

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 19TH DAY OF MARCH, NINETEEN HUNDRED NINETY, AT 1:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

Perry M. DePue, Chairman, Powhatan District
Stewart U. Taylor, Vice Chairman, Stonehouse District

Judith N. Knudson, Jamestown District
Jack D. Edwards, Berkeley District
Thomas K. Norment, Jr., Roberts District
David B. Norman, County Administrator
Frank M. Morton, III, County Attorney

B. MINUTES - March 5, 1990

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

Mr. Edwards made a motion to approve the minutes as presented.

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

C. HIGHWAY MATTERS - James Kelley, Assistant Resident Engineer

Mr. Kelley reported on the actions taken by VDOT in response to requests received from the Board, February 26, 1990.

A sign was installed on Lake Powell Road designating direction to the local airport.

A survey was completed and an evaluation is in progress to determine corrective measures to address the drainage problem alongside Church Lane in Toano with a June 30, 1990, anticipated completion date.

Costs for Mooretown Road improvements will be developed.

The Department of Transportation is evaluating the situation to determine if the water standing on Route 5 opposite Williamsburg Crossing is developer generated.

The drainage problem on the low side of Woodside Drive may require work on private property, not a VDOT problem; however, VDOT will evaluate the situation for possible highway department generated run off.

COMMONWEALTH OF VIRGINIA,

County of James City, To-Wit:

I, William Spring, a Notary Public, in and for the Commonwealth and County aforesaid, do hereby certify that Edward T. Harmon, the Agent for a mortgage, of James City County, whose signature is annexed to this Agreement, bearing date the 14th day of March, 1940, has this day acknowledged the same before me in my said County.

Given under my hand this 11th day of March, 1940.

William Spring
Notary Public

My commission expires the 31st day of March, 1942.

Ms. Knudson requested no parking signs on Route 5 opposite the Williamsburg Crossing Shopping Center.

Mr. Edwards requested the signage be aesthetically pleasing.

Mr. Taylor indicated he received numerous calls from Chickahominy Road residents complaining about the dust following the recent resurfacing of the road.

In response to Mr. Taylor's concern, Mr. Kelley stated VDOT puts down sand on newly resurfaced roads to allow the asphalt to set.

D. CONSENT CALENDAR

Mr. DePue requested Item No. 2 be removed from the Consent Calendar.

Mr. DePue questioned the percentage share of the County's contribution to the Natural Areas Inventory and requested a report from Mr. Norman regarding the County's participation in the project.

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

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

- 1. School Budget Amendment - Chapter I

R E S O L U T I O N

AMENDMENT TO SCHOOL APPROPRIATIONS - FY 1990

WHEREAS, the Board of Supervisors has been requested to appropriate \$108,846 in additional Chapter I funds for the 1990 fiscal year.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the increase in total appropriations for the School Board, as follows:

As previously appropriated	\$28,279,428
Federal Chapter I Revenue	<u>108,846</u>
Total Appropriations	\$28,388,274

- 2. Regional Natural Areas Inventory, Phase 3

RESOLUTIONREGIONAL ISSUES COMMITTEE

WHEREAS, the Regional Issues Committee, a Committee comprised of three members each from the City of Williamsburg, York County, and James City County, has reviewed the "Report of the Williamsburg Regional Growth Commission" to identify those aspects of said report that are regional in application or that require regional cooperation in order to implement; and

WHEREAS, the Regional Issues Committee has determined that the above three jurisdictions should cooperatively pursue an inventory of environmentally sensitive areas in order to develop compatible and consistent data bases; and

WHEREAS, a cooperative inventory of environmentally sensitive areas is essential to the consideration of compatible and consistent policies and measures to protect same; and

WHEREAS, James City County encourages the protection of certain environmentally sensitive areas.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize the submittal of a joint grant application to the Council on the Environment along with the City of Williamsburg and York County, for the purpose of cooperatively undertaking an inventory of environmentally sensitive areas.

BE IT FURTHER RESOLVED that the Board of Supervisors authorizes an expenditure of up to \$3,600 as the County's proportionate share of the regional inventory.

E. PUBLIC HEARINGS

1. Case No. SUP - Z-5-90. Zoning Ordinance Amendment

Mr. DePue opened the public hearing and indicated the case will be continued until the April 2, 1990, meeting of the Board. The case was inadvertently advertised for public hearing March 19, 1990.

Mr. Alvin P. Anderson, speaking on behalf of Ewell Station and Williamsburg Crossing shopping centers, expressed concern for the potential inequities resulting if SUPs are required for certain commercial structures or expansions that put the existing facilities over the proposed threshold. He urged the Board to consider "grandfathering" the existing facilities so they will not require the SUP for an expansion.

The public hearing was continued to the April 2, 1990, meeting.

F. BOARD CONSIDERATIONS

1. City/County Recreation Agreement

John E. McDonald, Manager, Financial and Management Services, presented this item to the Board. Mr. McDonald stated the Agreement was prepared by the City and County staff over the past several months. The Agreement establishes cooperation by both the City and County Recreation programs in providing services to residents of both jurisdictions; eliminates the County's financial support for the City's Recreation programs and eliminates the City's financial contribution for the operations of the County/City Recreation Center; establishes the Board of Supervisors and the County's Recreation staff as responsible for policy and programming at the Center; and eliminates the City's obligation to contribute to the construction of improvements at the Center unless specifically agreed to.

Mr. Norment asked if serious analysis has been given to merging the County and City recreation programs.

Mr. McDonald stated he did not believe serious consideration had been given to such a merger.

Mr. Edwards stated the programs have worked well to this point.

Mr. McDonald responded that the proposed Agreement develops clarity of programs and eliminates the 25% contribution from the City of Williamsburg.

Mr. Norment inquired whether the City is committed to funding 25% of the construction costs to the facility beyond Phase I.

Mr. McDonald responded in the negative.

Mr. Edwards suggested the Agreement be strengthened to ensure the City's obligation to the Recreation Center.

Mr. McDonald replied the County is assuming an increasing role in the funding and operation of the Center.

Mr. Norment moved the deferral of consideration of the Agreement to the April 2, 1990, meeting.

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

2. Farmer's Market

Sanford B. Wanner, Acting Assistant County Administrator, presented the item to the Board. The Cooperative needs to acquire financial support and to develop and implement a marketing plan, a business plan, a financial plan, and a merchandising plan in order to succeed as a growers' cooperative.

The General Assembly approved in the 1991-92 State Budget \$65,000 for operational support of the Farmer's Market. These funds will be available after July 1, 1990. The staff has reviewed the situation of the Farmer's Coop and has concluded that without a public investment of funds, the market would be unable to meet its debt payments thereby subjecting the property to foreclosure. Staff recommends that the IDA be requested to enter into discussions with the Coop to develop a strategy for the Authority to either assume all the existing debt of the market or buy the property from the Coop. Further, staff recommends that the Board provide the IDA \$65,000 as an advance to the Coop pending receipt of the State monies.

Mr. DePue stated he has procedural questions about the funding mechanism.

Mr. Wanner responded assurances are included in the agreement regarding the repayment of the loan to the IDA by the Coop. Specifically, the money will be repaid to the IDA following Coop receipt of the money from the State.

Mr. DePue inquired if the State appropriation assumes a viable operation and if not the case, is the appropriation rescinded.

Mr. Wanner responded that the appropriation is operating and marketing monies assured by the Virginia Department of Agriculture.

Mr. Norment made a motion to amend to add to the last paragraph of the resolution "and to be used in accordance with the provision of the State Grant."

Ms. Knudson made a motion to approve the amended resolution.

On a roll call, the vote was: AYE: Norment, Edwards, Knudson, DePue (4). NAY: (0). ABSTAIN: Taylor (1).

R E S O L U T I O N

FARMER'S MARKET

WHEREAS, The James City County Growers' Cooperative, through its Farmer's Market, has enabled an agricultural presence to remain in James City County; and

WHEREAS, The Farmer's Market has contributed over \$7,000 to the James City County tax base; and

WHEREAS, The Farmer's Market has returned to local growers in excess of \$100,000 for their products; and

WHEREAS, The Farmer's Market has demonstrated a need for County support.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby provide to the James City County Industrial Development Authority \$65,000 as an advance from Capital Contingency to the Farmer's Market pending receipt of State monies for operational support and to be used in accordance with the provisions of the State Grant.

Mr. Edwards stated that two years ago he was excited about the anticipated success of the Market; however, he will not support putting additional local funds into the business. Appropriating the \$65,000 in advance of the receipt of the State funds will help the Market open this spring.

Mr. Norment stated he feels it is important for the County to maintain the presence of the agricultural community in the County. Making this appropriation affords the Market the opportunity to have a meaningful market season.

Mr. DePue stated he voted against the Market two years ago because he believes it is inappropriate to support private business with local tax dollars; however, this appropriation is appropriate and he supports the Market's efforts to succeed.

G. PUBLIC COMMENT

Ms. Tempy Fisk, 120 Wilderness Lane, Williamsburg, addressed the Board regarding the disposition of the Bruton Heights property. Ms. Fisk spoke to the quality of life in this community and asked the Board to consider retaining the property to provide space and provisions for a community facility to house the Community Action Agency, a Teen Center, Head Start, and FISH. Ms. Fisk offered the services of the Citizens for Community Progress to meet with the Board to discuss financing options to enable the retention of the facility. She presented petitions signed by James City County residents. The petition asks for the retention of Bruton Heights as a public property and support for the creation of a community-wide Human Resource Center at the site. Ms. Fisk urged the Board to obtain an independent appraisal of the property to determine the real value.

Mr. Joseph Cottrell, Forge Road, Toano, stated the articles that recently appeared in the newspapers contained erroneous information about the Farmer's Market. He thanked the Board on behalf of the Coop for the appropriation of the \$65,000 in advance of the receipt of the State grant.

H. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Norman recognized the James City Fire Department for the recent training exercises. Seventeen volunteers and two full-time personnel participated in a house burning exercise on March 17, 1990.

Mr. Norman requested an Executive Session pursuant to Section 2.1-344 (a)(3) and (7) of the Code of Virginia to consider the disposition of publicly held property and discussion with the County Attorney of ongoing litigation concerning the Ware Creek Reservoir.

Mr. Norman reminded the Board that David Clark, Solid Waste Engineer, is prepared to present a Solid Waste Franchising work session. John McDonald, Manager, Financial and Management Services, will present a briefing on the Proposed FY 1991 Budget, at the conclusion of the formal agenda.

I. BOARD REQUESTS AND DIRECTIVES

Mr. Norment asked if the County has communicated its position on the second James River Crossing proposal.

Mr. DePue asked if a resolution is needed to communicate the official County position.

Mr. Norman responded the County's official position is to oppose a second James River crossing and a resolution has been previously adopted and forwarded to VDOT.

Mr. DePue announced that Mr. Norman, Keith Taylor, Economic Development Coordinator, and Myrl Hairfield, Chairman, Industrial Development Authority, and he traveled to Richmond recently to present the new County video to the Virginia Department of Economic Development. The video was well received.

The Board recessed at 2:06 p.m. and reconvened at 2:15 p.m. into a Solid Waste Franchising work session.

Mr. David Clark, Solid Waste Engineer, provided information on proposed franchising zones, financing of the program, and requested Board of Supervisors input.

The Board indicated support of a voluntary franchising program. The Board asked staff to provide copies of the proposed ordinance and additional information regarding costs of the program.

Mr. John E. McDonald, Manager, Financial and Management Services, presented a briefing of the FY 1991 Budget and requested Board questions of information contained in the document.

Mr. DePue made a motion to convene the Board into executive session pursuant to Section 2.1-344 (a)(3) and (7) of the Code of Virginia to consider disposition of publicly held property and discussion with the County Attorney of ongoing litigation concerning the Ware Creek Reservoir at 3:45 p.m.

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

Mr. DePue reconvened the Board into open session at 4:10 p.m.

Mr. DePue made a motion to approve the executive session resolution.

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

R E S O L U T I O N

MEETING DATE: March 19, 1990

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. DePue made a motion to approve the Ware Creek Reservoir - Alabama Company Resolution.

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

R E S O L U T I O N

WARE CREEK RESERVOIR - ALABAMA COMPANY

WHEREAS, the Alabama Company owns a tract of property consisting of 449.41+ acres fronting on Routes 607 and 606 in James City County, Virginia; and

WHEREAS, pursuant to the Reservoir Protection Overlay District Ordinance, certain portions of this property will be inundated by the reservoir and other portions are required as easements for the protection of the reservoir; and

WHEREAS, the James City County filed a Certificate of Deposit on said property recorded October 14, 1986; and

WHEREAS, the parties have now agreed upon just compensation for the land acquired and any and all damaged to the residue.

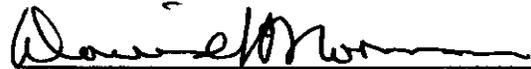
NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that it hereby authorizes and directs the Chairman and Clerk to execute that certain Agreement dated March 19, 1990, by and between the Alabama Company and the Board of Supervisors of James City County, Virginia, a copy of which is attached hereto and made a part thereof.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Board of Supervisors hereby appropriate \$350,000.00 of funds received from the James City Service Authority (Ware Creek Capital Account) as payment for the land and any and all damages to the remainder.

Mr. Taylor made a motion to adjourn.

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

The Board adjourned at 4:15 p.m.



David B. Norman

THIS AGREEMENT, made this 19th day of March, 1990, by and between ALABAMA COMPANY, a Virginia Limited Partnership (hereinafter "Alabama") and the BOARD OF SUPERVISORS OF JAMES CITY COUNTY, VIRGINIA (hereinafter "the Board"),

WITNESSETH: THAT WHEREAS, the Board has, pursuant to its lawful power, out of a public necessity and for a public purpose, caused to be recorded a Certificate of Deposit pursuant to Title 15.1 and 33.1, Code of Virginia (1950), as amended, transferring title to 33.37 acres more or less of land in fee simple and 79.72 acres more or less of land in perpetual easement to the County, such land being formerly owned by Alabama and such land being more fully described in the aforesaid Certificate recorded on October 14, 1986 in Deed Book 317, page 139 in the Clerk's Office of the Circuit Court of the City of Williamsburg and James City County;

WHEREAS, subsequent to the filing of Certificate, the Board filed a Petition in Condemnation and Notice for Appointment of Commissioners;

WHEREAS, the parties have now agreed upon just compensation for the land being acquired and any and all damages to the residue thereof;

NOW THEREFORE, in consideration of the premises and in further consideration of the undertakings hereinafter set forth the parties agree, pursuant to the provisions of Title 15.1 and 33.1, Code of Virginia (195⁰), as amended:

1. The parties agree upon the following compensation for the land and damages to the remainder: \$350,000 for land and any and

all damages to the remainder by virtue of the location, construction or operation of the reservoir, and water distribution and supply facilities to be constructed on the land.

2. The parties shall mutually and immediately move the Court, pursuant to Titles 15.1 and 33.1, Code of Virginia (1950), as amended, for an Order confirming said agreed award pursuant to §33.1-129 and confirming indefeasible title and the right to use of the easement described in and to the County of James City.

3. The consideration recited in paragraph one is inclusive of the \$74,900 heretofore drawn down by Alabama Company under the aforesaid certificate, and thus the additional consideration to be paid by the Board to the Alabama Company in consummation of this settlement is \$275,100. The Board will pay no interest on the settlement amount.

4. The parties agree that the separate certificate covering 8.4593 acres for \$8,459.00 will be invalidated and title to such land will be returned to Alabama Company, all of the funds under said Certificate to be freed from the restriction of the Certificate and returned to the general fund of the County, and that the Board shall not be obligated to pay any damages whatsoever for the filing of said Certificate.

5. Alabama Company represents that it is the only party legally entitled to compensation. The parties understand and agree that the funds will not be disbursed until completion of a title examination and entry of the aforesaid order.

There have been no other promises, consideration or representations made which are not set forth in this instrument.

The consideration hereinabove mentioned represents the value of all estates or interests in such land and the damage.

WITNESS the following signatures and seals:

ALABAMA COMPANY

By: [Signature] (SEAL)

Title: GENERAL PARTNER

BOARD OF SUPERVISORS OF JAMES CITY COUNTY

By: [Signature] (SEAL)

Title: Chairman, Board of Supervisors

ATTEST:

[Signature]
David B. Norman
Clerk to the Board

COMMONWEALTH OF VIRGINIA,

CITY OF NEWPORT NEWS, TO-WIT:

I, Judith A. Key, a Notary Public, in and for the Commonwealth and City aforesaid, do hereby certify that Gary McAlister, ~~was~~ a General Partner of

Alabama Company, whose signature is annexed to this Agreement, bearing date the 19th day of March, 1990, has this day acknowledged the same before me in my said City.

Given under my hand this 19th day of March, 1990.

My commission expires the 5th day of October, 1990.

Jessie A. Key
Notary Public

COMMONWEALTH OF VIRGINIA,

County OF James City, TO-WIT:

I, Mary Frances Rieger, a Notary Public, in and for the Commonwealth and County aforesaid, do hereby certify that Berry M. DePue, the Chairman of the B.O.S. of James City County, whose signature is annexed to this Agreement, bearing date the 19th day of March, 1990, has this day acknowledged the same before me in my said County.

Given under my hand this 19th day of March, 1990.

My commission expires the 12th day of March, 1993.

Mary Frances Rieger
Notary Public

COMMONWEALTH OF VIRGINIA,

County of James City, To-Wit:

I, William Sperry, a Notary Public, in and for the Commonwealth and County aforesaid, do hereby certify that Sandra T. Newman, the Bookkeeper of James City County, whose signature is annexed to this Agreement, bearing date the 10th day of March, 1940, has this day acknowledged the same before me in my said County.

Given under my hand this 11th day of March, 1940.

William Sperry
Notary Public

My commission expires the 3rd day of March, 1942.