

AT A SPECIAL MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 7TH DAY OF AUGUST, NINETEEN HUNDRED EIGHTY-NINE, AT 4:10 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

Mr. Taylor made a motion to go into executive session.

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

Mr. Mahone convened the Board into executive session pursuant to Section 2.1-344(a)(7) of the Code of Virginia 1950 to consult with legal counsel and staff on a specific legal matter, the Ware Creek Reservoir, at 4:10 p.m.

Mr. Mahone reconvened the Board into open session at 5:57 p.m.

Mr. Norment made a motion to approve the Executive Session resolution.

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

MOTION BY: Norment

R E S O L U T I O N

MEETING DATE: August 7, 1989

CERTIFICATION OF EXECUTIVE MEETING

WHEREAS, the Board of Supervisors of James City County, Virginia, (Board) has convened an executive meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.1-344.1 of the Code of Virginia requires a certification by the Board that such executive meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge; (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the executive meeting to which this certification resolution applies; and, (ii) only such public business matters as were identified in the motion convening the executive meeting were heard, discussed or considered by the Board.

Mr. Mahone declared a break at 5:58 p.m.

Mr. Mahone reconvened the Board into open session at 7:02 p.m.

B. Minutes - July 24, 1989

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

Mr. DePue made a motion to approve the minutes as amended on page 14.

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

C. CONSENT CALENDAR

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

Mr. Edwards asked that Item 1 be removed.

Mr. Mahone made a motion to approve Items 2, 3 4, 5 and 6 on the Consent Calendar.

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

2. Equipment Purchase - Dumpster Collection Truck

R E S O L U T I O N

EQUIPMENT PURCHASE - DUMPSTER COLLECTION TRUCK

WHEREAS, the Board of Supervisors has entered into an equipment lease for a dumpster collection truck and that lease allows the purchase of the truck at the end of the lease.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the execution of the buy out provision, as budgeted, in the amount of \$63,975 for the purchase of the truck.

3. Upper County Park Well

R E S O L U T I O N

UPPER COUNTY PARK WELL

WHEREAS, the Department of Health of the Commonwealth of Virginia regulates the use of noncommunity wells; and

WHEREAS, State regulations require that certain restrictions be placed on the area surrounding such a well to prevent contamination of the well; and

WHEREAS, the County of James City, Virginia, desires to operate a noncommunity well at its Upper County Park.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes the Chairman to execute an appropriate legal document, approved by the County Attorney, restricting the use of land surrounding the well at the Upper County Park as required by the Department of Health of the Commonwealth of Virginia for the operation of a noncommunity well.

4. Funding for Project: Intercept

R E S O L U T I O NAPPROPRIATION TO THE SOCIAL SERVICES DEPARTMENT

WHEREAS, the State Department of Social Services has provided supplemental funding to render services through the Virginia Family Violence Prevention Program for Project Intercept (Account No. 007-081-3000).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following appropriation amendments:

Revenues:

From the Commonwealth	\$20,545
-----------------------	----------

Expenditures:

Project Intercept	\$20,545
-------------------	----------

5. Renovation Contract - Building A

R E S O L U T I O NCONTRACT AWARD - BUILDING A RENOVATION

WHEREAS, the Board of Supervisors has authorized the solicitation of bids for the renovation of Building A and has received seven bids, the lowest of which is from a qualified contractor and is within the budgeted amount of \$173,000.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to enter into a contract for the renovation of Building A with D. K. Nunnley at a contract price of \$167,142.

6. Lighting Fee - Athletic Fields

R E S O L U T I O NATHLETIC FACILITY USE POLICY

WHEREAS, James City County has developed several athletic facilities; and

WHEREAS, the Parks and Recreation division of James City County desires operational guidelines for the use of these facilities.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia authorizes the implementation of the Athletic Facility Use Policy as outlined in the attached document effective August 15, 1989.

1. Dedication of Streets in Mirror Lake Estates, Sections 2, 3B, 4 and 5B, Mill Creek Landing, Sections 1, 2 and 3, and Rolling Woods, Sections 1 and 2

Mr. Edwards asked staff to investigate the drainage at the intersection of Bridgewater Drive and Burnley Drive in Mill Creek Landing. He made a motion to approve the dedication of streets in Mirror Lake Estates and Rolling Woods.

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

DEDICATION OF STREETS IN MIRROR LAKE ESTATES,

SECTIONS 2, 3B, 4 and 5B

WHEREAS, the developer of Mirror Lake Estates, Sections 2, 3B, 4 and 5B has requested the Board of Supervisors to include certain streets in the State Secondary Highway System; and

WHEREAS, the Board of Supervisors desires certain streets in Mirror Lake Estates, Sections 2, 3B, 4, and 5B to be included in the State Secondary Highway System, provided these streets meet with the requirements of the Virginia Department of Transportation, and providing that any alterations, corrections, or other matters that might be found desirable by the Virginia Department of Transportation are made within a ninety (90) day period from the date that the Virginia Department of Transportation makes its final inspection.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the Virginia Department of Transportation be, and is hereby respectfully requested, contingent on the above, to include the following streets in Mirror Lake Estates, Sections 2, 3B, 4 and 5B, Stonehouse Election District, James City County, in the State Secondary Highway System:

1. Reflection Drive, 50-foot right-of-way
 From: Route 1642 (Meadowcrest Trail)
 To: Intersection of Fairmont Drive (Route 1641 extended)
 Distance: 2,102 feet (0.40 miles)

2. Fairmont Drive, 50-foot right-of-way
From: Reflection Drive
To: Intersection of Loch Haven Drive
Distance: 400 feet (0.08 miles)
3. Loch Haven Drive, 50-foot right-of-way
From: Route 1644 (Loch Haven Drive)
To: Intersection of Knollwood Drive
Distance: 1,825 feet (0.35 miles)
4. Loch Haven Drive, 50-foot right-of-way
From: Route 1644 (Loch Haven Drive)
To: Intersection of Point O'Woods
Distance: 621 feet (0.12 miles)
5. Point O'Woods 50-foot right-of-way
From: Loch Haven Drive
To: Intersection of Fairview Drive
Distance: 551 feet (0.10 miles)
6. Fairview Drive, 50-foot right-of-way
From: Point O'Woods
To: Intersection of Lakepoint Court
Distance: 679 feet (0.13 miles)
7. Lakepoint Court, 50-foot right-of-way
From: Route 1,642 (Meadowcrest Trail)
To: End of cul-de-sac
Distance: 1,065 feet (0.20 miles)
8. Knollwood Drive, 50-foot right-of-way
From: Loch Haven Drive
To: End of cul-de-sac
Distance: 485 feet (0.09 miles)
9. Nice Drive, 50-foot right-of-way
From: Loch Haven Drive
To: End of cul-de-sac
Distance: 1,260 feet (0.24 mile)

The rights-of-way of 50 feet, along with drainage easements, are guaranteed as evidenced by the following plats of record:

Mirror Lake Estates, Section 2, recorded in Plat Book 39, page 90, dated August 24, 1984; Mirror Lake Estates, Section 3B, recorded in Plat Book 43, pages 35 and 36 dated July 29, 1986; Mirror Lake Estates, Section 4, recorded in Plat Book 43, pages 67 and 68, dated October 6, 1986; and Mirror Lake Estates, Section 5B, recorded in Plat Book 46, pages 26 and 27, dated September 25, 1987.

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

R E S O L U T I O N

DEDICATION OF STREETS IN ROLLING WOODS, SECTIONS 1 AND 2

WHEREAS, the developer of Rolling Woods, Sections 1 and 2 has requested the Board of Supervisors to include certain streets in the State Secondary Highway System; and

WHEREAS, the Board of Supervisors desires certain streets in Rolling Woods, Sections 1 and 2 to be included in the State Secondary Highway System, provided these streets meet with the requirements of the Virginia Department of Transportation, and providing that any alterations, corrections, or other matters that might be found desirable by the Virginia Department of Transportation are made within a ninety (90) day period from the date that the Virginia Department of Transportation makes its final inspection.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the Virginia Department of Transportation be, and is hereby respectfully requested, contingent on the above, to include the following streets in Rolling Woods, Sections 1 and 2, Jamestown Election District, James City County, in the State Secondary Highway System:

1. Rolling Woods Drive (extended), 50-foot right-of-way
 From: Route 1330
 To: Hidden Lake Drive (extended)
 Distance: 507 feet (0.10 miles)
2. Hidden Lake Drive (extended)
 From: Route 1331
 To: End of cul-de-sac
 Distance: 785 feet (0.15 miles)
3. Nuthatch Drive, 50-foot right-of-way
 From: Intersection of Warbler Place
 To: Intersection of Starling Drive
 Distance: 280 feet (0.05 miles)
4. Warbler Place, 50-foot right-of-way
 From: Rolling Woods Drive
 To: End of cul-de-sac
 Distance: 710 feet (0.14 miles)
5. Starling Drive, 50-foot right-of-way
 From: Intersection of Nuthatch Drive
 To: 0.06 mile west to end of cul-de-sac and
 0.07 mile east to end of cul-de-sac
 Distance: 626 feet (0.13 miles)

The rights-of-way of 50 feet, along with drainage easements, are guaranteed as evidenced by the following plats of record:

Rolling Woods, Section 1, recorded in Plat Book 45, pages 5 and 6, dated March 27, 1987; and Rolling Woods, Section 2, recorded in Plat Book 46, pages 81 and 82, dated October 20, 1987.

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

D. PUBLIC HEARINGS

1. Case No. SUP-40-88. Hampton Roads Sanitary District Interceptor Force Main

Mr. Marvin Sowers, Director of Planning, stated that the James City Service Authority had applied on behalf of the Hampton Roads Sanitation District for a special use permit for a 24-inch sanitary sewer force main, primarily located within the median of the Richmond Road right-of-way, extending 14,400 feet from Patriot Lane to Lightfoot Road. He further stated that most existing trees would be preserved and replanting of trees would be done as construction occurred.

In accordance with staff, the Planning Commission, voting 5-4, recommended approval with conditions listed in the resolution.

Mr. Mahone opened the public hearing.

1. Mr. Sanford Wanner, General Manager, James City Service Authority, summarized background information and requested approval of the special use permit.

2. Ms. Connie Bennett, representative for York County, expressed agreement with the location of the force main and stated the item would be before the York County Board of Supervisors for approval in September.

Mr. Mahone closed the public hearing.

Mr. DePue made a motion to approve the special use permit.

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-40-88. HRSD INTERCEPTOR FORCE MAIN

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

WHEREAS, the Planning Commission of James City County, following its public hearing on November 22, 1988, voted 5-4 to recommended approval of Case No. SUP-40-88.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County does hereby approve the issuance of Special Use Permit No. SUP-40-88 as described herein with the following conditions.

1. Construction, operation and maintenance of the force mains shall comply with all local, State and Federal requirements.
2. The project shall comply with all State erosion and sediment control regulations as specified in the 1980 Virginia Erosion and Sediment Control Handbook.
3. All required permits and easements shall be acquired prior to commencement of construction.
4. Adequate dust and siltation control measures shall be taken to prevent adverse affects on the adjacent property.
5. If construction has not commenced on the project within a period of 24 months from the date of issuance of the permit, it shall become void. Construction shall be defined as the clearing, grading and excavation of trenches necessary for the construction of the force main.
6. A replanting plan shall be submitted to and approved by the Development Review Committee prior to construction. Replantings occur continuously during construction and no later than 30 days from the backfilling of the trench in any given location.

2. Case No. Z-12-89. L.A. & G. Corporation

Mr. Sowers stated that the applicant had requested postponement of Case No. Z-12-89.

Mr. Mahone opened the public hearing and continued the public hearing until September 11, 1989.

3. Case No. SUP-17-89. C. Lewis Waltrip, II

Mr. Sowers stated that Alvin Anderson, on behalf of C. Lewis Waltrip, II, had applied for a special use permit to allow development of a children's day care center on 5.7 acres, zoned A-2, Limited Agricultural, located north of John Tyler Highway approximately 1,800 feet southeast of Five Forks, further identified as parcel (1-35) on James City County real estate tax map no. (46-2).

Mr. Sowers also stated that approximately 4.1 acres of the site are located within the 100-year floodplain with regrading or construction of parking lots or play areas permitted, but with no above ground structures allowed.

In accordance with staff, the Planning Commission recommended approval, by a 9-1 vote, with conditions listed in resolution.

Mr. Mahone opened the public hearing.

1. Mr. Alvin Anderson, Esq., gave a brief history of the site and requested approval of the special use permit for a licensed child care facility, which was consistent with the Comprehensive Plan.

The Board discussed citizens' support for the facility, limits of commercial growth in the area and the fact there would not be any development in the 100-year floodplain.

Mr. Mahone 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 N

CASE NO. SUP-17-89. C. LEWIS WALTRIP, II

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

WHEREAS, the Planning Commission of James City County, following its public hearing on July 11, 1989, voted 9-1 to recommended approval of Case No. SUP-17-89.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-17-89 as described herein with the following conditions:

1. If construction is not commenced on the project within 18 months from the date of issuance of the special use permit, it shall become void. During the 18-month period, permits pertaining to the construction shall be secured, clearing and grading the site shall be completed and footings and/or foundations shall be installed.
2. Any development within the 100-year floodway shall be approved by the Zoning Administrator.
3. As part of the site plan, a landscape plan designed by a landscape architect for this site including the scenic easement area shall be submitted. The landscape plan shall be approved by the Development Review Committee.

4. Wetlands on the site shall be field located and shown on the site plan. A 100-foot undisturbed buffer shall be provided around all wetlands. This buffer may be reduced to 50 feet adjacent to the wetlands along the rear lot line with the approval of the County Environmental Engineer provided that the runoff from any impervious surface beyond the buffer is directed away from the buffer and wetlands area.

4. Proposed Ordinance to Regulate Refuse Removers

Mr. David W. Clark, Solid Waste Engineer, stated that the proposed ordinance had been amended since the Board had seen it in a work session to reflect penalty provisions and suspension of landfill privileges for any refuse remover who failed to comply with the requirements and revised Section 7-4 to conform to the Virginia Code.

Staff recommended continuation of the public hearing until the August 21, 1989 meeting.

The Board discussed the frame mounted front tow hook, back up alarm, which is a now State requirement, and fees charged per truck.

Mr. Mahone opened the public hearing.

Reverend J. B. Tabb, 4024 Ironbound Road, spoke in opposition to the type of cover required, inspection, fees and emphasized the ordinance created a hardship for small trash haulers.

Board comments included the ordinance was restrictive, there was a need to provide the information to all area trash haulers, the importance of educating citizens about littering, future solid waste disposal and health and safety measures.

Mr. Mahone continued the public hearing.

5. Adoption of an Ordinance to Regulate Beekeeping

Mr. Larry W. Davis, Assistant County Attorney, stated that an ordinance had been prepared to address a threat to the public health, safety and general welfare, restricting location of hives in relation to adjacent dwellings, property lines and roads, regulating number of hives in relation to property size and limiting when hives can be moved or manipulated.

Mr. Mahone opened the public hearing.

1. Ms. Josephine Duckworth, 716 Adams Road, spoke in opposition to the ordinance, requiring removal of the beehives that have been her husband's hobby for 25 years.

2. Mr. Kaare Loftheim, 919 Tyler Drive, spoke in favor of the ordinance, citing numerous occasions of bees stinging his children.

3. Ms. Anjak Loftheim, 919 Tyler Drive, stated that she currently had a lump on her foot from a bee sting last year.

4. Ms. Melody Loftheim, 919 Tyler Drive, asked for the Board's help in regulating the number of bees on her neighbor's property.

5. Ms. Mildred B. Duling, 719 Madison Road, spoke in support of Mr. Duckworth's beehives.

6. Mr. Dean Duling, 719 Madison Road, spoke in opposition to the ordinance, stating it would restrict a person's hobby.

7. Mr. Archie McKinney, 921 Tyler Road, spoke in favor of the ordinance which would regulate the number of beehives.

8. Ms. Susan McKinney, 921 Tyler Road, spoke in favor of the ordinance and voiced appreciation to Mr. Norment for showing an interest in the matter.

9. Ms. Nancy Robertson, 110 Wickre Street, speaking in favor of the ordinance, stated that she had noticed bee swarms and swarms covering a garden while visiting in the area.

10. Mr. William Hathaway, 105 Maple Lane, spoke in opposition to language in several portions and asked that the ordinance be rewritten.

11. Mr. Chester Duckworth, 716 Adams Street, spoke in opposition to the ordinance, stating his bees were honeybees, not vicious, that bees were needed for pollination and to provide a source of income for him during retirement.

Mr. Norment made a motion to approve the ordinance with an effective date of October 1, 1989, to allow for compliance.

Discussion followed noting that the ordinance will apply County-wide, as a health and safety provision and not a zoning requirement, and it would regulate the number of bees in residential areas through setback requirements.

Mr. DePue made a motion to amend Section 3-32 by adding the language "on his premises" following the word maintain, and deleting "...within fifty feet of such apiary" to read "shall maintain on his premises an adequate"

Mr. Mahone made a motion in Section 3-30, to reduce 75 feet to 40 feet in (a); in Section 3-31, to reduce 15,000 square feet to 12,000 square feet; and to delete Section 3-36, Violation of article as nuisance.

After a short discussion, Mr. Mahone changed his motion to reduce 75 feet to 50 feet and 15,000 to 14,000, and withdrew his motion to delete Section 3-36.

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

On a roll call on the original motion and Mr. DePue's amendment to Section 3-32, the vote was: AYE: Norment, Edwards, DePue (3). NAY: Taylor, Mahone (2).

6. Amendment of Chapter 1, General Provisions to Provide for Disposal of Unclaimed Property

Mr. Davis stated that State law provided that local government can adopt an ordinance authorizing disposal of unclaimed personal property in the possession of the police department unclaimed for sixty days. Staff recommended approval of the ordinance.

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 ordinance.

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

7. Amendment to Chapter 5, Bingo and Raffles, Section 5-5, Section 5-6 and Section 5-7

Mr. Davis stated that the 1989 legislation mandated three amendments to Chapter 5. Those amendments: 1) require that only cash be accepted in payment of charges to participate in bingo games; 2) require that instant bingo games be conducted only at such locations and at such times as are specified in the bingo application for regular bingo games; and, 3) require that any organization with gross receipts from bingo games or raffles exceeding \$200,000 attach to its annual financial report an opinion executed by a licensed certified public accountant certifying that the proceeds are properly accounted for and used for a lawful religious, charitable, community or educational purpose.

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 ordinance.

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

8. Amendment of Chapter 11, Motor Vehicles and Traffic, Section 11-46 and Section 11-67

Mr. Davis stated that 1989 legislation authorized local government: 1) to limit the number of inoperative vehicles kept outside of a fully enclosed building or structure if shielded or screened from view by covers. The proposed amendment limits the number to one; and, 2) requires that prior to a discharge of a violation by payment of a fine, the violator provide satisfactory evidence that the required decal had been obtained.

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 ordinance.

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

9. Amendment to Chapter 18, Taxation, Section 18-33 and Section 18-34

Mr. Davis stated that 1989 legislation amended Chapter 18, Taxation, Section 18-33, limiting the complaints that can be heard by Board of Equalization, and Section 18-34, prohibit collecting a food or beverage tax on the sale of any food through vending machines.

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

Mr. Mahone made a motion to approve the ordinance.

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

E. BOARD CONSIDERATIONS

1. Case No. SUP-14-89/PA-1-89. Ewell Hall Tract

Mr. Norment stated that he would abstain from voting on this issue because of a conflict of interest.

Mr. Sowers stated that these cases, an application for a special use permit to allow the development of a cemetery on 19.79 acres of land zoned R-3, identified as Parcel (1-109) on James City County Real Estate Tax Map No. (32-2), and an application to amend proffers attached to this site, were postponed at the July 10, 1989, Board of Supervisors meeting to allow time for staff and the applicant to address concerns of the Virginia Department of Transportation. He further stated that VDOT, in a letter dated July 20, 1989, indicated its approval of the project.

Staff recommended approval of the cases with conditions listed in the resolution, and recommended with the addition of two conditions submitted on a petition from residents of King William Drive, as follows: 4) vehicles involved in the construction of the cemetery access road from King William Drive shall enter and exit the site exclusively from the existing cemetery entrance on Richmond Road; and, 5) a gate restricting vehicular traffic shall be provided at the cemetery entrance at King William Drive which shall be locked between sunset and sunrise.

Mr. Mahone declared a break at 9:45 p.m.

Mr. Mahone reconvened the Board at 10:15 p.m.

By Board consensus, Mr. Mahone permitted speakers to speak for a limited time.

1. Mr. David Otey, Sr., Esq., representing Mr. Allen Glen, stated Bush Construction Company was the recorded owner. He briefly explained the background of the request, and introduced Mr. Gilbert Bartlett.

2. Mr. Gilbert Bartlett, Director of Williamsburg Memorial Park Board of Directors, stated support for the special use permit.

3. Mr. R. E. Gilley, 227 Gate House Boulevard, spoke in opposition to the relocation of the cemetery entrance.

4. Ms. Anne Gulasky, 115 Wickre Avenue, read from a letter dated August 7, 1989, to the Board of Supervisors stating that "... many citizens in our community are very concerned about the sudden proposed relocation of the entrance to Williamsburg Memorial Park." She asked that the Board consider the petition signers' statement.

5. Mr. Stanley Gardner, 122 King William Drive, spoke in support of the relocation and improvement of the cemetery entrance from King William Drive.

6. Ms. Madeline Gee stated her willingness to make a contribution toward beautifying the present entrance.

7. Ms. Delcie Roach, York County resident, asked the Board to postpone the decision and consider several questions of placing 51 houses on 19 acres, cemetery maintaining the entrance on Richmond Road, etc.

8. Ms. Rebecca Paluzsay, 128 Shellbank Drive, stated applicant had not pursued acquiring any additional acreage adjacent to the cemetery.

The Board agreed the decision was a difficult one of land use and the effect on the County and residents.

Mr. DePue made a motion to approve the proffers amendment.

On a roll call, the vote was: AYE: Edwards, DePue, Mahone (3).
NAY: Taylor (1). ABSTAIN: Norment (1).

R E S O L U T I O N

CASE NO. PA-1-89. EWELL HALL TRACT

WHEREAS, the applicant has applied to amend proffers attached to 19.79 acres zoned R-3, General Residential and further identified as Parcel (1-109) on James City County Real Estate Tax Map No. (32-2); and

WHEREAS, the Planning Commission of James City County, following its public hearing on June 13, 1989, unanimously recommended that an amendment of proffers as requested in Case No. PA-1-89 be approved.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the amendment to the proffers as referenced herein.

Mr. DePue made a motion to approve the resolution with the additional conditions as noted by staff.

On a roll call, the vote was: AYE: Edwards, DePue, Mahone (3).
NAY: Taylor (1). ABSTAIN: Norment (1).

R E S O L U T I O N

CASE NO. SUP-14-89. EWELL HALL TRACT

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

WHEREAS, the Planning Commission of James City County, following its public hearing on June 13, 1989, unanimously recommended approval of Case No. SUP-14-89.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-14-89 as described herein with the following conditions.

1. If construction of the entrance road has not commenced on the property within 18 months from the date of issuance of the special use permit, it shall become void. During the 18-month period, permits pertaining to the construction shall be secured. Clearing and grading of the site shall be completed.
2. Site plan approval by the Development Review Committee shall be required.
3. A 50-foot undisturbed buffer strip shall be provided along property lines adjoining lots located at 123 and 125 King William Drive except for a proposed access road as approved by the Development Review Committee.
4. Vehicles involved in the construction of the cemetery access road from King William Drive shall enter and exit the site exclusively from the existing cemetery entrance on Richmond Road.
5. A gate restricting vehicular traffic shall be provided at the cemetery entrance at King William Drive which shall be locked between sunset and sunrise.

- F. PUBLIC COMMENT - None
- G. REPORTS OF THE COUNTY ADMINISTRATOR - None
- H. BOARD REQUESTS AND DIRECTIVES

Mr. Mahone mentioned the ribbon cutting at Grove Fire Station, Thursday August 10, 1989 at 3:30 p.m.

Mr. Mahone requested a report on the sink hole at Raleigh Square complex.

Mr. Mahone asked staff to note current appointments of applicants on each list of Board or Commission for which the individual applied.

Mr. Mahone congratulated Chief Robert Key and the Police Department for receiving accreditation for the department.

Mr. Edwards asked if the Police Department would be honored in a presentation ceremony.

Mr. Edwards made a motion to authorize the filing of a lawsuit to contest the EPA 404(c) for the veto of the Ware Creek Reservoir.

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

Mr. Mahone made a motion to reappoint Anthony Conyers, Jr., to a three-year term on the Colonial Services Board, term expiration June 30, 1992.

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

Mr. Taylor announced the James City County Expo at Norge School on Saturday, August 12, 1989, from 10:00 a.m. to 3:00 p.m.

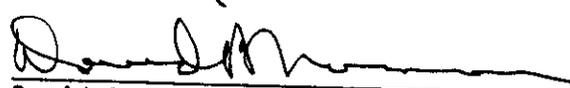
Mr. Norment expressed appreciation to the Emergency Medical Services and referenced a letter received from Dr. Robert McKeogh praising our Emergency Services technicians for their knowledge and professionalism.

Mr. Norman stated that appreciation would be shared at the meeting with employee supervisors on Tuesday morning, August 12.

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 11:20 p.m.

A handwritten signature in black ink, appearing to read "David B. Norman", written over a horizontal line.

David B. Norman
Clerk to the Board

1075w

WELL DEDICATION

JAMES CITY COUNTY, a political subdivision of the Commonwealth of Virginia, does hereby dedicate an area 100 feet by 100 feet, containing 10,000 square feet more or less, as a well lot for the potable water supply well serving James City County's "Upper County Park." No buildings, appurtenances or other structures, not pertinent to the water supply system, shall be constructed within 50 linear feet measured horizontally from the potable water supply well. The aforesaid area is a portion of that tract of real estate situated, lying and being in James City County, Virginia, more particularly described by Deed of Record in Deed Book 240, pages 333, 334 and 335, of the Clerk's Office of the Circuit Court of James City County, Virginia, and being the identical real estate which said County acquired by grant with General Warranty and English Covenants of Title from Twin Oaks Associates, a limited partnership. Said dedication being to establish the aforesaid area for water supply use only, and the said James City County agrees that only appurtenances pertinent to the water supply system will be constructed in said area dedicated and that said area will not be used for human habitation or other sources of contamination.

The full interest and control of the aforesaid area dedicated shall remain with the James City County and this instrument is solely for the purpose of assuring the Department of Health of the Commonwealth of Virginia as to the matters hereinabove set forth so long as said parcel is used for a water supply system; and this dedication shall be null and void and of no further effect should the well on the said premises be abandoned and the use thereof for a water supply system cease.

WITNESS the following signatures and seal this 7th day of August, 1989.

BY: Thomas D. Mahone
CHAIRMAN, BOARD OF SUPERVISORS
JAMES CITY COUNTY

ATTEST: [Signature]

I, Masi Lou Smith, a Notary Public for the County aforesaid in the State of Virginia do certify that Thomas D. Mahone and David B. Norman whose names are signed to the writing above, bearing date on the 7th day of August, 1989, have acknowledged the same before me in my County aforesaid.

Given under my hand this 9th day of August, 1989.

Masi Lou Smith
Notary Public

My Commission Expires Feb. 8, 1993.

JAMES CITY COUNTY PARKS AND RECREATION DIVISIONATHLETIC FACILITY USE POLICY

PURPOSE: The purpose of this policy is to provide guidelines for the reservation of softball, baseball and soccer fields and the sand volleyball courts operated by the Division.

USE: Athletic facilities may be reserved as facility conditions permit. Facilities must be reserved for private/corporate league play and all tournaments. Reservations for other purposes may be requested and will be accommodated on a space available basis.

PRIORITY: First priority for use of facilities will be granted to public park and recreation divisions for public league play.

Second priority for use of facilities will be granted to the Williamsburg/James City County Public School System.

SPONSORS: Responsibility for all facility activities and damages shall rest with the sponsor.

**LIABILITY
COVERAGE:** Liability insurance may be required of the user and/or the user may be required to add the County as an "additional insured" on their policy at the discretion of the County Attorney and/or County insurance provider.

**FIELD
LIGHTS:** Field lights may be used as required for Recreation Division and School Board use.

The County Administrator or his designee must authorize the use of lights for all other uses.

No game or practice shall be scheduled to start after 9:30 p.m.

Lights shall be off by 11:00 p.m.

Lights will be operated only by persons authorized by the Director of Parks and Recreation.

**RESERVATION
FEE:** \$5.00 per hour per field or court.

**FIELD
LIGHTS FEE:** \$5.00 per hour per field for private/corporate league and all tournament play.

0137E

ORDINANCE NO. 7A-14

AUG 7 1989

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 3, ANIMALS AND FOWL, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY ADDING ARTICLE V, BEEKEEPING.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 3, Animals and Fowl, is hereby amended and reordained by adding Article V. Beekeeping, Section 3-30. Location of Apiaries, Section 3-31. Number of hives regulated, Section 3-32. Water supply for bees, Section 3-33. Type of bees, Section 3-34. Manipulating bees restricted, Section 3-35. Exceptions from article, Section 3-36. Violation of article as nuisance, and Section 3-37. Penalty.

Chapter 3. Animals and Fowl

Article V. Beekeeping

Section 3-30. Location of apiaries.

It shall be unlawful for any person to locate, construct, reconstruct, alter, maintain or use on any lot or parcel of land within the County any hives or other enclosures for the purpose of keeping any bees or other such insects unless every part of such hive or enclosure is located at least fifteen feet from any property line and at least:

(a) seventy-five feet from a dwelling located on any adjoining property occupied by anyone other than the person maintaining the apiary;

(b) one hundred feet from any apartment, hotel, motel, office, commercial establishment, church or school; and

(c) seventy-five feet from any public highway, street, or right-of-way.

Section 3-31. Number of hives regulated.

No more than four hives or colonies of bees shall be permitted on any lot 15,000 square feet or less in size. On lots larger than 15,000 square feet one additional hive shall be permitted for each 5,000 square feet in excess of 15,000 square feet.

Ordinance to Amend and Reordain
Chapter 3. Animals and Fowl
Page 2

Section 3-32. Water supply for bees.

Every person owning, possessing or controlling an apiary shall maintain on his premises an adequate, accessible, and useable supply of water for the bees.

Section 3-33. Type of bees.

This Article shall apply to all honeybees whether or not maintained in movable frame hives and shall specifically apply to feral honeybee colonies.

Section 3-34. Manipulating bees restricted.

Hives or colonies of bees shall not be manipulated between sunset and sunrise unless the hives are being moved to or from another lot.

Section 3-35. Exceptions from article.

The provisions of this Article shall not apply to the keeping of bees within an educational institution, museum, physician's office or laboratory for the purpose of study, observation or medical research or treatment, provided that such bees are contained and not permitted to fly at large.

Section 3-36. Violation of article as nuisance.

In addition to any penalty imposed for a violation of any provision of this Article, such violation is hereby declared a public nuisance and any person suffering injury or damage therefrom may seek the correction, removal, or abatement of such nuisance through appropriate suit in equity.

Section 3-37. Penalty.

A violation of any provision of this Article shall be deemed a Class 2 misdemeanor and upon conviction shall be punishable by a fine of not more than five hundred dollars or by confinement in jail for not more than six months, or by both fine and confinement. Each day that a violation exists or continues to exist shall constitute a separate offense.

That this Ordinance shall be in full force and effect on and after October 1, 1989.

Thomas D. Mahone
Thomas D. Mahone, Chairman
Board of Supervisors

ATTEST:

David B. Norman
David B. Norman
Clerk to the Board

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

Adopted by the Board of Supervisors of James City County, Virginia,
this 7th day of August, 1989.

0253U

AUG 7 1989

ORDINANCE NO. 156A-1

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 1, GENERAL PROVISIONS, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY ADDING SECTION 1-12. DISPOSAL OF UNCLAIMED PROPERTY.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 1, General Provisions, is hereby amended and reordained by adding Section 1-12. Disposal of unclaimed property.

Chapter 1. General Provisions

Section 1-12. Disposal of unclaimed property.

Any unclaimed personal property which has been in possession of the police department and unclaimed for a period of sixty days may be disposed of at public sale in accordance with the requirements of Section 15.1-133.01 of the Code of Virginia. "Unclaimed personal property" shall be 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.

ORDINANCE NO. 133A-4

AUG 7 1989

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 5, BINGO AND RAFFLES, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING SECTION 5-5, CONDUCT OF BINGO GAMES; SECTION 5-6, "INSTANT BINGO;" AND SECTION 5-7. REPORT OF GROSS RECEIPTS AND DISBURSEMENTS REQUIRED.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 5, Bingo and Raffles, is hereby amended and reordained by amending Section 5-5. Conduct of bingo games; Section 5-6. "Instant Bingo;" and Section 5-7. Report of gross receipts and disbursements required.

Chapter 5. Bingo and Raffles.

Section 5-5. Conduct of bingo games.

No organization may hold bingo games more frequently than two calendar days in any one calendar week, except that a special permit may be granted an organization which entitles an organization to conduct more frequent operations during carnivals, fairs and other similar events at its principal meeting place or any other site selected by such organization which is located in the jurisdiction issuing the permit and which is not in violation of Chapter 20, Zoning. The sponsoring organization shall accept only cash in payment of any charges or assessments for players to participate in bingo games. (Ord. No. 133, 9-10-79)

Section 5-6. "Instant bingo."

Any organization qualified to conduct bingo games pursuant to the provisions of this chapter is authorized to play "instant bingo" as a part of such bingo game; and only at such location and at such times as are specified in the bingo application permit for regular bingo games as defined in Section 5-1.

The gross receipts in the course of a reporting year from the playing of "instant bingo" shall not exceed thirty-three and one-third per centum of the gross receipts of an organization's bingo operation.

Any organization playing "instant bingo" shall maintain a record of the date, quantity and card value of instant bingo supplies purchased as well as the name and address of the supplier of such instant bingo supplies. The organization shall also maintain a written invoice or receipt from a nonmember of the organization verifying any information required by this section.

No organization shall sell an "instant bingo" card to any individual below 16 years of age. (Ord. No. 133,9-10-79)

Section 5-7. Reports of gross receipts and disbursements required.

Complete records of all receipts and disbursements shall be kept and shall be filed annually under oath with the office of the county attorney or commissioner of revenue. All annual or quarterly financial reports and other items required to be filed under this section shall be a matter of public record. All accountings shall be made on or before the first day of November of each calendar year for which a permit has been issued. The accounting shall include a record of the gross receipts and disbursements of an organization for the year period which commenced on the first day of October of the previous year and a record of all money in the possession of the organization that was derived from bingo or instant bingo, regardless of when the money was received. Provided, however, any organization whose gross receipts exceed \$50,000.00 during any calendar quarter shall be required to file an additional accounting of its receipts and disbursements during such quarter no later than sixty days following the last day of such quarter. "Gross receipts," as used in this section, shall mean the total amount of money received from bingo and "instant bingo" operations before the deduction of expenses or prizes.

All such reports and receipts and disbursements shall be made on a form provided by the county and acknowledged in the presence of a duly authorized notary public. The failure to file such reports when due shall cause the automatic revocation of the permit and no such organization shall conduct any bingo game or raffle thereafter until such report is properly filed and a new permit is obtained.

Such financial report shall be accompanied by a certificate, verified under oath, by the board of directors that the proceeds of any bingo games or raffles have been used for those lawful, religious, charitable, community or educational purposes for which the organization is specifically chartered or organized and that the operation of bingo games or raffles has been in accordance with the provisions of Chapter 5.

Any organization having annual gross receipts from bingo games or raffles in excess of \$200,000, as shown on its annual financial report, shall attach to such report an opinion executed by a licensed certified public accountant that: (i) the statement of receipts and disbursements is true and correct; (ii) the proceeds of any bingo games or raffles have been used for

those lawful, religious, charitable, community or educational purposes for which the organization is specifically chartered or organized; and (iii) the gross receipts have been used in all respects in accordance with the provisions of this article. The failure to file the opinion of a licensed certified public accountant, when required, shall cause the automatic revocation of the permit and no organization shall conduct any bingo game or raffle thereafter until the opinion is properly filed with the report and a new permit is obtained.

Notwithstanding the provisions of this chapter requiring an annual audit, the provisions of this section shall not be construed so as to prohibit the county administrator or his designee from performing unannounced audits or restrict any right to secure records required to be maintained by the provisions of this chapter. The county administrator or his designee shall have the authority to go upon the premises on which any organization is conducting a bingo game for the purpose of carrying out the duties imposed by this chapter. The application for the bingo permit shall constitute permission from, and authority granted by, such organization to any law enforcement officer to enter upon such premises.

The organization shall maintain a record in writing for three years of the dates on which bingo is played, the number of people in attendance on each date and the amount of the receipts and prizes paid on each such day. The organization shall also maintain a record of the name and address of each individual to whom a door prize, regular or special bingo game prize or jackpot from the playing of bingo is awarded, as well as the amount of such award. The organization playing bingo shall also maintain an itemized record of all receipts and disbursements, including operating costs and use of proceeds incurred in operating bingo games. (Ord. No. 133, 9-10-79; Ord. No. 133A-1, 9-13-82; Ord. No. 133A-2, 12-2-85; Ord. No. 133A-3, 8-1-88)

Thomas D. Mahone
Thomas D. Mahone, Chairman
Board of Supervisors

ATTEST:

David B. Norman
David B. Norman
Clerk to the Board

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

Adopted by the Board of Supervisors of James City County, Virginia,
this 7th day of August, 1989.

0256U

AUG 7 1989

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

ORDINANCE NO. 66A-25

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 11, MOTOR VEHICLES AND TRAFFIC, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE III, STOPPING, STANDING AND PARKING, SECTION 11-46. KEEPING OF INOPERATIVE AUTOMOBILES IN RESIDENTIAL, COMMERCIAL OR LIMITED AGRICULTURAL, A-2, ZONES; AND ARTICLE IV. VEHICLE DECALS, SECTION 11-67. VIOLATIONS AND PENALTIES.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 11, Motor Vehicles and Traffic, is hereby amended and reordained by amending Section 11-46. Keeping of inoperative automobiles in residential, commercial or limited agricultural, A-2 zones; and Section 11-67. Violations and penalties.

Chapter 11. Motor Vehicles and Traffic.

Article III. Stopping, Standing and Parking.

Section 11-46. Keeping of inoperative automobiles in residential, commercial or limited agricultural, A-2, zones.

It shall be unlawful for any person, firm or corporation to keep, except within a fully enclosed building or structure or otherwise shielded or screened from view, on any property zoned for residential or commercial or limited agricultural, A-2, purposes, any motor vehicle, trailer or semitrailer, as such is defined in Section 46.1-1 of the Code of Virginia, which is inoperative; provided, however, no more than one such inoperable vehicle may be kept outside of a fully enclosed building or structure if shielded or screened from view by covers. An inoperative motor vehicle shall mean any motor vehicle which is not in operating condition; or which for a period of sixty days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine, or other essential parts required for the operation of the vehicle or on which there are displayed neither valid license plates nor a valid inspection decal. The provisions of this act shall not apply to a licensed business which on June 26, 1970, is regularly engaged in business as an automobile dealer, salvage dealer or scrap processor.

The owners of property zoned for residential or commercial or limited agricultural, A-2, purposes shall, at such time as the county or its agent may prescribe, remove therefrom any such inoperative motor vehicles, trailers or semitrailers that are not kept within a fully enclosed building or structure. If, after reasonable notice, the owner of the premises has failed to remove such vehicles, the county, through its own agent or employees, may remove them. The county, through its own agent or employees, may dispose of such motor vehicles, trailers or semitrailers after giving additional notice to the owner of the vehicle.

The cost of any such removal and disposal shall be chargeable to the owner of the vehicle or premises and may be collected by the county as taxes and levies are collected. Every cost authorized by this section with which the owner of the premises shall have been assessed shall constitute a lien against the property from which the vehicle was removed, the lien to continue until actual payment of such costs have been made to the county. (4-30-69; Ord. No. 66A-11, 8-8-83; Ord. No. 66A-16, 12-2-85; Ord. No. 66A-18, 7-7-86)

Article IV. Vehicle Decals

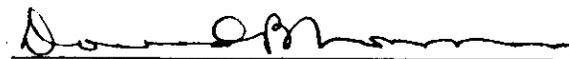
Section 11-67. Violations and penalties.

It shall be unlawful for any person to violate any provision of this article. Violations of the provisions of this article shall be punishable by a fine of not less than \$10.00 nor more than \$20.00. No violation of Section 11-53 shall be discharged by payment of a fine except upon presentation of satisfactory evidence that the required decal has been obtained. (Ord. No. 66A-21, 9-14-87)

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	NAY

Adopted by the Board of Supervisors of James City County, Virginia,
this 7th day of August, 1989.

0257U

ORDINANCE NO. 107A-9

AUG 7 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 AMENDING ARTICLE VI, REAL ESTATE ASSESSMENT, SECTION 18-33, SAME—PUBLIC NOTICE OF HEARING; AND ARTICLE VII. TAX ON PREPARED FOOD AND BEVERAGES, SECTION 18-34. DEFINITIONS.

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 amending Section 18-33. Same—Public notice of hearing; and Section 18-34. Definitions.

Chapter 18. Taxation.

Article VI. Real Estate Assessment.

Section 18-33. Same—Public notice of hearings.

Pursuant to Section 58.1-3378 of the Code of Virginia, 1950, as amended, public notice of each sitting of the board of equalization shall be given at least ten days beforehand by publication in a newspaper having general circulation in the county and by posting the notice at the courthouse and at each voting precinct. Such posting shall be done by the sheriff or his deputy. Such notice shall inform the public that the board shall sit at the place or places and on the days named therein for the purpose of equalizing real estate assessments and for the purpose of hearing complaints of inequalities wherein the property owners allege a lack of uniformity in assessment, or errors in acreage in such real estate assessments.

ARTICLE VII. TAX ON PREPARED FOOD AND BEVERAGES

Section 18-34. Definitions.

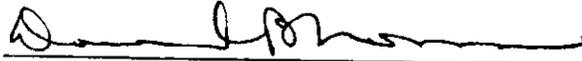
The following words and phrases, when used in this article, shall have, for the purposes of this article, the following respective meanings except where the context clearly indicates a different meaning:

- (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, 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 nor shall it mean the sale of any food through vending machines.
- (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.

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	AYE
DEPUE	AYE
MAHONE	AYE

Adopted by the Board of Supervisors of James City County, Virginia,
this 7th day of August, 1989.

0255U

7994

WHEREAS, Bush Construction Corporation, a Virginia corporation, (hereinafter called the "Owner"), owns certain real property in James City County, Virginia, (hereinafter called the "Property"), and more particularly described as follows:

All that certain lot, piece or parcel of land situate in James City County, Virginia (formerly Berkeley District), shown on a plat entitled, "SURVEY OF 19.79 ACRES PROPERTY OF THE ESTATES OF ROBERT A. DUNCAN, RICHARD DUNCAN, & DEWEY C. RENICK, JAMES CITY COUNTY, VIRGINIA" dated November 21, 1986, and made by AES, a Professional Corporation, which plat is duly recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and James City County, Virginia, in Deed Book 397, at page 257, to which reference is here made. Being the same piece or property conveyed unto Ewell Hall Associates, a Virginia general partnership by Deed dated May 4, 1988, from Crestar Bank (formerly United Virginia Bank and United Virginia Bank of Williamsburg), Executor and Trustee of the Estate of Dewey C. Renick, deceased, et als and duly recorded in the aforesaid Clerk's Office in Deed Book 397, at page 257; and

A nonexclusive easement described in more detail as all that certain piece or parcel of land situate in James City County, Virginia (formerly Berkeley District) constituting the cul-de-sac at the end of Prince Andrew Drive containing 0.29 Acres (12,632.4 square feet) as shown on that certain plat entitled, "PLAT OF PROPERTY TRANSFER, BEING PART OF THE 76.1 ACRE PARCEL BELONGING TO GRACE REBECCA SCOTT PALUZSAY", dated August 3, 1988, made by Langley and McDonald, Engineers-Planners-Surveyors, which is attached to and made a part of that Deed of Easement dated January 6, 1989, from Grace Rebecca Scott Paluzsay, Trustee for Thomas F. Scott and Ginger Anne Scott, to Ewell Hall Associates, a Virginia general partnership, and recorded in the aforesaid Clerk's Office.

Subject, however, to all restrictions and easements affecting said property.

WHEREAS, the Owner desires a Special Use Permit for the purpose of using the property as a cemetery in an R-3 District; and

WHEREAS, existing proffers prohibit the Special Use Permit; and

WHEREAS, THE Owner is desirous of offering certain other conditions for the protection of the community that are not applicable to land similarly zoned in addition to the regulations provided for in the R-3 District;

NOW, THEREFORE, THIS AGREEMENT WITNESSETH:

That for and in consideration of the County of James City granting a Special Use Permit for a cemetery in General Residential District R-3 in accordance with Section 20-192, et seq, of Chapter 20 of the Code of The County of James City, Virginia, and amending the existing proffer, which permits only

single family residential use, pursuant to Section 20-22 of the Code of the County of James City, Virginia, the Owner agrees that in addition to the regulations provided for in the R-3 District, it shall meet and comply with all the following conditions for the development of the Property:

1. The Property shall be used only for a cemetery, cemetery accessory uses and for a sole access road to the cemetery.

2. A minimum fifty-foot (50") buffer within which existing vegetation shall remain in its natural state except for removal of windfalls and deadfalls shall be maintained along the rear property lines of all existing lots which front on King William Drive and Queen Mary Court except for the two (2) lots currently existing and contiguous to the 50' access right-of-way at the end of King William Drive.

BUSH CONSTRUCTION CORPORATION

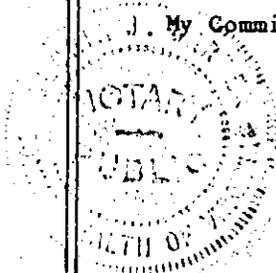
By Michele Z. Ball

STATE OF VIRGINIA

CITY/COUNTY OF Norfolk, to-wit:

The foregoing Agreement was acknowledged before me this 26th day of June, 1989, by Michele Z. Ball as Vice President of Bush Construction Corporation, a Virginia corporation, on behalf of the corporation.

My Commission Expires: 12/26/92



Gloria J. Carter
Notary Public

VIRGINIA: City of Williamsburg and County of James City, to Wit:

In the Clerk's office of the Circuit Court of the City of Williamsburg and County of James City the 10 day of Aug, 1989. This _____ was presented with certificate annexed and admitted to record at 12:30 o'clock

Teste: Helena S. Ward, Clerk
by [Signature]
Deputy Clerk