

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 7TH DAY OF AUGUST, NINETEEN HUNDRED NINETY-FIVE, 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. Parks and Recreation Referendum Capital Projects

Mr. Norman introduced Mr. Needham Cheely, III, and Mr. Darrell Gray, who presented task and time line charts and budget information regarding the parks and recreation bond initiatives. Mr. Darryl Cook presented information on the district park.

Staff and Board discussed the plans for the district park and recreation center, and the Board emphasized the importance of keeping the budget in line with the bond referendum.

C. MINUTES - July 17, 1995

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

Mr. Edwards made a motion to approve the minutes.

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

D. CONSENT CALENDAR

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

Mr. Magoon asked that Item No. 2 be removed.

Mr. DePue made a motion to approve Item Nos. 1, 3, and 4 of the Consent Calendar.

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

1. Budget Amendment - Emergency Services

RESOLUTION

BUDGET AMENDMENT - EMERGENCY SERVICES

WHEREAS, the Board of Supervisors of James City County has been requested to approve the reimbursement by the Virginia Department of Emergency Services to James City County Office of Emergency Services to reimburse drill expenses and purchase supplies and equipment.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby amends the FY 96 Operating Budget, as follows:

Revenues:

Department of Emergency Services \$7,500

Expenditures:

Emergency Services-Capital Outlay \$7,500

3. Criminal Justice Services Grant

RESOLUTION

APPROPRIATION OF CRIMINAL JUSTICE SERVICES GRANT

WHEREAS, the Department of Criminal Justice Services has approved a Grant to provide \$ 46,890 to the Police Department for a crime prevention, substance abuse prevention, and school resource officer for the middle school age population; and

WHEREAS, sufficient local matching funds are available in the Police Department Budget; and

WHEREAS, one police officer and one part-time grant administrator are needed to responsibly meet the obligations of the Grant.

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

Revenues from the Commonwealth: \$46,890

Expenditures:

Police Department Budget (\$15,000)

Police Grant - Department of Criminal Justice Services 61,890

\$46,890

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County does create one limited-term full-time police officer to work under the supervision of the Police Chief, and one limited-term part-time grant administrator as outlined in the grant application, to work under the supervision of the Communications and Neighborhood Connections Coordinator.

4. Creation of Community Criminal Justice Board for Colonial Community Corrections

RESOLUTION

APPROVAL OF AGREEMENT TO CREATE

A COMMUNITY CRIMINAL JUSTICE BOARD

WHEREAS, the Counties of Charles City, James City, New Kent, and York and the Cities of Poquoson and Williamsburg, desire to form a Regional Community Criminal Justice Board; and

WHEREAS, the Community Criminal Justice Board will enable the participating jurisdictions to develop, establish and maintain community-based corrections programs to provide the judicial system with sentencing alternatives for certain misdemeanants or persons convicted of nonviolent felonies.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute the Joint Exercise Of Powers Agreement For The Creation Of The Community Criminal Justice Board For Colonial Community Corrections.

2. October Board Meeting Date

Mr. Magoon explained that this item was notification to the public that the Board of Supervisors' first meeting date in October would be October 2.

Mr. DePue made a motion to approve the resolution.

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

RESOLUTION

OCTOBER BOARD MEETING DATE

WHEREAS, a regular meeting of the Board of Supervisors of James City County was scheduled for Wednesday, October 4, 1995, at 7:00 p.m., to accommodate the schedule of the annual conference of the Virginia Municipal League; and

WHEREAS, the annual conference of the Virginia Municipal League will now be held October 8 - 10, 1995.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, October 4, 1995, meeting is rescheduled to the regular meeting date of Monday, October 2, 1995, at 7:00 p.m., and that the public and media be appropriately notified.

E. PUBLIC HEARINGS

1. Case No. SUP-22-95. Williamsburg Pottery Factory Miniature Golf Course

Mr. Gary A. Pleskac, Planner, stated that Ms. Maureen O'Hara Smith had applied on behalf of the Williamsburg Pottery Factory for a special use permit to allow a miniature gold course and batting cage at 6730 Richmond Road, zoned M-1, Limited Industrial, further identified as part of Parcel No. (1-31) on James City County Real Estate Tax Map No. (24-3).

Staff determined that the proposal was consistent with surrounding development and zoning and the Comprehensive Plan.

In concurrence with staff, the Planning Commission unanimously recommended approval of the special use permit with conditions listed in the resolution.

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

Mr. Taylor made a motion to approve the special use permit.

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

RESOLUTION

SUP-22-95. WILLIAMSBURG POTTERY MINIATURE GOLF COURSE

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 Planning Commission of James City County, following its public hearing on July 11, 1995, unanimously recommended approval of Case No. SUP-22-95, to permit the Williamsburg Pottery to construct a miniature golf course, putting green and batting cage at 6730 Richmond Road, as identified on the conceptual plan submitted with this application and further identified as a part of Parcel No. (1-31) on James City County Real Estate Tax Map No. (24-3).

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-22-95 as described herein with the following conditions:

1. If construction has not commenced on this project within a period of 12 months from the date of issuance of this special use permit, it shall become void.
2. Any irrigation system for the miniature golf course, putting green, and its landscaping shall utilize the existing Williamsburg Pottery Factory non-potable water system.

2. Case No. Z-11-95. Foxfield

Mr. Mark J. Bittner, Planner, stated that Mr. Douglas White of Langley and McDonald had applied on behalf of Larry McCardle, property owner, to rezone approximately 10 acres from R-8, Rural Residential, to R-5, Multi-Family Residential, to allow construction of approximately 50 townhouses, located at 1927-1935 Jamestown Road, further identified as Parcel No. (3-1) on James City County Real Estate Tax Map No. (46-4).

In concurrence with staff, the Planning Commission, by a vote of 5-0, unanimously recommended approval of the rezoning.

Board and staff discussion followed regarding right-of-way measured from service road and not Jamestown Road; request for 30 additional landscape trees was to maintain consistency with greenbelt policy and proffered by applicant; and, drainage structures not specifically stated as permitted within 150 ft. buffer.

Mr. DePue opened the public hearing.

1. Mr. Norman Mason, Langley and McDonald, representing Foxfield, explained the applicant's concern about the staff request to reserve 50 foot of right-of-way for possible future connection to the adjacent property, the concern being that the connection might bring traffic from the remaining 900+ acres through the smaller development of 50 townhomes.

Mr. DePue closed the public hearing.

Mr. Magoon stated that he would abstain from voting because he may provide professional design services for the project.

Mr. Taylor made a motion to approve Case No. Z-11-95.

Mr. DePue stated that he had a concern about staff requesting additional landscaping than that required by the landscape ordinance and asked that the greenbelt policy be reviewed during the Comprehensive Plan update.

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

RESOLUTION

CASE NO. Z-11-95, FOXFIELD

WHEREAS, in accordance with Section 15.1-431 of the Code of Virginia, and Section 20-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified and a hearing scheduled on Zoning Case No. Z-11-95 for rezoning approximately 10 acres from R-8 to R-5, identified as Parcel No. (3-1) on James City County Real Estate Tax Map No. (46-4); and

WHEREAS, the Planning Commission of James City County recommended approval of Case No. Z-11-95 by a vote of 5 to 0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia does hereby approve Zoning Case No. Z-11-95 and accepts the voluntary proffers.

3. **Case No. Z-8-95, R. M. Hazelwood, Jr.**

Mr. Bittner stated that Mr. Thomas Dow had applied to rezone approximately 86 acres from A-1, General Agricultural, to R-2, General Residential, for a subdivision of approximately 200 single-family home lots, located at 3376 Old Stage Road, further identified as Parcel No. (1-4) on James City County Real Estate Tax Map No. (12-2).

Staff determined that the County's Archaeological Condition Policy should be applied; James City Service Authority stated improvements may be needed for water system; the proposal was consistent with the land use and density designation, and generally consistent with surrounding development and zoning of the Comprehensive Plan, but not consistent with the strategy concerning sufficient documentation of archaeological resources.

In concurrence with staff, the Planning Commission, by a vote of 4-1, recommended denial of the rezoning because proffers did not include the County's Archaeological Condition Policy.

The Board asked whether documented records existed for the site.

Staff responded it was unaware of any existing records.

Mr. Morton suggested that the Board defer the case to allow the proffers to be prepared in legal format.

Mr. DePue opened the public hearing.

1. Mr. R. M. "Sam" Hazelwood, Jr., Toano, gave a brief history of the acreage and stated he did not know which part made up an archaeological site since he had no records.

2. Mr. Thomas Dow, 209 Corbin Drive, Newport News, applicant, stated that substantial proffers made this an excellent quality project and was not convinced an archaeological survey would produce significant findings.

3. Mr. Jay Everson, 130 Oslo Court, stated that the archaeological proffer would be expensive, filed away with no further reference and was not needed.

4. Ms. Willafay McKenna, member of the Planning Commission Policy Committee, explained an archaeological study should be required when significant potential for find can be identified. She stated topography, community developed on site during an earlier time period although records were destroyed by fire during Civil War, identified sites nearby and adjacent to water were significant data.

5. Mr. Ed Oyer, 139 Indian Circle, stated the applicant should be allowed to proceed but if at anytime artifacts should be found, the development would cease for study.

Mr. Magoon asked for number of times the ordinance cluster has been used. He requested a work session on the Archaeological Policy with the Planning Commission and Historical Commission and that information on the policy and implementation be provided prior to that work session.

Mr. DePue continued the public hearing and stated a work session on County Archaeological Condition Policy would be held Monday, August 21, 1995, at 4:30 p.m. with the Planning Commission and the Chairman of the Historical Commission to invite 5 or 6 members of that commission.

4. Conveyance of Property to Virginia Department of Transportation, Moses Lane

Mr. O. Marvin Sowers, Jr., Director of Planning, stated that Moses Lane was on the Dirt Street funding schedule for improvement and conveyance of a 0.055-acre parcel from the County to Virginia Department of Transportation was needed for a required turnaround at the end of Moses Lane.

Staff recommended approval of the resolution.

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 resolution.

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

RESOLUTION

CONVEYANCE OF RIGHT-OF-WAY ON MOSES LANE

TO COMMONWEALTH OF VIRGINIA

WHEREAS, Moses Lane is to be improved and accepted into the secondary system of State highways as a Rural Addition to the secondary system of the County; and

WHEREAS, James City County owns 0.28 acres of land located on Moses Lane on James City County Tax Map Parcel No. (41-4)(8-7); and

WHEREAS, the Virginia Department of Transportation requires land at the end of Moses Lane for construction of a turnaround.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia hereby authorizes execution, by the County Administrator, of a deed conveying a 0.055 acre± (2,414 square feet) parcel of land to the Commonwealth of Virginia for the purpose of construction of a turnaround by the Department; the property described as follows:

All that certain parcel of land shown and designated as Parcel to be Conveyed (0.055 acre ±) on that certain plat entitled: Survey for conveyance, A parcel containing 0.055 acres±, Being a portion of Lot 7, Kearney Subdivision, Owned by: James City County, To: Virginia Department of Transportation.

5. Ordinance Amendment, Chapter 11, Motor Vehicles, to Eliminate Motor Vehicle Decal Fee

Ms. Carol Davis, Assistant Manager of Financial and Management Services, stated that the proposed amendments would eliminate the current \$15.00 fee for decals, beginning in calendar year 1996 and establish a \$5.00 administrative fee for first time registration, duplicates, and title transfers.

She further stated that the budget amendment resolution would adjust General Fund revenues for Fiscal Year 1996 and a resolution was provided that requested the Commissioner of Revenue to establish a change in assessment ratio for motor vehicles.

Staff recommended approval of the ordinance amendments and resolutions.

Ms. Betty Pettengill, Treasurer, explained the savings of time for employees and cost of mailing, and the convenience to citizens.

Mr. DePue opened the public hearing.

1. Mr. R. M. "Sam" Hazelwood, Jr., Toano, stated that the \$15.00 decal fee could be added as a line item to the personal property tax and the County would not lose \$85,000 in revenue.

Mr. DePue closed the public hearing.

Mr. Sisk made a motion to approve the ordinance amendments and resolutions.

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

RESOLUTION

BUDGET AMENDMENT - GENERAL FUND REVENUES

WHEREAS, the Board of Supervisors of James City County has considered, and has approved, a change in the County Ordinance relating to Motor Vehicle Decals. and

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County approves the following adjustments to General Fund revenues in FY 1996:

County Decal Fees	(\$445,000)
Personal Property Taxes	395,000
Real Estate Taxes	30,000
Local Sales Tax	<u>20,000</u>
	<u>\$ 0</u>

RESOLUTION

REQUEST TO COMMISSIONER OF REVENUE

ASSESSMENT RATIO FOR THE TAXATION OF MOTOR VEHICLES

WHEREAS, the Board of Supervisors desires to adopt a budget that increases the assessment ratio on motor vehicles.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests that the Commissioner of Revenue establish an assessment ratio of one hundred percent (100%) for personal property classified as motor vehicles and now assessed using loan value as determined by the National Automobile Dealers Association (N.A.D.A.) and that this assessment ratio be used for the preparation of the preparation of the personal property book as of January 1, 1995, for taxes assessed and collected in the fiscal year ending June 30, 1996.

F. BOARD CONSIDERATIONS

1. **Award Contract for District Park Architectural/Engineering Services**

Mr. Needham S. Cheely, III, Director of Parks and Recreation, stated that bids were submitted for District Park archaeological/engineering services, with Rhodeside & Harwell, Inc., in the amount of \$152,726, selected.

Staff recommended approval of the resolution.

Mr. DePue made a motion to approve the resolution.

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

RESOLUTION

CONTRACT AWARD - ARCHITECTURAL AND ENGINEERING SERVICES

FOR THE DISTRICT PARK

- WHEREAS, James City County desires to develop a new District Park; and
- WHEREAS, a contract for architectural and engineering services for the District Park was competitively negotiated with Rhodeside & Harwell, Inc., in the amount of \$152,726; and
- WHEREAS, adequate funds are available in the Parks and Recreation Capital budget to cover the payment of architectural and engineering services fees.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the award of a contract for the provision of architectural and engineering services for the District Park in the amount of \$152,726 to Rhodeside & Harwell, Inc.

2. **Award of Construction Contract - Community Video Studio**

Ms. Veronica Nowak, Communications and Neighborhood Connections Coordinator, stated that bids were submitted for construction of the Community Video Center at Berkeley School, with JD & W, Inc., t/a Gerling-Wood Construction in the amount of \$404,618, selected.

Staff recommended approval of the resolution.

Mr. Edwards made a motion to approve the resolution.

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

RESOLUTION

AWARD OF CONSTRUCTION CONTRACT - VIDEO CENTER

- WHEREAS, funds are appropriated in the FY 95 Capital Improvement Budget to construct a Community Video Center; and
- WHEREAS, requests for bids were issued, responses evaluated, and the lowest bid meeting the critical specifications was determined; and
- WHEREAS, it has been determined that the bid submitted by J.D. & W., Inc., Gerling-Wood Construction in the amount of \$404,618 was the lowest responsible/responsive bid.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes and directs the County Administrator to enter into a contract with J.D. & W., Inc., t/a Gerling-Wood Construction, for the construction of a Community Video Center for the sum of \$404,618.

BE IT FURTHER RESOLVED that the Board of Supervisors approves the following appropriation within the Capital Projects Fund:

Revenues

Contribution - City of Williamsburg	\$ 60,000
Contribution - Continental Cable	<u>109,000</u>
	<u>\$169,000</u>

Expenditures

Communications - Video Center	<u>\$169,000</u>
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G. PUBLIC COMMENT

1. Ms. Gayle Johnson Weaver, 2405 Andre Esteve, reported a violation of the Chesapeake Bay Preservation Act without penalties on Lot No. 29 in The Vineyards subdivision. She asked the County to give increased authority to staff to impose fines and prevent future destruction of wetlands.

Staff responded that a report will be forthcoming.

2. Mr. H. D. Tooley, 8908 Hicks Island Road, Lanexa, expressed displeasure with County departments issuing code violations for conditions on his property.

Mr. DePue stated that the matter was before the court and would be settled by the judge.

3. Mr. David Brown, 213 Nelson Street, Yorktown, owner of Bush Neck Farm, Inc., 1502 Bush Neck Road, gave detailed information of issues with code violations over several years. He emphasized that the manufactured home on the farm was used for a farm shed, not a residence.

Mr. Morton responded that Mr. Brown's court case had been withdrawn and the remaining issue was whether the manufactured home should be placed on a foundation with skirting. He stated Mr. Leo Rogers, Deputy County Attorney, would be submitting that issue to the State for an opinion as to whether a new State provision required foundation and/or skirting.

Mr. DePue requested that a copy of the State's interpretation be given to Mr. Brown when received. Mr. DePue told Mr. Brown to contact him if that interpretation was unsatisfactory.

H. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Norman announced the County Fair at Upper County Park to be held Friday, August 11, 1995, from 4:00 p.m. - 10:00 p.m. and Saturday, August 12, 1995, from 10:00 a.m. to 4:00 p.m.

I. BOARD REQUESTS AND DIRECTIVES

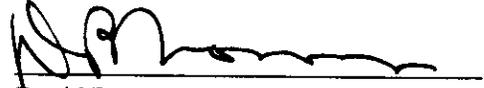
Mr. Taylor requested status of the canal in Chickahominy Haven; who owned the water; the effect of the Chesapeake Bay Preservation Act on the canal; and, could the canal be dredged.

Mr. Norman responded that information would be provided.

Mr. DePue made a motion to recess until 7:30 a.m., Tuesday, August 8, 1995, for a trip to Washington Suburban Sanitary Commission, Montgomery County Regional Composting Facility, Silver Springs, Maryland.

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

The Board recessed at 9:32 p.m.



David B. Norman
Clerk to the Board

080795bs.min

JOINT EXERCISE OF POWERS AGREEMENT
FOR THE CREATION OF THE COMMUNITY CRIMINAL
JUSTICE BOARD FOR COLONIAL COMMUNITY CORRECTIONS

There is hereby created by the Counties of Charles City, James City, New Kent, and York, and the Cities of Poquoson and Williamsburg (the "Participating Jurisdictions") the Community Criminal Justice Board for Colonial Community Corrections (the "Board"), which shall exist under and be subject to the terms and conditions of this Agreement.

Section I. Duration

A. The Board and this Agreement shall exist in perpetuity, unless dissolved at any time by agreement of the Participating Jurisdictions. In the event the governing body of any Participating Jurisdiction desires to withdraw from the Board, it may do so provided it notifies the other Participating Jurisdictions and the Director of the Department of Criminal Justice Services of its intention to withdraw from the Board at the beginning of any calendar quarter, by adoption of an ordinance or resolution by its governing body. Such withdrawal shall be effective as of the last day of the quarter in which such notice is given.

Section II. Purpose

The purposes for which the Board are created are as follows, as specified in Section 53.1-180, Code of Virginia:

- A. To enable the Participating Jurisdictions to develop, establish and maintain community-based corrections programs to provide the judicial system with sentencing alternatives for certain misdemeanants or persons convicted of nonviolent felonies, as defined in Section 19.2-316.1, Code of Virginia, for which the Court may impose a jail sentence and who may require less than institutional custody;
- B. To allow the Participating Jurisdictions greater flexibility and involvement in responding to the problem of crime in their communities;
- C. To provide more effective protection of society and to promote efficiency and economy in the delivery of correctional services;
- D. To provide increased opportunities for offenders to make restitution to victims of crimes through financial reimbursement or community service;
- E. To permit the Participating Jurisdictions to operate and utilize programs and services specifically designed to meet the rehabilitative needs of selected offenders; and
- F. To provide appropriate post-sentencing alternatives in localities for certain offenders with the goal of reducing the incidence of repeat offenders.

Section III. Funding

- A. As specified in Section 53.1-185.2.A, Code of Virginia, the Participating Jurisdictions shall be required to establish community corrections programs only to the extent funded by the Commonwealth through the general appropriation act.

B. As specified in Section 53.1-185.2.C, Code of Virginia, state funding shall be used for the provision of services and operation of programs and facilities but shall not be used for capital expenditures. The Board shall not own real estate.

C. As specified in Section 53.1-185.2.E, Code of Virginia, any supervision or intervention fees collected from participants in Board programs shall be retained by the Board, and shall be utilized for program expansion, and development or to supplant local costs of program operation. The Board's fiscal agent shall keep records of the collected fees. Such fees shall be in addition to those imposed pursuant to Section 53.1-150, Code of Virginia.

D. As specified in Section 53.1-185.3, Code of Virginia, the Board shall select a participating city or county, with its consent, to act as administrator and fiscal agent for the funds awarded for the purposes of implementing a community corrections program.

E. As specified in Section 53.1-183, Code of Virginia, in the event that one Participating Jurisdiction appropriates funds to a particular program, any other Participating Jurisdiction shall be considered to be participating in the program if such locality also appropriates funds to the program.

Section IV. Organization and Composition

A. The Board shall consist of a total of twelve (12) members. Three each shall be appointed by York and James City Counties, two each by the Cities of Williamsburg and Poquoson, and one each by the Counties of New Kent and Charles City. The Board shall include appointees as required by § 53.1-183, Code of Virginia.

-4-

B. A chair of the Board shall be elected at a regular meeting of the Board by a majority vote of the members present, if a quorum is present. A quorum shall consist of at least seven (7) members of the Board. The term of office for the chair of the Board shall be for one year. The same member may be elected and serve as chair for no more than three consecutive terms.

C. The Board may make such rules of procedure as it shall deem necessary and proper for the conduct of its business not inconsistent with this Agreement and shall hold meetings quarterly or as needed. Meetings shall be conducted in conformance with the Virginia Freedom of Information Act.

D. The Board shall be responsible to the Participating Jurisdictions.

E. There shall be no limitation upon the number of terms for which a member of the board may be appointed. Members shall serve three year terms. Members appointed to fill vacancies shall serve the remainder of the term they are filling.

Section V. Responsibilities of the Board

As specified in Section 53.1-185, Code of Virginia, the Board shall have the responsibility to:

1. Provide for the purchase, development and operation of community programs, services, and facilities for use by the courts in diverting offenders from local correctional facility placements;

2. Assist community agencies and organizations in establishing and modifying programs and services for offenders on the basis of an objective assessment of the community's needs and resources;
3. Evaluate and monitor community programs, services and facilities to determine their impact on offenders;
4. Develop and amend the community corrections plan required by § 53.1-82.1, Code of Virginia, in accordance with standards and guidelines set forth by the Department of Criminal Justice Services for approval by the governing bodies of the Participating Jurisdictions; and
5. Do all things necessary or convenient to carry out the responsibilities expressly given it by law.

Section VI. Amendment

This Agreement may be amended by written amendment executed by the Participating Jurisdictions.

Section VII. Miscellaneous

This Agreement shall be effective upon the execution of it by the city managers and county administrators of all of the Participating Jurisdictions following authorization by their respective city councils and boards of supervisors. This Agreement may be executed in more than one counterpart

and with separate signature pages, each of which shall constitute a part of and be deemed to be an original.

IN WITNESS WHEREOF, the Participating Jurisdictions have caused this Agreement to be executed and attested by their duly authorized officials.

COUNTY OF JAMES CITY

BY: Donald B. Norman
COUNTY ADMINISTRATOR

COUNTY OF YORK

BY: _____
COUNTY ADMINISTRATOR

CITY OF POQUOSON

BY: _____
CITY MANAGER

COUNTY OF NEW KENT

BY: _____
COUNTY ADMINISTRATOR

CITY OF WILLIAMSBURG

BY: _____
CITY MANAGER

COUNTY OF CHARLES CITY

BY: _____
COUNTY ADMINISTRATOR

013357

PROFFER AGREEMENT

These Proffers are made as of the 24th day of July, 1995, by THJ, Limited Liability Company, a Virginia limited liability company ("the Owner"), together with its successors and assigns, which owns certain real property described on the James City County Tax Map as Parcel No. (3-1) on James City County Real Estate Tax Map No. (46-4).

RECITALS

A. The Owner is the owner of certain real property in James City County, Virginia, hereinafter referred to as "the Property" and more particularly described as follows:

PARCEL 1

All that certain lot, piece or parcel of land situate in James City County, Virginia, shown and set forth as Parcel "A" on that certain plat entitled, "Plat Showing 16.51 Acres, Parcel "A", "B", and "C", Formerly the Property of Frances M. White and David M. Murray, Jamestown District, James City County, Virginia," dated August 18, 1976, and made by James K. Alvis, Jr., C.L.S., a copy of which is recorded in James City County Deed Book 171, Page 506.

In the event that access for purposes of ingress and egress from Parcels "A", "B", and "C" to the access road to Route 31 is ever terminated or denied, then in that event the following easement is granted:

Together with an easement for purposes of ingress and egress for the benefit of Parcels "A", "B", and "C", as shown on said plat which easement adjoins and is parallel to Virginia Route No. 31 and Route 680 as shown on said plat and extends fifty feet in width from said State roads and extending from the Easterly line of Parcel "C" to the Westerly line of Parcel "A".

Together with all of the Grantor's right, title and interest in and to a pro rate share of sewer service connections as evidenced by a certain "Contract For Sewer Service Connection: dated August 22, 1973, between the James City Service Authority and the LeMonde Land Trust.

PARCEL 2

All that certain lot, piece or parcel of land situate in James City County, Virginia, shown and set forth as Parcel "B" on that certain plat entitled, "Plat Showing 16.51 Acres, Parcel "A", "B", and "C", Formerly the Property of Frances M. White and David M. Murray, Jamestown District, James City County,

013357

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All that certain lot, piece or parcel of land situate in James City County, Virginia, shown and set forth as Parcel "A" on that certain plat entitled, "Plat Showing 16.51 Acres, Parcel "A", "B", and "C", Formerly the Property of Frances M. White and David M. Murray, Jamestown District, James City County, Virginia," dated August 18, 1976, and made by James K. Alvis, Jr., C.L.S., a copy of which is recorded in James City County Deed Book 171, Page 506.

In the event that access for purposes of ingress and egress from Parcels "A", "B", and "C" to the access road to Route 31 is ever terminated or denied, then in that event the following easement is granted:

Together with an easement for purposes of ingress and egress for the benefit of Parcels "A", "B", and "C", as shown on said plat which easement adjoins and is parallel to Virginia Route No. 31 and Route 680 as shown on said plat and extends fifty feet in width from said State roads and extending from the Easterly line of Parcel "C" to the Westerly line of Parcel "A".

Together with all of the Grantor's right, title and interest in and to a pro rate share of sewer service connections as evidenced by a certain "Contract For Sewer Service Connection: dated August 22, 1973, between the James City Service Authority and the LeMonde Land Trust.

PARCEL 2

All that certain lot, piece or parcel of land situate in James City County, Virginia, shown and set forth as Parcel "B" on that certain plat entitled, "Plat Showing 16.51 Acres, Parcel "A", "B", and "C", Formerly the Property of Frances M. White and David M. Murray, Jamestown District, James City County,

Virginia," dated August 18, 1976, and made by James K. Alvis, Jr., C.L.S., a copy of which is recorded in James City County Deed Book 171, Page 506, and on which plat said Parcel "B" is shown to contain 4.876 acres.

In the event that access for purposes of ingress and egress from Parcels "A", "B", and "C" to the access road to Route 31 is ever terminated or denied, then in that event the following easement is granted:

Together with an easement for purposes of ingress and egress for the benefit of Parcels "A", "B", and "C", as shown on said plat which easement adjoins and is parallel to Virginia Route No. 31 and Route 680 as shown on said plat and extends fifty feet in width from said State roads and extending from the Easterly line of Parcel "C" to the Westerly line of Parcel "A".

Together with all and singular the buildings and improvements thereon, the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.

Subject, however, to all easements, conditions, and restrictions of record affecting said property.

This is the same property acquired, as Parcel IV and Parcel V, by Frank L. Fernandez, married, by Deed of Gift dated April 10, 1994, from Frank L. Fernandez, aka F.L. Fernandez, and Mary K. Fernandez, aka Mary Kay Fernandez, husband and wife, of record in the said Clerk's Office in Deed Book 688, Page 843.

B. The Owner has applied to James City County ("the County") for a rezoning of the Property from the R-8, Rural Residential Zoning ("the Existing Zoning") to R-5 Multi-Family Residential ("the Proposed Zoning").

C. The County's Comprehensive Plan Land Use Map specifically designates the Property as "Multi-Family Residential" expressly providing for multi-family residential development patterns at densities of eight dwelling units per acre or less for projects under three stories and comprised of one hundred units or less. The proposed project will contain less than one hundred units.

D. The Owner desires to offer to the County certain proffers on the development of the Property not generally applicable to land similarly zoned for the protection and enhancement of the community and to provide for the high quality and orderly development of the Property.

NOW, THEREFORE, for and in consideration of the approval by the County of the proffers hereinafter set forth and pursuant to para. 15.1-491.1, et. seq., of the Code of Virginia, 1950, as amended, and para. 20-16 et. seq. of the County Code, the Owner agrees that in developing the Property, it will meet and comply with such of the following proffers accepted by the County in developing the Property. In the event the zoning of the Property is not changed from the Existing Zoning to the Proposed Zoning, these proffers shall be withdrawn and shall become null and void.

PROFFERS

1. Recognizing that site development will require addressing and resolving significant drainage issues early in the site design process including gravity discharge from a storm water pond, protection of Cardinal Acres and Jamestown 1607 developments, downstream adequacy and appropriate outfall location, a drainage plan shall be submitted to Code Compliance prior to final site plan approval. Recommendations and findings of the drainage study shall be implemented by the applicant.
2. The on site BMP facility shall be no closer than 30' to the exterior boundaries of the property. Landscape buffering shall be placed around the perimeter of the BMP and will be shown on a plan subject to approval by the Director of Planning prior to final site plan approval.
3. There shall be a greenbelt landscape buffer at least 150' in depth provided along the service road frontage of the property. This greenbelt shall include, but not be limited to, a single row of twelve pin oak or similar-type trees equally dispersed and set back 20' from the service road pavement. This greenbelt shall also include an additional 30 seedling trees beyond the Landscape Ordinance minimums of which one third to one half shall be evergreen trees. A landscape plan for this greenbelt shall be subject to approval by the Director of Planning prior to final site plan approval.
4. There shall be one entrance to the property off of the service road that currently serves Cardinal Acres and Jamestown 1607.
5. At least 50' of right-of-way shall be reserved for possible connection to the adjacent Mainland Farm property. The location shall be subject to approval by the Director of Planning prior to final site plan approval.
6. The developers agree to comply fully with the County's Archaeological Condition Policy which states:

"A Phase I Archaeological Study for the entire site shall be submitted to the Director of Planning for his review and approval prior to land disturbance. A

treatment plan shall be submitted to and approved by the Director of Planning for all sites in the Phase I study, that are recommended for a Phase II evaluation and/or identified as being eligible for inclusion on the National Register of Historic Places. If a Phase II study is undertaken such a study shall be approved by the Director of Planning and a treatment plan for said sites shall be submitted to and approved by the Director of Planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If, in the Phase II study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study area. All Phase I, Phase II and Phase III studies shall meet the Virginia Department of Historic Resource's Guidelines for Preparing Archaeological Resource Management Reports and the Secretary of the Interior's Standard and Guidelines for Archaeological Documentation, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's Professional Qualification Standards. All approved treatment plans shall be incorporated into the plan of development for the site, and the clearing, grading or construction activities thereon.

GENERAL PROFFERS

1. Headings:

All section and subsection headings of this Agreement are for convenience only and are not part of these proffers.

2. Severability of Provisions:

If any clause, sentence, and paragraph, section or subsection of these Proffers shall be adjudged by any County of competent jurisdiction to be invalid for any reason, including a declaration that it is contract to the Constitution of the Commonwealth or of the United States, or if the application thereof to the Owner or to any government agency or circumstance is held invalid, such judgment or holding shall be confined in its operation to the clause, sentence, paragraph, section or subsection hereof or the specific application thereof, directly involved in the controversy in which the judgment or holding shall have been rendered or made, and shall not in any way affect the validity of any other clause, sentence, paragraph, section or subsection hereof, or affect the validity of the application thereof to the Owner or to any other government agency, person or circumstance.

WITNESS the following signature and seal:

THJ, Limited Liability Company
A Virginia Limited Liability Company

By: [Handwritten Signature]
Manager

STATE OF VIRGINIA

COUNTY OF JAMES CITY, to-wit:

The foregoing instrument was acknowledged before me this 24th day of July, 1995 by Larry R. McCardle, Manager of THJ Limited Liability Company, a Virginia Limited Liability Company, its officer in its behalf first duly authorized.

Marcell W. Moore
NOTARY PUBLIC

I was commissioned as Marcell W. Moore

My commission Expires: 10-31-96

VIRGINIA: City of Williamsburg and County of James City, to-wit:

In the Clerk's Office of the Circuit Court of the City of Williamsburg and County of James City, the

2 day of Oct, 1995. This Proffer affidavit was presented with certificate annexed and admitted to record at 11:55 o'clock

Teste: Helene S. Ward, Clerk
by [Signature]
Deputy Clerk

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RECORDATION TAX EXEMPT PER CODE OF VIRGINIA, 1950,
AS AMENDED, SECTION 58.1-811 A(3)

THIS DEED made this 7th day of August, 1995, by and between JAMES CITY COUNTY, a political subdivision of the Commonwealth of Virginia, hereinafter referred to as "GRANTOR," and the VIRGINIA DEPARTMENT OF TRANSPORTATION, hereinafter referred to as "GRANTEE:"

WITNESSETH: that for and in consideration of the sum of ONE DOLLAR (\$1.00) cash in hand paid, and for other good and valuable considerations, the receipt of which is hereby acknowledged at and before the signing, sealing and delivery of this Deed, the said GRANTOR does hereby GRANT, BARGAIN, CONVEY and SELL, with GENERAL WARRANTY AND ENGLISH COVENANTS OF TITLE, unto the said GRANTEE, the following described property, to-wit:

All that certain lot, piece, or parcel of land lying and situate in Roberts District, James City County, Virginia, shown as hatched area and designated as: 2,414 S.F. or 0.055 AC., on that certain plat entitled: "SURVEY FOR CONVEYANCE BEING A PORTION OF LOT 7, KEARNEY SUBDIVISION OWNED BY JAMES CITY COUNTY TO VIRGINIA DEPARTMENT OF TRANSPORTATION," dated June 13, 1995, made by: AES Consulting Engineers, Williamsburg, Virginia, which said plat is attached hereto, to be recorded herewith for a more complete description of the property herein conveyed.

Being a portion of the same property as that conveyed to the Grantor by Deed dated February 18, 1986, from Sarah J. Walker Trower and Pamela L. Walker and recorded in the Clerk's Office of the Circuit Court of James City County, Virginia, in Deed Book 297, Page 846.

WITNESS the following signatures and seals:

David B. Norman (SEAL)
DAVID B. NORMAN
COUNTY ADMINISTRATOR

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF James City, to wit:

I, Ticki Ann Sprigg a Notary Public in and for the jurisdiction aforesaid, do hereby certify that David B. Norman, whose name is signed to the foregoing writing bearing date on the 7th day of August, 1995, has acknowledged the same before me in the jurisdiction aforesaid.

GIVEN under my hand this 15 day of August, 1995.

Ticki Ann Sprigg
NOTARY PUBLIC

My commission expires on: March 31, 1996.

AUG 7 1995

ORDINANCE NO. 66A-37

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, ARTICLE IV. VEHICLE DECALS, BY AMENDING SECTION 11-53, DECAL REQUIRED; SECTION 11-56, DECAL FEES; SECTION 11-64, DUPLICATE OR SUBSTITUTE DECALS; SECTION 11-65, TRANSFER OF DECAL TO ANOTHER VEHICLE; BY DELETING SECTION 11-57, PRORATION OF DECAL FEE; AND BY ADDING NEW SECTION 11-57, MOTOR VEHICLE RETURNS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 11, Motor Vehicles and Traffic, is hereby amended and reordained by amending Section 11-53, Decal required; Section 11-56, Decal procurement; Section 11-64, Duplicate or substitute decals; Section 11-65, Transfer of decal to another vehicle; by deleting Section 11-57, Proration of decal fee; and by adding new Section 11-57, Motor vehicle returns.

Chapter 11. Motor Vehicles and Traffic

Article IV. Vehicle Decals

Section 11-53. Decal required.

(a) Every person owning a motor vehicle, trailer or semitrailer normally garaged, stored or parked in the county shall ~~pay a license fee by procuring~~ *procure* an annual county motor vehicle decal.

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Page 2

In the event it cannot be determined where such motor vehicle, trailer or semitrailer is normally garaged, stored or parked, the situs for the motor vehicle decal or license requirement shall be the domicile of the owner of such motor vehicle. For the purposes of this article, "motor vehicle, trailer and semitrailer" shall be defined in accordance with Section 46.2-100 of the Code of Virginia.

- (b) The following shall be the duty of persons taking residence in *the* county:
- (1) A nonresident or non-domiciled owner of a motor vehicle, trailer or semitrailer shall, upon taking residence or becoming domiciled in the county, procure a county motor vehicle decal within thirty days.
 - (2) Owners moving to the county from elsewhere in the state where a local decal or license was required, who at the time of moving to the county had obtained a local decal or license from that jurisdiction for the current year, shall obtain a current county motor vehicle decal and display it in accordance with the provisions of this article. Upon proof of purchase of a current motor vehicle decal or license from such other jurisdiction, the office of the county treasurer shall provide those newly moving into the county, *upon payment of \$5.00*, with ~~the one-time courtesy~~ of a county motor vehicle decal ~~free of charge~~ for that decal year. Upon expiration of the aforesaid local decal or license from another jurisdiction, and in all successive years in which the owner remains a resident of or domiciled in James City County, unless otherwise excepted, a current county motor vehicle decal shall be ~~obtained~~ *procured* for each decal year in accordance with the provisions of this article.

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(c) Every purchaser of a new or used motor vehicle, trailer or semitrailer which will be normally garaged, stored or parked in the county shall have thirty days from the date of purchase to procure a county motor vehicle decal.

State law reference - Authority of county to license motor vehicles, etc., and provisions relating thereto, Code of Va., §§ 46.1-65, 46.1-66.

Section 11-56. Decal fees *procurement*.

On ~~and after~~ *or before* February fifteenth of each year the owner of each motor vehicle, trailer or semitrailer required by this chapter to procure an annual county motor vehicle decal ~~shall make application to the county commission of the revenue for a decal, and shall pay to~~ *shall procure such decal from the county treasurer. an annual decal fee in accordance with the following schedule:*

- (a) ~~Passenger motor vehicles (except motorcycles), and trucks-Fifteen dollars (\$15.00):~~
- (b) ~~Trailers or semitrailer, excluding mobile homes-Six dollars fifty cents (\$6.50):~~
- (c) ~~Motorcycles-Ten dollars (\$10.00):~~

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~~Section 11-57. Proration of decal fee.~~

~~One-half of the annual county motor vehicle decal fee prescribed by this article shall be collected whenever a county motor vehicle decal is issued during the period beginning on the first day of September but on or before the thirtieth day of November in the decal year, and one-quarter of such fee shall be collected whenever any such decal is issued after the first day of December in the decal year.~~

Section 11-57. Motor vehicle returns.

(a) *Notwithstanding the filing requirement set out in this Article, the most recent personal property tax return filed prior to January 1, 1996, or any return filed thereafter shall be the basis for the assessment of a motor vehicle in all subsequent years in which the commissioner of the revenue has not been informed of a change in the address or name of the motor vehicle owner or of a change in the situs or ownership of the vehicle.*

(b) *Motor vehicle owners shall file a new personal property tax return on or before February 15 of any tax year for which there is:*

- (1) *A change in the name or address of the person or persons owning the vehicle;*
- (2) *A change in the situs of the vehicle; or*

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(3) *Any other change affecting the personal property tax assessment of a vehicle for which a tax return was previously filed.*

(c) *All motor vehicle owners shall file a personal property tax return with the commissioner of the revenue whenever a personal property tax return has not been previously filed with the county.*

State law reference - Code of Va. Section 58.1-3518.1.

Section 11-64. Duplicate or substitute decals.

(a) In the event that any county motor vehicle decal issued under the provisions of this article is lost or mutilated or becomes illegible, the owner shall make immediate application for and obtain a duplicate or substitute decal by furnishing information of such fact satisfactory to the county treasurer and upon payment of two dollars (\$2 \$5.00). ~~A person, having once applied for and received a duplicate or substitute county motor vehicle decal, shall not be entitled to apply again for and receive a duplicate or substitute county motor vehicle decal during the license year for which the original motor vehicle decal was issued, but shall re-apply under section 11-59 and pay the full fee required under section 11-56 or section 11-57.~~

(b) Any person exempted under section 11-54 from payment of the decal fee imposed by this article who needs a duplicate or substitute decal, as provided in this section, shall be furnished such duplicate or substitute decal without charge.

Section 11-65. Transfer of decal to another vehicle.

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(a) Any owner who sells or transfers a motor vehicle, trailer or semitrailer currently issued a decal under the provisions of this article may have the county motor vehicle decal and the registration number thereon assigned to another vehicle of like design and titled in such owner's name, upon application to the county commissioner of the revenue on forms providing for the name and address of the applicant and a description of the motor vehicle for which such decal has been issued, as well as a description of the motor vehicle for which such decal is to be transferred. Such application shall be accompanied by a fee of two dollars (~~\$2~~ \$5.00); provided, that if the decal was issued under section 11-54, there shall be no charge for such transfer.

(b) For the purposes of this section, "like design" shall mean that the original vehicle issued a decal and the one to which the county motor vehicle decal is transferred either are both motorcycles or are both any other type of motor vehicles, trailers or semitrailers as defined by state law.

(c) No person shall display a county motor vehicle decal on a motor vehicle, trailer or semitrailer other than that decal issued for that vehicle, unless a transfer has been made under the circumstances covered by and as provided in this section.

This Ordinance shall be effective January 1, 1996.



Perry M. DePue, Chairman
Board of Supervisors

ATTEST:



David B. Norman
Clerk to the Board

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

Adopted by the Board of Supervisors of James City County, Virginia, this 7th day of August, 1995.