

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 19TH DAY OF DECEMBER, NINETEEN HUNDRED NINETY-FOUR, AT 5:03 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
David L. Sisk, Vice Chairman, Roberts District

Jack D. Edwards, Berkeley District
Robert A. Magoon, Jr., Jamestown District
Stewart U. Taylor, Stonehouse District
David B. Norman, County Administrator
Frank M. Morton, III, County Attorney

B. WORK SESSION

1. Strategic Plan

Mr. David B. Norman, County Administrator, introduced Mr. Sanford B. Wanner, Assistant County Administrator, who presented the draft Strategic Plan. During a lengthy discussion with staff, the Board gave directives for changes to the text. Mr. Wanner stated that the Strategic Plan would be brought forward at the January 23, 1995, Board of Supervisors' meeting.

Mr. DePue declared a break at 6:15 p.m.

Mr. DePue convened the regular meeting at 7:00 p.m.

C. CHAIRMAN'S AWARD

Mr. DePue read and presented a resolution to Mr. John T. P. Home for development of the Route 5 Transportation Improvement District, and to Mr. Keith A. Taylor for development of an industrial shell building as part of the Economic Development Program.

Mr. Home and Mr. Taylor thanked the Board for the awards.

D. MINUTES - December 5, 1994

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

Mr. Taylor made a motion to approve the minutes.

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

E. HIGHWAY MATTERS

Mr. Quintin Elliott, Williamsburg Resident Engineer, Virginia Department of Transportation, was available for questions.

The Board had no requests.

F. CONSENT CALENDAR

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

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

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

1. Lease of School Property

RESOLUTION

LEASE OF SCHOOL PROPERTY

WHEREAS, James City County intends to construct a Community Video Center on grounds at the Berkeley Middle School; and

WHEREAS, the School Board has agreed to lease land to the County for the video center.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the lease agreement between James City County and the Williamsburg-James City County Public Schools and authorizes the County Administrator to execute the lease on its behalf.

2. Official Intent to Reimburse Expenditures for Courthouse Facilities with Proceeds of Bonds

RESOLUTION

OFFICIAL INTENT TO REIMBURSE EXPENDITURES FOR COURTHOUSE FACILITIES

WITH PROCEEDS OF BONDS

WHEREAS, James City County, Virginia (the "County"), has commenced a program for construction of Courthouse facilities serving the City of Williamsburg and James City County (the "Project"); and

WHEREAS, the County intends to pay costs of the Project prior to the issuance of the Bonds, as hereinafter defined, and to receive reimbursement for such expenditures from proceeds of the sale of Bonds.

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

1. The County intends to finance costs of the Project through the issuance of one or more series of bonds, or alternative financing, in a total not to exceed \$7,000,000 (the "Bonds").
2. The County intends to receive reimbursement from proceeds of the financing or sale of Bonds for costs of the Project paid by the County prior to the issuance of the financing or Bonds.
3. The County intends that the adoption of this resolution be considered as "official intent" within the meaning of Treasury Regulations Section 1.150-2 promulgated under the Internal Revenue Code of 1986, as amended.

- 4. The Clerk of the Board of Supervisors of James City County (the "Clerk") is directed to make a copy of the resolution continuously available for inspection by the general public during normal business hours at the Clerk's office from the date of adoption hereof through the date of the issuance of the Bonds.

3. Little Creek Reservoir Recreation Area Access Agreement

RESOLUTION

LITTLE CREEK RESERVOIR RECREATION AREA ACCESS AGREEMENT

WHEREAS, James City County applied for Recreational Access Funds from the Virginia Department of Transportation for the design and construction of an access road for Little Creek Reservoir; and

WHEREAS, The Commonwealth Transportation Board approved the Little Creek Reservoir access road project in the amount of \$120,000; and

WHEREAS, an agreement between VDOT and the County is required in order to construct the access road.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the agreement between the County and the Virginia Department of Transportation, and authorizes the County Administrator to sign the Agreement on behalf of the County.

BE IT FURTHER RESOLVED, that the Board of Supervisors allocate funds in the amount of \$120,000 to the Little Creek Reservoir Project, by creating the following accounts:

Capital Budget Revenues, State	<u>\$120,000</u>
Little Creek Reservoir Access Road	<u>\$120,000</u>

4. Petty Cash Appropriation - Parks and Recreation

RESOLUTION

APPROPRIATION TO PARKS AND RECREATION

WHEREAS, the internal control study on cash management at Parks and Recreation recommended the addition of four \$50.00 petty cash tills; and

WHEREAS, the additional petty cash tills will aid in safeguarding the County's assets.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the Treasurer to issue a check or checks from the General Fund to establish the additional petty cash tills for Parks and Recreation up to but not to exceed \$200.00.

G. PUBLIC HEARING1. Ordinance Amendment, Chapter 11, Motor Vehicles and Traffic, Article I, Section 11-7, Article II, Section 11-28, Driving While Intoxicated and Traffic Endorsement

Mr. Frank M. Morton, III, County Attorney, stated that the ordinance amendment incorporated amendments made by the General Assembly to the driving while intoxicated and traffic laws which become effective January 1, 1995.

Staff recommended approval of the ordinance amendment.

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

Mr. Sisk made a motion to approve the ordinance amendment.

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

H. BOARD CONSIDERATIONS1. Contract Award - Computer Software Update

Mr. Thomas R. Pennington, Director, Information Resources Management, stated that the contract with HMS, Inc., of Matthews, North Carolina, was for an upgrade of existing computer legacy software at a cost not to exceed \$110,000. He further stated the upgrade provided benefits and data management familiar to staff.

Staff recommended approval of the contract award.

Mr. Edwards made a motion to approve the resolution.

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

RESOLUTION**CONTRACT AWARD- COMPUTER SOFTWARE UPGRADE**

WHEREAS, the FY 1995 Budget included on allocation for the purchase of Legacy System software to replace existing minicomputer software, and

WHEREAS, HMS, Inc., of Matthews, N.C. offered an upgrade to the existing software that meets or exceeds all requirements, and

WHEREAS, HMS, Inc. has proposed to supply upgrades to the software at a cost not to exceed \$110,000 plus contractor travel expenses.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby awards the contract for Legacy Systems Replacement software to HMS, Inc.

2. Route 5 Road Improvement Proffer Policy

Mr. John T.P. Home, Manager, Development Management, stated that the Board had deferred action on this item at its December 5, 1994, Board of Supervisors' meeting and during that time, the Planning

Commission had deferred action on a rezoning application on Greensprings Road that would be affected by Board of Supervisors' action on this policy. He also noted that Mr. Morton had provided an explanation of procedures for property owners who join the existing Transportation Improvement District.

Staff recommended Option B.2 as most consistent with past actions of the Board.

The Board discussed how dollar amount was calculated and allocated within single development, level of service need in traffic study, apply cash proffers to 4-lanes except if unusual cost overruns on initial 2 lanes, and justification for different costs of houses.

Mr. Edwards made a motion for staff to develop a policy and bring it back to the Board.

Discussion ensued by the Board and staff to simplify the policy statement and summarize in conjunction with the resolution.

Mr. Edwards withdrew the motion.

Without objection, Mr. DePue declared a deferral of the Route 5 Improvement Proffer Policy item until Monday, January 9, 1995, Board of Supervisors' meeting.

I. PUBLIC COMMENT

1. Mr. H. D. Tooley, 8908 Hicks Island Road, spoke regarding his disagreement with County Code enforcement policies.

2. Mr. Ed Oyer, 139 Indian Circle, spoke regarding the continuing roof problems at Lafayette High School.

J. REPORTS OF THE COUNTY ADMINISTRATOR - None

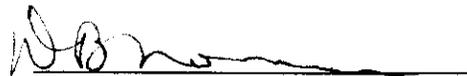
I. BOARD REQUESTS AND DIRECTIVES

Mr. DePue commented that a response could not be given to citizen statements heard at Board meetings, but wanted citizens to know that the Board is apprised of pending legal matters. He stated that staff and the Board are always available for discussion of issues with citizens.

Mr. DePue made a motion to recess until 5:00 p.m., Monday, January 9, 1995, for an Organizational Meeting.

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

The Board recessed at 8:52 p.m.



David B. Norman
Clerk to the Board

JAMES CITY COUNTY
Project 0777-047-156, N501
Recreational Access
Little Creek Reservoir Recreation Area

THIS AGREEMENT, made the 15th day of MARCH, 1995, between James City County, hereinafter referred to as the COUNTY, and the Virginia Department of Transportation, hereinafter referred to as the DEPARTMENT; and

WHEREAS, the COUNTY, by appropriate resolution, requested Recreational Access Funds to assist in providing adequate access to Little Creek Reservoir Recreation Area, located off Route 766 in James City County; and

WHEREAS, the Commonwealth Transportation Board has allocated, subject to certain contingencies, an amount not to exceed \$120,000 from the Recreational Access Fund to provide adequate access to Little Creek Reservoir Recreation Area, such being designated as Project 0777-047-156, N501; and

WHEREAS, the COUNTY hereby acknowledges and agrees to the contingencies of this allocation, as set forth in the December 16, 1993, resolution of the Commonwealth Transportation Board, which is made a part of this agreement by reference; and

WHEREAS, the parties hereto mutually desire to contribute toward the construction of the access road and the COUNTY agrees to provide payment for any ineligible project costs and the entirety of the project's eligible costs in excess of \$120,000; and

WHEREAS, the COUNTY desires to administer the advertisement, award, and construction of this project through its own capabilities and/or those of its agents.

NOW, THEREFORE, for and in consideration of the premises and mutual covenants and agreements herein contained, the parties hereto agree as follows:

A. The COUNTY will:

1. Design and prepare plans for Project 0777-047-156, N501, described as the construction of a new roadway, from an intersection with Route 766 to the entrance of the first parking lot, approximately 0.34 mile south of the intersection with Route 766, for the purpose of providing suitable access to the aforementioned park. This design shall be in accordance with the applicable geometric standards of the DEPARTMENT and shall be subject to approval by the DEPARTMENT. The plans shall specifically designate each contract item as either eligible or ineligible for Recreational Access Funds. The cost of such design and plan preparation shall be borne by the Recreational Access Fund.
2. Assure that all items of work and materials used in the project's construction comply with the applicable DEPARTMENT specifications.
3. Administer the project's contract advertisement, award, and construction under the COUNTY's competitive bidding procedure, provided, however, that no contractor who is currently disqualified from bidding on contracts with the DEPARTMENT for any reason may participate as a prime contractor, subcontractor, or supplier in any portion of this project's construction.

4. Acquire the necessary right of way, including any required slope and/or drainage easements, for the construction of this project at no cost to the DEPARTMENT. Such right of way shall be a minimum of fifty feet in width. The COUNTY will perform, or have performed, all environmental assessments, and, should these assessments require any form of mitigation as a condition of the project's construction on the proposed right of way, provide said mitigation at no cost to the DEPARTMENT.
5. Cause any utilities in conflict with the construction of this project to be adjusted, including the cost of any installations and related engineering, at no cost to the DEPARTMENT.
6. Prepare any required environmental documents and secure all necessary local, state, and federal permits required for the proposed construction at no cost to the DEPARTMENT.
7. Obtain the DEPARTMENT's approval of the final plans, cost estimate, and specifications prior to award of the contract for construction of the project.
8. Ensure that the location, form, and character of all traffic control devices and markings installed or placed by any public authority or other agency shall be subject to the approval of the DEPARTMENT.
9. Bear all cost for any items included in the contract which are not eligible for reimbursement by the Recreational Access Fund as determined by the DEPARTMENT and any eligible cost in excess of \$120,000.

10. Arrange for inspection/construction engineering as required to assure the project's construction is performed in accordance with the approved plans and specifications.
11. Make this project available to inspection by DEPARTMENT personnel during its construction and obtain the DEPARTMENT's concurrence prior to project acceptance.
12. Maintain accurate records of all project costs in a form satisfactory to the DEPARTMENT and make such records available for audit by the DEPARTMENT upon request.
13. Request payment from the DEPARTMENT for the actual cost of the project's eligible items, to the extent herein provided, upon the presentation of appropriate certification and billing. Monthly progress billings for such payment may be submitted prior to the project's acceptance pursuant to paragraph [A.11].

B. The DEPARTMENT will:

1. Review the plans, cost estimate, and specifications for project 0777-047-156, N501 as presented by the COUNTY pursuant to Paragraph A.7 and approve them with whatever modifications, if any, it deems appropriate.
2. Authorize Recreational Access Funds, not to exceed \$120,000, in accordance with and subject to the Commonwealth Transportation Board's resolution of December

ATTEST:

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION

Denise G. Simms
Title: Executive Secretary Senior

David R. Gehr
Commissioner

APPROVED

Fiscal Division (VDOT)

Office of the Attorney General

s/Mr. John W. Lawson _____
Date: May 27, 1994

s/Mr. Todd E. Lahy _____
Date: March 22, 1994

LEASE

THIS LEASE is made as of this 19th day of December, 1994, by and between the WILLIAMSBURG-JAMES CITY COUNTY PUBLIC SCHOOLS ("Schools"), as Landlord, and the COUNTY OF JAMES CITY, VIRGINIA ("County"), a political subdivision of the Commonwealth of Virginia, as Tenant.

WHEREAS, the land to be leased ("Property") is located at 1118 Ironbound Road on the grounds of the Berkeley Middle School between the present studio trailer and the cage for the playing fields. The exact location is denoted on the Site Plan, attached and incorporated by reference; and

WHEREAS, the Schools wish to lease land to the County for use as a Community Video Center.

WITNESSETH

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, and the mutual covenants and promises contained herein, the parties agree as follows:

1. **Term of Lease.** The County agrees to lease and the Schools agree to let the Property for 50 (fifty) years commencing December 19, 1994. The Lease shall be extended automatically each year for up to 19 (nineteen) additional years, unless terminated as provided herein.

2. **Rent.** For the first term of this Lease, the County agrees to pay rent to the Schools in the amount of \$1.00 per year for the use of the Property. The rent shall be paid on the first day of each lease term. The rent is to remain fixed for the duration of this Lease, unless otherwise agreed to in writing by the Schools and the County.

3. **Assignment and Subletting.** The County shall not sell, assign, sublet, convey, or transfer its rights under this Lease without the prior written approval of the Schools.

4. **Indemnification.** The Schools shall not be liable for any damage or injury to any person or property, whether it be the persons or property of the county or the County's employees, agents, guests, invitees, or otherwise by reason of the County's occupancy of the leased premises or because of fire, flood, windstorm, acts of God, or any other reason. The County agrees to indemnify and save harmless the Schools from and against any and all loss, damage, claim, demand, liability, or expense by reason of damage to person or property which may arise or be claimed to have arisen as a result of the occupancy or use of the Property by the County, in connection therewith, or in any way arising on account of any injury or damage caused to any person or property on or in the Property; provided that the County shall indemnify only to the extent of its collectable insurance coverage and receipts thereunder.

5. **Breach of Lease.** In the event either party breaches any provision of this Lease, the other party may terminate this Lease by providing written notice to the breaching party; provided the breaching party shall have 30 (thirty) calendar days to correct such breach. In the event of a proper termination, the parties shall have no action at law or equity against the other party under this Lease.

6. Notice. All notices or other communications shall be deemed to have been given if the same shall be in writing and delivered personally or sent by registered or certified mail, postage prepaid, and addressed as set forth below:

To Schools: Director of Finance
101-D Mounts Bay Road
James City County, Virginia 23185

To County: Manager of Financial and
Management Services
101-A Mounts Bay Road
James City County, Virginia 23185

7. Amendments. This Lease may be amended only by a writing signed by the parties.

IN WITNESS WHEREOF, the undersigned, being first duly authorized, have executed this Lease as of the first day first above written.

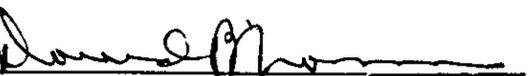
WILLIAMSBURG-JAMES CITY COUNTY
PUBLIC SCHOOLS

By: 
David C. Papenfuss
Acting Superintendent

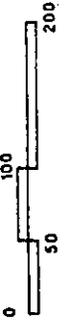
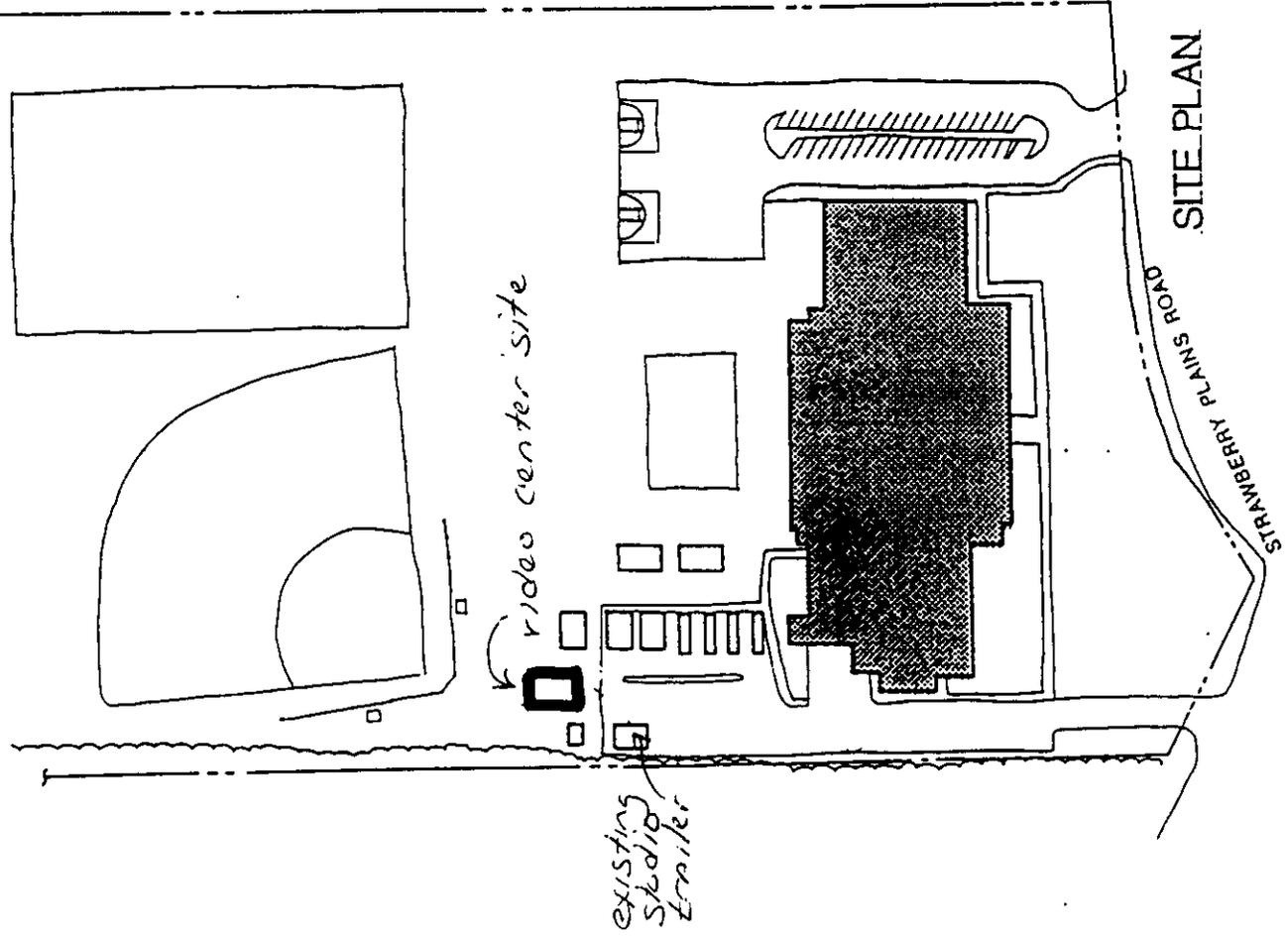
Approved as to Form:

COUNTY OF JAMES CITY, VIRGINIA


County Attorney

By: 
David B. Norman
County Administrator

BERKELEY MIDDLE SCHOOL -- 1118 Ironbound Road
Acres - 19.3
Sq. Ft. - 66,774



SITE PLAN



WILLIAMSBURG-
JAMES CITY COUNTY
PUBLIC SCHOOLS

Facilities Study
Berkeley
Middle School
August 1992

ARCHITECTS

BOARD COUNTY METROPLANS - CULTURAL CENTER
200 Ironbound Road
Richmond, Virginia 23220
804-788-1111

ORDINANCE NO. 66A-34

DEC 19 1994

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 11, MOTOR VEHICLES AND TRAFFIC, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL, SECTION 11-7, ADOPTION OF STATE LAW; AND ARTICLE II, DRIVING AUTOMOBILES, ETC., WHILE INTOXICATED OR UNDER THE INFLUENCE OF ANY DRUG, SECTION 11-28, ADOPTION OF STATE LAW, GENERALLY.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that effective January 1, 1995, Chapter 11, Motor Vehicles and Traffic, is hereby amended and reordained by amending Section 11-7, Adoption of State law; and Section 11-28, Adoption of state law, generally.

Chapter 11. Motor Vehicles and Traffic

Article I. In General

Section 11-7. Adoption of state law.

Pursuant to the authority of Section 46.2-1313 of the Code of Virginia, as amended, all of the provisions and requirements of the laws of the state contained in Title 46.2 of the Code of Virginia, as amended, and in force on ~~July~~ *January* 1, ~~1993~~ 1995, except those provisions and requirements the violation of which constitutes a felony and those provisions and requirements which by their very nature can have no application to or within the county, are hereby adopted and incorporated in this chapter by reference and made applicable within the county. Such provisions and requirements are hereby adopted, mutatis mutandis, and made a part of this chapter as fully as though set forth at length herein, and it shall be unlawful for any person, within the county,

Ordinance to Amend and Reordain
Chapter 11. Motor Vehicles and Traffic
Page 2

to violate or fail, neglect or refuse to comply with any provision of Title 46.2 of the Code of Virginia which is adopted by this section; provided, that in no event shall the penalty imposed for the violation of any provision or requirement hereby adopted exceed the penalty imposed for a similar offense under Title 46.2 of the Code of Virginia.

State law reference - General authority of County to prohibit operation of vehicles while under the influence of alcohol or drugs, Code of Va., Section 15.1-132; authority to adopt state law on the subject, Code of Va., Section 46.2-1313.

ARTICLE II. Driving Automobiles, etc., While Intoxicated
or Under the Influence of Any Drug

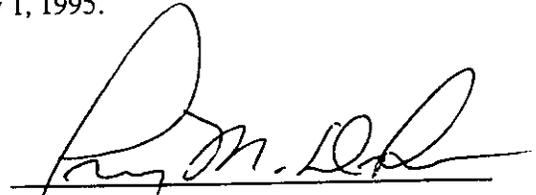
Section 11-28. Adoption of state law, generally.

Article 9 (Section 16.1-278 et seq.) of Chapter 11 of Title 16.1 and Article 2 (Section 18.2-266 et seq.) of Chapter 7 of Title 18.2, Code of Virginia, as amended and in force July *January* 1, ~~1993~~ 1995, is hereby adopted and made a part of this chapter as fully as though set out at length herein. It shall be unlawful for any person within the county to violate or fail, neglect or refuse to comply with any section of the Code of Virginia as adopted by this Section.

Ordinance to Amend and Reordain
Chapter 11. Motor Vehicles and Traffic
Page 3

State law reference - General authority of county to prohibit operation of vehicles while under the influence of alcohol or drugs, Code of Va., 15.1-132; authority to adopt state law on the subject, Code of Va. § 46.2-1313.

The effective date of this Ordinance shall be January 1, 1995.



Perry M. DePue
Chairman, Board of Supervisors

ATTEST:



David B. Norman
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
MAGOON	AYE
EDWARDS	AYE
TAYLOR	AYE
SISK	AYE
DEPUE	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 19th day of December, 1994.