

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 20TH DAY OF NOVEMBER, NINETEEN HUNDRED NINETY-FIVE, AT 5:38 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 - 1996 Legislative Program**

Mr. Frank M. Morton, III, County Attorney, welcomed Senator Thomas K. Norment, Jr., and Michael Abley, representative for Delegate George W. Grayson, to the meeting.

Mr. Morton explained the three parts of the proposed 1996 Legislative Program. All participants discussed the issues, and votes by the Board will be recorded on the 1996 Legislative Program as approved on the Board of Supervisors' agenda this date.

Mr. DePue recessed the Board for dinner at 6:15 p.m.

Mr. DePue reconvened the Board at 7:07 p.m.

**C. MINUTES - November 6, 1995**

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

Mr. Magoon made a motion to approve the minutes.

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

**D. HIGHWAY MATTERS**

Mr. Quintin E. Elliott, Williamsburg Resident Engineer, Virginia Department of Transportation (VDOT), stated Route 199 from Interstate 64 to Richmond Road would be open within the next couple of weeks and the paving schedule for County roads was near completion for this year.

Mr. Elliott reported that the study for sound walls along Route 199 had been completed and that two sections, The Mews and The Midlands, could be incorporated into the construction project. He described the design of the sound walls as concrete, 15 feet in height, an example of such on Interstate 64 east of J. Clyde Morris Boulevard in Newport News.

Board discussion followed regarding landscaping design opportunity; procedure for selection of design and criteria for area qualifiers; and choice by subdivision of whether sound wall was wanted.

Mr. Elliott responded that various designs would be reviewed for the locations and strong opposition from a neighborhood might determine that a sound wall would not be constructed. Mr. Fred Davis, from environmental section of VDOT, explained the selection of design from computer models and criteria for qualifiers were distance from traffic source and cost per receptor (home), not number of persons.

Mr. Magoon asked that he be kept apprised of the appearance of the sound walls along Route 199 at The Mews and The Midlands, and expressed interest in landscape design opportunities.

Mr. DePue acknowledged Ms. Ruth Mullaney, 129 Ferncliff Drive, in the audience. Ms. Mullaney asked Mr. Elliott if an earthen berm and dense trees could be considered at the Canterbury Hills subdivision and whether wetlands might be a factor.

**E. CONSENT CALENDAR**

Mr. DePue asked if a Board member wanted 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: Sisk, Edwards, Magoon, Taylor, DePue (5). NAY: (0).

1. Appropriation to the James City County Cooperative Extension Service

**RESOLUTION**

**APPROPRIATION TO THE JAMES CITY COUNTY**

**COOPERATIVE EXTENSION SERVICE BUDGET**

WHEREAS, The Cooperative Extension Service received a \$4,000 contribution from the City of Williamsburg; and

WHEREAS, the funds will be used to pay the salary of a part-time, temporary technician for the 4-H Program.

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

**Revenues:**

City of Williamsburg	<u>\$4,000</u>
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**Expenditures:**

Cooperative Extension Service	<u>\$4,000</u>
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2. Endorsement of Private Industry Council Nominations**RESOLUTION****ENDORSEMENT OF PRIVATE INDUSTRY COUNCIL NOMINATIONS**

WHEREAS, James City County is represented on the Greater Peninsula Private Industry Council; and

WHEREAS, State guidelines require that each jurisdiction represented on the Council endorses the nominations of the Council.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia hereby endorses the nominations of the persons recommended by the Consortium of Governments, outlined in the attached document which is incorporated into this resolution by reference.

## GREATER PENINSULA PRIVATE INDUSTRY COUNCIL NOMINEES

NAME	SECTOR	TERM*
W. B. Weaver Newport News Shipyard	At-Large Private Sector	2-Year Term
Duane DeBlasio Forrest Coile Associates	Newport News Private Sector	2-Year Term
Susan O'Mara Department of Rehabilitative Services	Rehabilitation	2-Year Term
Jerry Varner York/Poquoson Department of Social Services	Social Services	1-Year Term
Ansel Butterfield CHROME	Community Based Organization	2-Year Term
Ned Carr New Horizons Regional Education Center	Education/Secondary Schools	1-Year Term
Garrett Hart Virginia Peninsula Economic Development Council	Economic Development	2-Year Term
Dan Shellabarger Self-Employed Consultant	At-Large Private Sector	2-Year Term Reappointment
Dr. W. O. Lawton Lawton's Travel Service	Hampton Private Sector	2-Year Term Reappointment
Gwen Chappell Crestar Bank	York County Private Sector	2-Year Term Reappointment
Robert Williams R. L. Williams Builders, Inc.	Poquoson Private Sector	2-Year Term Reappointment
Nancy Robinson Virginia School of Hair Design	At-Large Private Sector	2-Year Term Reappointment
Faye Webb Center for Child & Family Services, Inc.	Community Based Organization	2-Year Term Reappointment
Dr. Anthony Santoro Christopher Newport University	Post Secondary Education	2-Year Term Reappointment

\*2 Year Term 7/1/95 - 6/30/97

1 Year Term 7/1/95 - 6/30/96

3. 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 for a radio.

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	<u>\$5,000</u>
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Expenditures:

Emergency Services 001-073-0215	<u>\$5,000</u>
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**F. PUBLIC HEARING**

1. Case Nos. Z-5-95 and SUP-10-95, Hampton Roads Sanitation District Peninsula Composting Facility (Continued from 11/6/95)

Mr. Mark J. Bittner, Planner, stated that Mr. Vernon Geddy, III, had applied on behalf of Greenmount Associates, L.L.C., to rezone from M-2, General Industrial, to M-2 with proffers and for a special use permit to allow the manufacture of fertilizer, via the operation of a bio-solids (sewage sludge) composting facility, located approximately one mile south of Pocahontas Trail (Route 60 East) in Skiffe's Creek area of the County, further identified as Parcel No. (1-47) on James City County Real Estate Tax Map No. (59-2).

Mr. Bittner stated that these cases were presented at the April 3, 1995, Board of Supervisors' meeting; a tour of Washington Suburban Sanitary Commission facility in Silver Spring, Maryland, was conducted in August 1995, with four Board members attending; and, the applicant had submitted an Odor Control and Monitoring Program and items relating to economic development and recreation as part of new proffers.

Staff recommended approval of these applications, acceptance of the voluntary proffers, with conditions listed in the special use permit resolution. In concurrence with staff at its March 14, 1995, meeting, the Planning Commission unanimously recommended approval of the applications.

Mr. DePue opened the public hearing.

1. Mr. Vernon Geddy, Esq., representative for Greenmount Associates, L.L.C., detailed the operation of the facility, emphasizing the odor control mechanism and benefits to economic development through infrastructure, shell building, and regional cooperation.

The Board questioned selection of this site and need for acreage, expansion, creation of County jobs, and distance to nearest residence.

Mr. Geddy and Mr. Edward Romm, Director of Engineering, Hampton Roads Sanitation District responded selection of site was by particular criteria; expansion would be determined by HRSD; no new jobs created and distance to nearest residence was one-half mile on Blow Flats Road.

2. Mr. Princes E. Baker, 146 Indian Circle, spoke in opposition to the plant because of odor.
  3. Mr. Dick Hanley, 128 Roffingham's Way, as a new resident, spoke of fears that property value would be impacted.
  4. Mr. Ben Burdette, 101 Alexander Walker, voiced his opinion that this facility would be a laboratory to determine problems with the operation.
  5. Mr. Ed Oyer, 139 Indian Circle, presented signed petitions of opposition from residents of Grove area and elsewhere in the County.
  6. Mr. Thomas K. Norment, Jr., Esq., as representative for Greenmount Associates, L.L.C., spoke in support of the facility. He emphasized that staff and the Planning Commission recommended approval, that all issues had been addressed by applicant, that no major corporate citizens had voiced opposition, and that the proposed Legislative Program supported State funding or other incentives for regional cooperation in the disposal of solid waste and recycling.
  7. Dr. Joseph Heyman, 130 Indian Springs Road, Commissioner of Hampton Roads Sanitation District, stated that waste came from the public and the facility would reduce the impact of waste on the region's environment.
  8. Ms. Linda Grantham, 141 Beechwood Hills Drive, Newport News, Commissioner of Hampton Roads Sanitation District, urged support of the rezoning and special use permit to recycle usable product that was environmentally friendly.
  9. Ms. Frederica Hill, 121 Grove Heights Avenue, spoke in opposition to the composting facility because of health hazards from emissions.
  10. A citizen, who recently moved to the area, spoke about the environment causing health problems.
  11. Mr. Arnold Palmer, 152 Indian Circle, asked why the Williamsburg plant bio-solids would not be processed at this facility and how is it disposed of now.
- Mr. Romm responded that waste from Anheuser Busch had certain characteristics that undergo certain treatment to stabilize to reduce the odor, and the bio-solids are incinerated.
12. The Reverend Thomas Shields, 132 Indian Circle, spoke in opposition to the facility and stated that those in support had a monetary interest in the facility.
  13. A Grove resident expressed concern about property value of his new home.
  14. Mr. Bert Parkes, 1732 Skiffe's Creek, President of Board of Directors, Skiffe's Creek Homeowners, stated two concerns of odor and reduction of value of townhomes.
  15. Ms. Veda McMullen, 1875 Ferrell Drive, asked the Board to "just say no."
  16. Ms. Kathleen Wilson, resident of Mill Run Court, Newport News, stated that residents' emotions could not be ignored about environmental factors that cause health hazards.

17. Mr. Tom Waltz, real estate broker, stated the facility would help bring businesses into the County.

18. Mr. Ed Oyer stated that other types of composting facilities that have been used and developed in Europe would be less offensive.

Mr. DePue closed the public hearing.

Mr. Sisk made a motion to deny the applications.

The Board commented that other sites were available; citizens from the entire County have voiced opposition; concern whether composting facility would be the best industrial land use; composting facility was needed and has to be put in somebody's backyard; and, site activity needed to attract business to locality.

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

Mr. DePue declared a recess at 9:38 p.m.

Mr. DePue reconvened the Board at 9:48 p.m.

**G. BOARD CONSIDERATIONS**

1. Shrink-Swell Soil Issues

Mr. Bernard Farmer, Director of Code Compliance, stated that the Board requested information on the implementation of the Shrink-Swell Soils Task Force recommendations. He mentioned the memorandum from Doug Morrow, Plans Examiner, which detailed that 585 soil reports had been received in the past year, inspection - permit process and the location of the expansive soils in the County.

Members of the Shrink-Swell Soils Task Force were in the audience.

After discussion of the memorandum and guidelines, Mr. DePue asked the Shrink-Swell Soils Task Force to address the questions and report back to the Board of Supervisors by the end of December. Mr. William Johnson, Chairman of the Shrink-Swell Soils Task Force, asked the Board to spend a Saturday visiting soil sites in the County.

2. Changes to Personnel Policies and Procedures Manual - Substance Abuse Policy

Ms. Carol M. Luckam, Human Resource Manager, stated that a drug and alcohol testing policy to replace Section 2.12 and 2.12.1 of the Personnel Policies and Procedures Manual would bring the County in compliance with the U.S. Department of Transportation Requirements for Public Transportation Employees (CFA, Parts 653 and 654) and Employees Requiring Commercial Drivers Licenses (49 CFT, Part 382). Ms. Luckam further stated that corresponding sections of Chapter 7, Standards of Conduct, were revised to reflect the appropriate disciplinary actions to support the Substance Abuse Policy.

Mr. Sisk made a motion to approve the resolution.

Mr. Edwards asked that wording regarding alcohol tests in the Substance Abuse Policy be changed to read "more than .02 and less than .4."

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

**RESOLUTION****CHANGE TO PERSONNEL POLICIES AND PROCEDURES MANUAL**

WHEREAS, the Board of Supervisors of James City County, Virginia, wishes to comply with U. S. Department of Transportation Requirements for Public Transportation Employees (49 CFA, Parts 653 and 654) and Employees Requiring Commercial Drivers Licences (49 CFT, Part 382); and

WHEREAS, current personnel polices must be revised to comply with the required federal legislation; and

WHEREAS, the County wishes to maintain a work environment free from the use of alcohol and illegal drugs and to ensure that employees are fit for duty.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, adopts the attached revision to Chapter 2 and Chapter 7 of the Personnel Policies and Procedures Manual. Sections relating to compliance with Federally mandated coverage shall be effective January 1, 1996.

All other sections shall be effective July 1, 1996.

3. Legislative Program for 1996

Mr. Morton stated that the proposed 1996 Legislative Program was discussed in the work session at 5:30 p.m. preceding the Board of Supervisors' meeting. He reiterated that votes made during that discussion would be recorded on the Legislative Program.

Mr. Sisk made a motion to approve the proposed 1996 Legislative Program with votes reflected.

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

**RESOLUTION****1996 LEGISLATIVE PROGRAM**

WHEREAS, it is appropriate for the Board of Supervisors to consider a legislative program to present to the 1996 session of the General Assembly.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby endorses the attached 1996 Legislative Program and urges its consideration and passage as appropriate.

4. Livestock Claim, R. E. Gilley

Ms. Shirley H. Land, Animal Warden, stated that the livestock claim was investigated, but evidence was inconclusive that the calf was killed by a dog or dogs.

Mr. DePue stated that the item would be deferred until the owner, Mr. R. E. Gilley, could be present at a Board of Supervisors' meeting.

Mr. DePue recessed the Board for James City County Transit Company and James City Service Authority meetings, at 10:35 p.m.

Mr. DePue reconvened the Board at 10:45 p.m.

#### H. PUBLIC COMMENT

Mr. DePue and Mr. Norman individually apologized to Mr. David Brown for the period of problems with the County. Mr. DePue stated that he would investigate the history of the matter, that Mr. Norman would investigate at his level and a meeting would be scheduled with Mr. Brown regarding the outcome of the investigations.

1. Mr. David Brown, 213 Nelson Street, accepted Mr. DePue's statement.
2. Mr. R. M. Hazelwood, Toano, spoke in opposition to the County-wide Shrink-Swell Soil policy.

Mr. Hazelwood asked that lighting be installed at sidewalk leading to front of Building C.

#### I. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. David Norman, County Administrator, recommended that the Board go into Executive Session pursuant to Section 2.1-344(A)(1) of the Code of Virginia to consider a personnel matter, appointment of individuals to County boards and/or commissions, and Section 2.1-344(A)(7), to consider a matter involving probable litigation.

#### J. BOARD REQUESTS AND DIRECTIVES

Mr. Taylor expressed interest in whether Board of Supervisors' salaries could be increased at the end of the year.

Mr. Morton responded that procedures require the request be given in July of the year in which three members of the Board are elected.

Mr. Magoon asked that a ceremony be planned for naming the Lake Powell Dam bridge.

Mr. Edwards announced a Community Conversations meeting on Tuesday, November 21, 1995, at 7:00 p.m. at James River Elementary School.

Mr. Sisk commended the Treasurer's office and Financial and Management Services for the favorable bond interest rates.

Mr. DePue stated that "First Night in Newport News" had requested a \$1,000 donation for the organization.

Mr. DePue asked staff to provide information on inmate labor issue.

Mr. Sanford Wanner, Assistant County Administrator, stated specific projects are needed to transport inmates from the work centers.

Mr. DePue recognized a citizen in the audience who wished to speak.

Mr. Steven D. Suders, 104 Stanley Drive, asked the Board for a prompt response in consideration of an exemption in the 60 feet height limitation of a church steeple for Kingsway Church on John Tyler Highway.

Mr. DePue made a motion to go into executive session as recommended by the County Administrator at 11:10 p.m.

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

Mr. DePue reconvened the Board at 11:15 p.m.

Mr. DePue made a motion to approve the executive session resolution.

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

### RESOLUTION

MEETING DATE: November 20, 1995

#### 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. DePue made a motion to reappoint Richard Miller to Peninsulas Emergency Medical Sevices Council, Inc., for a 3-year term, term expiring October 31, 1998.

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

Mr. DePue made a motion to recess the Board until 5:30 p.m., Wednesday, November 29, 1995, for evaluation.

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

The Board recessed at 11:16 p.m.



David B. Norman  
Clerk to the Board

## Section 2.12 Substance Abuse Policy

### A. Purpose

Alcohol and drug use or impairment on the job may pose serious safety and health risks, not only to the user, but also to those who work with, or come in contact with, the user. Therefore, James City County's goal is to maintain a work environment free from the use of alcohol and illegal drugs, and to ensure that employees are fit for duty; to that end, James City County (County) has adopted the Substance Abuse Policy (Policy).

### B. Objectives

1. To provide a workplace free from the harmful effects of substance abuse.
2. To protect the safety of employees and the public.
3. To comply with U. S. Department of Transportation Requirements for Public Transportation Employees (49 CFA, Parts 653 and 654) and Employees Requiring Commercial Drivers Licenses (49 CFT Part 382).

### C. Policy

In compliance with the Drug-Free Workplace Act of 1988, and the Omnibus Transportation Employee Testing Act of 1991, and the rules formulated under these Acts, the County will take positive steps to identify and eliminate any drug and alcohol abuse in the workplace. This will be accomplished while treating employees with respect and dignity.

In order to maintain a safe work environment, it is the County's policy that the unlawful use, manufacture, distribution, or possession of drugs or alcohol on the job is strictly prohibited. Reporting to work under the influence of drugs or alcohol is also prohibited. Violations of the policy will result in discipline up to and including termination of employment, or withdrawal of a conditional offer of employment.

### D. Definitions

1. Alcohol - the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weights including methyl or isopropyl alcohol. Alcohol also includes any beverage, mixture, preparation, or medication containing alcohol.

2. Employee - any employee of the County or James City Service Authority, in full-time, part-time, permanent, limited-term, temporary, on-call, or other positions that follow the County personnel policies. This includes contract employees and contractors when they are performing safety-sensitive business.
3. Evidential Breath Testing Device - a type of equipment used for the testing of breath for the presence of alcohol.
4. Illegal Drug - any substance which is not legally obtainable or has been illegally obtained. Illegal drugs include all forms of amphetamines (e.g., racemic amphetamine, dextroamphetamine, methamphetamine), opiates (e.g. heroin, morphine, codeine), and phencyclidine (PCP), including marijuana and crack.
5. Mandated Safety-Sensitive Positions - those positions which:
  - require a Commercial Driver's License;
  - operate revenue service vehicles, whether or not the vehicle is actually in revenue service;
  - operate a vehicle required to be operated by a holder of a Commercial Driver's License (CDL);
  - control the dispatch or movement of a revenue service vehicle; and
  - provide services to a revenue service vehicle or equipment used in revenue service.

All mandated safety-sensitive positions are identified in the County Compensation Plan.

6. Medical Review Officer (MRO) - a licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of substance abuse disorders, and has appropriate medical training to interpret and evaluate an individual's confirmed positive test results, together with his or her medical history and any other relevant biomedical information.
7. Non-mandated Safety-Sensitive Positions - all positions:
  - whose work involves hazardous or potentially hazardous functions or requires the use or handling of hazardous or

potentially hazardous equipment or materials that could cause injury to an employee or to the public;

- directly responsible for the care or safety of children (18 years or younger); or,
- which have duties of such a nature that a lapse in constant attention or alertness may jeopardize the health or safety of other employees or the public.

All non-mandated safety-sensitive positions are identified in the County Compensation Plan.

8. Positive Test - results obtained from alcohol/drug screening and confirmatory testing, at any unsatisfactory test levels as established by the U.S. Department of Health and Human Services and adopted by the U.S. Department of Transportation, indicating that an employee is unfit for duty.
9. Random Testing - the process of identifying employees for testing based upon numerical data in a chance sequence.
10. Reasonable Suspicion - a specific observation of appearance, behavior, or speech that indicates an employee could be affected by alcohol and/or drugs.
11. Reportable Accident - any accident:
  - where the employee is the driver of the vehicle or equipment and is charged by Police;
  - with a fatality;
  - in which any person receives immediate medical attention away from the scene of the accident;
  - where any vehicle or equipment must be towed; or,
  - where a transit vehicle is involved and must be removed from revenue service.
12. Screening Test - an immunoassay screen to eliminate "negative" urine specimens from further analysis or an analytic procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath specimen.

13. Substance Abuse Professional (SAP) - A licensed physician, licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor certified by National Association of Alcoholism and Drug Abuse Counselors Certification Commission, with knowledge of, and clinical experience in, diagnosis of treatment of alcohol and controlled substance disorders.
14. Under the Influence - observable behavior which indicates the employee is affected by a drug and/or alcohol; and/or, having a breath alcohol level or drugs in the body at any unsatisfactory test levels as established by the U.S. Department of Health and Human Services and/or adopted by the U.S. Department of Transportation.

E. Applicability

1. All employees are subject to:
  - a) Reasonable Suspicion Testing;
  - b) Testing when initially promoted/demoted or transferred to a mandated or non-mandated safety-sensitive position;
  - c) Return to Duty Follow-up Testing for alcohol.
2. Employees that are in mandated safety-sensitive positions, in addition, are also subject to:
  - a) Random Testing
  - b) Post Reportable Accident Testing
3. Applicants for mandated and non-mandated safety-sensitive positions are subject to post offer testing.

F. Responsibilities

1. Mandated employees must:
  - a) Not use alcohol for four hours prior to reporting to work;
  - b) Not use alcohol during the eight (8) hours immediately following an accident in a County vehicle if fault has not been determined and the alcohol/drug test has not been administered; and

- c) Attend all required substance abuse training programs as appropriate.
2. Mandated and Non-mandated employees must:
- a) Not report to work or perform work duties while their ability to perform job duties is impaired due to alcohol or drug use;
  - b) Not possess or use drugs or alcohol during working hours including breaks and meal periods, while on call, or operating any County vehicle;
  - c) Not directly or through a third party sell or provide illegal drugs or alcohol to any other employee while either employee is on duty or on stand-by status;
  - d) Submit immediately to requests for alcohol and/or drug testing when requested, in accordance with policy, and complete appropriate paperwork;
  - e) Notify their supervisor before beginning work when taking any medication or drugs, prescription or non-prescription, which by indication on the prescription or packaging, may interfere with the safe and effective performance of duties or operation of County equipment;
  - f) Provide within twenty-four (24) hours of notification of a positive drug screen, proof of a current valid prescription, in the employee's name, for any drug or medication identified;
  - g) Notify your supervisor of any drug, or alcohol conviction for violation of a criminal law no later than five (5) calendar days after such conviction; and,
  - h) Attend all required substance abuse training programs as appropriate.
3. Supervisors shall:
- a) Be aware of signs or symptoms of drug or alcohol use and promptly document and report any such observations to the appropriate department manager or designee;
  - b) Not allow an employee to perform safety-sensitive duties, operate a vehicle, or perform any work if that supervisor has

reason to suspect that an employee is using, under the influence, or has possession of alcohol or illegal drugs;

- c) Maintain confidentiality of any test results;
- d) Not warn an employee that he or she has been selected for random testing prior to the official notification to report for testing; and
- e) Attend all required substance abuse supervisory training programs.

4. The County shall:

- a) Provide required training to all supervisors on the signs and symptoms of drug or alcohol use;
- b) Provide required training to all employees that explains the requirements of the policy and the County's policy;
- c) Ensure the vendor selected to administer drug testing is certified by the Department of Health and Human Services;
- d) Ensure the vendor selected to administer alcohol testing uses an approved evidential breath testing (EBT) device operated by a trained Breath Alcohol Technician (BAT); and,
- e) Notify the applicable contracting federal agency within 10 calendar days of receiving notification of an employee's conviction under a criminal drug law for violations occurring in the workplace.

G. Employee Assistance Program

The County maintains an Employee Assistance Program (EAP) to provide help to employees who are impaired by alcohol or drugs, or other personal or emotional problems. Any employee who has a drug or alcohol-related problem is encouraged to voluntarily seek treatment through the County's EAP, or through a treatment program or facility of his or her own choice, before the problem affects their employment. However, use of the EAP will not be a defense to the imposition of disciplinary action if the employee engages in conduct constituting a violation of either this policy or of the County's Standards of Conduct.

1. Post Offer Testing

The County requires all applicants for safety-sensitive positions be given post-offer drug tests. Applicants who refuse a test will be withdrawn from consideration.

2. Promotion, Demotion, or Transfer to a County-Defined Safety-Sensitive Position

Any employee promoted, demoted, or transferred to safety-sensitive position will be given a drug test.

3. Reasonable Suspicion - All Employees

a) The County requires an employee to submit to an alcohol or drug test based on reasonable, specific observations concerning the employee's appearance, behavior, or speech.

b) Whenever possible, the observation for reasonable suspicion testing shall be made by at least two supervisors who are trained in accordance with this policy. If this is not possible, documentation will be submitted verifying the unavailability of a second supervisor to concur with the need to administer a test.

c) Written documentation of the observed behavior shall be prepared and signed by the observer before the test is administered.

4. Random Testing - Mandated Employees

The County shall perform random testing for alcohol on 25 percent and drug testing on 50 percent of employees in mandated positions. Lists for random tests will be drawn separately for employees covered under the U.S. Department of Transportation requirements for Public Transportation Employees (49 CFA, Parts 653 and 654). U.S. Department of Transportation will determine the random testing rate for the County.

5. Post-Accident - Mandated Employees

a) The County will perform drug and alcohol tests on any County employee in a mandated position who is the driver of a County-owned vehicle involved in a reportable accident or the driver of a personal vehicle involved in a reportable accident while on County business.

- b) Alcohol tests shall be conducted within eight hours of the reportable accident.
- c) Drug tests must be performed as soon as possible after a reportable accident but not more than 32 hours after the accident.

6. Return to Duty - All Employees

In order to return to duty:

- a) After alcohol test results of from .02 to .039, the employee shall undergo a return-to-duty test with a negative result.
- b) Additionally, during the first year after testing between .02 to .039 on an alcohol test, the employee shall undergo a minimum of six random tests. The frequency shall be determined by the SAP. Follow-up testing may extend beyond a year but shall not exceed 60 months.

I. Testing Procedure

1. If a drug and/or alcohol test is required under the provisions of this policy, an evidential breath test in the case of alcohol, or a urinalysis will be given to detect the presence of alcohol or illegal drugs.
2. An independent laboratory shall provide a site for both the collection of urine samples and the administration of the alcohol breath test under controlled conditions established by the independent lab and approved by James City County. Employees are required to comply with the "Chain of Custody" procedure of the laboratory, which may include, but not be limited to, producing a picture I.D. for identification purposes, and any other requirement of the laboratory.
3. All positive and negative test results will be reviewed by the MRO. If the results are confirmed positive, the affected applicant or employee and the Human Resource Manager will be notified in writing.

In the event of a positive, confirmatory test result, which is Gas Chromatography (Mass Spectrometry) (GCMS), employees will discuss with an MRO the positive result. The employee, then has the right to select an independent, certified lab to confirm the positive test results at their own expense. If the independent test proves negative, the initial test will be considered negative and the County shall reimburse the employee the costs for such test.

J. Consequences

1. Job Applicants

Job applicants will be denied employment with the County if their initial positive test results are confirmed. Applicants will be informed in writing if they are rejected on the basis of a confirmed positive drug test.

2. Employee Alcohol Test Results

a) Employees testing positive for alcohol at a level of .04 or greater shall be terminated from employment.

b) Employees testing at a level between .02 and .039 will be removed from the job and suspended from duty without pay for 24 hours. Employees who test again on return to duty between .02 and .039, or at any subsequent follow-up testing, will be terminated from employment.

3. Employee Drug Test Results

Employees testing positive for drugs shall be terminated from employment.

4. Other

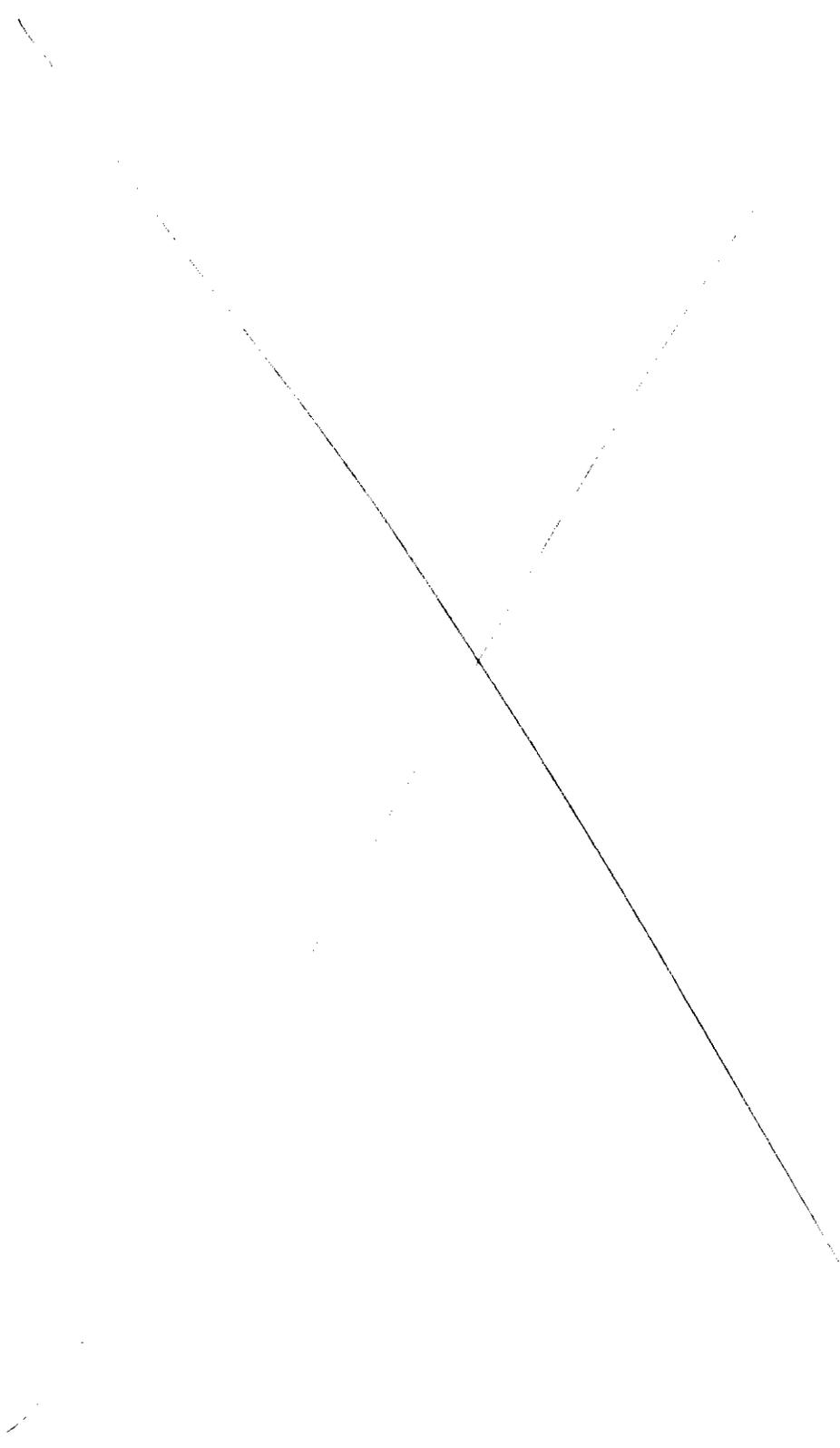
a) Refusing to participate in a drug or alcohol test, or refusing to execute a consent form, or to complete appropriate paperwork as required according to the provisions of this Policy, shall be considered a positive test.

b) Altering, substituting, or tampering with a screening process, or specimen, or any documentation associated with the screening procedure, shall be considered a positive test.

c) Failure to produce a sufficient urine sample for a drug test, or sufficient breath sample for an alcohol test, shall be treated as a positive test in accordance with Federal Transportation Administration regulations.

K. Notice of Testing Policy

The County shall provide written notice of this drug and alcohol testing policy to all employees and job applicants.



Category 2 Conduct

Category 2 Conduct includes inappropriate conduct severely disruptive to the proper operation of the County. Category 2 offenses include, but are not limited to:

- A. Refusal to follow a supervisor's instructions or perform assigned work.
- B. Violation of safety rules.
- C. Testing positive for alcohol at a level between .02 and .039.
- D. Failure to report to work without proper notice to supervisor.
- E. Unauthorized use of County vehicles or equipment or unauthorized removal of such from an employee's work station.
- F. Use of sick leave for any purposes other than as outlined in Chapter 5, Section 3C.
- G. Threatening, or interfering with the work of fellow employees or supervisors.
- H. Acceptance of gifts or gratuities from any person, company, or corporation, or any other act that constitutes a conflict of interest as defined in the Comprehensive Conflict of Interest Act, Code of Virginia, 1950, as amended.
- I. Failure to report known work-related illegal activity of any employee.
- J. Unauthorized non-County employment or activity which interferes with the performance of an employee's assigned duties and responsibilities.
- K. Fighting on County property or during the working day.
- L. Failure of a public safety employee designated in Section 2.9.1.B. to refrain from the use of tobacco products on or off duty.

Appropriate disciplinary measure for Category 2 conduct occurring in any 12 month period:

First offense - suspension, reduction in grade, and/or demotion

Second offense - discharge

Category 3 Conduct

Category 3 Conduct includes inappropriate conduct unacceptable to the proper operation of the County. Category 3 offenses include, but are not limited to:

- A. Use of alcohol or unlawful use or possession of controlled substances on County property during working hours.
- B. Testing positive for alcohol at a level of .04 or greater, or testing positive for drugs as defined in the County's Substance Abuse Policy, Chapter 2, Section 2.12.
- C. Testing between .02 and .039 on an alcohol return-to-duty test, or on any subsequent alcohol follow-up testing.
- D. Failure to report to work without proper notice to supervision for three consecutive work days.
- E. Falsification of County records, including, but not limited to vouchers, time records, leave records, insurance claims, or the application for employment.
- F. Three or more garnishments involving more than one indebtedness during any 12 month period.
- G. Gambling on County property or during working hours.
- H. Theft or unauthorized removal of County property or employee property.
- I. Unauthorized possession of firearms or other weapons on County property or during working hours.
- J. Participation in any kind of work slowdown, sitdown, or similar concerted interference with County operations.
- K. Unauthorized use of County documents, records, or confidential information.
- L. Job-related lying, stealing, or cheating.
- M. Any criminal conviction for an act occurring on or off the job which is related to job performance, or is of such a nature that to continue the employee in the assigned position could constitute negligence in regard to the County's duties to the public or other employees, or which adversely affects the reputation of the County, or is conduct unbecoming of an employee.
- N. Failure to report to the Director of Human Resource being charged with a felony or other criminal offense within one work day of the offense.

The appropriate disciplinary measure for any Category 3 Conduct is discharge.

**JAMES CITY COUNTY**

**1996 LEGISLATIVE PROGRAM\***

**PART I. Legislation to be introduced on behalf of the County**

1-1. ISSUANCE OF DECALS FREE OF CHARGE

Amend §46.2-752, A 12 to permit any county to issue decals free of charge.

1-2. CLARIFYING SECURITY INTERESTS OF COUNTIES, CITIES, AND TOWNS ON PERSONAL PROPERTY

Amend §58.1-3942 to make it clear that local taxes specifically assessed against goods and chattels, whether assessed per item or in bulk, shall have priority over all security interests.

1-3. BOARD OF SUPERVISORS' SALARIES AND STAGGERED TERMS

Amend §14.1-46.01 to delete the word "annually" from the last sentence of the sixth paragraph.

1-4. COMBINING OF SHERIFFS' OFFICES

Request Legislative Services to prepare legislation to authorize the combining of the City of Williamsburg and James City County Sheriff's Offices. The County and City would hold a referendum pursuant to such legislation and combine the offices effective January 1, 1998.

**PART II. Legislation/policy of significant importance to James City County**

2-1. BUSINESS, PROFESSIONAL, AND OCCUPATIONAL LICENSE TAX (BPOL)

BPOL is an extremely significant local revenue source, accounting for \$267 million Statewide. James City County recognizes that there are legitimate concerns associated with the administration of the tax, and is interested in working with the HJR 613 subcommittee and the business community to find ways to address these while preserving local administration of the tax. In the event the subcommittee recommends any phase out of BPOL, James City County urges the subcommittee to thoroughly examine alternative sources of revenue in cooperation with VML and VACO, and to allow adequate time and opportunity for the development of substantive recommendations.

**\*All Board of Supervisors votes were unanimous unless indicated otherwise.**

## 2-2. COMPREHENSIVE SERVICES ACT (CSA)

- The State should allow local governments to use other funding sources (e.g. State funds from the Virginia Juvenile Community Crime Control Act, certain Medicaid funds) for CSA needs, in order to minimize the local dollars that are spent on the CSA.
- The State should undertake an in-depth analysis of the impact that private provider rate deregulation has had on costs, and develop recommendations for cost containment.
- The State should commit more resources to providing technical assistance to local governments.
- A joint State-local effort should be mounted to obtain changes in Federal special education statutes which govern development of individual Education Plans.
- A local government representative should be added to the State Executive Council.
- The costs of the CSA should be fully funded in the State's base budget, including costs to cover mandated court-ordered placement of children.

## 2-3. DISABLED PARKING SPACES

James City County supports legislation to mandate a Statewide minimum fine of Two Hundred and Fifty Dollars (\$250.00) and a maximum fine of Five Hundred Dollars (\$500.00) for violating the requirements for parking in spaces reserved for persons with disabilities.

## 2-4. EDUCATION

- **Standards of Quality, Full Funding**

A top priority of James City County is increased funding for education, including full funding of the State's share of the actual costs of the Standards.

- **Education Fund Allocation - Increased Flexibility**

James City County urges the General Assembly to relax the limitations on the manner in which State education funds can be spent by localities. The current requirements result in inefficient use of available resources. A "block grant" approach, allowing budgeting flexibility to more closely parallel local needs, would enhance the quality of education delivered by local school divisions.

2-5. 599 FUNDING

Since FY 1992, the State has reduced its funding under 599 from \$80 million to \$67 million. James City County urges the State to fulfill its obligation to those localities that have created police departments and fully fund the 599 law enforcement program.

2-6. LOCAL LAND USE AND GROWTH MANAGEMENT

James City County opposes legislation that would restrict current land use powers of local governments to establish, modify and enforce zoning classifications. Local governments must remain free to adopt and enforce zoning changes that address local land use needs, especially if infrastructure systems including transportation are inadequate to serve increased land use. Furthermore, the explicit power of local governments to plan for growth and development should not be curtailed by any shape, manner or form of "vesting" legislation. James City County, therefore, opposes any legislation that would define a vested right by statute.

James City County voluntarily cooperates with its neighboring jurisdictions on a variety of issues, including land use. James City County, however, strongly believes that land use planning should continue to be a function administered at the local level, James City County would oppose the creation of a Statewide planning process that would impose additional funding mandates on local governments.

2-7. LOTTERY FUNDS

Prior to supporting a return of lottery profits to localities, James City County would need to evaluate how such a return of profits would be funded; specifically, if other programs would experience reductions.

2-8. MANAGED CARE FOR PUBLICLY-FUNDED MENTAL HEALTH/ SUBSTANCE ABUSE SERVICES (MHMRSA)

James City County opposes any efforts to change the current system that will result in increased costs, administrative responsibilities, and/or risk to local governments, or that diminish local government's voice in local service and funding issues. Any discussion of changes to the way MHMRSA services are structured, funded and delivered must be prefaced by a thorough analysis of the current system, including its strengths, weaknesses, accomplishments, and failures. If proposals are made to change the current system, these proposals must be subject to a comprehensive fiscal, regulatory, and administrative impact analysis that encompasses the impact on local governments, consumers, and the State. Federal funding and policy changes affecting these programs must be taken into account as well. Every facet of this discussion must include extensive involvement by all stakeholders, including local governments and community services boards.

## 2-9. UNFUNDED MANDATES

James City County continues to support the State providing full funding to pay for mandates, including mandated teacher pay increases. State officials are urged to recognize how additional instruction, structural or capital improvement requirements affect local budgets. The State must provide funding for the actual cost of mandated standards of quality. In addition, James City County supports any legislation that improves or enhances the ability of local jurisdictions to manage their local education systems.

## 2-10. TAKINGS

The State should not enact any legislation, under the name of private property protection law, that seeks to weaken local powers to regulate land uses and protect the community's health, safety and welfare, or that requires additional compensation beyond the interpretation of the U.S. Constitution and the Virginia Constitution.

## 2-11. SOLID WASTE MANAGEMENT FUNDING

- Since the State has taken such an active regulatory role in solid waste management, James City County believes the State should provide funding to help pay for the cost of meeting those regulations. James City County supports a broad-based source of revenue to generate funds for local and regional waste management activities; the revenue source should be tied to the amount of waste generated.
- James City County supports State funding, or other incentives, for regional cooperation in the disposal of solid waste and recycling.
- James City County urges the General Assembly to fund locally directed public education programs to promote and coordinate recycling and source reduction programs to meet the State's recycling goals.

## **PART III. The County Supports the Following VML/VACO Proposals:**

### 3-1. CHARTERS

The General Assembly should allow significant diversity among charters and not impose uniformity.

### 3-2. DESIGN-AND-BUILD CONTRACTS

James City County supports the recommendations by the Governor's Commission on Government Reform that local governments be provided the authority to use design-and-build contracts for all types of general government and school buildings.

3-3. COMPREHENSIVE LAND USE PLANS, STATE COMPLIANCE WITH

James City County supports legislation to require State agencies to comply with local government comprehensive plans and local land use regulations and policies subject to override authority by the Governor. (BOS Vote 4-1)

3-4. CORRECTIONS, JAIL, OVERCROWDING/STATE SUPPORT

The State should live up to its commitment to remove State prisoners from local jails.

The State should fully fund the per diem reimbursement for all State prisoners.

The State should pay a full 50 percent of the cost of regional jail construction, instead of "up to 50 percent."

The State's share of jail construction costs should not be amortized. State reimbursements should be completed by the end of construction.

3-5. DISASTER ASSISTANCE

The State should develop policies to provide 75 percent State assistance to localities affected by natural disasters that are declared by the Governor but not approved by the Federal Emergency Management Agency. Further, the State should consider the establishment of a Natural Disaster Reserve Fund to minimize the impact of natural disasters on the State's budget and to assure the availability of the disaster assistance funding on a timely basis.

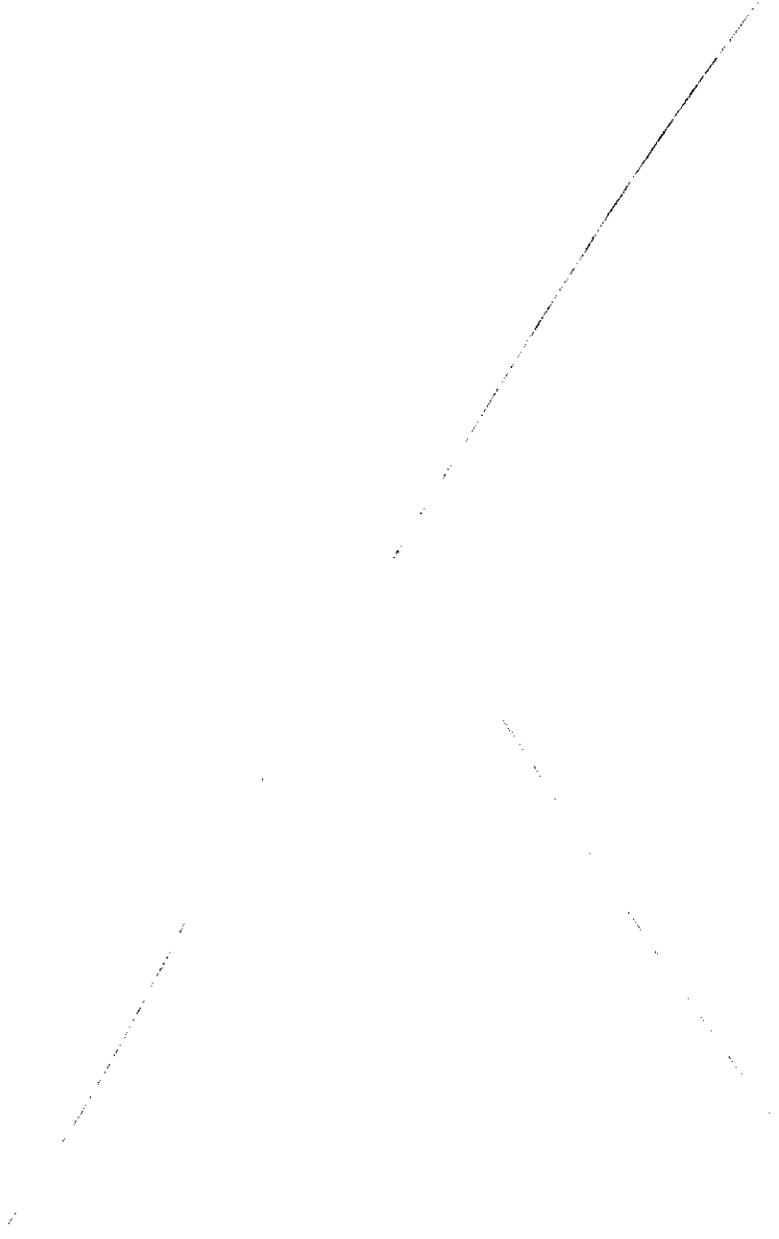
3-6. FLOW CONTROL

James City County urges the General Assembly to preserve local authority, at local option, for flow control of solid waste managed at public-owned facilities.

3-7. HOUSING

In view of the critical housing needs in the State, James City County urges the General Assembly to maintain a strong State role in the funding of housing, including construction and rent subsidies, for the needy.

James City County also encourages the General Assembly to increase the opportunity of local governments to address housing needs. Among the housing revenue tools that could be made available to local governments on a local option basis are revolving loan funds, tax increment financing, and real estate transfer taxes.



**3-8. LIBRARY FORMULA/STATE AID**

James City County urges the General Assembly to fully fund the formula for State aid to public libraries set forth in §42.1-48 of the Virginia Code.

**3-9. OPEN BURNING**

James City County supports legislation to give local governing bodies the right to restrict open burning in all or a part of a locality with criminal penalties similar to those that the governor now has the authority to impose under §10.1-1158 of the Code.

**3-10. PUBLIC HEARING NOTICE**

James City County supports standardization of the number of days advance notice is required for local government public hearings in those instances where the State Code specifies the number of days.

**3-11. SCHOOL CARE PROGRAMS**

James City County requests that the General Assembly broaden current enabling legislation to allow all local school boards to establish before and after-school care programs in their school facilities.

**3-12. SHARED COSTS WITH PROPERTY OWNERS**

James City County requests that the General Assembly: 1) grant all local governments the ability to assess impact fees to pay for the related costs of new development; 2) extend to all localities the same level of authority for conditional zoning to address off- and on-site transportation issues as it granted to Northern Virginia and Eastern Shore; and, 3) grant localities the authority to require land developers to pay pro rata share of the costs of supplying necessary roads adjacent to property they are developing. (BOS Vote 4-1)

**3-13. STORMWATER DISCHARGE PERMITTING**

James City County urges the Virginia congressional delegation to consider the commitment and investments made by Virginia jurisdictions toward improving water quality. The County seeks modifications to Federal stormwater requirements under the Clean Water Act that will provide adequate time for jurisdictions to develop cohesive strategies for adding stormwater management into existing water quality programs, and the financial ability to implement them.

## 3-14. WATER RESOURCES ALLOCATION

James City County supports a comprehensive assessment of its existing and all potential surface and groundwater resources, and development of a comprehensive water conservation and supply plan. If justified by these, the State should be encouraged to pass legislation to authorize the interbasin transfer of surface water and inter-jurisdictional transfers of groundwater when cooperative intergovernmental agreements are unattainable. The State's role should be to protect the current and future interests of other water users in the source basin or source aquifer, and to provide for a means for compensating those damaged by such water transfers.

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