

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 4TH DAY OF DECEMBER, NINETEEN HUNDRED NINETY-FIVE, AT 5:06 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 (Absent)

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

B. WORK SESSION - Drainage Study

Mr. John T. P. Horne, Manager of Development Management, acknowledged Mr. Wayland Bass, County Engineer, who introduced Mr. Blair Wilson, of Mitchell-Wilson Associates, who presented the Greensprings Drainage Study.

Mr. Magoon arrived at 5:08 p.m.

Mr. Bass introduced Mr. Jerry Normann, of Smith, Demer, Normann, who presented the Smokehouse Lane Drainage Study.

Mr. Sisk arrived at 5:24 p.m.

Discussion of the studies by staff and Board followed.

Mr. DePue recessed the Board for dinner at 6:00 p.m.

C. PRESENTATION - Employee and Volunteer Outstanding Service Awards

Mr. DePue congratulated the recipients and he and Mr. Norman presented outstanding service award plaques to the following employees and volunteer Norman Danuser; Social Services team, Patty Sharp, Sharon McHugh and Carolyn Stout; Telephone Information Manual team, Thomasine Kashin, Suzanne Malechek, Linda Odell and Mary Frances Rieger; Fleet Maintenance Staff team; and individuals, Dee Linhart, Police; Jeff Vellines, Police; Charles Braman, Police; and, Anthony Conyers, Jr., Community Services.

D. MINUTES - November 20, 1995

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

Mr. Taylor made a motion to approve the minutes.

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

E. CONSENT CALENDAR

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

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. Dedication of Streets in Settler's Mill, Sections 3A and 3B; and Lakewood, Section 2**RESOLUTION****DEDICATION OF STREETS IN SETTLER'S MILL, SECTIONS 3A AND 3B;****AND LAKEWOOD, SECTION 2**

WHEREAS, the streets described on the attached Additions Form SR-5(A), fully incorporated herein by reference, are shown on plats recorded in the Clerk's Office of the Circuit Court of James City County; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has advised this Board the streets meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation; and

WHEREAS, the County and the Virginia Department of Transportation have entered into an agreement on November 1, 1993, for comprehensive stormwater detention which applies to this request for addition.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisor of James City County, Virginia, hereby requests the Virginia Department of Transportation to add the streets described on the attached Additions Form SR-5(A) to the secondary system of State highways, pursuant to §33.1-229, Code of Virginia, and the Department's Subdivision Street Requirements.

BE IT FURTHER RESOLVED, this Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills and drainage.

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

Without Board objection, Mr. DePue brought forward Board Consideration Item, G-3.

Livestock Claim - R.E. Gilley

Mr. R. E. Gilley, 227 Gate House Boulevard, stated that a 4-day old Charolais bull calf was killed by dog(s) on October 12, 1995, and asked for reimbursement of \$125, the current market value.

Mr. Taylor made a motion to approve Mr. Gilley's claim of \$125 for the calf.

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

RESOLUTION

LIVESTOCK CLAIM

WHEREAS, the claim of Mr. R. E. Gilley has been investigated and found to be valid; and

WHEREAS, the value of the calf destroyed has been estimated to be as follows:

One (1) Charolais Bull Calf = \$125.00

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby reimburses Mr. R. E. Gilley \$125.00 for the calf destroyed.

F. PUBLIC HEARINGS

1. Case Nos. Z-14-95. James River Commerce Center (Continued from 11/6/95)

Mr. Gary A. Pleskac, Planner, stated that Mr. Alvin Anderson had applied on behalf of Williamsburg Developments, Inc., and the Industrial Development Authority of James City County to rezone approximately 9.5 acres from M-U, Mixed Use District, with proffers to M-2, General Industrial District, located southerly side of Route 60, directly west and south of existing Ball Metal Manufacturing plant, further identified as a portion of Parcel No. (1-17) on James City County Real Estate Tax Map No. (59-2). Mr. Pleskac stated the applicant had requested deferral until the December 18, 1995, Board of Supervisors' meeting to allow additional time to review configuration of rezoning area.

Staff concurred with that request.

Mr. DePue continued the case until December 18, 1995, Board of Supervisors' meeting.

2. Case No. SUP-27-95. 1407 Jamestown Road Bed & Breakfast

Mr. Mark J. Bittner, Planner, stated that Ms. Dorothy Poucher had applied on behalf of Alan and Sharon Dulan, contract purchasers, for a special use permit to operate a bed and breakfast in a newly constructed residence, zoned R-1, Limited Residential, located at 1407 Jamestown Road, further identified as Parcel No. (4-16B) on James City County Real Estate Tax Map No. (48-1).

Mr. Bittner stated that the applicant requested deferral for a month to allow amendment of the neighborhood covenants.

Staff concurred with that request.

Mr. DePue opened the public hearing, and deferred the case until the January 8, 1996, Board of Supervisors' meeting.

3. Case No. Z-18-95. Congregation of Jehovah's Witness Proffer Amendment

Mr. Bittner stated that Mr. Ralph G. Brown on behalf of the Congregation of Jehovah's Witness had applied to amend existing proffers by adding a condition to allow expansion of the existing Jehovah's Witness worship center zoned B-1, General Business, located at 5371 Richmond Road, further identified as Parcel No. (1-29) on James City County Real Estate Tax Map No. (33-1).

Staff determined that the rezoning was consistent with the Comprehensive Plan and with surrounding development to the north of the property.

In concurrence with staff, the Planning Commission unanimously recommended approval of the case.

Mr. DePue opened the public hearing.

1. Mr. Ralph Brown, 123 Queen Mary Court, asked that the request be approved so that the existing building could be renegotiated.

Mr. DePue closed the public hearing.

Mr. Sisk made a motion to approve the resolution.

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

RESOLUTION

CASE NO. Z-18-95. JEHOVAH'S WITNESS PROFFER AMENDMENT

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-18-95 for rezoning approximately 1.3 acres from B-1, General Business, to B-1, General Business, with additional proffers, to allow an expansion of the existing Jehovah's Witness worship center located at 5731 Richmond Road. The property is further identified as Parcel No. (1-29) on James City County Real Estate Tax Map No. (33-1); and

WHEREAS, the Planning Commission of James City County, unanimously recommended approval of Case No. Z-18-95.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Zoning Case No. Z-18-95, and accepts the voluntary proffers.

4. Case No. AFD-7-86. Mill Creek Agricultural and Forestal District, Cowles Addition

5. Case No. AFD-9-86. Gordon Creek Agricultural and Forestal District, Nayses Bay Land Company Addition

Mr. Pleskac stated that Mr. James F. Cowles had applied to add approximately 304 acres to the existing Mill Creek Agricultural and Forestal District, located at 9138 Richmond Road, further identified as Parcel Nos. (1-4) and (1-4G) on James City County Real Estate Tax Map No. (10-2) and Parcel No. (1-1) on James City County Real Estate Tax Map No. (11-1).

Mr. Pleskac stated that Mr. George Grattan, Jr., on behalf of Nayses Bay Land Company, had applied to add approximately 42.5 acres to the existing Gordon Creek Agricultural and Forestal District, located at 2003-2071 Bush Neck Road, further identified as Parcel Nos. (1-3), (1-6), and (1-7) on James City County Real Estate Tax Map No. (35-1).

Staff recommended that all land within 25 feet of the right-of-way of Bush Neck Road be excluded from addition to the district to allow for sufficient right-of-way for possible future road, drainage or utility improvements.

In concurrence with staff, the Agricultural and Forestal District Advisory Committee and the Planning Commission unanimously recommended approval of the requests.

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

Mr. Taylor made a motion to approve Case Nos. AFD-7-86 and AFD-9-86.

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

6. Fiber Optic Network Agreement and Ordinance to Extend Franchise Certificate of Continental Cablevision of Virginia

Mr. Leo Rogers, Deputy County Attorney, stated that staff and Continental Cablevision of Virginia, Inc., had developed an agreement by which Continental would provide a four-strand fiber optic network throughout its main trunk line, install at its cost, six-strand spur lines connecting County, school and regional buildings to that network, and would maintain the entire network and all spur lines for the 15-year term of the agreement.

Mr. Rogers further stated that an ordinance had been provided to extend Continental Cablevision of Virginia, Inc.'s, Franchise Certificate for an additional 5 years and requested approval of the Second Amendment to Franchise Certificate.

Mr. DePue opened the public hearing on extension of franchise certificate.

1. Ms. Joan Froehling, 117 Woodhall Spa, questioned whether extension of the franchise certificate excludes other companies with fiber optics from the County.

Mr. Rogers responded that the franchise certificate was non-exclusive.

Mr. DePue closed the public hearing.

Mr. Sisk made a motion to approve the resolution and ordinance.

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

RESOLUTION

FIBER OPTIC NETWORK AGREEMENT

WHEREAS, Continental Cablevision of Virginia, Inc., ("Continental") is willing to provide to the County a four-strand fiber-optic network with spur lines to certain County, school and regional facilities; and

WHEREAS, Continental is willing to maintain the fiber-optic network with a maximum four hour response time; and

WHEREAS, the County wishes to acquire a fiber-optic network for fifteen years in order to facilitate information, data and video transfer between County, school and regional facilities.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs David B. Norman, County Administrator, to execute an agreement with Continental to provide a fiber-optic network to the County for fifteen years.

G. BOARD CONSIDERATIONS

1. Wallace Estates Sewer Service Agreement

Mr. Larry Foster, General Manager, James City Service Authority, stated that the Board approved Case No. Z-2-94 in September, 1994, with proffers by Atlantic Homes to enter into an agreement with James City Service Authority to establish terms for providing sewer to the development prior to exceeding 85 connections. He further stated that the agreement established conditions where sewer improvement investments required for the new pump station and existing pump station improvements would be contributed toward the costs of installing a gravity sewer to serve the entire area.

Staff recommended approval of the resolution.

Board and staff briefly discussed whether sewer needs brought development or vice versa.

Mr. Taylor made a motion to approve the resolution.

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

RESOLUTION

WALLACE ESTATES SEWER SERVICE AGREEMENT - ATLANTIC HOMES/JCSA

WHEREAS, the Developer of the property referred to as Wallace Estates, proffered in the rezoning of the property to enter into an agreement with the James City Service Authority establishing the terms for providing the area sewer service; and

WHEREAS, the agreement has been developed and requires that Atlantic Homes contribute to the James City Service Authority two installments totaling \$179,000 for which the JCSA will provide sewer service to the property; and

WHEREAS, the rezoning requires that the Board of Supervisors approve the agreement between Atlantic Homes and the JCSA.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, acknowledges and endorses the terms of the agreement.

2. Virginia Municipal League Insurance Programs Claim - Heather Searls

Mr. Rogers stated that D. R. Dansby, Esq., had filed a claim on behalf of his client, Heather Searls, for an automobile accident on Route 199 with a police vehicle. He further stated that the matter was referred to VML Insurance Programs, and the claim was denied based on sovereign immunity and contributory negligence.

Staff recommended denial of the claim.

Mr. D. R. Dansby, Esq., alleged that gross negligence by the officer caused the accident.

Mr. Morton suggested Mr. Dansby should take the case to the appropriate forum.

The Board took no action.

4. Timbering/Administrative Approach

Mr. John T. P. Horne, Manager of Development Management, stated that an outline had been drafted to consider a zoning ordinance amendment to administratively issue timbering permits.

The Board agreed that the outline was a good proposal.

Following Board and staff discussion, Mr. DePue made a motion to remand the Timbering/Administrative Approach to the Planning Commission for review; schedule a work session with the Agricultural and Forestal District Advisory Committee for Tuesday, January 23, 1996, and, put Buffer Protection Ordinance on Board agenda for that date.

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

Mr. Taylor stated that his vote reflected a vote for the process, not the ordinance.

Height Limitation Waivers

Mr. DePue asked Mr. Horne to explain the County height limitation policy.

Mr. Horne stated that visibility from any historic area, safety and distance from property lines were framework of the policy. He stated an amendment to the zoning ordinance would be required to grant a height limitation in Zoning Districts R-1 and R-2.

The Reverend Steven D. Suders, Kings Way Church, asked the Board to review and amend the ordinance to enable church steeples to be higher than other structures.

The Reverend Rodger Venzke, King of Glory Lutheran Church, stated that the church was being constructed to accommodate a steeple 79 feet high and asked the Board to consider a height waiver.

After a brief discussion, Mr. DePue made a motion to have staff prepare for Planning Commission and Board of Supervisors' consideration an extension of height waiver provisions to other zones and include conditions to require a public hearing for such waivers in certain zoning districts.

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

H. PUBLIC COMMENT

1. Mr. R. M. Hazelwood, Toano, stated that tree buffers benefit citizens, but not the landowner.

2. Mr. Ed Oyer, 139 Indian Circle, spoke of Culpeper County's preliminary agreement with the State that guarantees space for local juvenile inmates in the State facility.

I. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Norman recommended the Board go into executive session pursuant to Section 2.1-344(A)(1) of the Code of Virginia to consider a personnel matter.

J. BOARD REQUESTS AND DIRECTIVES

Mr. Taylor proposed a \$2,000 annual increase in salary of the James City Service Authority Board of Directors.

Mr. DePue asked staff to conduct a survey comparing Board of Supervisors and Chairman salaries with Board/Chairman and Council/Mayor salaries in area jurisdictions.

Mr. Sisk announced that the Williamsburg Wizards Soccer team won the State championship for this year and advanced to the regional games.

Mr. DePue declared a Board recess for a James City Service Authority Board of Directors meeting at 9:20 p.m.

Mr. DePue left the meeting at 9:20 p.m.

Mr. Sisk, Vice Chairman, reconvened the Board of Supervisors and made a motion to go into executive session as recommended by the County Administrator, at 9:22 p.m.

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

Mr. DePue returned to the meeting at 9:23 p.m.

Mr. DePue reconvened the Board at 9:40 p.m. and 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: December 4, 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. Sisk made a motion to recess until 2:30 p.m., Thursday, December 14, 1995, for a site tour with the Shrink-Swell Soil Task Force.

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

The Board recessed at 9:41 p.m.



David B. Norman
Clerk to the Board

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AGREEMENT

Whereas, the Williamsburg Congregation of Jehovah's Witnesses (hereinafter called "the Owner") owns certain real property in James City County, Virginia, (hereinafter called "the Property") and more particularly described as follows:

All that certain tract, piece or parcel of land, together with the improvements thereon and the appurtenances thereunto belonging, lying, situate and being in James City County, Virginia, and being known, designated and described as 54,880 square feet, 1.26 acres, tax parcel (33-1)(1-29) owned by the Williamsburg Congregation of Jehovah's Witnesses, and is bounded and described as follows:

Begin at a found pipe on the west right-of-way line of U.S. Route 60, and being a corner with James E. McCormick, said pipe being 60.94 feet northwest of a found VDOT monument; thence S 78 10'52"W 332.90 feet to a found pipe, corner to McCormick, thence N16 33'02"W 223.26 feet to a found pipe, corner McCormick and Minor Christian, thence S83 32'48"E 352.66 feet to a found pipe, corner Christian and on the right-of-way of U.S. Route 60, thence along U.S. Route on a curve to the right having a length of 113.13 feet and a radius of 5,321.72 feet to the point of beginning.

Whereas, the Owner has applied for rezoning of the Property from the General Business District, B-1 ("the Existing Zoning") to the General Business District, B-1 with additional proffers ("the proposed Zoning") and;

WHEREAS, James City County, Virginia, may be unwilling to rezone the Property because the Proposed Zoning may be deemed inadequate for the orderly development of the Property because competing and incompatible uses may conflict; and

WHEREAS, more flexible and adaptable zoning methods are deemed advisable to permit the use of the Property; and

WHEREAS, the Owner is desirous of offering certain conditions for the protection of the community that are not applicable to land similarly zoned in addition to the regulations provided for in the Proposed Zoning.

NOW, THEREFORE, this Agreement witnesseth that for and in consideration of James City County, Virginia, rezoning the Property from the Existing Zoning to the Proposed Zoning and pursuant to Section 15.1-149.1, et seq. of the Code of Virginia, 1950, as amended, and Section 20-16 of the Zoning Ordinance of James City County, Virginia, the Owner agrees that in addition to the regulations provided for in the Proposed Zoning, it will meet and comply with all of the following conditions for the development of the Property.

CONDITIONS

1. Prior to submittal of a site plan for the development of the Property, the Owner, at its expense, shall cause to be prepared a comprehensive drainage study of the Property for review and approval by the Director of Code Compliance or his duly designated representative.
2. Upon approval of the aforesaid drainage study, the Owner, at its expense, shall be obligated to incorporate the recommendations of that study in the site plan for the development of the Property.
3. Prior to the submittal of a site plan for the development of the Property, the Owner, at its expense, shall cause to be prepared for review and approval by James City County, Virginia, a Phase I archaeological study for the Property. A Phase I study shall include reconnaissance, systematic surface collection and shovel test pits every 90 to 150 feet.
4. No building shall be erected closer than one hundred (100) feet to the edge of the right-of-way of Richmond Road (U.S. Route 60).
5. No parking lot shall be erected closer than fifty (50) feet to the edge of the right-of-way of Richmond Road (U.S. Route 60).

6. Open space regulations shall be in accordance with the LB, Limited Business District requirement outlined in Section 20-86.D.3.C. of the Zoning Ordinance of James City County, Virginia.

7. After the approval of building plans but before the issuance of a building permit for the development of the Property and the adjacent parcel now or formerly owned by James E. McCormick, et ux, the southerly and westerly property lines of the Property shall be extinguished and no further subdivision of the Property shall be permitted except as may be necessary for the widening of Richmond Road (U.S. Route 60). Upon the extinguishment of said property lines, no entrance to and from the Property to Richmond Road (U.S. Route 60) shall be permitted; however, the entrance to and from Richmond Road (U.S. Route 60) on the adjacent parcel now or formerly owned by James E. McCormick may be used in conjunction with the development of the Property.

8. The Owner shall design and construct within the right-of-way of Richmond Road (U.S. Route 60) a deceleration/left-turn lane on both the westbound lane at the existing crossover West of the proposed entrance to the Property, and on the Eastbound lane at the existing crossover East of the proposed entrance to the property. Such lanes shall be designed and constructed in accordance with plans and specifications prepared and based upon the design criteria of VDOT, its reasonable recommendations, and sound engineering practices. Such improvements shall also include construction of the taper and turn lane for eastbound vehicles utilizing the proposed entrance to the Property and the adjacent parcel. The final design specifications for all turn lane improvements specified in this paragraph shall be approved by VDOT and the Development Review Committee of the James City County Planning Commission. All improvements referenced in this paragraph shall be completed, or

an appropriate bond posted, prior to the issuance of a final certificate of occupancy for occupation and use of the improvements constructed on the Property.

9. The Owner shall incorporate in its site plan for the development of the Property, a seventy five (75) foot "Restricted Area" along a portion of the northerly property line adjacent to the property now or formerly owned by Minor Christian, but exclusive of any portion of the Property within one hundred (100) feet of the right-of-way of Richmond Road (U.S. Route 60).

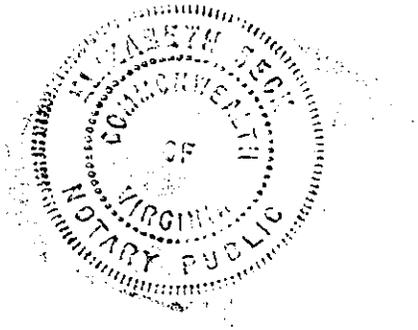
10. Except as herein provided, the Owner shall not construct any structures within the "Restricted Area" but shall provide and maintain, at its expense, within the "Restricted Area", and adjacent to the northerly property line, a permanent evergreen screen twenty five (25) feet in width, utilizing existing, transplanted or new evergreen trees. Such evergreen screen, if new, shall, at a minimum, include a double row of evergreen trees such as leyland cypress, white pine, red cypress, or other screening trees, supplemented as required with flowering shrubs to provide aesthetic variety and interest to the Restricted Area. Such landscaping shall be reviewed and approved by the Development Review Committee of the James City County Planning Commission to insure consistency with the objectives and intent of these proffers; however, notwithstanding anything else to the contrary, the Owner shall be allowed to construct curbs, gutters, paved parking lots and access roads, sidewalks and lighting within the remaining fifty (50) feet of the "Restricted Area".

11. The following uses, generally permitted in the General Business, B-1 District shall not be allowed:

- a) Fish Markets
- b) Lumber and building supply (with storage and repair limited to a fully enclosed building).

- c) Plumbing and electrical supply (with storage limited to a fully enclosed building).
- d) Automobile service stations.
- e) Machinery sales and service (with storage limited to a fully enclosed building).
- f) Lodges, civic clubs, fraternal organizations and service clubs.
- g) Funeral homes.
- h) Cemeteries
- i) Gunsmith (excluding shooting ranges).
- j) Feed, seed and farm supply stores.
- k) Wholesale and warehousing (with storage limited to a fully enclosed building).
- l) Marinas, docks, piers, yachts clubs, boat basins and servicing, repair and sale facilities for the same with sale of fuel in accordance with Section 20-38.
- m) Wholesale and retail marine or waterfront businesses to include the receipt, storage and transshipment of waterborne commerce, or seafood receiving, packing or distribution.
- n) Radio and television stations and accessory antenna or towers.
- o) Telephone exchanges and telephone switching stations.
- p) Convenience stores with sale of fuel.
- q) Veterinary offices
- r) New and/or rebuilt automotive parts sales (with storage limited to a fully enclosed building).
- s) Contractor's offices with storage of materials and equipment limited to a fully enclosed building.

12. Alterations and/or expansions of the existing church use shall have to comply only with Condition 5 of these proffers. Any use other than the existing church use shall comply with the proffers in full.



WILLIAMSBURG CONGREGATION OF JEHOVAH'S WITNESSES

By: Ralph G. Brown
TRUSTEE/PRESIDING OVERSEER

STATE OF VIRGINIA

COUNTY OF James City, to-wit:

The foregoing instrument was acknowledged before me this 4th day of October, 1995, by Ralph G. Brown on behalf of the Williamsburg Congregation of Jehovah's Witnesses.

Elizabeth Beck
NOTARY PUBLIC

My commission expires: 1-31-98

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 8 day of Dec, 1995. This affair was presented with certificate annexed and admitted to record at 1:39 o'clock
Teste: Helene S. Ward, Clerk
by Helene S. Ward
Deputy Clerk

DEC 4 1995

MILL CREEK

AGRICULTURAL AND FORESTAL DISTRICT (AFD-7-86)

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

COWLES ADDITION

WHEREAS, an Agricultural and Forestal District has been established in the Mill Creek area; and

WHEREAS, in accordance with Section 15.1-1511(F) of the Code of Virginia, property owners have been notified, public notices have been filed, public hearings have been advertized, and public hearings have been held on the application for an addition to the Mill Creek Agricultural and Forestal District; and

WHEREAS, the Agricultural and Forestal Districts Advisory Committee at its meeting on November 2, 1995, unanimously recommended approval of the application; and

WHEREAS, the Planning Commission following its public hearing on November 14, 1995, voted 6-0 to recommend approval of the application.

NOW, THEREFORE, BE IT ORDAINED,

- 1. The Mill Creek Agricultural and Forestal District is hereby amended by the addition of the following parcels:

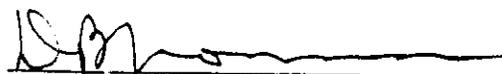
James F. Cowles	(10-2)(1-4)	249.658 acres
James F. Cowles	(10-2)(1-4G)	25.312 acres
James F. Cowles	(11-1)(1-1)	<u>29.000</u> acres
Total:		<u>303.970</u> acres

- 2. That pursuant to the Virginia Code, Section 15.1-1512, as amended, the Board of Supervisors requires that no parcel in the Mill Creek Agricultural and Forestal District be developed to a more intensive use without prior approval of the Board of Supervisors. Specifically, the following restrictions shall apply:
 - a. The subdivision of land is to be limited to parcels of 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family.
 - b. No land within the Agricultural and Forestal District may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the district.
 - c. No Special Use Permit shall be issued except for agricultural, forestal, or other activities and uses consistent with State Code section 15.1 1506 et. seq., which are not in conflict with the policies of this district.



Perry M. DeFue
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 4th day of December, 1995.

afd786-2.res

GORDON CREEK

DEC 4 1995

AGRICULTURAL AND FORESTAL DISTRICT (AFD-9-86)

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

NAYSES BAY LAND COMPANY ADDITION

WHEREAS, an Agricultural and Forestal District has been established in the Gordon Creek area; and

WHEREAS, in accordance with Section 15.1-1511(F) of the Code of Virginia, property owners have been notified, public notices have been filed, public hearings have been advertized, and public hearings have been held on the application for an addition to the Agricultural and Forestal District in the Gordon Creek; and

WHEREAS, the Agricultural and Forestal Districts Advisory Committee at its meeting on November 2, 1995, unanimously recommended approval of the application; and

WHEREAS, the Planning Commission following its public hearing on November 14, 1995, voted 6-0 to recommend approval of the application.

NOW, THEREFORE, BE IT ORDAINED,

- 1. The Gordon Creek Agricultural and Forestal District is hereby amended by the addition of the following parcels:

Nayses Bay Land Company	(35-1)(1-3)	28.0 acres
Nayses Bay Land Company	(35-1)(1-6)	11.0 acres
Nayses Bay Land Company	(35-1)(1-7)	<u>3.5</u> acres
	Total:	<u>42.5</u> acres

- 2. That pursuant to the Virginia Code, Section 15.1-1512, as amended, the Board of Supervisors requires that no parcel in the Gordon Creek Agricultural and Forestal District be developed to a more intensive use without prior approval of the Board of Supervisors. Specifically, the following restrictions shall apply:

- a. The subdivision of land is to be limited to parcels of 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family.
- b. No land within the Agricultural and Forestal District may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the district.
- c. No Special Use Permit shall be issued except for agricultural, forestal or other activities and uses consistent with State Code Section 15.1 1506 et. seq., which are not in conflict with the policies of this district.



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 4th day of December, 1995.

afd986-2.res

SECOND AMENDMENT TO FRANCHISE CERTIFICATE

WHEREAS, Continental Cablevision of Virginia, Inc., ("Grantee") is the Grantee of a non-exclusive franchise to construct, operate, and maintain a cable communications system in the County of James City ("County") under a Franchise Certificate effective on June 8, 1981.

WHEREAS, the County and Grantee agreed to extend the original Franchise Certificate for nine years by an Amendment to Franchise Certificate dated July 2, 1990.

WHEREAS, the term of the franchise is fifteen years from the effective date of the Franchise Certificate; and

WHEREAS, the County has amended the Cable Communications Ordinance, Chapter 4-86.1, et. seq. of the County Code ("the Ordinance"), under which the Franchise Certificate was issued; and

WHEREAS, the County desires that the Grantee extend its service to areas of the County which Grantee is not otherwise required to serve at this time or for the foreseeable future; and

WHEREAS, Grantee desires to extend the term of its existing franchise for an additional five (5) years.

NOW THEREFORE, in consideration of the mutual promises made herein, the parties agree to amend the Franchise Certificate as follows:

1. Grantee expressly represents, warrants, and agrees as follows:

a. This is an extension of Grantee's existing franchise term and thus Grantee's franchise remains for its entire twenty-nine (29) year term a franchise in effect on the effective date of the Cable Communications Policy Act of 1984, P. L. 98-549, 47 U.S.C. § 521 et seq. ("Cable Act"). Grantee expressly waives any right to assert that the franchise, as extended, was not in effect on the effective date of the Cable Act and represents and warrants that it will not make such assertion.

b. Grantee has carefully read the terms and conditions of the Cable Communications Ordinance, as amended.

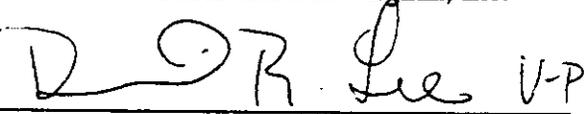
c. Grantee expressly waives any claims that any provisions of the Cable Communications Ordinance, as amended, are unreasonable or arbitrary or void or that the County did not have the authority to impose such term or condition.

2. The term of the franchise shall be twenty-nine (29) years from the effective date of the Franchise Certificate, June 8, 1981.

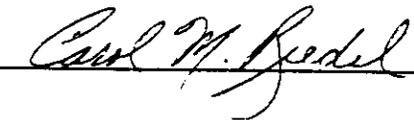
3. Except as otherwise amended herein, the Franchise Certificate and Amendment to Franchise Certificate shall remain unchanged and in full force and effect. The Franchise Certificate and the Amendment to Franchise Certificate, as amended by this Agreement, contains the entire understanding of the parties and shall be amended or changed only in writing agreed to and executed by all parties.

IN WITNESS WHEREOF, the parties have executed this Agreement on the 4th day of December, 1995.

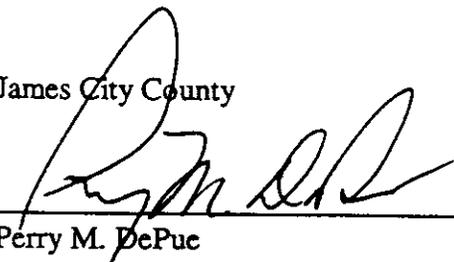
Continental Cablevision of Virginia, Inc.



ATTEST:



James City County


Perry M. DePue

ATTEST:


David B. Norman

FranCert.txt

Attachment

AGREEMENT

THIS AGREEMENT, made and entered into this 4th day of December, 1995, by and between **ATLANTIC HOMES DEVELOPMENT CORPORATION** (the "Developer"), **JAMES CITY SERVICE AUTHORITY** (the "Authority") and **BERNARD M. FARMER, JR.**, as Building Official for James City County, Virginia, and his successors ("Building Official").

WITNESSETH:

WHEREAS, the Developer is the contract purchaser of the real property more fully described in Exhibit A, together with all improvements thereon and all rights and appurtenances thereunto pertaining, all of which is hereinafter referred to as the "Property".

WHEREAS, the Authority constructs, owns, operates and maintains all public sewer utilities in James City County.

WHEREAS, the Developer and the Authority desire to enter into an agreement regarding sewer utilities and service to the Property.

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

1. Developer agrees to pay to Authority One Hundred Seventy-nine Thousand and 00/100 Dollars (\$179,000.00) for all sewer improvements necessary to serve the approximately one hundred eighty-five (185) single family homesites to be developed within the Property, which sum shall be paid as follows:

a. Forty Thousand and 00/100 Dollars (\$40,000.00) prior to the issuance of the thirty-fifth (35th) building permit for a single family home within the Property. The Developer shall not request and the Building Official shall not be required to issue the thirty-fifth (35th) or subsequent building permit until Developer has paid the Forty Thousand and 00/100 Dollars (\$40,000) to the Authority. If this sum has not been paid to the Authority within one (1) year from the date of this agreement, then such sum shall increase by the percentage change in the Consumer Price Index from July 1995 to July 1996, producing the adjusted sum. The adjusted sum will be cumulatively increased, on a quarterly basis, by the change in the Consumer Price Index for the most recent three month period, as published by the Bureau of Labor and Statistics, until such sum has been paid in full to the Authority.

b. One Hundred Thirty-nine Thousand and 00/100 Dollars (\$139,000.00) prior to the issuance of the One hundred twenty-second (122nd) building permit for a single family home within

the Property. The Developer shall not request and the Building Official shall not be required to issue the one hundred twenty-second (122nd) or subsequent building permit until Developer has paid the One Hundred Thirty-nine Thousand and 00/100 Dollars (\$139,000) to the Authority. If this sum has not been paid to the Authority within one (1) year from the date of this agreement, then such sum shall increase by the percentage change in the Consumer Price Index from July 1995 to July 1996, producing the adjusted sum. The adjusted sum will be cumulatively increased, on a quarterly basis, by the change in the Consumer Price Index for the most recent three month period, as published by the Bureau of Labor and Statistics, until such sum has been paid in full to the Authority.

2. The Authority shall, within six (6) months of the Authority's receipt of the \$40,000.00 payment referenced above, provide sewer capacity and service to a minimum of one hundred twenty-two (122) single family homes within the Property and, within eighteen (18) months of the Authority's receipt of the \$139,000.00 payment referenced above, provide sewer capacity and service to a minimum of sixty-three (63) additional single family homes within the Property (aggregate sewer capacity and service to a minimum of one hundred eighty-five (185) single family homes within the Property). Notwithstanding the foregoing, in the event the Developer pays Thirty-nine Thousand and 00/100 Dollars (\$39,000.00) to the Authority after the payment set forth in paragraph 1.a. above, then the Authority shall immediately begin and diligently proceed to completion the design work associated with providing the sewer capacity and service to the sixty-three (63) additional single family homes within the Property referenced above (the "Design Work"); however, the Authority shall not solicit bids for the construction of the Design Work (the "Construction Work") until the Developer provides written notice to the Authority and the Building Official that the Developer shall pay the Authority One Hundred Thousand and 00/100 Dollars (\$100,000.00) within ninety (90) days of such written notice, whereupon 1) the Authority shall within ten (10) business days solicit bids for the Construction Work and diligently proceed to completion the Construction Work; and 2) the Developer shall pay the Authority One Hundred Thousand and 00/100 Dollars (\$100,000.00) within ninety (90) days of said written notice.

3. The Authority acknowledges and agrees that the Developer will suffer immediate and material irreparable harm if the Authority does not upgrade and/or construct the sewer improvements as and when set forth above, and the Developer agrees that its sole remedy shall be the specific performance of this Agreement.

4. The payments by the Developer set forth in paragraph 1 above shall be in addition to all standard charges and fees paid to the Authority for sewer taps and hook-ups.

BUILDING OFFICIAL OF JAMES CITY COUNTY

By: Bernard Farmer, Jr.
Bernard M. Farmer, Jr.

mjl...clients\ahdc\wallprop\ahdcswr5.agr (November 15, 1995)