

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 4TH DAY OF SEPTEMBER, NINETEEN HUNDRED NINETY, AT 7:05 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 (Absent)  
Jack D. Edwards, Berkeley District  
Thomas K. Norment, Jr., Roberts District  
David B. Norman, County Administrator  
Frank M. Morton, III, County Attorney

B. MINUTES - August 20, 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, DePue  
(4). NAY: (0).

C. CONSENT CALENDAR

Mr. DePue asked if any Board member wished to discuss the Consent Calendar.

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

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

1. Emergency Medical Services Week

R E S O L U T I O N

EMERGENCY MEDICAL SERVICES WEEK

WHEREAS, the Emergency Medical Services System in the Peninsula region of Eastern Virginia is maintained by emergency medical technicians, nurses, physicians, educators, administrators and telecommunicators; and

WHEREAS, by providing these services in a prompt and efficient manner the EMS system fulfills its primary goal to reduce death and disability due to accident and illness; and

WHEREAS, the men and women of the Emergency Medical Services system dedicate their time and energy to saving the lives of others.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby proclaim the week of September 16-22, 1990, as Emergency Medical Services Week and encourages the community to observe this week with appropriate programs, ceremonies and activities.

2. School Bond Appropriation Amendments

R E S O L U T I O N

SCHOOL CONSTRUCTION

WHEREAS, the Board of Supervisors has authorized and notified the issuance of \$6,600,000 in School construction bonds and such bonds have been issued and proceeds received; and

WHEREAS, the Board has set aside these bond proceeds for the construction of a new middle school, renovation of the James Blair Middle School and renovation of the Berkeley Middle School; and

WHEREAS, the Board of Supervisors has previously established budgets using estimated bond proceeds, rather than actual.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors hereby eliminates all budget authority previously established for the new high school, middle school and elementary school that was based on bond proceeds.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, hereby appropriates funds for the below mentioned projects in the amounts listed:

1988 VPSA Issue

New High School	\$1,345,000
New Middle School	900,000
New Elementary School	<u>600,000</u>
	\$2,845,000

1990 VPSA Issue

New Middle School	\$1,647,922
Renovation of James Blair Middle School	3,083,891
Renovation of Berkeley Middle School	<u>1,868,187</u>
	\$6,600,000

## D. PUBLIC HEARINGS

2. Proposed Smoking Ordinance

Mr. Frank M. Morton, III, County Attorney, stated that the proposed ordinance essentially followed and could not exceed the provisions or standards of the enabling State legislation, which prohibited smoking in elevators, indoor service lines and cashier areas, common areas in education facilities, hospital emergency rooms, local or district health departments, designated no smoking areas in government buildings, polling rooms and school buses or public vehicles and established reasonable no smoking areas in restaurants with seating capacity of 50 or more patrons.

Mr. Morton further stated that the State Code allowed a proprietor or manager to designate reasonable no smoking areas in retail and service establishments of 15,000 square feet or more serving the general public, rooms in which a public meeting or hearing is being held, places of entertainment and cultural facilities, indoor recreational facilities, and other public places.

Mr. Morton recommended that smokers be given a warning, which is not required by State Code, before imposing the civil penalty of \$25.00 for violation of the Ordinance. A short discussion ensued regarding enforcement of the Ordinance, and signage in public places.

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

Mr. Edwards made a motion to approve the proposed Ordinance.

Ms. Knudson arrived at 7:18 p.m.

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

1. Case No. SUP-32-90. Williamsburg-James City County Schools Operations and Maintenance Center

Mr. Marvin O. Sowers, Jr., Director of Planning, stated that Mr. William Johnson of the DeYoung Johnson Group, Inc., had applied on behalf of the Williamsburg-James City County School Board to allow the construction of a public building to include an operations and maintenance center on 8.2 acres, at the intersection of Cranston's Mill Pond Road and Jolly Pond Roads, zoned Z-1, Limited Agricultural, further identified as part of Parcel (1-2) on James City County Tax Map No. (30-2).

Mr. Sowers further stated that the proposal was generally consistent with the Comprehensive Plan, surrounding development and zoning.

The Planning Commission, by a 7-3 vote, and staff recommended approval with conditions listed in the resolution.

Mr. Paul Ogg, Director of Operations, Williamsburg-James City County Schools, was available for questions.

The Board discussed the public use, site selection, screening requirements, daily traffic generated, and differences in bus mileage.

Mr. DePue opened the public hearing.

1. Mr. Ed Oyer, 139 Indian Circle, Roberts District, voiced concerns about restricted visibility at the intersection of Jolly Pond and Centerville Roads and the risk of parking school buses on public streets.

2. Mr. William Johnson, DeYoung Johnson Group, Inc., stated that he was available for questions.

Mr. DePue closed the public hearing.

Discussion included kinds of future development in the mid-County area, how site was selected, and upgrading Centerville Road. Transfer of acreage and acquisition of additional land at a reasonable cost were discussed previously in executive sessions.

Mr. Taylor made a motion to approve Case No. SUP-32-90.

Mr. DePue made a substitute motion to postpone the case to allow further discussion of traffic concerns and maintenance with School personnel.

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

#### E. PUBLIC COMMENT

1. Mr. Frank Sellinger, 29 Mile Course, stated mandatory recycling was not cost effective and suggested submitting that information to the General Assembly next session. He asked for an explanation of the hydrant service charge on his utility statement.

Mr. DePue asked staff to respond to Mr. Sellinger's request.

2. Mr. Ed Oyer, 139 Indian Circle, spoke in opposition to the food and beverage tax on bread, pastries and cakes. He also stated that six cars and one camper on Indian Circle have no decals.

#### F. REPORTS OF THE COUNTY ADMINISTRATOR - None

#### G. BOARD REQUESTS AND DIRECTIVES

Mr. Norment asked that staff expeditiously share their analysis of the Peninsula Chamber of Commerce Impact Statement on the Chesapeake Bay Preservation Act with the Board.

Mr. Taylor asked about the status of cable television progress in Stonehouse district.

Mr. DePue requested a review of the ordinance on family subdivisions.

Mr. DePue asked staff to review and appeal the census numbers, if necessary.

Mr. DePue asked staff to respond to the food and beverage tax issue.

Mr. Edwards asked staff to keep the Board informed of all redistricting information and scheduled meetings.

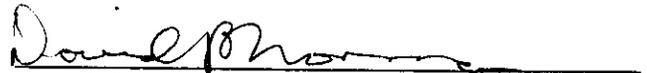
Mr. Edwards expressed appreciation of the school census figures and asked if the County received funding for ages 1 through 19 or for school ages only.

Mr. John E. McDonald, Manager of Financial and Management Services, stated that funds are received for school ages, 5-19, and for ages 1-5 and 19-21 for handicapped children.

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 8:30 p.m.



David B. Norman  
Clerk to the Board

SEP 4 1990

ORDINANCE NO. 116A-19

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 ADDING ARTICLE IV. SMOKING.

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 adding Sections 8-25. Purpose and intent, Section 8-26. Definitions, Section 8-27. Smoking prohibited in certain public places, Section 8-28. Designated smoking areas, Section 8-29. Where smoking is not regulated, Section 8-30. Posting of signs, Section 8-31. Regulation of smoking in private places of employment, Section 8-32. Violations and penalties, Section 8-33. Enforcement, Section 8-34. Other applicable laws and policies, and Section 8-35. Severability.

#### Chapter 8. Health and Sanitation

#### Article IV. Smoking

#### Section 8-25. Purpose and intent.

Based on a substantial body of scientific evidence and on the 1986 Report of the Surgeon General entitled, "The Health Consequences of Involuntary Smoking", James City County hereby acknowledges that passively inhaled tobacco smoke poses a potential health hazard. The purpose of this Article is to protect the public health, safety and welfare by regulating the

smoking of tobacco in designated public places and places of employment in a manner that recognizes the competing interests of smokers and nonsmokers, and the burdens imposed on persons in control of regulated places. The regulations contained herein are intended to be viewed as minimum standards and shall not be construed as limiting, in any manner, the authority of persons in control of public places or places of employment to implement more stringent standards applicable to the particular establishment or place of employment.

Section 8-26. Definitions.

The following words and phrases shall, for purposes of this Article, have the meanings respectively ascribed to them:

- (a) "Bar or lounge area" shall mean any establishment or portion thereof where one can consume alcoholic beverages and/or hot d'oeuvres, but excluding any such establishment having tables or seating facilities where, in consideration for payment, meals are served.
- (b) "Educational facility" shall mean any building used for instruction of enrolled students including, but not limited to, any day-care center, nursery school, public or private school, college, university, medical school, law school or vocational school.
- (c) "Health care facility" shall mean any office, institution, building or agency required to be licensed under Virginia law including, but not limited to, hospitals, clinics, nursing homes, homes for the aging or chronically ill, supervised living facilities, or ambulatory medical and surgical centers.
- (d) "Person" shall mean any person, firm, partnership, association, corporation, company or organization of any kind.
- (e) "Private work place" shall mean any office or work area which is not open to the public in the normal course of business except by individual invitation.
- (f) "Proprietor" shall mean the owner or lessee of the public place, who ultimately controls the activities within the public place. The term "proprietor" includes corporations, associations, partnerships and individuals.
- (g) "Public conveyance" or "Public vehicle" shall mean any air, land or water vehicle used for the mass transportation of persons in intrastate travel for compensation including, but not limited to, any airplane, train, bus or boat that is not subject to federal smoking regulations.
- (h) "Public Place" shall mean any enclosed, indoor area used by the general public including, but not limited to, any building owned or leased by the Commonwealth or any agency thereof or any

county, city or town, public conveyance or public vehicle, restaurant, educational facility, hospital, nursing home, other health care facility, library, retail store of 15,000 square feet or more, auditorium, arena, theater, museum, concert hall, or other area used for a performance or an exhibit of the arts or sciences, or any meeting room.

- (i) "Restaurant" shall mean any building, structure, or area, where food is available for eating on the premises, in consideration for payment, having seating for 50 or more patrons, excluding any seats in a bar or lounge area or seats in any separate room of a restaurant which is used exclusively for private functions.
- (j) "Smoke" or "smoking" shall mean the carrying or holding of a lighted pipe, cigar or cigarette of any kind, or any other lighted smoking equipment, or the lighting, inhaling or exhaling of a pipe, cigar, or cigarette of any kind.
- (k) "Theater" shall mean any indoor facility or auditorium, open to the public, which is primarily used or designed for the purpose of exhibiting any motion picture, stage production, musical recital, dance, lecture or other similar performance.

Section 8-27. Smoking prohibited in certain public places.

- (a) It shall be unlawful for any person to smoke in any of the following public places:
  - (1) Elevators, regardless of capacity;
  - (2) Indoor service lines and cashier areas;
  - (3) Common areas in educational facilities including, but not limited to, classrooms, hallways, libraries, auditoriums, public meeting rooms and other facilities;
  - (4) Hospital emergency rooms;
  - (5) Local or district health departments;
  - (6) Designated no smoking areas in any buildings owned or leased by the Commonwealth or any agency thereof, the County, the School Board or the James City Service Authority;
  - (7) Polling rooms; and
  - (8) School buses and other public conveyances or public vehicles.
- (b) The proprietor or manager shall designate reasonable no smoking areas, considering nature of the use and size of the building in the following places:

- (1) Retail and service establishment of 15,000 square feet or more serving the general public including, but not limited to, department stores, grocery stores, drug stores, clothing stores and shoe stores;
- (2) Rooms in which a public meeting or hearing is being held;
- (3) Places of entertainment and cultural facilities including, but not limited to, theaters, concert halls, gymnasiums, auditoriums, other enclosed arenas, art galleries, libraries and museums;
- (4) Indoor facilities used for recreational purposes;
- (5) Other public places; and
- (6) Any restaurant as defined in this Article.

Section 8-28. Designated smoking areas.

The proprietor or person who manages or otherwise controls any building, structure, space, place or area governed by this Article in which smoking is not otherwise prohibited may designate rooms or areas in which smoking is permitted as follows:

- (a) Designated smoking areas shall not encompass so much of the building, structure, space, place or area open to the public that reasonable no smoking areas, considering the nature of the use and size of the building, are not provided;
- (b) Designated smoking areas shall be separated to the extent reasonably practical from those rooms or areas entered by the public in the normal use of the particular business or institution; and
- (c) In designated smoking areas, ventilation systems and existing physical barriers shall be used when reasonably practical to minimize the permeation of smoke into no smoking areas. However, this Article shall not be construed as requiring physical modifications or alterations to any structure.

Section 8-29. Where smoking is not regulated.

This Article is not intended to regulate smoking in the following places or under the following conditions:

- (a) Bars and lounge areas;
- (b) Retail tobacco stores;

- (c) Restaurants, conference or meeting rooms, and public or private assembly rooms while these places are being used exclusively for private functions;
- (d) Office or work areas which are not entered by the public in the normal course of business or use of the premises;
- (e) Areas of enclosed shopping centers or malls that are external to the retail stores and are used by customers as a route of travel from one store to another, and that consist primarily of walkways and seating accommodations; and
- (f) Lobby areas of hotels, motels and other establishments open to the public for overnight accommodation.

Section 8-30. Posting of signs.

- (a) Any person who owns, manages or otherwise controls any building or area in which smoking is regulated by this Article shall post in an appropriate manner "Smoking Permitted" signs or "No Smoking" signs (or a sign displaying the international "No Smoking" symbol consisting of a pictorial representative of a burning cigarette enclosed in a red circle with a red bar across it). Print on such signs shall be at least one (1) inch in height and the international symbol, if used, shall have a circle of at least four (4) inches in diameter.
- (b) "No Smoking" signs may, but are not required to, contain language that smoking is prohibited by ordinance and that violation of the no smoking prohibition is a violation punishable by a fine of \$25.00.

Section 8-31. Regulation of smoking in private places of employment.

- (a) Any employer who owns or operates a business in the County may regulate smoking in the work place provided:
  - (i) Such regulation does not violate the provisions of any written agreement between employer and employees; and
  - (ii) a total ban on smoking shall not be enforced by employer unless a majority of the affected employees vote to approve the ban or such ban is prior condition of employment in an employment contract.
- (b) This Article shall not affect no smoking policies established by employers prior to the effective date of this Article.

Section 8-32. Violations and penalties.

- (a) It shall be unlawful for any person who owns, manages, operate or otherwise controls the use of any premises subject to the prohibitions or restrictions of this Article to fail to comply with its provisions. Any person who violates the provisions of this Article shall be subject to a civil penalty of \$25.00.
- (b) It shall be unlawful for any person to smoke in any area prohibited or restricted by the provisions of this Article. Any person who continues to smoke in a no smoking area after being asked to refrain from smoking shall be subject to a civil penalty of \$25.00.

Section 8-33. Enforcement.

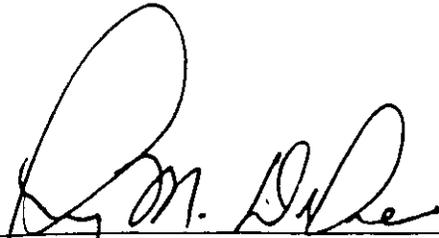
- (a) The provisions of this Article shall be enforced by the Police Department, Office of Code Compliance, or any other department or person duly designated.
- (b) Any citizen who desires to register a complaint under this Article may contact the Police Department or Office of Code Compliance who may initiate civil enforcement.
- (c) The Director of Code Compliance or duly authorized designee or other duly designated department shall perform an evaluation for compliance with all requirements of this Article while an establishment is undergoing otherwise mandated inspections.

Section 8-34. Other applicable laws and policies.

This Article shall not be interpreted or construed to permit smoking where it is otherwise prohibited or restricted by other applicable statutes and ordinances, or the policies of individual establishments.

Section 8-35. Severability.

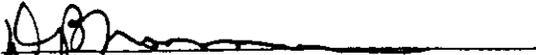
If any part, section, subsection, sentence, clause or phrase of this Article is for any reason declared to be unconstitutional or invalid, such judicial decision shall not affect the validity of the remaining portions of this Article.



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Perry M. DePue  
Chairman, Board of Supervisors

ATTEST:



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David B. Norman  
Clerk to the Board

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

Adopted by the Board of Supervisors of James City County, Virginia,  
this 4th day of September, 1990.

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