

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 22ND, DAY OF JANUARY NINETEEN HUNDRED NINETY-ONE, AT 1:03 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

Thomas K. Norment, Jr., Chairman, Roberts District
Judith N. Knudson, Vice Chairman, Jamestown District

Perry M. DePue, Powhatan District
Jack D. Edwards, Berkeley District
Stewart U. Taylor, Stonehouse District
David B. Norman, County Administrator
Frank M. Morton, III, County Attorney

B. MINUTES - January 7, 1991

Mr. Norment acknowledged the military personnel in the Middle East, their families and community ties with the military, and asked the audience for a respectful moment of thoughtfulness.

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

Mr. Norment 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

Mr. Frank N. Hall, Resident Engineer, Virginia Department of Transportation, stated that a public hearing was scheduled for Wednesday evening, February 13 at the Norge Elementary School on the construction improvement project for Route 715, Riverside Drive.

Mr. Hall further stated that he had met with a citizen of Chickahominy Haven regarding drainage problems between Forge Road and Route 60 and the matter was in review.

Ms. Knudson asked whether the culverts on Lake Powell Road were included in VDOT's long range plan.

Mr. Hall responded the culverts were an entry in the Six-Year Plan and covered area of dam, including spillway for Lake Powell Road.

Ms. Knudson thanked Mr. Hall for the speed limit change on Greensprings Road and asked about a speed study due to the number of reported accidents, and painting of directional lines at the intersection of Route 199 and Kingspoint Access Road.

Mr. Hall replied that traffic personnel would review those requests.

Mr. Taylor expressed appreciation for the work done on drainage problems on Forge Road and work at Chickahominy Haven and Cypress Point.

Mr. DePue asked that a check be made for erosion of the repair recently made at the curve on Longhill Connector Road.

Mr. DePue asked that a review be made on the condition of new road construction from Longhill Road to the church on Centerville Road.

Mr. Edwards requested a review of the need for directional turning lines at several County intersections, including Ms. Knudson's concern at Route 199 and South Henry Street.

Mr. Hall responded that directional lines are used at wide intersections and that the traffic engineer would review the request.

D. CONSENT CALENDAR

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

Mr. Norment 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 Appropriation Adjustment

R E S O L U T I O N

AMENDMENT TO SCHOOL BOARD APPROPRIATION

WHEREAS, the Board of Supervisors has been requested to amend the FY1991 School Board appropriation by adding \$64,895 in expected Federal Funds for Chapter I.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the FY 1991 appropriations for the Williamsburg-James City County Schools be adjusted, as follows:

Previous Appropriation	\$32,017,647
Adjustment	<u>64,895</u>
Appropriation, as Amended	<u>\$32,082,542</u>

2. Update of County's Grievance ProcedureR E S O L U T I O NUPDATE OF COUNTY GRIEVANCE PROCEDURE

WHEREAS, 1990 amendments to the Code of Virginia require certain changes to State and local grievance procedures; and

WHEREAS, we wish to bring our procedure in compliance with the Code.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the attached changes to Sections 8.3 and 8.6 of the Personnel Policies and Procedures Manual are adopted.

3. Bid No. 91-B-0005 - Radio Control EquipmentR E S O L U T I O NAWARD OF RADIO CONTROL EQUIPMENT CONTACT

WHEREAS, funds are available in the FY 91 CIP Budget for replacing the radio consoles in the Central Dispatch facility; and

WHEREAS, bids for radio control equipment for James City County Emergency Services was received on December 21, 1990, with Orbacom Systems, Inc., of Cinnaminson, New Jersey, submitting the low bid in the amount of \$78,572.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize the County Administrator to execute a contract between James City County and Orbacom Systems, Inc., for radio control equipment and consoles in the amount of \$78,572.

E. PUBLIC HEARINGS

1. Case No. SO-1-90. Subdivision Ordinance Amendments - Criteria Extension

Mr. Allen J. Murphy, Jr., Principal Planner, stated that this case had been postponed at the January 7, 1991, meeting, which allowed staff time to revise the criteria regarding construction-related violations of the James City County Code.

Staff recommended approval of the amendments, and the Planning Commission had unanimously recommended approval on December 11, 1990.

Mr. Norment continued the public hearing, and as no one wished to speak, he closed the public hearing.

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

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

2. Case No. SUP-59-90. AA Conscientious Carpet Care

Mr. Bernard M. Farmer, Jr., Director of Code Compliance, stated that Mr. Roger Spearman and Associates had applied on behalf of the owner for a special use permit to create more than 5,000 square feet of impervious surface area within the Reservoir Protection Overlay District, located at 7822 Richmond Road, further identified as Parcel (1-28) on James City County Real Estate Tax Map No. (12-4).

Staff recommended approval of the resolution with conditions listed in the resolution.

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

Mr. Taylor made a motion to approve the resolution.

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

R E S O L U T I O N

CASE NO. SUP-59-90. AA CONSCIENTIOUS CARPET

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 applicant has applied for a special use permit to develop land in the RP, Reservoir Protection Overlay district on property identified as Parcel (1-28) on James City County Real Estate Tax Map No. (12-4).

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-59-90 as described herein with the following conditions:

1. An Inspection/Maintenance Agreement as approved by the County Attorney shall be executed prior to final site plan approval.

2. A soils test shall be provided for each infiltration trench for Division of Code Compliance approval prior to final site plan approval.

F. BOARD CONSIDERATIONS

1. Spring 1991 VPSA Bond Sale

Mr. John E. McDonald, Manager of Financial and Management Services, stated that authorization was requested to submit an application to the Virginia Public School Authority for its Spring 1991 bond sale to borrow funds totaling \$2,730,000 for the School's operations and maintenance center on Jolly Pond Road and addition to Clara Byrd Baker Elementary School.

Staff recommended approval of the resolution.

Mr. DePue made a motion to approve the 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

APPLICATION FOR VPSA FINANCING

WHEREAS, the Board of Supervisors of James City County believes it to be desirable to seek bond financing through the Virginia Public School Authority for design, engineering and construction of a new school operations center and an addition to Clara Byrd Baker School.

NOW, THEREFORE, BE IT RESOLVED that the County Administrator is requested to prepare for submission to the Virginia Public School Authority a request to participate in the Spring 1991 VPSA bond sale in the amount of \$2,730,000.

2. Public Meeting Calendar - FY 1992 Budget

Mr. McDonald stated that a schedule change for the FY 1992 budget public hearing and public meetings was requested to allow more time for preparation.

Staff recommended approval of the adjusted schedule as listed in the resolution.

Ms. Edwards made a motion to approve the resolution.

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

RESOLUTIONSCHEDULE OF PUBLIC MEETINGS - FY 1992 BUDGET

WHEREAS, the Board of Supervisors of James City County is anticipating a schedule of public meetings to consider the FY 1992 Budget.

NOW, THEREFORE, BE IT RESOLVED that the following schedule be adopted for planning purposes for the FY 1992 budget:

Budget Public Hearing	-	Monday, April 15 at 7:00 P.M.
Budget Work Sessions	-	Wednesday, April 17 at 7:00 P.M.
	-	Monday, April 22 at 7:00 P.M.
	-	Wednesday, April 24 at 7:00 P.M.
Adoption of Budget	-	Monday, May 6 at 7:00 P.M.

G. PRESENTATION

Mr. Norment expressed the Board's objective of enhanced communication with the County citizens and gave a brief history of the Farmers Market, stating that the County provided the site and a \$75,000 loan through the Industrial Development Authority. He explained the Board options as: 1) refinance the loans; 2) default on the loans; or, 3) pay the loans and take title to the property.

Mr. Norment noted that the Board discussion was done in the traditional way in executive session following a regular agenda meeting. He emphasized the Board decision was a reasonable and prudent business decision to protect the County's assets.

In conclusion, Mr. Norment stated that staff had prepared a resolution, which was made a part of the public record, and issued a news release to announce the decision.

The Board supported Mr. Norment's comments, with Mr. Taylor not participating.

H. PUBLIC COMMENT

1. Mr. Harold Poulsen, 105 Deer Spring Road, spoke in opposition to the Board decision on the Farmers Market to pay the bank loan and lease the property to the Farmers Market. Mr. Poulsen questioned why the Board and IDA agreed to pay the loan balance; why the Board and IDA agreed to lease the property to Farmers Market; why lease was not opened to competitive bidding; who assessed the value of the property; and why procedure of IDA approval of a resolution prior to Board approval was changed for this matter.

2. Mr. Kenneth Burns, 4 Winster Fax, spoke in support of Mr. Poulsen's comments.

Mr. Taylor left the meeting at 1:55 p.m.

3. Mr. J. E. Keyser, Jr., 123 Cooley Road, spoke of his dissatisfaction that the Farmers Market stockholders would take a complete loss.

I. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. David B. Norman, County Administrator, recommended an executive session pursuant to Section 2.1-344(a)(1) of the Code of Virginia to consider a personnel matter, appointments of individuals to County Boards and/or Commissions.

Mr. Norman announced a Parks and Recreation work session immediately following the James City Service Authority meeting.

J. BOARD REQUESTS AND DIRECTIVES

Mr. DePue commented that the Convenience Centers were part of a new program still under review, and that citizens' comments and suggestions were appreciated.

Mr. DePue asked staff to respond to Mr. Poulsen's points raised during comments.

Mr. Norment mentioned the annual reports received from the Wetlands Board, Economic Development, Social Services and Industrial Development Authority Advisory Board.

Mr. Norment stated a new program beginning on Cable Television Channel 38 would enhance availability of individual Board members to the citizens.

Mr. Norment asked the County Attorney to respond to Mr. DePue's request of legality of Board's decision on Farmers Market.

Mr. Norment made a motion to recess for a James City Service Authority meeting at 2:03 p.m.

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

Mr. DePue left the meeting at 3:15 p.m.

Mr. Norment reconvened the Board and by consensus, the Board agreed to cancel the recommended executive session because of the absence of Supervisors Taylor and DePue.

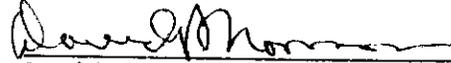
Mr. Norment recessed the Board for a work session on Parks and Recreation at 3:15 p.m.

Mr. Needham S. Cheely, III, Director of Parks and Recreation, presented a brief description of programs offered, the organization, operation and long range planning of the Parks and Recreation Division.

Mr. Norment made a motion to adjourn.

On a roll call, the vote was: AYE: Edwards, Knudson, Norment (3).
NAY: (0). ABSENT: Taylor, DePue (2).

The Board adjourned at 3:55 p.m.



David B. Norman
Clerk to the Board

1639w

Section 8.3 Definition of a Grievant; Grievance

A grievant shall be any County employee having a grievance, as defined below.

A grievance shall be a complaint or dispute by a James City County employee relating to his or her employment, including, but not limited to:

- (a) disciplinary actions, including dismissals, demotions and suspensions, provided that dismissals shall be grievable whenever resulting from formal discipline or unsatisfactory job performance;
- (b) the application or interpretation of personnel policies, procedures, rules and regulations including the application of policies involving matters referred to in Section 8.4 (c) below;
- (c) acts of reprisal as the result of utilization of the grievance procedure or of participation in the grievance of another James City County employee; and
- (d) complaints of discrimination on the basis of race, color, creed, political affiliation, age, handicap, national origin or sex.
- (e) acts of retaliation because the employee has complied with any law of the United States or of the Commonwealth, has reported any violation of such law to a governmental authority, or has sought any change in law before the Congress of the United States or the General Assembly. (Added 1-91)

Section 8.4 Management Responsibilities

Management shall be the Board of Supervisors and its Designees who establish the Operating Policies for James City County. Management reserves the exclusive right to manage the affairs and operations of the County government. Accordingly, the following complaints are not grievable:

- (a) establishment and revision of wages or salaries including performance evaluations and concomitant pay raises, position classifications or general benefits;
- (b) work activity accepted by the employee as a condition of employment or work activity which may reasonably be expected to be a part of the job content;
- (c) the contents of ordinances, statutes or established personnel policies, procedures, rules and regulations;
- (d) failure to promote, except where an employee can show established promotional policies or procedures were not followed or fairly applied;

- (e) the methods, means and personnel by which work activities are to be carried on;
- (f) except where such action affects an employee who has been reinstated within the previous six months as the result of the final determination of a grievance, termination, layoff, demotion or suspension from duties because of lack of work, reduction in work force, or job abolition; (Rev. 7-1-87)
- (g) the hiring, promotion, transfer, assignment, and retention of employees within the County service; and
- (h) the relief of employees from duties of the County in emergencies.

In any grievance brought under the exception to Section 8.4(f), the action shall be upheld upon a showing by the County that: (i) there was a valid business reason for the action, and (ii) the employee was notified of such reason in writing prior to the effective date of the action. (Rev. 7-1-87)

Section 8.5 Standing to Pursue a Grievance

A grievant must be personally and directly affected by an occurrence or condition before he shall be permitted to pursue a grievance. Thus, for example, no employee may grieve another employee's job performance unless such job performance directly and adversely affects the grievant's own employment. Disputes as to an employee's standing to file a grievance shall be determined as shall any other dispute as to grievability.

Section 8.6 Grievability

- A. Decisions regarding grievability, including the question of access to the procedure, under this Procedure shall be made by the County Administrator pursuant to procedures set forth below. Decisions shall be made at the request of the grievant or his department head or principal officer within ten (10) days of such request. A copy of the ruling shall be sent to the grievant and to the grievant's department head or principal officer. Decisions by the County Administrator that an issue is not grievable may be appealed by the grievant to the Circuit Court of James City County for a hearing de novo on the issue of grievability as provided in Section 15.1-7.2 and 2.1-114.5:1(E) of the Code of Virginia (1950), as amended. Pursuant to those sections, proceedings for the review of the decision of the County Administrator shall be instituted by filing a notice of appeal with the County Administrator within ten (10) days after the date of his decision as to grievability, and by giving a copy of such notice to all other parties to the grievance. Within ten (10) days after receiving notice of appeal, the County Administrator shall transmit to the Clerk of Circuit Court of James City County a copy of his decision, a copy of the notice of appeal, and any exhibits which may have been provided in connection with the resolution of the issue of grievability. A list of the

evidence furnished to the court shall also be furnished to the grievant. The failure of the County Administrator to transmit the record within the time allowed shall not prejudice the rights of the grievant. If the County Administrator fails to transmit the record within the time allowed, the Circuit Court, on motion of the grievant, may issue a Writ of Certiorari requiring the County Administrator to transmit the record on or before a certain date as provided in Section 2.1-114.5:1(E) of the Code of Virginia (1950), as amended. Within thirty (30) days of receipt by the Clerk of Court of the record in the matter, the Court, sitting without a jury, shall hear the appeal on the record and such additional evidence as may be necessary to resolve any controversy as to the correctness of the record. The Court, in its discretion, may receive such other evidence as the ends of justice may require. The Court may affirm the decision of the County Administrator or may reverse or modify said decision. The decision of the Court shall be rendered no later than the fifteenth (15th) day from the date of conclusion of the hearing. The decision of the Court is final and is not appealable. All matters, from the institution of a request that the County Administrator determine the issue of grievability through the notation of appeal of an adverse decision by the County Administrator, shall be recorded on forms provided for those purposes by the Director of Personnel.

- B. The issue of grievability may be raised at any step of the Grievance Procedure prior to the panel hearing provided in Section 8.12 et seq., of this procedure. Once raised, the issue must be resolved before further processing of the grievance. The issue of grievability must be raised prior to the panel hearing or it shall be deemed to have been waived by all parties. A request that grievability be determined shall toll the time limits under this procedure. Time limits shall begin to run again the day after the decision on grievability is made by the County Administrator or the Circuit Court.
- C. The classification of a complaint as nongrievable by either the County Administrator or the Circuit Court of James City County shall not be construed to restrict any employee's right to seek, or management's right to provide, customary administrative review of complaints outside of the scope of the Grievance Procedure.

Section 8.7 Policy Generally

- A. All stages of the Grievance Procedure beyond the First Step, provided in Section 8.9, shall be reduced to writing on forms supplied by the Director of Personnel. At any step beyond the Second Step, provided in Section 8.10, both the grievant and his department head or principal officer or the County Administrator may call upon appropriate witnesses and be represented by legal counsel or another person, as provided in this procedure.

JAN 22 1991

ORDINANCE NO. 30A-18

BOARD OF SUPERVISOR:
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 17, SUBDIVISIONS, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE II. PROCEDURES AND DOCUMENTS TO BE FILED, SECTION 17-26. TERM OF VALIDITY FOR THE PRELIMINARY PLAN AND EXTENSION.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 17, Subdivisions is hereby amended and reordained by amending Section 17-26. Term of Validity for the Preliminary Plan and Extension.

Chapter 17. Subdivisions.

Article II. Procedures and Documents to be Filed.

Section 17-26. Term of Validity for the Preliminary Plan and Extension.

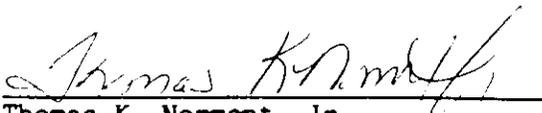
(a) The subdivider shall have no more than three hundred and sixty-five days from the date of approval of the preliminary plan to record a final subdivision plat in accordance with this Chapter. A final plan shall be submitted and approved pursuant to Section 17-30 prior to recordation. Failure to record a final plat within the specified time period shall make preliminary approval null and void. The agent may, on written request by the subdivider, grant one or more extensions of preliminary approval for a period of one year upon finding:

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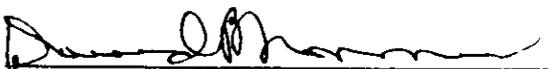
- 1) (i) The subdivider has substantially satisfied all conditions of preliminary approval;
- (ii) Significant progress has been made in construction;
- (iii) There has been no significant change in Comprehensive Plan policy or James City County Code requirements that affect the property; and
- (iv) The project has progressed without being cited for any construction related violation of the James City County Code or, in the event such violation has occurred, it has been corrected in a timely manner; or
- 2) There have been unusual delays in proceeding with the subdivision process or construction caused by government agencies or acts of God.

(b) If a subdivider records a final plat, which may be a section of a subdivision as shown on an approved preliminary plan, and furnishes to the County a certified check, cash escrow, bond, or letter of credit in an amount and form acceptable to the County for the estimated cost of construction of the facilities to be dedicated within said section for public use and maintained by the locality, the Commonwealth, or other public agency, the developer shall have the right to record the remaining sections shown on the preliminary plan for a period of five years from the recordation date of the first section. Such right shall be subject to the terms and conditions of the Code of Virginia and subject to engineering and construction standards and the Zoning Ordinance requirements in effect at the time that each remaining section is recorded.

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 Thomas K. Norment, Jr.
 Chairman, Board of Supervisors

ATTEST:


 David B. Norman
 Clerk to the Board

SUPERVISOR	VOTE
DEPUE	AYE
TAYLOR	AYE
EDWARDS	AYE
KNUDSON	AYE
NORMENT	AYE

Adopted by the Board of Supervisors of James City County, Virginia,
 this 22nd day of January, 1991.