real estate tax rate to \$.66 per \$100 assessed value.

Mr. McDonald recommended reducing the General Fund contribution to Debt Service Reserve by \$200,000 for the reason that the County contingency is small and would be needed if inflation rises. This would not affect the meals tax contribution to the Debt Service Reserve.

Mr. Taylor made a motion to reduce the real estate tax rate from \$.67 per \$100 assessed value to \$.66 per \$100 assessed value.

On a roll call, the vote was AYE: Taylor, DePue, Mahone (3). NAY: Norment, Edwards (2).

Mr. Taylor made a motion to adopt the proposed budget with a real estate tax rate of \$.66 per \$100 assessed value.

On a roll call, the vote was AYE: Norment, Taylor, Edwards, DePue, Mahone (5). NAY: (0).

R E S O L U T I O N

RESOLUTION OF APPROPRIATION

WHEREAS, the County Administrator has prepared a Proposed Budget for the fiscal year beginning July 1, 1989, and ending June 30, 1990, for information and fiscal planning purposes only; and

WHEREAS, it is now necessary to appropriate funds to carry out the activities proposed therein and to set tax rates on real estate, tangible personal property and machinery and tools to provide certain revenue in support of those appropriations.

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

1. The following amounts are hereby appropriated in the General Fund for the offices and activities in the amounts as shown below:

GENERAL FUND EXPENDITURES

Legislative and Legal Services	\$ 494,784
Administrative Services	603,545
Elections	123,264
Financial Administration	1,307,367
General Services	1,253,343
Development Management	1,941,246
Judicial Administration	433,241
Public Safety	5,325,131
Community Services	1,244,801
Education	18,654,658
Public Health and Welfare	874,304
Contributions	835,705
Nondepartmental	979,861
Contributions - Capital Projects	<u>1,865,500</u>
Total General Fund Expenditures	<u>\$35,936,750</u>

The appropriation for education includes \$15,647,000 as a contribution to the Williamsburg-James City County Schools.

GENERAL FUND REVENUES

General Property Taxes	\$22,118,000
Other Local Taxes	6,363,000
Licenses, Permits and Fees	2,831,000
Fines and Forfeitures	95,000
Revenue from Use of Money and Property	789,300
Revenue from the Commonwealth	3,519,800
Revenue from the Federal Government	2,100
Charges for Current Services	90,750
Miscellaneous Revenues	<u>127,800</u>
Total General Fund Revenues	<u>\$35,936,750</u>

2. That the tax rates be set on the following property for the amounts shown below and revenues appropriated in the following classifications:

TAX RATES

Real Estate on each \$100 Assessed Value	\$ .66
Tangible Personal Property on each \$100 Assessed Value	4.00
Machinery and Tools on each \$100 Assessed Value	4.00

3. That the following amounts are hereby appropriated for the funds as indicated in the amounts as shown below:

CAPITAL PROJECTS FUNDRevenues:

Current Year Fund Balance	\$ 1,423,411
Contribution - General Fund	1,865,500
Proceeds From Sale of Property	56,000
Prior Year Fund Balances	292,789
Bonded Indebtedness	<u>20,540,000</u>
Total Capital Projects Fund Revenues	<u>\$24,177,700</u>

Expenditures:

Schools	\$22,456,000
Recreation	201,500
Public Safety	120,000
Development Projects	637,100
General	433,100
Library	145,000
Solid Waste	<u>185,000</u>
Total Capital Projects Fund Expenditures	<u>\$24,177,700</u>

DEBT SERVICE FUND

Beginning Fund Balance	<u>\$ 1,840,227</u>
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Revenues:

Interest - Lease Purchase Deposit	\$ 21,000
From General Fund - General	644,000
From General Fund - Schools	2,996,358
Interest on Bond Proceeds	<u>114,900</u>

Total Debt Service Fund Revenues	<u>3,776,258</u>
	<u>\$ 5,616,485</u>
Current Year Expenditures	<u>\$ 2,065,444</u>
Ending Fund Balance	<u>\$ 3,551,041</u>

VIRGINIA PUBLIC ASSISTANCE FUNDRevenues:

From the Federal Government/Commonwealth	\$1,003,682
From the General Fund	390,542
Fund Balance	<u>32,351</u>

Total Virginia Public Assistance Fund Revenues	<u>\$1,426,575</u>
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Expenditures:

Administration and Assistance	<u>\$1,426,575</u>
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Total Virginia Public Assistance Fund Expenditures	<u>\$1,426,575</u>
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COMMUNITY DEVELOPMENT FUNDRevenues:

General Fund	\$ 80,000
Grants	302,900
Generated Program Income	<u>100,000</u>

Total Community Development Fund Revenues	<u>\$ 482,900</u>
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Expenditures:

Administration and Programs	<u>\$ 482,900</u>
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Total Community Development Fund Expenditures	<u>\$ 482,900</u>
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4. The County Administrator be authorized to transfer funds and personnel from time to time within and between the offices and activities delineated in this Resolution as he may deem in the best interest of the County in order to carry out the work of the County as approved by the Board of Supervisors during the coming fiscal year.
5. The County Administrator be authorized to administer the County's Personnel Policy and Pay Plan as previously adopted by the Board of Supervisors with a 3.0 percent employee salary and wage increase to be granted effective July 1, 1989. The average merit increase for the employees shall be funded at 4.0 percent of salaries with a range from 0 to 7.0 percent.

Mr. Mahone convened the Board into executive session to discuss legal and personnel matters pursuant to Section 2.1-344 (a)(1)(3) of the Code of Virginia, 1950, as amended at 4:40 p.m.

Mr. Mahone reconvened the Board into open session at 6:10 p.m.

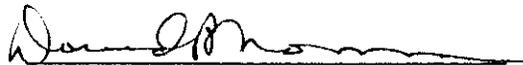
Mr. Mahone nominated and made a motion to appoint Michael C. Harbin, Lew Thomas, Jim Bowman, Ann Fulford and H.D. Tooley, Jr., to the Gypsy Moth Committee to serve at the pleasure of the Board; Sara E. Patton to an unexpired term on the Historical Commission, term expiring August 31, 1989; James Dorsey to a three-year term on the Parks and Recreation Commission, term expiring April 12, 1992; and to reappoint Ronald T. Curtis to a five-year term on the Board of Building Adjustments and Appeals, term expiring February 23, 1994; James H. Robertson to a three-year term on the Clean County Commission, term expiring May 19, 1992; Charles Glazener, Kent F. Carpenter and Robert Deeds to three-year terms on the Parks and Recreation Commission, terms expiring April 12, 1992; and Richard S. Wallis to a four-year term on the Transportation Safety Commission, term expiring March 25, 1993.

On a roll call, the vote was AYE: Norment, Taylor, Edwards, DePue, Mahone (5). NAY: (0).

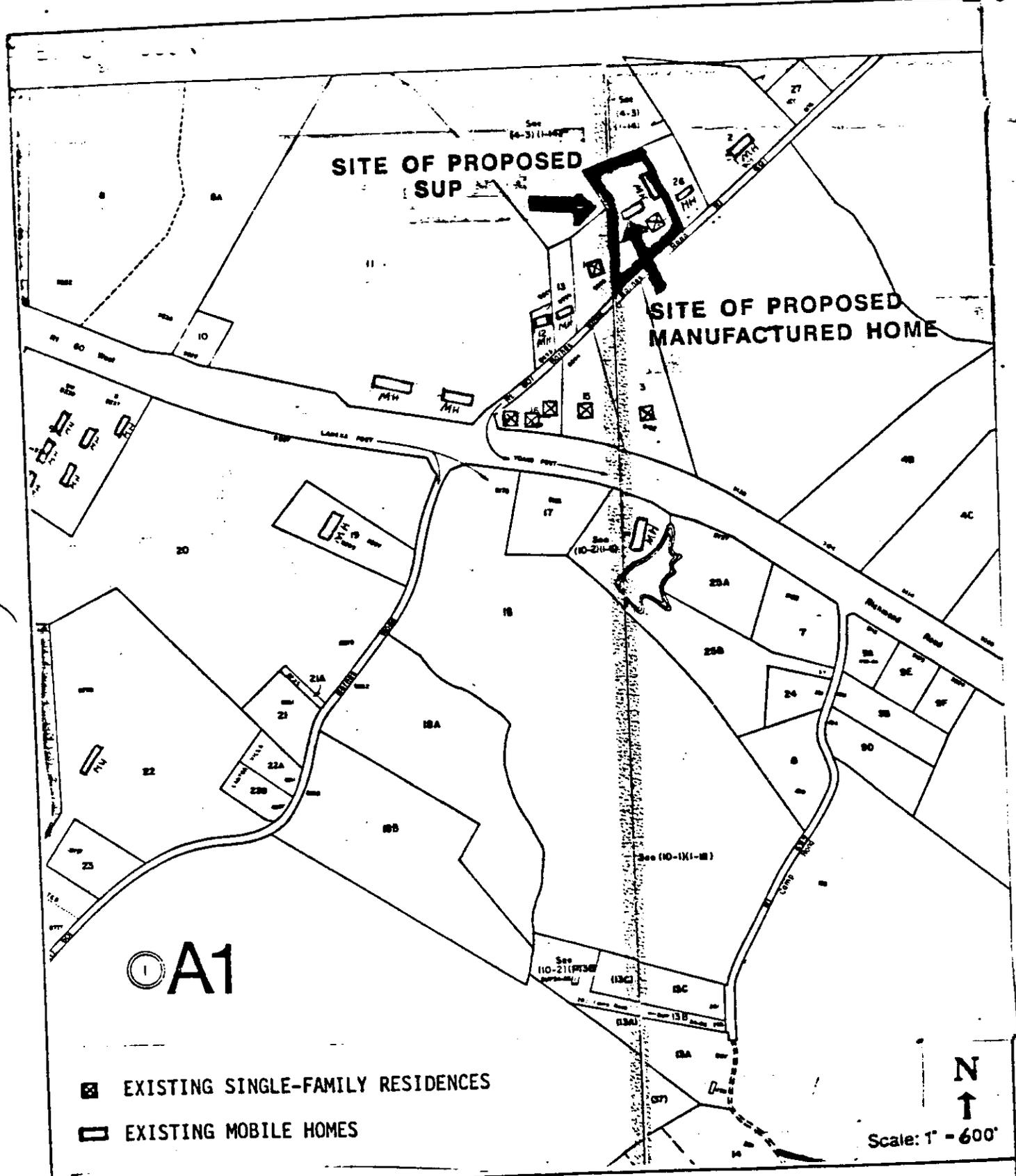
Mr. Taylor made a motion to adjourn.

On a roll call, the vote was AYE: Norment, Taylor, Edwards, DePue, Mahone (5). NAY: (0).

The Board adjourned at 6:15 p.m.



David B. Norman  
Clerk to the Board

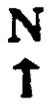


SITE OF PROPOSED SUP

SITE OF PROPOSED MANUFACTURED HOME

ⓐ1

- ⊠ EXISTING SINGLE-FAMILY RESIDENCES
- ▭ EXISTING MOBILE HOMES



Scale: 1" = 600'



Case #: **SUP-9-89**  
 Name: **IRVING M. STEWART**



ORDINANCE NO. 107A-7

APR 17 1989

BOARD OF SUPERVISORS  
JAMES CITY COUNTY  
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 18, TAXATION, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY ADDING ARTICLE VII. TAX ON PREPARED FOOD AND BEVERAGES, SECTION 18-34. DEFINITIONS, SECTION 18-35. LEVY OF TAX; AMOUNT, SECTION 18-36. PAYMENT AND COLLECTION OF TAX, SECTION 18-37. REPORTS AND REMITTANCES GENERALLY, SECTION 18-38. PRESERVATION OF RECORDS, SECTION 18-39. ADVERTISING PAYMENT OR ABSORPTION OF TAX PROHIBITED, SECTION 18-40. TIPS AND SERVICE CHARGES, SECTION 18-41. DUTY OF SELLER WHEN GOING OUT OF BUSINESS, SECTION 18-42. ENFORCEMENT; DUTY OF COMMISSIONER OF THE REVENUE, SECTION 18-43. PROCEDURE UPON FAILURE TO COLLECT, REPORT, ETC., SECTION 18-44. DUTY OF TREASURER, SECTION 18-45. PENALTY OF LATE REMITTANCE OR FALSE RETURN, SECTION 18-46. VIOLATIONS OF ARTICLE, SECTION 18-47. EXEMPTIONS, AND SECTION 18-48. SEVERABILITY.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 18, Taxation, is hereby amended and reordained by adding Section 18-34. Definitions, Section 18-35. Levi of tax; amount, Section 18-36. Payment and collection of tax, Section 18-37. Reports and remittances generally, Section 18-38. Preservation of records, Section 18-39. Advertising payment or absorption of tax prohibited, Section 18-40. Tips and service charges, Section 18-41. Duty of seller when going out of business, Section 18-42. Enforcement; duty of Commissioner of the Revenue, Section 18-43. Procedure upon failure to collect, report, etc., Section 18-44. Duty of treasurer, Section 18-45. Penalty of late remittance or false return, Section 18-46. Violations of article, Section 18-47. Exemptions, and Section 18-48. Severability.

Chapter 18. Taxation

Article VII. Tax on prepared food and beverages.

Section 18-34. Definitions.

The following words and phrases, when used in this article, shall have, for the purposes of this article, the following respective meanings except where the context clearly indicates a different meaning:

- (a) Caterer: A person who furnishes food on the premises of another, for compensation.
- (b) Commissioner of the Revenue: The commissioner of the revenue of the county and any of his duly authorized deputies, assistants, employees or agents.
- (c) Food: Any and all edible refreshments or nourishment, liquid or otherwise, including alcoholic beverages, purchased in or from a restaurant or from a caterer, except snack foods.
- (d) Person: Any individual, corporation, company, association, firm, partnership or any group of individuals acting as a unit.
- (e) Purchaser: Any person who purchases food in or from a restaurant or from a caterer.
- (f) Restaurant: Any place in or from which food is sold in the county, including, but not limited to, any restaurant, dining room, grill, coffee shop, cafeteria, cafe, snack bar, lunch counter, delicatessen, confectionery, bakery, eating house, eatery, drugstore, vending machine, lunch wagon or truck, pushcart or other mobile facility from which food is sold, public or private club, resort, bar or lounge. The word "restaurant" shall not mean a grocery store or supermarket except for any space or section therein designated as a delicatessen or for the sale of prepared sandwiches, delicatessen food or food prepared in a delicatessen.
- (g) Seller: Any person who sells food in or from a restaurant or as a caterer.
- (h) Snack food: Unopened bottles or cans of carbonated soft drinks; chewing gum; candy; popcorn; peanuts and other nuts; unopened packages of cookies, donuts, crackers and potato chips; and other items of essentially the same nature and consumed for essentially the same purpose.
- (i) Treasurer: The treasurer of the county and any of his duly authorized deputies, assistants, employees or agents.

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Section 18-35. Levy of tax; amount.

In addition to all other taxes and fees of any kind now or hereafter imposed by law, a tax is hereby levied and imposed on the purchaser of all food served, sold, or delivered in the county in or from a restaurant, whether prepared in such restaurant or not, and consumed on the premises or prepared by a caterer. The rate of this tax shall be four percent of the amount paid for such food. In the computation of this tax, any fraction of one-half cent or more shall be treated as one cent.

Section 18-36. Payment and collection of tax.

Every seller of food with respect to which a tax is levied under this article shall collect the amount of tax imposed under this article from the purchaser on whom the same is levied at the time payment for such food becomes due and payable, whether payment is to be made in cash or on credit by means of a credit card or otherwise. The amount of tax owed by the purchaser shall be added to the cost of the food by the seller who shall pay the taxes collected to the county as provided in this article. Taxes collected by the seller shall be held in trust by the seller until remitted to the county.

Section 18-37. Reports and remittances generally.

Every seller of food with respect to which a tax is levied under this article shall make out a report, upon such forms and setting forth such information as the commissioner of the revenue may prescribe and require, showing the amount of food charges collected and the tax required to be collected, and shall sign and deliver such report to the treasurer with a remittance of such tax. It shall be presumed that all food served, sold, or delivered in the county in or from a restaurant which provides seating facilities for its customers are consumed on premises and the burden shall be upon the seller of food to establish by records what food is sold for off-premises consumption. Such reports and remittance shall be made on or before the twentieth day of each month, covering the amount of tax collected during the preceding month.

Section 18-38. Preservation of records.

It shall be the duty of any seller of food liable for collection and remittance of the taxes imposed by this article to keep and preserve for a period of three years records showing gross sales of all food and beverages, the amount charged the purchaser of each such purchase, the date thereof, the taxes collected thereon and the amount of tax required to be collected by this article. The commissioner of the revenue shall have the power to examine such records at reasonable times and without unreasonable interference with the business of the seller, for the purpose of administering and enforcing the provisions of this article and to make copies of all or any parts thereon.

Section 18-39. Advertising payment or absorption of tax prohibited.

No seller shall advertise or hold out to the public in any manner, directly or indirectly, that all or any part of the tax imposed under this article will be paid or absorbed by the seller or anyone else, or that the seller or anyone else will relieve the purchaser of the payment of all or any part of the tax.

Section 18-40. Tips and service charges.

Where a purchaser provides a tip for an employee or employees of a seller, and the amount of the tip is wholly in the discretion of the purchaser, the tip is not subject to the tax imposed by this article, whether paid in cash to the employee or added to the bill and charged to the purchaser's account, provided, in the latter case, the full amount of the tip is turned over to the employee by the seller.

An amount or percent, whether designated as a tip or a service charge, that is added to the price of the meal by the seller, and required to be paid by the purchaser, is a part of the selling price of the meal and is subject to the tax imposed by this article.

Section 18-41. Duty of seller when going out of business.

Whenever any seller required to collect or pay to the county a tax under this article shall cease to operate or otherwise dispose of his business, any tax payable under this article shall become immediately due and payable and such person shall immediately make a report and pay the tax due.

Section 18-42. Enforcement; duty of Commissioner of the Revenue.

The commissioner of the revenue shall promulgate rules and regulations for the interpretation, administration and enforcement of this article. It shall also be the duty of the commissioner of the revenue to ascertain the name of every seller liable for the collection of the tax imposed by this article, who fails, refuses or neglects to collect such tax or to make the reports and remittances required by this article. The commissioner of the revenue shall have all of the enforcement powers as authorized by Article 1, Chapter 31 of Title 58.1 of the Code of Virginia (1950), as amended, for purposes of this article.

Section 18-43. Procedure upon failure to collect, report, etc.

If any seller whose duty it is to do so shall fail or refuse to collect the tax imposed under this article and to make, within the time provided in this article, the reports and remittances mentioned in this article, the commissioner of the revenue shall proceed in such manner as he may deem best to obtain facts and information on which to base his estimate of

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the tax due. As soon as the commissioner of the revenue shall procure such facts and information as he is able to obtain upon which to base the assessment of any tax payable by any seller who has failed or refused to collect such tax and to make such report and remittance, he shall proceed to determine and assess against such seller the tax and penalties provided for by this article and shall notify such seller, by registered mail sent to his last known place of address, of the total amount of such tax and penalties and the total amount thereof shall be payable within ten days from the date such notice is sent.

Section 18-44. Duty of Treasurer.

The treasurer shall have the power and the duty of collecting the taxes imposed and levied hereunder and shall cause the same to be paid into the general treasury for the county:

Section 18-45. Penalty of late remittance or false return.

If any seller whose duty it is to do so shall fail or refuse to file any report required by this article or to remit to the treasurer the tax required to be collected and paid under this article within the time and in the amount specified in this article, there shall be added to such tax by the treasurer a penalty in the amount of ten percent thereof and interest thereon at the rate of eight percent per annum, which shall be computed upon the taxes and penalty from the date such taxes are due and payable.

Section 18-46. Violations of article.

Any person violating, failing, refusing or neglecting to comply with any provision of this article shall be guilty of a Class 3 misdemeanor. Conviction of such violation shall not relieve any person from the payment, collection or remittance of the taxes provided for in this article. Any agreement by any person to pay the taxes provided for in this article by a series of installment payments shall not relieve any person of criminal liability for violation of this article until the full amount of taxes agreed to be paid by such person is received by the treasurer. Each failure, refusal, neglect or violation, and each day's continuance thereof, shall constitute a separate offense.

Section 18-47. Exemptions.

The following purchases of food shall not be subject to the tax under this article:

- (a) Food furnished by restaurants to employees as part of their compensation when no charge is made to the employee.

- (b) Food sold by nonprofit day care centers, public or private elementary or secondary schools or food sold by any college or university to its students or employees.
- (c) Food for use or consumption by the employees, agents or guests of the Commonwealth, any political subdivision of the Commonwealth or the United States.
- (d) Food furnished by a hospital, medical clinic, convalescent home, nursing home, home for the aged, infirm or handicapped or other extended care facility to patients or residents thereof.
- (e) Food furnished by a nonprofit charitable organization to elderly, infirm, handicapped or needy persons in their homes or at central locations.
- (f) Food sold by a nonprofit educational, charitable or benevolent organization on an occasional basis as a fund-raising activity or food sold by a church or religious body on an occasional basis.
- (Q) Any other sale of food which is exempt from taxation under the Virginia Retail Sales and Use Tax Act, or administrative rules and regulation issued pursuant thereto.

Section 18-48. Severability.

If any provision of this article, or any application of such provision to any person or under any circumstances, shall be invalid, the remainder of this article, or the application of such provisions to persons or under circumstances other than those to which it shall have been held invalid, shall not be affected thereby.

That this ordinance shall be in full force and effect on and after June 1, 1989.

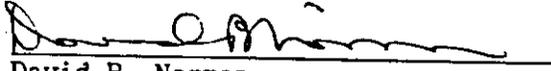
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Ordinance to Amend and Reordain  
Chapter 18. Taxation  
Page 7

*Thomas D. Mahone*

Thomas D. Mahone, Chairman  
Board of Supervisors

ATTEST:



David B. Norman  
Clerk to the Board

SUPERVISOR	VOTE
NORMENT	AYE
TAYLOR	NAY
EDWARDS	NAY
DEPUE	AYE
MAHONE	AYE

Adopted by the Board of Supervisors of James City County, Virginia,  
this 17th day of April, 1989.

0235U

ORDINANCE NO. 116A-16

APR 17 1989

BOARD OF SUPERVISORS  
JAMES CITY COUNTY  
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 8, HEALTH AND SANITATION, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE II, LANDFILL ORDINANCE, SECTION 8-9, HOUSEHOLD WASTE; SECTION 8-10, INDUSTRIAL REFUSE; AND SECTION 8-13, USER CHARGES BY VOLUME.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 8, Health and Sanitation, is hereby amended and reordained by amending Section 8-9, Household waste; Section 8-10, Industrial refuse; and Section 8-13, User charges by volume.

Chapter 8. Health and Sanitation.

Article II. Landfill Ordinance.

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 shall not be required to pay for disposal of refuse, provided, that the refuse being disposed of was neither collected nor hauled for a fee. Commercial haulers, under contract with the county to service county refuse containers, shall not be required to pay for disposal of refuse collected from county refuse containers.

(b) Commercial, industrial and governmental waste generators who bring their own refuse to the landfill, and commercial refuse operators-haulers regardless of the origin of the refuse shall pay the following fees:

Twenty-one dollars (\$21.00) per ton, computed on the basis of twenty-one cents (\$0.21) per each twenty (20) pounds or fraction thereof. Such charge shall be computed to the next highest one cent (\$0.01). The minimum charge shall be two and a quarter dollars (\$2.25) per load.

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

(c) The manager may promulgate reasonable rules and regulations to permit certain materials (for example, soil or gravel) determined to be beneficial in the proper operation and maintenance of the landfill to be disposed of without charge to the hauler.

(d) Tires. Whenever more than two (2) passenger car tires are disposed of on any occasion at the county landfill by any person, firm or corporation, a separate fee of seventy-five cents (\$0.75) shall be charged for each tire above two (2). The manager 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 manager. Prior to the issuance of such a permit, the manager shall determine the compatibility of the specific refuse with the landfill method of disposal. In determining such compatibility, the manager 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 paragraph (d) below.

(c) The disposal charge for industrial wastes requiring separate disposal locations shall be a minimum of twenty-one dollars (\$21.00) per ton but may be higher as determined by the manager. In establishing the fee for disposal of a specific waste requiring separate disposal, the manager shall determine the costs to maintain 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 is 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 eight thousand (8,000) tons per year. No such contract will guarantee the county less than one hundred-sixty-eight thousand dollars (\$168,000.00) per year.

Section 8-13. User charges by volume.

(a) Should the landfill scales be inoperative, the manager shall base the charges applied upon weight data previously generated for the vehicle hauling such waste and the nature of the waste. The weight data shall consist of no fewer than fifteen (15) previous weighings by the vehicle carrying such waste and shall be modified by visual inspection of the vehicle if such is feasible.

(b) For vehicles for which no history of previous weigh data exists as described in (a) above, the following rates shall apply:

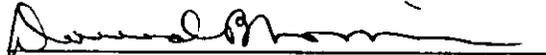
- (1) Uncompacted refuse, two dollars and ten cents (\$2.10) per cubic yard of truck capacity.
- (2) Compacted refuse, five dollars and twenty-five cents (\$5.25) per cubic yard of truck capacity.
- (3) The minimum fee for refuse charged for on a volume basis shall be two dollars and twenty-five cents (\$2.25) per load.

This ordinance shall be effective on and after July 1, 1989.

*Thomas D. Mahone*

Thomas D. Mahone, Chairman  
Board of Supervisors

ATTEST:

  
David B. Norman  
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
NORMENT	AYE
TAYLOR	NAY
EDWARDS	AYE
DEPUE	AYE
MAHONE	AYE

Adopted by the Board of Supervisors of James City County, Virginia,  
this 17th day of April, 1989.

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