

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 21ST DAY OF OCTOBER, NINETEEN HUNDRED NINETY-TWO, AT 1:05 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

Jack D. Edwards, Chairman, Berkeley District
Judith N. Knudson, Vice Chairman, Jamestown District

Perry M. DePue, Powhatan District
David L. Sisk, Roberts District
Stewart U. Taylor, Stonehouse District
David B. Norman, County Administrator
Frank M. Morton, III, County Attorney

B. PRESENTATIONS - Williamsburg Community Hospital

Mr. Kenneth H. Axtell, President, Williamsburg Community Hospital, gave a brief history and showed a video of the hospital's quality health care. Mr. William Roberts, Hospital Board of Directors' Chairman, asked for support of the fundraising "Enterprise in Excellence Campaign."

Mr. Edwards thanked the gentlemen for the presentation.

**C. MINUTES - October 5, 1992, Regular Meeting
October 8, 1992, Special Meeting**

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

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

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

D. HIGHWAY MATTERS

Mr. Quintin Elliott, Williamsburg Resident Engineer, Virginia Department of Transportation, responded to Board requests of September 21, 1992. He reported that a stop sign had been installed in Kristiansand; that Children-At-Play signs are installed only near playground areas; that the Department of Transportation had completed its portion of responsibility for the roadside drainage problem on Route 5 near Williamsburg Crossing Shopping Center; and, that the study for blinking lights at the intersection of Rochambeau Road and Route 607 had not been received from the District office in Suffolk.

E. CONSENT CALENDAR

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

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

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

1. Dedication of Street in Greyhound Estate

RESOLUTION

DEDICATION OF STREET IN GREYHOUND ESTATES

WHEREAS, the following road in Greyhound Estates is shown on plats recorded in the Clerk's Office of the Circuit Court of James City County and has been constructed to standards equal to the Virginia Department of Transportation's Subdivision Street Requirements as a requisite for acceptance for maintenance as part of the Secondary System of Highways; and

WHEREAS, the Board of Supervisors desires this certain road in Greyhound Estates to be included in the State Secondary Highway System; and

WHEREAS, the Virginia Department of Transportation's Resident Engineer for James City County has inspected this road and found it acceptable for maintenance.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the Virginia Department of Transportation is hereby respectfully requested, contingent on the above, to include the following road in Greyhound Estates, Berkeley Election District, James City County, in the State Secondary Highway System:

- 1. Logan Place, 50-foot right-of-way
 - From: Route 658 (Olde Towne Road)
 - To: End of cul-de-sac
 - Distance: 290 feet (0.05 mile)

The unencumbered right-of-way of 50 feet, along with drainage easements, is guaranteed as evidenced by the following plat of record:

Greyhound Estates, recorded in Plat Book 35, page 113, dated December 20, 1979.

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

2. Red Ribbon Week, October 23 - November 1, 1992

R E S O L U T I O N

RED RIBBON WEEK

- WHEREAS, alcohol and other drug abuse in this nation has reached epidemic stages, and the 15-24-year old age group is dying at a faster rate than any other age groups; and
- WHEREAS, it is imperative that visible, unified prevention education efforts by schools and communities be launched to reduce the demand for drugs; and
- WHEREAS, The Virginia Federation of Communities for Drug-Free Youth, Parents' Association to Neutralize Drug and Alcohol Abuse, Inc., and the Williamsburg-James City County Drug-Free Schools Advisory Board are sponsoring the Red Ribbon Campaign offering citizens the opportunity to demonstrate their commitment to drug-free life-styles; and
- WHEREAS, the Red Ribbon Campaign will be celebrated in every community during "Red Ribbon Week," October 24 to November 1, 1992; and
- WHEREAS, business, government, law enforcement, schools, religious institutions, service organizations, youth, physicians, senior citizens, military, sports teams, and individuals will demonstrate their commitment to drug-free, healthy life-styles by wearing and displaying Red Ribbons during this week-long campaign.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby designates October 24 to November 1, 1992, as Red Ribbon Week, and encourages its citizens to participate in alcohol and other drug education and prevention activities, making a visible statement that we are strongly committed to a drug-free community.

3. FY 93 Transit Budget Amendment - State Grant

R E S O L U T I O N

BUDGET AMENDMENT - VIRGINIA DEPARTMENT OF RAIL AND PUBLIC

TRANSPORTATION GRANTS, TRANSIT

- WHEREAS, the Board of Supervisors of James City County has been requested to approve Rural Technical Assistance Program grants provided by the Virginia Department of Rail and Public Transportation to the James City County Transit Company in the amount of \$14,850 for Employee Development, Route Analysis, and Bus Maintenance Programs.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors, of James City County, Virginia, hereby amends Transit's FY 93 Budget as follows:

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Transit Company Revenues:

VDRPT Grants \$14,850

Expenditures:

Personnel Expenses \$ 9,300
Operating Expenses 1,450
Tools 1,050
Training Materials 3,050

Total \$14,850

4. Additional Day-Care Allocations - Social Services

R E S O L U T I O N

APPROPRIATION TO THE SOCIAL SERVICES DEPARTMENT

WHEREAS, the State Department of Social Services has provided additional or supplemental funding to render additional services through the Transitional Day-Care Program; and

WHEREAS, additional funds for the ADC Working (JOBS), ADC Training/Non JOBS, Fee Day-Care At Risk, and Fee Day-Care Block Grant have also been provided.

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

Revenues:

Revenues from the Commonwealth \$172,921

Expenditures:

Transitional Day-Care \$ 20,000
AFDC Working Day-Care 39,119
AFDC Education and Training Non-Jobs 35,381
Fee Day-Care - At Risk 4,435
Fee Day-Care Block Grant 21,490
Fee Day-Care Block (10/1/92 - 9/30/93) 62,390
Salaries - Regular (9,894)

Total \$172,921

RESOLUTION**EASEMENT ACQUISITION - MILL CREEK/LAKE POWELL REGIONAL****DRAINAGE FACILITY**

WHEREAS, the County requires certain easements for construction, operation, and maintenance of the Mill Creek/Lake Powell Regional Basin; and

WHEREAS, .37 acres of land is required to be obtained by easement for the dam from property owned by Joseph S. and Essie G. Terrell, of record in the Clerk's Office of the Circuit Court of James City County, Virginia in Deed Book 162, page 538; and

WHEREAS, .58 acres of land is required to be obtained by easement for the basin from property owned by Joseph S. and Essie G. Terrell, of record in the Clerk's Office of the Circuit Court of James City County, Virginia, in Deed book 162, page 538; and

WHEREAS, repeated contacts with the property owner have been made in an attempt to obtain the easement; and

WHEREAS, efforts to purchase and obtain the needed easement have failed.

NOW, THEREFORE, BE IT RESOLVED:

1. That in the opinion of the Board of Supervisors of James City County, a public necessity exists for the acquisition of permanent easements described below for the construction, operation and maintenance of a stormwater management facility for the preservation of health, safety, good order and welfare of James City County;
2. Pursuant to Section 15.1-283 of the Code of Virginia, 1950, as amended, permanent easements are hereby directed to be taken, for public purposes and construction of a regional drainage facility serving citizens of the County, from the interests of Joseph S. and Essie G. Terrell, in and to the property described below:

OWNER: Joseph S. and Essie G. Terrell

DESCRIPTION: All that certain lot, piece or parcel of land lying and situate in Berkeley District, James City County, Virginia, shown and designated as: "hatched area" containing 16,023.97 s.f., or .37 acres, on that certain plat entitled: "PLAT TO ACCOMPANY CONVEYANCE OF EASEMENT FOR A STORMWATER MANAGEMENT BASIN," dated July 22, 1991, made by Spearman and Associates, P.C., Surveying and Planning, Williamsburg, Virginia, and "hatched area" containing 23,415 s.f. or .58 acres, on that certain plat entitled "PLAT TO ACCOMPANY CONVEYANCE OF EASEMENT FOR A STORMWATER MANAGEMENT

3. That the County Administrator is authorized to act for and on behalf of the County in agreeing or disagreeing with the owner of the property upon compensation and damages, if any, to be limited as provided by an appraisal by Real Estate Assessments.

BE IT FURTHER RESOLVED that the Chairman of the Board of Supervisors and the Treasurer of James City County, Virginia, are hereby authorized and directed to execute a Certificate of Deposit for acquisition of the above-described property.

6. Budget Amendment - State Arts Grant

R E S O L U T I O N

BUDGET AMENDMENT - STATE ARTS GRANT

WHEREAS, the Board of Supervisors of James City County has been requested to approve a grant provided by the Virginia Commission for the Arts to James City County on behalf of the Williamsburg Arts Commission in the amount of \$2,000 as a challenge grant for local arts programming.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the Board hereby amends its FY 93 budget, as follows:

Revenues:

State Arts Grant	\$2,000
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Expenditures:

Contribution - Williamsburg Arts Commission	\$2,000
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7. Trash and Grass Lien - William and Patricia Harlow

R E S O L U T I O N

CODE VIOLATION LIEN

WHEREAS, the Director of Code Compliance has certified to the Board of Supervisors of James City County, Virginia, that the property owners as described below have failed to pay a bill in the amount listed, for cutting of grass and weeds or removal of trash and debris, although the County has duly requested payment; and

WHEREAS, the unpaid and delinquent charges are chargeable to the owner and collectible by the County as taxes and levies and constitute a lien against the Property.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that in accordance with Section 7-4 and 7-5 of the Code of the County of James City, Virginia, the Board of Supervisors directs that the following delinquent charges for services rendered, plus interest at the legal rate from the date of recordation until paid, shall constitute a lien against the Property to wit:

Cleaning of Trash/Debris and/or Cutting of Grass, Weeds, etc.:

ACCOUNT: William and Patricia Harlow
2990 Ironbound Road
Williamsburg, VA 23185

DESCRIPTION: 2990 Ironbound Road

TAX MAP NO.: (47-1)(01-0-0075-C)
James City County, Virginia

AMOUNT DUE: \$60.00

F. PUBLIC HEARINGS

1. Case No SUP-28-92. Malcolm A. Green

Mr. Allen J. Murphy, Jr., Principal Planner, stated that Mr. Malcolm A. Green had applied for a special use permit to allow location of a manufactured home on .964 acres, zoned R-8, Rural Residential, located at 2736 Little Creek Dam Road, further identified as Parcel (1-44) on James City County Real Estate Tax Map No. (21-4).

Staff recommended approval of the special use permit with conditions listed in the resolution.

Mr. Edwards 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: DePue, Taylor, Sisk, Knudson, Edwards (5). NAY: (0).

R E S O L U T I O N

CASE NO. SUP-28-92. MALCOLM A.GREEN MANUFACTURED HOME

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

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

that a Special Use Permit be granted for the placement of a manufactured home on property owned and developed by the applicant as described below and on the attached site location map. 169

Applicant: Malcolm A. Green

Real Estate Tax Map ID: (21-4)

Parcel No.: (1-44)

Address: 2735 Little Creek Dam Road

District: Stonehouse

Zoning: R-8

- Conditions:
1. This permit shall be valid only for the manufactured home applied for. If the manufactured home is removed, this permit shall become void. Any replacement shall require a new permit from the Board of Supervisors. If the permit is not exercised, it shall become void one year from the date of approval.
 2. The manufactured home shall be skirted and meet the requirements of the Department of Housing and Urban Development Manufactured Home Construction and Safety Standards.
 3. The applicant shall install landscaping as shown in the administrative criteria for the placement of manufactured homes. All landscaping shall be completed within six months of the date of issuance for this permit.
 4. Prior to the placement of the manufactured home the applicant shall furnish a detailed description of the unit to the Director of Planning.
 5. The manufactured home shall be connected to public water.
 6. The number of bedrooms shall not exceed three.

2. Route 5 Funding Plan (Continued from 9/21/92)

Mr. John T. P. Horne, Manager, Development Management, stated that staff and petitioners are near completion of a resolution establishing the Transportation Improvement District. He further stated that the Commonwealth Transportation Board questioned the County's contribution to this project and deferred action on the funding at the October 15, 1992, meeting until its November meeting. Mr. Horne further stated that he would bring the item forward at the December 7, 1992, Board of Supervisors' meeting.

Mr. Edwards continued the public hearing.

1. Mr. John Santamaria, Jr., 217 Old Cart Road, stated that inclusion of Powhatan Secondary in the Transportation Improvement District was unfair and would impact the entire subdivision. He urged the Board to consider the safety and environmental issues and quality of life as an integral part of the funding package.

2. Mr. Franz Kitenko, 108 Barley Mill Road, stated that he was planning construction of a home in the new section of Powhatan Secondary and would be included in the Transportation Improvement District even though he and his wife opposed the new road.

3. Mr. Lawrence Beamer, developer and owner of Powhatan Secondary subdivision, stated that he would speak at the December 7, 1992, meeting.

Without objection, Mr. Edwards continued the public hearing until the December 7, 1992 Board of Supervisors' meeting.

3. Ordinance Amendment, Chapter 5A, Erosion and Sedimentation Control, Procedures and Penalties

Mr. Bernard M. Farmer, Jr., Director of Code Compliance, introduced The College of William and Mary Marshall-Wythe School-of-Law students, Susan Broaddus, Cindy Fuchs and Kurt Venables, who had prepared the changes to the Erosion and Sedimentation Control Ordinance.

Ms. Broaddus stated that the 1992 Virginia General Assembly amendment to Title 10.1-562 authorized adoption of civil penalties for enforcement of erosion control programs, which would allow certain violations to be charged as civil, rather than criminal, violations of law.

Staff recommended approval of the ordinance amendment.

The Board, staff and students discussed the penalties and charges for violations.

Mr. Edwards 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 amendment.

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

4. Ordinance Amendment, Chapter 9, Business Licenses, Going-Out-of-Business Permits

Mr. Leo P. Rogers, Assistant County Attorney, introduced William Boge, Joseph Mondoro and Katherine Daske, The College of William and Mary Marshall-Wythe School-of-Law students, who had prepared the changes to the Business Licenses Ordinance.

Mr. Boge stated that the ordinance amendment would establish a procedure and identify criteria for issuance of permits to advertise and conduct "going-out-of-business" sales. He further stated that the amendment required the applicant to provide information to the Commissioner of Revenue about the quantity and nature of goods. The Commissioner of Revenue would have authority to issue the permit.

Board discussion of enforcement of the ordinance and setting of fees followed.

Mr. Edwards opened the public hearing, and as no one wished to speak, he closed the public hearing. 171

Ms. Knudson made a motion to approve the ordinance amendment.

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

G. PUBLIC COMMENT - None

H. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. David B. Norman, County Administrator, mentioned that a memorandum in response to Wood Duck Commons issue of affordable housing was distributed prior to the meeting. He also 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.

I. BOARD REQUESTS AND DIRECTIVES - None

Mr. Edwards declared a ten-minute recess at 2:30 p.m. and reconvened the Board into a work session at 2:40 p.m.

WORK SESSION - Stormwater Management

Mr. John T. P. Horne, Manager, Development Management and Mr. Wayland Bass, County Engineer, presented the briefing to the Board of methods of systemically managing and financing stormwater facilities on a County-wide or watershed basis. Various options were addressed with emphasis on a Stormwater Utility as staff preference. They reported that the General Assembly recently enacted legislation that would allow localities to establish stormwater utilities to manage stormwater flow the same way domestic sewage was managed, including user fees.

Board and staff discussion followed.

WORK SESSION - Solid Waste Management

Mr. Larry M. Foster, General Manager, James City Service Authority, presented information on solid waste management issues and made the following recommendations:

1. Terminate landfill operations at the James City County Landfill by October 9, 1994, with final closure by April 1994.
2. Approve an agreement with Virginia Peninsulas Public Service Authority for the design of a transfer facility in James City County.
3. Contract with VPPSA for future waste disposal to include the construction of a waste transfer station, when required.
4. Continue the Curbside Recycling Program.

5. Require that all waste collected in James City County be disposed of at landfill(s) or waste transfer facilities designated by James City County.
6. Phase out Convenience Centers.
7. Provide fee-based curbside collection for residential solid waste through VPPSA contra - January 1, 1994. This option to be funded through a monthly billing program to the households served.

Board and staff discussion followed.

Ms. Knudson made a motion to approve the Agreement for Funding and Reimbursement of Advances for Transfer System Design.

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

R E S O L U T I O N

VPPSA TRANSFER STATION DESIGN AGREEMENT

WHEREAS, the VPPSA Board has approved funding and reimbursement agreements with its member jurisdictions for the purpose of designing a system of solid waste transfer stations; and

WHEREAS, James City County desires to have a solid waste transfer station designed for its use and benefit; and

WHEREAS, the Board is willing to advance to VPPSA funds in the amount of \$65,000 to pay its share of the costs of the design.

NOW THEREFORE BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to sign the Agreement for funding and Reimbursement of Advances for Transfer System Design with VPPSA.

Mr. Edwards made a motion to convene into executive session at 5:00 p.m.

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

Mr. Edwards reconvened the Board into open session at 5:25 p.m.

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

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

RESOLUTION

MEETING DATE: October 21, 1992

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. Taylor made a motion to appoint Dallas Graves to the Agricultural and Forestal Districts Advisory Committee to serve at the pleasure of the Board.

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

Mr. Edwards made a motion to appoint William I. Pennock to the Board of Building Adjustments and Appeals for a 5-year term, term expiring October 25, 1997, to reappoint Paul C. Small and Roger Guernsey to the Board of Building Adjustments and Appeals for 5-year terms, terms expiring October 25, 1997, respectively; and, to reappoint Russell L. Lowry, Jr., to the Peninsula Emergency Medical Service Council for a 3-year term, term expiring October 31, 1995.

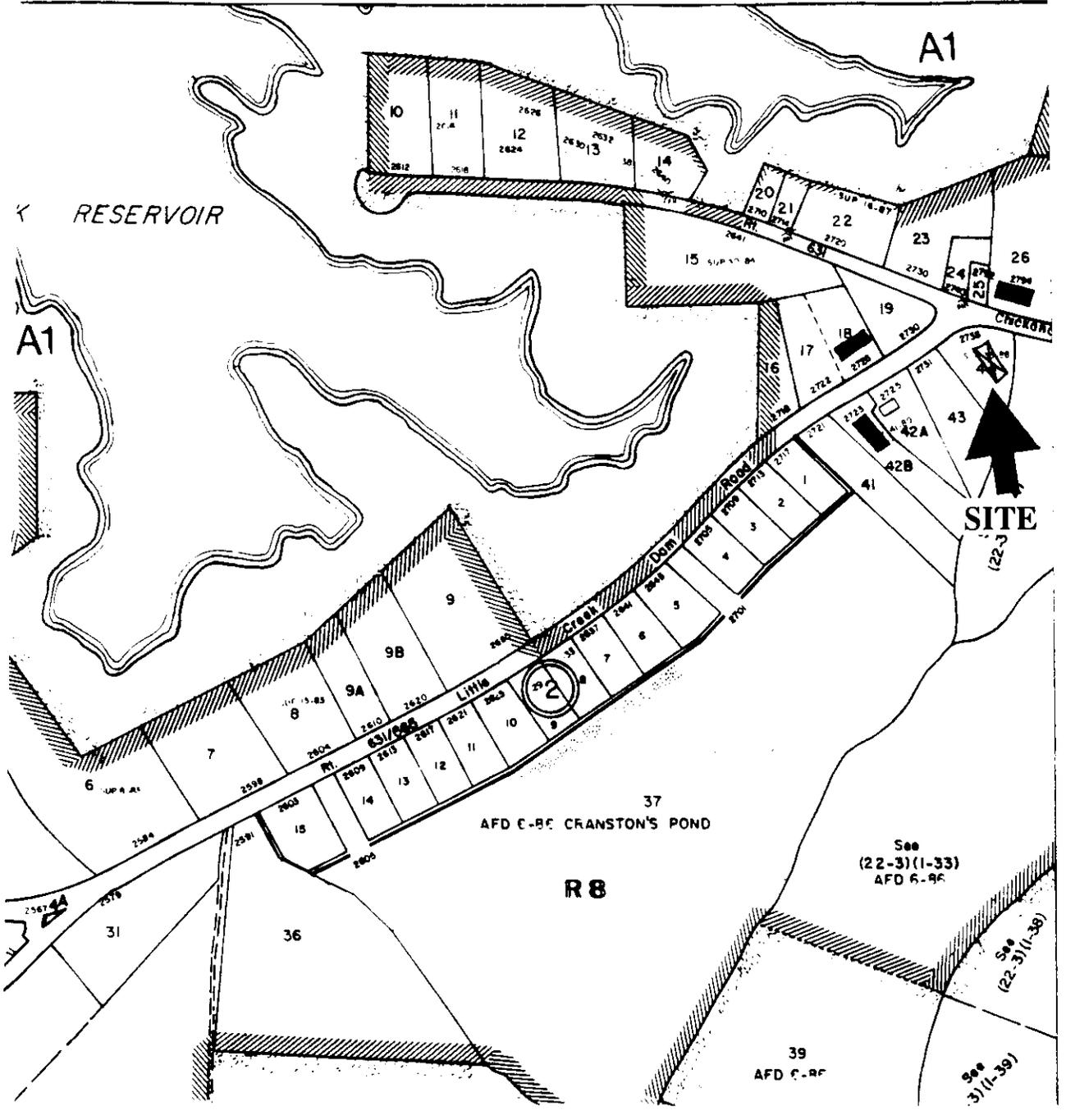
On a roll call, the vote was AYE: DePue, Taylor, Sisk, Knudson, Edwards (5). NAY: (0).

Mr. Taylor made a motion to adjourn.

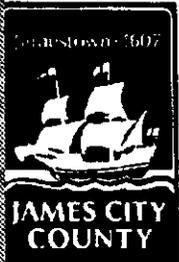
On a roll call, the vote was AYE: DePue, Taylor, Sisk, Knudson, Edwards (5). NAY: (0).

The Board adjourned at 5:26 p.m.


David B. Norman
Clerk to the Board



SCALE 1"=400 Feet



Case No: SUP-28-92
 Name : Malcom A. Green, Manufactured Home
 [Solid black rectangle] : Existing Manufactured Home
 [Envelope symbol] : Proposed Manufactured Home



PLANNING DIVISION

OCT 21 1992

ORDINANCE NO. 85A-10

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 5A, EROSION AND SEDIMENTATION CONTROL, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING SECTION 5A-5, PROCEDURES FOR PLAN SUBMISSION AND REVIEW, INSPECTION AND ENFORCEMENT, AND SECTION 5A-11, PENALTY.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 5A, Erosion and Sedimentation Control, is hereby amended and reordained by amending Section 5A-5, Procedures for plan submission and review, inspection and enforcement, and Section 5A-11, Penalty.

Chapter 5A. Erosion and Sedimentation Control

Section 5A-5. Procedures for plan submission and review, inspection and enforcement.

(a) Those procedures for plan submission and review, inspection and enforcement are set forth in a separate document, which is made a part hereof, entitled, "Administrative Guidelines," Chapter 7, adopted from the Virginia Erosion and Sediment Control Handbook, Second Edition, 1980. These procedures are controlling unless they are in conflict with a local ordinance or state law.

(b) The plan-approving authority or, if a permit is issued in connection with land-disturbing activities which involve the issuance of a grading, building or other permit, the permit-issuing authority:

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Chapter 5A. Erosion and Sedimentation Control
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- (1) Shall provide for periodic inspections of the land-disturbing activity; and
- (2) May require monitoring and reports from the person responsible for carrying out the plan, to ensure compliance with the approved plan, and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation. The owner, occupier or operator shall be given notice of the inspection and an opportunity to accompany the inspectors. If the permit-issuing authority or plan-approving authority determines that there is a failure to comply with the plan, notice shall be served upon the permittee or person responsible for carrying out the plan by registered or certified mail to the address specified in the permit application or in the plan certification, or by delivery at the site of the land-disturbing activities to the agent or employee supervising such activities. Where the plan-approving authority serves notice, a copy of the notice shall also be sent to the issuer of the permit. The notice shall specify the measures needed to comply with the plan and shall specify the time within which such measures shall be completed. Upon failure to comply within the time specified, the permit may be revoked and the permittee or person responsible for carrying out the plan shall be deemed to be in violation of this chapter and ~~upon conviction~~ shall be subject to the penalties provided by this chapter.

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(c) In order to prevent further erosion, the administrator may require an approved erosion and sedimentation control plan for any land identified and designated as an erosion impact area. Any property owner whose land is designated as an erosion impact area, provided the erosion is not the result of activities specified in section 5A-4, shall:

- (1) Submit an erosion and sedimentation control plan for approval within thirty (30) days of receipt of the notice designating the property as an erosion impact area;
- (2) Obtain a land-disturbing permit with sufficient surety posted pursuant to section 5A-8;
- (3) Install all control measures as approved on the plan; and
- (4) Comply with all other provisions of this chapter.

(d) The county may charge applicants a reasonable fee to defray the cost of program administration, including costs associated with the issuance of grading or land-disturbing permits, plan review, and periodic inspection for compliance with erosion and sedimentation control plans if charges for such costs are not made under any other law, ordinance or program. The fee shall not exceed an amount commensurate with the services rendered, taking into consideration the time, skill and administrator's expense involved, or \$1,000.00, whichever is less.

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Chapter 5A. Erosion and Sedimentation Control
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Section 5A-11. Penalty: ; *civil or criminal.*

(a) A violation of this chapter shall be deemed a misdemeanor and upon conviction a person shall be subject to a fine not exceeding \$1,000.00 or 30 days' imprisonment, or both, for each violation.

(b) *Civil penalties:*

(1) *A civil penalty in the amount listed on the schedule below shall be assessed for each violation of the respective offense:*

(a) *Land disturbing activity when no permit has been issued:*

(1) *Disturbing an area of less than one acre \$50.00*

(2) *Disturbing an area of more than one acre or more . . . \$100.00*

(3) *Failing to respond to a notice of violation \$100.00*

(b) *Land disturbing when a permit has been issued:*

(1) *Failing to fully satisfy to a Notice to Comply \$100.00*

- (2) *Failing to obey a stop work order \$100.00*
- (3) *Failing to stop work when the permit has been revoked \$100.00*
- (2) *Each day during which the violation is found to have existed shall constitute a separate offense. However, in no event shall specified violations arising from the same operative set of facts be charged more frequently than once in any ten-day period, and in no event shall a series of specified violations arising from the same operative set of facts result in civil penalties which exceed a total of \$3,000.00.*
- (3) *A civil action for such violation may be brought by the locality wherein the land lies. In any trial for a scheduled violation, it shall be the burden of the locality to show the liability of the violator by a preponderance of the evidence. An admission or finding of liability shall not be a criminal conviction for any purpose. Any civil penalties assessed by a court shall be paid into the treasury of the locality wherein the land lies, except that where the violator is the locality or its agent, the court shall direct the penalty to be paid into the state treasury.*
- (4) *Designation of a particular violation for a civil penalty shall be in lieu of criminal sanctions and shall preclude the prosecution of such violation as a misdemeanor under subsection A.*

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(b) (c) The administrator, the county or the board may apply to the circuit court in any jurisdiction wherein the land lies to enjoin a violation or a threatened violation under section 5A-5 or section 5A-9 of this chapter without the necessity of showing that an adequate remedy at law does not exist.

(e) (d) In addition to any criminal *or civil* penalties provided under this chapter, any person who violates any provision of this chapter may be liable to the county, or to the board, as appropriate, in a civil action for damages.

(d) (e) Without limiting the remedies which may be obtained in this section, any person violating or failing, neglecting or refusing to obey any injunction, mandamus or other remedy obtained pursuant to this section shall be subject, in the discretion of the court, to a civil penalty not to exceed \$2,000.00 for each violation. *A civil action for such violation or failure may be brought by the locality wherein the land lies. Any civil penalties assessed by a court shall be paid into the treasury of the locality wherein the land lies, except that where the violator is the locality itself, or its agent, the court shall direct the penalty to be paid into the state treasury.*

(e) (f) With the consent of any person who has violated or failed, neglected or refused to obey any regulation or order of the board, the director, or plan-approving or permit-issuing authority, any condition of a permit, or any provision of this chapter, the board, or plan-approving or permit-issuing authority may provide, in an order issued by the board or plan-approving or permit-issuing authority against such person, for the payment of civil charges for past violations in specific sums, not to exceed

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the limit specified in subsection ~~(d)~~ (e) of this section. Such civil charges shall be instead of any appropriate civil penalty which could be imposed under subsection ~~(d)~~ (b) or (e).

~~(f)~~ (g) Upon receipt of a sworn complaint of a substantial violation of either Section 5A-5 or Section 5A-9 of this chapter from the division of code compliance, ~~the chief administrative officer of the county or the board~~ *County Administrator or his designee* may, in conjunction with or subsequent to a notice to comply, issue an order requiring that all or part of the land-disturbing activities permitted on the site be stopped until the specified corrective measures have been taken. Where the alleged noncompliance is causing or is in imminent danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the commonwealth, such an order may be issued without regard to whether the *person or permittee* has been issued a notice to comply. Otherwise, such an order may be issued only after the *person or permittee* has failed to comply with such a notice to comply. The order shall be served in the same manner as a notice to comply and shall remain in effect for a period of seven (7) days from the date of service pending application by the enforcing authority or permit holder for appropriate relief to the circuit court of the jurisdiction wherein the violation was alleged to have occurred. Upon completion of corrective action, the order shall immediately be lifted. Nothing in this subsection shall prevent the ~~chief administrative officer~~ *county administrator* from taking any other action specified in this section.

Ordinance to Amend and Reordain
Chapter 5A. Erosion and Sedimentation Control
Page 8



Jack D. Edwards
Chairman, Board of Supervisors

ATTEST:



David B. Norman
Clerk to the Board

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

Adopted by the Board of Supervisors of James City County, Virginia, this 21st day of
October, 1992.

EroSed92.0-7

OCT 21 1992

ORDINANCE NO. 187

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 9, LICENSES, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY ADDING ARTICLE VII, GOING OUT OF BUSINESS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 9, Licenses, is hereby amended and reordained by adding Article VII, Going Out of Business, Section 9-145, Purpose; Section 9-146, Permit required; Section 9-147, Application; Section 9-148, Permit fee; Section 9-149, Issuance of permit; Section 9-150, Term of permit; Section 9-151, Inspection; Section 9-152, Inventory; Section 9-153, Commingling or adding articles with those offered for sale; Section 9-154, General prerequisites to advertising or conduct of sale; and Section 9-155, Violations of article.

Chapter 9. Licenses

Article VII. Going Out of Business

Section 9-145. Purpose

The purpose of this Article is to promote and preserve public morals and welfare, economic integrity and fair dealing between sellers and buyers, and to prevent fraud, deceit and dishonesty in business dealings and

transactions, by regulating the conduct of certain sales of goods, wares, and merchandise.

State Code Reference - Code of Virginia Sections 18.2-223 and 224.

Section 9-146. Permit required.

It shall be unlawful for any person to advertise or conduct a sale for the purpose of discontinuing a retail business or to modify the word "sale" in any advertisement with the words "going out of business" or any other words which tend to insinuate that the retail business is to be discontinued or the merchandise liquidated, unless such person has a valid permit issued by the Commissioner of the Revenue to conduct such sale.

Section 9-147. Application.

Application for a permit required by this Article shall be filed with the Commissioner of the Revenue of the County at least ten days prior to advertising or conducting a going out of business sale. It shall be unlawful for any person to make any false statement in any application filed pursuant to this Article.

Ordinance to Amend and Reordain
Chapter 9. Licenses
Page 3

Section 9-148. Permit fee.

The fee for a permit required by this Article shall be \$65.00 which shall be paid at the time the permit applications is filed. Such fee is nonrefundable.

Section 9-149. Issuance of permit.

The Commissioner of the Revenue shall, upon review and verification of the application and payment of the fee, issue the permit required by this Article.

Section 9-150. Term of permit.

Each permit issued under this Article shall be valid for a period of no longer than 60 days and any extension of that time shall constitute a new sale and shall require an additional permit and inventory. An additional permit beyond the initial 60-day permit may be granted solely for the purpose of liquidating those goods, wares and merchandise contained in the initial inventory list which remain unsold.

Section 9-151. Inspection.

The Commissioner of the Revenue shall inspect the advertisement and conduct of a sale to ensure conformity with this Article and the permit.

Section 9-152. Inventory.

All applications for going out of business sale permits shall be accompanied by an inventory list, including the kind and quantity of all goods, wares and merchandise which are to be offered for sale during the sale and only the goods, wares and merchandise specified in the inventory list may be advertised or sold during the sale period. Goods, wares and merchandise not included on the inventory list of going out of business sale goods, wares and merchandise shall not be commingled with or added to the going out of business sale goods, wares and merchandise. The Commissioner of the Revenue shall have the right to revoke a going out of business sale permit upon proof that goods, wares and merchandise not appearing on the original inventory list of going out of business sale goods, wares and merchandise have been commingled with or added to the going out of business sale goods, wares and merchandise.

Section 9-153. Commingling or adding articles with those offered for sale.

It shall be unlawful for any person to add to or commingle with the goods, wares and merchandise listed on the inventory required by Section 9-152

at or during a sale any other goods, wares or merchandise. The goods, wares or merchandise offered for sale shall before they are sold or offered for sale be separated from other goods, wares or merchandise on the premises and be marked with symbols distinguishing them from such other goods, wares and merchandise.

Section 9-154. General prerequisites to advertising or conduct of sale.

It shall be unlawful for any person to conduct or advertise to conduct a sale to induce or attempt to induce the public to purchase or otherwise acquire an interest in goods, wares and merchandise at a sale by means of any publication or advertisement in a newspaper, magazine, book, notice, handbill, poster, circular, pamphlet, letter, billboard, sign, radio or television broadcast or in any other manner unless the seller has a valid permit under this Article and in fact and in good faith intends to go out of business.

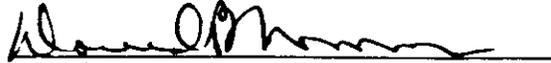
Section 9-155. Violations of article.

A violation of any provision of this Article shall constitute a Class 1 misdemeanor.



Jack D. Edwards
Chairman, Board of Supervisors

ATTEST:



David B. Norman
Clerk to the Board

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

Adopted by the Board of Supervisors of James City County, Virginia,
this 21st day of October, 1992.

2046U

AGREEMENT FOR FUNDING AND REIMBURSEMENT
OF ADVANCES FOR TRANSFER SYSTEM DESIGN

This AGREEMENT is made as of this ___ day of August, 1992 between the VIRGINIA PENINSULAS PUBLIC SERVICE AUTHORITY, a political subdivision of the Commonwealth of Virginia formed under the Virginia Water and Sewer Authorities Act ("VPPSA"), and the County of James City, a member jurisdiction of VPPSA (the "Community").

RECITALS

A. The Board of the Virginia Peninsulas Public Service Authority has heretofore approved funding and reimbursement agreements with its member jurisdictions providing for the interim funding through advances from member jurisdictions of preliminary design, procurement and permitting of certain facilities, including a system of solid waste transfer stations.

B. On January 4, 1991 the Board of VPPSA adopted a resolution publicly stating its intention to reimburse itself from bond proceeds for the costs of procurement, permitting and design of among other things, solid waste transfer facilities, including the cost of reimbursing its member jurisdictions for advances made to VPPSA for such costs.

C. On May 1, 1992 the Board of VPPSA adopted a second resolution meeting the requirements of new Internal Revenue Service regulations reaffirming and publicly stating its

intention to reimburse itself and its member jurisdictions for the costs of, among other things, the design of solid waste transfer facilities from bond proceeds.

D. VPPSA has undertaken the analysis, planning and conceptual design of a system of solid waste transfer stations in certain member jurisdictions for the use and benefit of those member jurisdictions (hereinafter the "Transfer System Plan"). The Board of VPPSA has approved the Transfer System Plan and authorized VPPSA to retain an engineering firm to design the transfer stations and related facilities and equipment (the "Transfer System") called for by the Transfer System Plan for a fee not to exceed \$290,000.00. VPPSA intends to finance all costs of the solid waste transfer system to be constructed (subject to approval by VPPSA and the participating member jurisdictions) in accordance with the Transfer System Plan, including the cost of the Transfer System Plan and of the design of the Transfer System, through the issuance of tax-exempt revenue bonds (a "Bond Financing").

E. Subject to the terms and conditions hereof and as authorized by § 15.1-1250 (h1) of the Virginia Water and Sewer Authorities Act, the Community is willing to advance to VPPSA funds to pay its share of the costs of the design of the Transfer System on an interim basis.

AGREEMENT

1. Advances. The Community shall advance to VPPSA the sum of \$65,000.00 for use by VPPSA for payment of the costs of

the Transfer System Plan. The Community acknowledges that if other member jurisdictions of VPPSA decline to enter into like Agreements with VPPSA to advance funds for their share of the costs of the design of the Transfer System, the costs of such design for the Community will increase. The amount of such increase will vary depending on the number of jurisdictions which elect not to participate, but in no event will the increased amount exceed \$105,000.00. The Community agrees it will advance the increased amount to VPPSA, if necessary. The advance of funds hereunder by a Community does not obligate the Community to ultimately enter into a contract with VPPSA to use the solid waste transfer system being designed with the funds advanced hereunder.

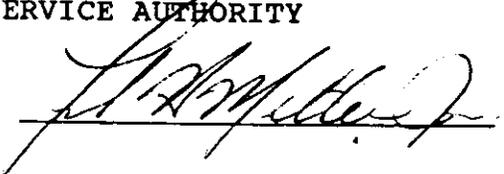
2. Use of Funds. VPPSA shall use the funds advanced by the Community hereunder only for the costs of the design of the Transfer System, unless VPPSA and the Community otherwise agree in writing.

3. Repayment of Advances by VPPSA. VPPSA shall undertake a good faith effort to obtain Bond Financing for the solid waste transfer system when VPPSA and its participating members approve proceeding with the project. If and when the closing of the Bond Financing for the solid waste transfer system occurs, VPPSA shall immediately repay to the Community all amounts advanced by the Community to VPPSA hereunder. If the Bond Financing for the solid waste transfer system does not close, the project is otherwise abandoned by VPPSA (by a majority

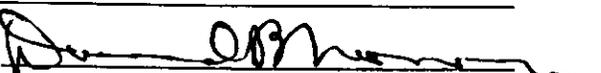
vote of the VPPSA Board), or the Community elects not to enter into a contract with VPPSA and participate in the project, VPPSA shall have no obligation to repay in cash the advance made by a Community hereunder, but Section 4 hereof shall apply.

4. Delivery of Reports, Plans, Designs, Etc. If the Bond Financing for the solid waste transfer system does not close, the project is otherwise abandoned by VPPSA, or the Community elects not to enter into a contract with VPPSA and participate in the project, VPPSA shall deliver to the Community the reports, plans, designs and other work product which was purchased or produced with the proceeds of the Community's advances hereunder and repay to the Community the amount, if any, of any advance hereunder not then expended or necessary to pay contractual commitments then in existence related to the design of the Transfer System in full satisfaction of the obligations of VPPSA to the Community hereunder with respect to repayment of such advance.

VIRGINIA PENINSULAS PUBLIC SERVICE AUTHORITY

By: 

County of James City

By: 
Title: County Administrator