

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 28TH DAY OF MAY, NINETEEN HUNDRED NINETY-SIX, AT 5:07 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

**A. ROLL CALL**

David L. Sisk, Chairman, Roberts District  
Robert A. Magoon, Jr., Vice Chairman, Jamestown District

Jack D. Edwards, Berkeley District  
Perry M. DePue, Powhatan District  
Stewart U. Taylor, Stonehouse District  
Sanford B. Wanner, Acting County Administrator  
Frank M. Morton, III, County Attorney

**B. EXECUTIVE SESSION**

Mr. Sisk called the meeting to order and Mr. Edwards made a motion to go into executive session pursuant to Section 2.1-344(A)(1) of the Code of Virginia to consider a personnel matter, at 5:07 p.m.

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

Mr. Sisk reconvened the Board into open session and recessed the Board for dinner at 6:25 p.m.

**C. MINUTES -** May 7, 1996, Joint Work Session with Planning Commission  
May 14, 1996, Regular Meeting

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

Mr. Magoon made a motion to approve the two sets of minutes.

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

**D. HIGHWAY MATTERS**

Mr. Quintin Elliott, Resident Engineer, Virginia Department of Transportation (VDOT), was available for questions.

Mr. Magoon asked the status of Route 199 sound walls (colors, texture, landscaping) and asked whether the County could be a part of the decision making.

Mr. Elliott responded that the sound walls would be similar to those on Interstate 64 in Hampton; existing natural buffer will be retained; and, request for changes would take additional funding.

Mr. Edwards asked for an upgrade on Route 199 contracts.

Mr. Elliott stated that the Route 60 to Longhill Road section would require approximately two and one-half years, projected completion time of project September 1998.

Mr. Sisk asked for repair of the potholes on King William Drive.

Mr. Elliott stated that he had already checked the matter and planned to contract for repairs.

Mr. Sisk referenced a letter that stated a study revealed a traffic signal at Plantation Road and Pocahontas Trail (Route 60) at James River Elementary School was not warranted, and asked how soon another survey could be done.

Mr. Elliott replied that a study could be done only if a significant change in traffic occurred.

#### E. CONSENT CALENDAR

Mr. Sisk asked if a Board member wished to remove any items from the Consent Calendar.

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

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

#### 1 Limited-Term Cable Access Position

### RESOLUTION

#### LIMITED-TERM CABLE ACCESS POSITION

WHEREAS, a full-time limited-term Communications and Cable Access Specialist is approved in the Fiscal Year 97 Budget, effective July 1; and

WHEREAS, this position is needed effective June 1, 1996, when the Community Video Center becomes operational and the County assumes responsibility for public access; and

WHEREAS, the funds are available within the current budget.

NOW, THEREFORE, BE IT RESOLVED that the Communications and Cable Access Specialist position is changed from part-time to full-time, limited-term effective June 1, 1996.

#### 2. Foster Parent Recruitment and Training Funding

### RESOLUTION

#### FOSTER PARENT RECRUITMENT AND TRAINING FUNDING

WHEREAS, the State Department of Social Services has provided funding for the Foster Parent Recruitment and Training Program; and

WHEREAS, sufficient local matching funds are available in Grants; and

WHEREAS, the need to serve foster children and foster parents exists.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following appropriation amendments to the FY 97 Social Services budget:

Revenues:

From the Commonwealth \$30,000

Expenditures:

Foster Parent Recruitment and Training \$40,000  
Grants (10,000)

\$30,000

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, establishes the following position: Social Worker - Social Services (Limited-Term), effective July 1, 1996.

- 3. Dedication of Streets in Powhatan Secondary, Phases 1, 2 and 4A and Adam's Hunt, Phases I, II and III

**RESOLUTION**

**DEDICATION OF STREETS IN POWHATAN SECONDARY, PHASES 1, 2, AND 4A**

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 Supervisors 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.

**RESOLUTION****DEDICATION OF STREETS IN ADAM'S HUNT, PHASES I, II, AND III**

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 Supervisors 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.

**F. PUBLIC HEARINGS****1. Case No. SUP-13-96. Paul and Arlean Rodgers Replacement Manufactured Home**

Mr. John Patton, Development Management Technician, stated that Mr. and Mrs. Paul Rodgers had applied for a special use permit to allow replacement of a single-wide manufactured home with a double-wide manufactured home, zoned R-1, Limited Residential, located at 176 Bush Springs Road, further identified as Parcel No. (1-49) on James City County Real Estate Tax Map No. (22-2).

Staff determined that the application continued a nonconforming use, but would provide improved living conditions. Staff recommended approval of the case with conditions listed in the resolution.

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

Mr. Taylor made a motion to approve the case.

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

RESOLUTION

CASE NO. SUP-13-96. PAUL AND ARLEAN RODGERS

REPLACEMENT MANUFACTURED HOME

WHEREAS, it is understood that all conditions for the consideration of an application for a special use permit have been met.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that a special use permit be granted for the placement of a manufactured home on property owned and developed by the applicant as described below and on the attached site location map.

- Applicant: Paul and Arlean Rodgers
- Real Estate Tax Map No.: (22-2)
- Parcel No.: (1-49)
- Address: 176 Bush Springs Road
- District: Stonehouse
- Zoning: R-1, Limited Residential
- Conditions:
  1. This permit shall be valid only for the manufactured home applied for. If the manufactured home is removed, this permit shall become void. Any replacement shall require a new permit from the Board of Supervisors. If the permit is not exercised, it shall become void one year from the date of approval.
  2. The manufactured home shall be skirted and meet the requirements of the Department of Housing and Urban Development Manufactured Home Construction and Safety Standard.
  3. The manufactured home shall be connected to the existing drainfield and well in accordance with Health Department requirements prior to occupancy.
  4. The manufactured home currently on the property shall be removed prior to placement of the new unit.

2. Case No. SUP-14-96. Gregory M. and Beverly Smith Replacement Manufactured Home

Mr. John Patton, Development Management Technician, stated that Mr. and Mrs. Gregory Smith had applied for a special use permit to allow replacement of a single-wide manufactured home with a double-wide manufactured home, on a 2.5 acre lot, zoned A-1, General Agricultural, located at 155 Marston Lane, further identified as Parcel No. (1-14) on James City County Real Estate Tax Map No. (23-4).

Staff determined that the application met most of the Administrative Guidelines for Placement of Manufactured Homes and would provide improved living conditions. Staff recommended approval of the case with conditions listed in the resolution.

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

Mr. DePue made a motion to approve the case.

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

**RESOLUTION**

**CASE NO. SUP-14-96. GREGORY M. AND BEVERLY SMITH**

**REPLACEMENT MANUFACTURED HOME**

WHEREAS, it is understood that all conditions for the consideration of an application for a special use permit have been met.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that a special use permit be granted for the placement of a manufactured home on property owned and developed by the applicant as described below and on the attached site location map.

- |                          |  |
|--------------------------|--|
| Applicant:               | Gregory M. and Beverly Smith   |
| Real Estate Tax Map No.: | (23-4)   |
| Parcel No.:              | (1-14)   |
| Address:                 | 155 Marston Lane   |
| District:                | Powhatan   |
| Zoning:                  | A-1, General Agricultural  |
| Conditions:              | <ol style="list-style-type: none"> <li>1. This permit shall be valid only for the manufactured home applied for. If the manufactured home is removed, this permit shall become void. Any replacement shall require a new permit from the Board of Supervisors. If the permit is not exercised, it shall become void one year from the date of approval.</li> </ol> |

2. The manufactured home shall be skirted and meet the requirements of the Department of Housing and Urban Development Manufactured Home Construction and Safety Standard.
3. The manufactured home shall be connected to the existing septic drainfield and well in accordance with Health Department requirements prior to occupancy.
4. The 1968 Magnolia mobile home currently existing on the property shall be removed prior to the certificate of occupancy being issued for the replacement manufactured home.

3. Case NO. Z-5-96. Powhatan Planned Community

Mr. Allen J. Murphy, Jr., Principal Planner, stated that Mr. Alvin P. Anderson had applied on behalf of Powhatan Associates to rezone approximately six acres from PUD-R, Planned Unit Development-Residential, to R-4, Residential Planned Community, with proffers, in accordance to previously approved Case No. Z-6-95, located along the southern boundary of Powhatan Planned Community adjoining Powhatan Plantation timeshares, further identified as Parcel No. (1-19) on James City County Real Estate Tax Map No. (38-3).

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

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

Mr. Sisk made a motion to approve Case No. Z-5-96.

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

## RESOLUTION

### CASE NO. Z-5-96. POWHATAN PLANNED COMMUNITY

WHEREAS, in accordance with Section 15.1-431 of the Code of Virginia, and Section 20-13 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-5-96 for rezoning approximately six acres from PUD-R, Planned Unit Development-Residential, to R-4, Residential Planned Community, with proffers, on property further identified as portions of Parcel (1-19) on James City County Real Estate Tax Map No. (38-3); and

WHEREAS, the Planning Commission of James City County unanimously recommended approval of Zoning Case No. Z-5-96 as described herein.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Zoning Case No. Z-5-96 and accepts the voluntary proffers attached to this application.

4. Case No. ZO-4-96. Zoning Ordinance Amendments: Buffer and Greenbelt Requirements for Timbering Activities

Mr. O. Marvin Sowers, Jr., Director of Planning, stated that the proposed ordinance applied only to A-1 districts inside the Primary Service Area. He further stated that the changes established a 50-foot setback for timbering activities along a public road rather than a buffer or greenbelt; timbering cannot occur within the setback unless for an access driveway, modification approved by the Planning Director, or for partial timbering.

In concurrence with staff, the Planning Commission, by a 4-2 vote, recommended approval of the ordinance.

Mr. Sisk opened the public hearing.

1. Mr. R. M. Hazelwood, Jr., Toano, spoke in opposition to this ordinance and the previously approved timbering ordinance, stating "let nature take its course" and future impacts should be considered.

2. Mr. R. E. Gilley, 229 Gate House Boulevard, also spoke in opposition to the timbering ordinances.

Mr. Sisk closed the public hearing.

Mr. Taylor stated that he would not support the ordinance.

Mr. Edwards made a motion to approve the ordinance.

Mr. DePue asked whether the State forester would play a role in eliminating the need for citizens to apply for a permit.

Mr. Sowers responded that information was included in the wording of the previously adopted ordinance.

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

**G. BOARD CONSIDERATIONS**

1. Route 5 Road Improvement Proffer Policy

Mr. John T. P. Horne, Manager of Development Management, stated that with recent Board direction, staff had added language to the Route 5 Road Improvement Proffer Policy resolution that proffer payments were expected prior to final subdivision or final site plan approval.

Board and staff discussed various ways to assess the value of lots.

Mr. Magoon requested a future work session on the funding formula for Route 5 road improvement proffer policy.

Mr. DePue made a motion to approve the resolution.

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

RESOLUTION

ROUTE 5 ROAD IMPROVEMENT PROFFER POLICY

WHEREAS, the Board of Supervisors of James City County has recognized the need to finance and construct certain road improvements in the Route 5 corridor; and

WHEREAS, the need for these road improvements is partially caused by the increased private land developments in the corridor; and

WHEREAS, the Board has accepted voluntary proffers from previous developments during the rezoning process which sought to provide an equitable share of the funding for these needed road improvements; and

WHEREAS, the Board anticipates that new rezoning requests in the Route 5 corridor will be submitted and that those requests may be accompanied by voluntary proffers to provide an equitable share of the funding for these needed road improvements; and

WHEREAS, the Board wishes to establish a clear policy as to its expectations when future rezoning requests are submitted.

NOW, THEREFORE, BE IT RESOLVED that it is the intent of the Board of Supervisors to have all future rezonings in the Route 5 corridor provide a cash or in-kind value for traffic mitigation equivalent to one percent of the estimated value of the dwelling units in developments being proposed for rezoning. All proffer payments are expected prior to final subdivision approval or final site plan approval, whichever is applicable to the proposed development.

BE IT FURTHER RESOLVED that the Board of Supervisors intends to apply the proceeds of such proffers toward the construction of the two additional lanes of Alternate Route 5 which are not proposed to be constructed by the Route 5 Transportation Improvement District. This policy shall not apply to those portions of any rezoning request that solely involve redesign and no increase in traffic generation in the corridor.

2. Construction and Financing for the Middle Peninsula Juvenile Detention Center

Mr. John E. McDonald, Manager of Financial and Management Services, stated that the Middle Peninsula Juvenile Detention Center would seek State approval to increase the size of the proposed 32-bed juvenile facility to a 48-bed juvenile facility for reasons of increasing detention rates, accelerating expansion and decreasing costs per bed and required per diem to recover debt service.

Mr. Edwards made a motion to approve the resolution.

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

RESOLUTIONCONSTRUCTION AND FINANCING FOR THEMIDDLE PENINSULA JUVENILE DETENTION CENTER

- WHEREAS, the Middle Peninsula Juvenile Detention Commission ("Commission"), of which James City County is a Member Jurisdiction, has advised the governing bodies of all its Member Jurisdictions that it will soon begin construction of its planned juvenile detention center, to be located in James City County, on property the Commission has acquired from the Virginia Department of Transportation, adjacent to the Virginia Peninsula Regional Jail; and
- WHEREAS, the Commission has determined that the demand for secure juvenile detention placements among the Member Jurisdictions makes it advisable to consider expanding the size of the facility to be constructed, from the 32-bed facility contemplated as the initial project by the Commission's Service Agreement dated December 12, 1994, (the "Service Agreement"), to the full 48-bed facility authorized by that Agreement; and
- WHEREAS, it appears that the Commission may realize economic advantages and cost savings by constructing the full 48-bed facility now, if the Virginia Department of Youth and Family Services will agree to full State participation at this time; and
- WHEREAS, such enlargement of the Commission's facility, and the need to fund both the State and local shares of the project cost, pending receipt of the State's reimbursement of its share after construction is complete, will require the Commission to issue debt obligations up to a maximum amount of Six Million Eight Hundred Thousand Dollars (\$6,800,000.00); and
- WHEREAS, the Commission anticipates that the lender or lenders offering to finance the Detention Center project will require the Member Jurisdictions to concur in the Commission's issuance of the necessary debt obligations(s) and to reconfirm that the Commission shall include the increased debt service costs generated by those obligations when computing the per diem rates for juvenile placements that the Commission will charge to the Member Jurisdictions pursuant to the Service Agreement.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby agree to the following:

1. The County concurs in the decision of the Middle Peninsula Juvenile Detention Commission to seek approval from the Virginia Department of Youth and Family Services for construction of the full 48-bed facility contemplated by the Service Agreement. If the Commission receives a satisfactory approval from the Department of Youth and Family Services and commitment of funding for the State's share of eligible costs, the Commission may expand the Center project to include the full 48-bed facility. If State funding and approval for the 48-bed facility cannot be obtained in time for expansion of the initial construction, the Commission may proceed with construction of a 32-bed facility, with core facilities to accommodate the later expansion to 48 beds, and may undertake construction of the additional 16 bed unit at such later time as the State approves and commits funding of its eligible share of that expansion.
2. As it is empowered to do by the Service Agreement and applicable State Law, the Commission intends to finance the construction and equipping of the Center, including expenses associated with the financing and also including short-term financing, pending

reimbursement, of the State's share of project costs, through the issuance of one or more debt obligations. The County hereby reconfirm its agreement that the costs of paying interest on, and repaying the principal of these Obligations shall be included by the Commission in calculating the per diem charges to be paid by the Member Jurisdictions for the juveniles they commit to the Center, as provided under Articles III and IV of the Service Agreement. However, the total of obligations incurred by the Commission for the entire 48-bed Center project, including obligations incurred to fund the State portion of costs during the construction period, shall not exceed Six Million Eight Hundred Thousand Dollars (\$6,800,000).

3. The Chairman of this Board is authorized to sign a copy of this resolution, properly attested by the Clerk, to indicate the County's approval of the foregoing matters.

Purchase of Warhill Property and District Park Location

Mr. Sisk stated that Mr. DePue on behalf of the Board would address comments as related to purchase of Warhill property and the District Park location.

Mr. DePue detailed background and purchase price per acre of the Warhill tract and defined its topography. He refuted statements regarding relocation of recreation fields from original district park site and stated a public hearing would be held for citizen input prior to a decision. He noted that County offices were not being relocated to the Warhill tract, and school funding was decided by an amount considered sufficient, not a lack of funds.

The Board expressed pleasure for the opportunity to purchase land for positive use for the County.

**H. PUBLIC COMMENT**

1. Mr. R. M. Hazelwood, Jr., Toano, spoke in opposition of the County's purchase of acres that would be removed from the tax roll, and amount of purchase price could have been used to reduce real estate tax rate for citizens.
2. Mr. Edwin Riley, 611 Tam-O-Shanter, gave his latest update of Lyme disease caused by over population of deer.
3. Mr. Brian Oyer, 9025 Barnes Road, spoke of water issues, design of schools, land purchase and Code Compliance regulations.
4. Mr. Fred Stapleford, 21 Whittaker's Mill, spoke in favor of the purchase of Warhill tract and use of a portion for recreation fields.
5. Mr. Ed Oyer, 139 Indian Circle, gave a detailed list of acreage owned by County, spoke of topography of the Warhill tract and that the new high school could have been constructed on that acreage.
6. Mr. Richard Butler, 429 Scotland Street, spoke in favor of County purchase of Warhill tract and the need for recreational use of the land.

**I. REPORTS OF THE COUNTY ADMINISTRATOR**

Mr. Sanford B. Wanner, Acting County Administrator, announced that Mr. Vince Ferrara of the Police Department had been selected as a participant in the Historic Triangle Institute. He recommended a recess for a James City Service Authority Board of Directors' meeting and after that meeting, recess to an executive session pursuant to Section 2.1-344(A)(7) of the Code of Virginia to consult with legal and staff members on a specific legal matter.

**J. BOARD REQUESTS AND DIRECTIVES**

Mr. DePue asked about the status of Volunteer Rescue Squad fee information.

Mr. Wanner stated that item would be on the agenda for the Board of Supervisors meeting of June 25, 1996.

Mr. DePue requested information in a letter received from Virginia Department of Transportation regarding Williamsburg Crossing.

Mr. Horne stated he would supply information if Board members would contact him.

Mr. Magoon emphasized to the public that no plans are being made at this time to relocate the government complex.

Mr. Sisk announced a test run of a traditional bus for possible tourist shuttle would be held Wednesday, May 29, 1996, from the County garage on Tewing Road.

Mr. Sisk declared a recess for a James City Service Authority Board of Directors' meeting at 8:42 p.m.

Mr. Sisk reconvened the Board at 8:49 p.m.

Mr. DePue made a motion to convene into executive session as recommended by the Acting County Administrator.

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

Mr. Sisk reconvened the Board at 9:10 p.m.

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

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

**RESOLUTION**

MEETING DATE: May 28, 1996

**CERTIFICATION OF EXECUTIVE MEETING**

WHEREAS, the Board of Supervisors of James City County, Virginia, (Board) has convened an executive meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

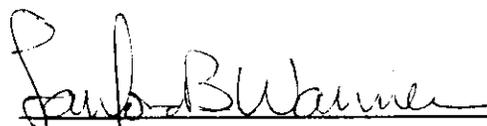
WHEREAS, Section 2.1-344.1 of the Code of Virginia requires a certification by the Board that such executive meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge; i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the executive meeting to which this certification resolution applies; and, ii) only such public business matters as were identified in the motion convening the executive meeting were heard, discussed or considered by the Board.

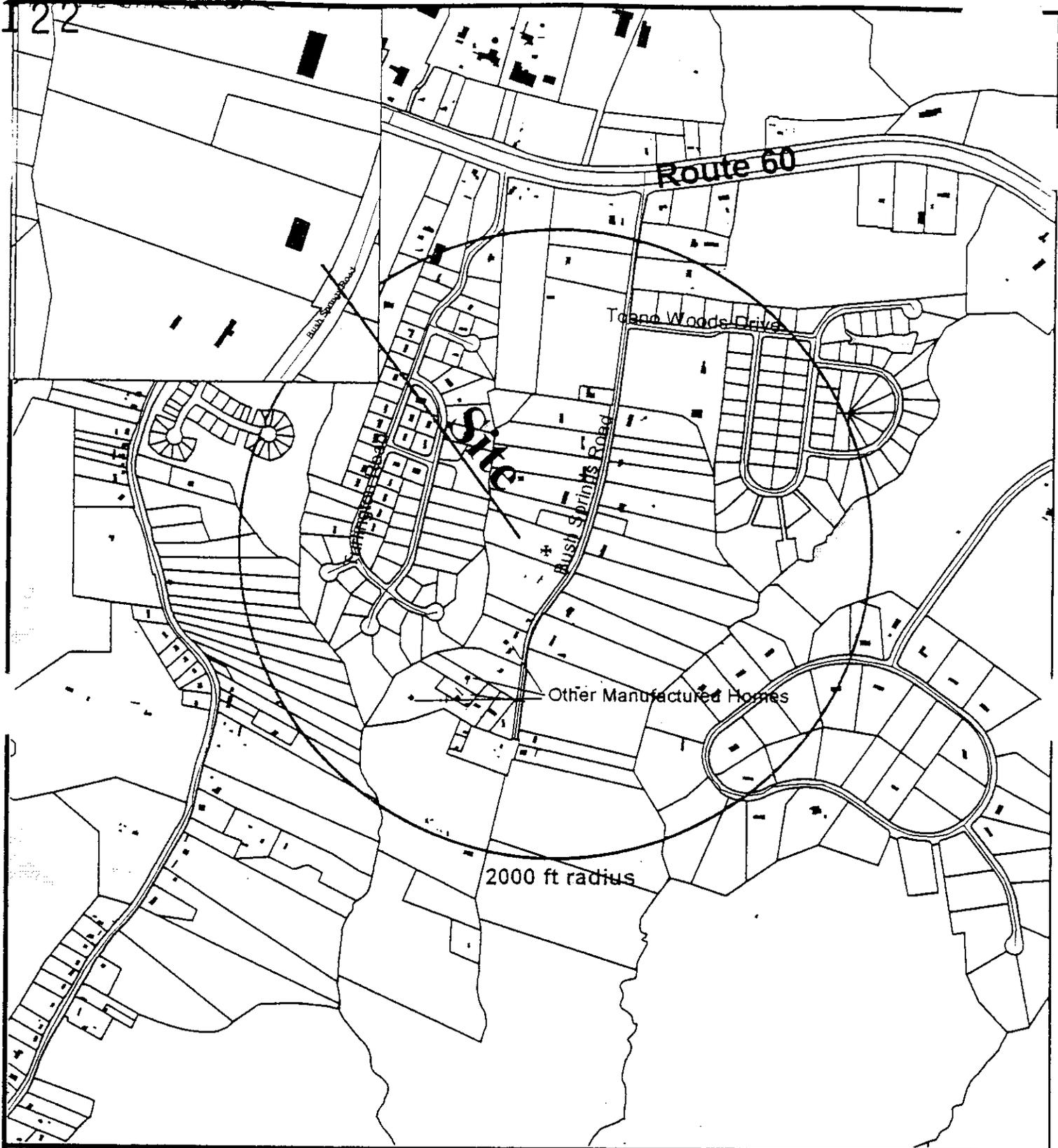
Mr. Taylor made a motion to recess until Tuesday, June 11, 1996, at 5:00 p.m. for a work session on drainage.

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

The Board recessed at 9:11 p.m.

  
Sanford B. Wanner  
Clerk to the Board

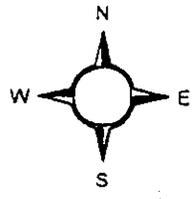
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Case: SUP-13-96

Paul & Arlean Rodgers  
 Replacement Manufactured Home

Attachment 1



Existing Mobile Home  
to remain (used for storage)

New Manufactured Home  
work shop

Mobile Home  
to be removed

2000 ft radius

Site

Route 60

Shiloh Lane

Marion Lane

Centerville Road

Attachment 1



**SUP-14-96 Gregory M. & Beverly R. Smith  
Replacement Manufactured Home**





THIS PROFFER is made as of the 29th day of April, 1996 from POWHATAN ASSOCIATES, a Virginia joint venture ("Powhatan Associates") and POWHATAN ENTERPRISES, INC., a Virginia corporation ("Powhatan Enterprises") to JAMES CITY COUNTY, VIRGINIA, a Virginia Political Subdivision ("the County"). The record owner from time to time of the Property (as hereinafter defined) is herein referred to as "the Owner".

### RECITALS

- A. Powhatan Associates is the current record owner of certain real property in James City County, Virginia, a description of which is attached as Exhibit "A" ("the Property").
- B. The Property is currently zoned Residential Planned Unit Development, PUD-R ("the Existing Use") for which all conditions relating to the Property are hereby replaced in their entirety by these Proffers.
- C. Powhatan Associates has applied for a rezoning of the Property to Residential Planned Community, R-4 with proffers in accordance with the proffers approved by the County on March 26, 1996 by resolution for Zoning Case No. Z-6-95 ("the Proposed Use").
- D. Upon approval by the County of the Proposed Use, Powhatan Associates has agreed to convey the Property to Powhatan Enterprises, Inc., in consideration of Powhatan Enterprises conveying certain property to the County for the construction of certain road improvements, all as more particularly described in Zoning Case No. Z-6-95.
- E. The County Zoning Administrator has determined in writing that the addition of the Property to the Master Plan described in Zoning Case No. Z-6-95 will not adversely affect the ability of Powhatan Enterprises to develop under the previously approved number of residential units, square footage and open space on it's currently approved Master Plan and that open space for development under that Master Plan shall be calculated in the manner as stated by

the Ordinance in effect on February 2, 1987 but that the Property added to the Master Plan would have to comply with the Residential Planned Community, R-4 Zoning District in effect at the time of the rezoning. The County Zoning Administrator's determination above described is evidenced by letter dated April 23, 1996 attached as Exhibit "B".

#### PROFFERS

1. For and in consideration of the approval by the County of the Proposed Use and pursuant to § 15.1-491.1 et seq of the Code of Virginia, 1950, as amended, and § 20-18 of the James City County Code, the Owner of the Property agrees that it will meet and comply with the proffers for Zoning Case No. Z-6-95 in developing the Property, which proffers are hereby incorporated by reference. In the event the Proposed Use is not approved by the County or in the event any appeal from said approval is noted within 30 days after said approval, these Proffers shall thereupon become null and void.

#### MISCELLANEOUS

2. All section and subsection headings of those Proffers are for convenience only and are not part of these proffers.

3. The Property will be developed in accordance with the Master Plan for Zoning Case No. Z-6-95 as revised by the addition of the Property as part of this rezoning. The Owner may from time to time, in final subdivision plats or site plans submitted to the County, relocate specific areas shown on the Master Plan (provided that such relocations are permitted by the County's Zoning Ordinance and this proffer) and provided that the Planning Director determines that said relocations do not alter the basic concept or character of the development.

4. These proffers are further subject and inferior to the vested rights under Zoning Case No. Z-6-95. Any conflict between the terms of these proffers and said vested rights shall be resolved in favor of said vested rights and any appeal from the approval of these proffers shall

not affect said vested rights.

5. The rights and responsibilities of Powhatan Enterprises and Powhatan Associates shall inure to and be binding upon their respective successors and assigns.

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

**POWHATAN ASSOCIATES, a Virginia joint venture, by Bush Construction Company**

By: Marc B. Sharp (SEAL)  
Marc B. Sharp, Executive Vice President

**POWHATAN ENTERPRISES, INC.**

By: Lawrence E. Beamer (SEAL)  
Lawrence E. Beamer, President

STATE OF VIRGINIA

CITY/COUNTY OF James City, to-wit:

The foregoing Proffer was acknowledged before me by Marc B. Sharp, Executive Vice President of Bush Construction Company on behalf of Powhatan Associates, a Virginia joint venture, this 17<sup>th</sup> day of May, 1996.



Annette M. Taylor  
NOTARY PUBLIC

My commission expires: 11-30-99

STATE OF VIRGINIA

CITY/COUNTY OF James City, to-wit:

The foregoing Proffer was acknowledged before me by Lawrence E. Beamer, President on behalf of Powhatan Enterprises, Inc., this 9<sup>th</sup> day of May, 1996.



Kay L. Martin  
NOTARY PUBLIC

My commission expires: October 31, 1996

## EXHIBIT "A"

All those certain pieces or parcels of property lying and being in Berkeley District, James City County, Virginia, and more particularly shown and set forth as "Parcel P20", "Parcel P18", and "Parcel P21", on that certain plat entitled "PLAT OF PARCELS ALONG RELOCATED ROUTE 5 CORRIDOR IN, THROUGH AND ADJACENT TO POWHATAN SECONDARY OF WILLIAMSBURG, BERKELEY DISTRICT, JAMES CITY COUNTY, VIRGINIA" dated 3/15/96, prepared by Langley and McDonald, P.C., a copy of which plat is attached hereto, made a part hereof, and incorporated herein by reference.

BOOK 0790 PAGE 0039

## DEPARTMENT OF DEVELOPMENT MANAGEMENT

P. O. Box 8784

Williamsburg, Virginia 23187-8784

County Government Center, 101-E Mounts Bay Road

Development Manager  
(804) 253-6671Code Compliance  
253-6626County Engineer  
253-6678Planning  
253-6685Integrated Pest Management  
253-2620

April 23, 1996

Mr. Lawrence E. Beamer, President  
Powhatan Enterprises, Inc.  
12441 Warwick Blvd.  
Newport News, VA 23602

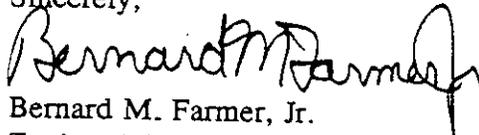
SUBJECT: Z-6-95. Powhatan Secondary

Dear Mr. Beamer:

This is to confirm that if parcels A-1, A-3, and A-4 as shown on the master plan submitted with the above referenced zoning use and last revised 2/29/96 were rezoned to R-4 and added to the Powhatan Planned Community, that addition would not adversely affect the ability of Powhatan Planned Community to develop the previously approved number of residential units, square footage and open space shown on the master plan. Open space for development under that master plan shall be calculated in the manner as stated by the Ordinance in effect on February 2, 1987; however, the individual parcels to be added would have to comply with R-4 requirements in effect at the time of the rezoning.

This letter supersedes my letter to you dated April 22, 1996.

Sincerely,



Bernard M. Farmer, Jr.  
Zoning Administrator

BMF/cg

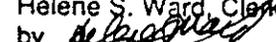
You have thirty days from this date in which to appeal this decision to the Board of Zoning Appeals, in accordance with §15.1-496.1 of the Code of Virginia, or this decision shall be final and unappealable.

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

30 day of May, 1996. This copy

was presented with certificate annexed and admitted to record at 1:02 o'clock

Teste: Helene S. Ward, Clerk  
by 

Deputy Clerk

Fax: (804) 253-6850

6-6

ORDINANCE NO. 31A-169

MAY 23 1996

BOARD OF SUPERVISORS  
JAMES CITY COUNTY  
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 20, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL, SECTION 20-2, DEFINITIONS; BY AMENDING ARTICLE II, SPECIAL REGULATIONS, SECTION 20-43, BUFFER AND GREENBELT REQUIREMENTS FOR TIMBERING ACTIVITIES; BY AMENDING ARTICLE V, DISTRICTS, DIVISION 2, GENERAL AGRICULTURAL DISTRICT, A-1, SECTION 20-212, PERMITTED USES; AND SECTION 20-215, SETBACK REQUIREMENTS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 20, Zoning, is hereby amended and reordained by amending Section 20-2, Definitions; Section 20-43, Buffer, greenbelt and setback requirements for timbering activities; Section 20-212, Permitted uses; and Section 20-215, Setback requirements.

## CHAPTER 20. ZONING

## ARTICLE I. IN GENERAL

## Sec. 20-2. Definitions.

*Setback for timbering. The distance which any timbering activity must be set back from a public road right-of-way. It is an area in which no timbering shall occur except in accordance with section 20-43.*

ARTICLE II. SPECIAL REGULATIONS

DIVISION 1. IN GENERAL

Sec. 20-43. Buffer, and greenbelt ~~and setback~~ requirements for timbering activities.

The requirements in this section shall apply to timbering activities located in all districts ~~except the General Agricultural District, A-1.~~ This section shall not apply to timbering activities conducted as part of an approved site plan, subdivision plan, or building permit. Approval of site plans, subdivision plans, or building permits shall be in accordance with other provisions of the zoning ordinance and shall not be governed or guided by the provisions of this section. This section shall also not apply to timbering activities where all timbering is conducted outside of the buffers ~~or setback for timbering~~ listed in paragraph (1), ~~and (2) or (3)~~ or for timbering within such buffers ~~or setback for timbering~~ to construct access drives having a maximum width of 30 feet. The following provisions shall apply to all timbering activities subject to this section ~~except as otherwise noted:~~

- (1) Buffer along public roads. ~~This paragraph shall not apply to the General Agricultural District, A-1.~~ An undisturbed buffer at least 75 feet wide shall be maintained along all public roads. No trees or other vegetation shall be removed from this buffer except as permitted under this section.
- (2) Buffer along greenbelt roads. ~~This paragraph shall not apply to the General Agricultural District, A-1.~~ On ~~all other~~ property fronting on roads that are identified as greenbelt roads on the Comprehensive Plan, an undisturbed buffer at least 150 feet wide shall be maintained along the greenbelt road on properties that are zoned residential. No trees or other vegetation shall be removed from this buffer except as permitted under this section.

- (3) *Setback for timbering. In the General Agricultural District, A-1, a setback for timbering shall be provided in accordance with section 20-215(c).*
- (4) Buffer *and setback for timbering* measurement and determinations. The width of required buffers *and setback for timbering* shall exclude any planned future right-of-way as designated on the Six-Year Primary or Secondary Road Plan.
- (5) Tree protection. Required buffer areas *and setbacks for timbering* shall be marked by painting trees along the interior edge of the buffer. Equipment, timber, or other materials shall not be placed within the buffer *or setback for timbering area*.
- (6) Processing requirements. Prior to commencing any timbering activities within a buffer *or setback for timbering* except for a 30 foot access drive, the property owner or agent shall complete an application and submit it along with a James City County Tax Map (with topography and planimetric detail at a scale of 1"=200') to the planning director that shows the site's property lines, any existing and proposed driveway entrances, *and required buffer areas and setback for timbering*, areas and tree protection measures. The planning director shall determine whether to permit timbering activities within a buffer *or setback for timbering* in accordance with Paragraphs 6 7 and 7 8 below. Upon approval of the application by the planning director, timbering activities within a buffer *or setback for timbering* may proceed. All timbering activities within a buffer *or setback for timbering*, including location of driveways or any other land disturbing activities, shall take place only in those areas indicated on the approved map and in accordance with the methods approved by the planning director.

The planning director shall have no more than 14 days from the filing of such application to approve or disapprove the application. If disapproved, the planning director shall write a letter to the applicant identifying the revisions to be made to gain approval.

(6) (7) Modifications. The planning director may grant modifications to the buffer, ~~setback for timbering~~, and tree protection requirements when, in the opinion of the planning director, an alternative design provides equivalent measures, or retains the rural character of the property, or when buffers, ~~setbacks for timbering~~, or tree protection are unnecessary due to a site's physical conditions such as topography or presence of streambeds, wetlands or other natural features. The planning director may also permit tree removal within the buffer ~~or setback for timbering~~ when trees are weakened, dying, diseased, or insect damaged, or, in the opinion of the state forester, unlikely to survive or such removal will enhance the long term effectiveness of the buffer ~~or setback for timbering~~ as a visual barrier.

(7) (8) Partial timbering within a buffer ~~or setback for timbering~~. The planning director may approve partial timbering of buffer areas, ~~and setback for timbering~~ and the use and type of equipment for partial timbering, after considering the following:

a. The effect of the timbering on the long-term effectiveness of the buffer area, ~~or setback for timbering~~ and on adjacent roads and properties;

b. The anticipated development of the property and the surrounding area;

- c. The condition of any adjacent dwelling or subdivision including whether the structures are abandoned or dilapidated;
- d. Any recommendations of the state forester, including recommendations on the use and type of equipment for partial timbering;
- e. The health and diversity of trees with emphasis on protection of mixed hardwood trees, and the reforestation of the buffer ~~or setback for timbering~~; and
- f. The market value of the timber in the buffer ~~or setback for timbering~~ and ~~the timber~~ to be removed, and the market value of the timber on the balance of the property.

~~(8)~~ ~~(9)~~ Development Review Committee Review. The development review committee shall consider the timbering application if there are unresolved problems between the applicant or the planning director.

~~(9)~~ ~~(10)~~ Buffer Tree Replacement. If timbering occurs within the buffers ~~or setbacks for timbering~~ described above in paragraphs (1) ~~and~~ (2) ~~and~~ (3) and such timbering is not approved in accordance with paragraphs ~~(6)~~ (7) and ~~(7)~~ (8) above, trees shall be replaced at a ratio of one tree for each 800 square feet of area timbered. Such trees shall meet the standards for trees stated in section 20-2. The number of trees and their placement shall be approved by the planning director.

ARTICLE V. DISTRICTS

DIVISION 2. GENERAL AGRICULTURAL DISTRICT, A-1

Sec. 20-212. Permitted uses.

In the General Agricultural District, A-1, structures to be erected or land to be used shall be for the following uses:

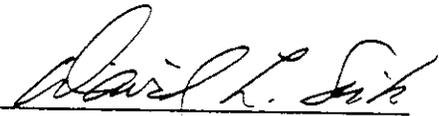
Silviculture, ~~with timbering in accordance with section 20-215(c).~~

Sec. 20-215. Setback requirements.

(a) Structures, except those associated with intensive agricultural uses, shall be located a minimum of 50 feet from any street right-of-way which is 50 feet or greater in width. If the street right-of-way is less than 50 feet in width, structures shall be located a minimum of 75 feet from the center line of the street; except that where the minimum lot area is three acres or more, the minimum setback shall be 75 feet from any street right-of-way which is 50 feet or greater in width and 100 feet from the center line of any street right-of-way less than 50 feet in width. Devices for nutrient management plans, pens, and structures associated with intensive agricultural uses shall be 250 feet from any dwelling not owned by the operator of the use, all property lines not associated with the use, all public roads, and 1,000 feet from platted residential subdivisions, residentially zoned districts, areas designated for residential use on the comprehensive plan, schools, parks and playgrounds, recreation areas, public wells, water tanks and reservoirs.

(b) All subdivisions platted and recorded prior to March 1, 1969, with building setback lines shown on their recorded plat will be allowed to adhere to these established setback lines.

(c) *All timbering activities in the primary service area shall be located a minimum of 50 feet from any public road right-of-way unless done in accordance with section 20-43. This distance shall be known as the setback for timbering.*



David L. Sisk, Chairman  
Board of Supervisors

ATTEST:



Sanford B. Wanner  
Clerk to the Board

SUPERVISOR	VOTE
TAYLOR	NAY
MAGOON	AYE
DEPUE	AYE
EDWARDS	AYE
SISK	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 28th day of May, 1996.