

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 12TH DAY OF NOVEMBER, NINETEEN HUNDRED NINETY-SIX, AT 7:03 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 (Absent)

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

B. PRESENTATIONS

1. Early Childhood Services

Ms. Kerry Mellette, Co-Chairman, Community Partnership for Excellence in Education, stated that organizations work together to ensure families receive information, resources and support to help children reach full potential from birth to six years. She introduced Ms. Corinne Garland, Executive Director of Child Development Resources.

Ms. Garland described statistics of childhood needs of James City County and stated a person was needed to help families identify and match needs with community resources.

2. Colonial Soil and Water Conservation

Mr. W. Brian Noyes, Conservation Specialist, gave an update of activities and accomplishments of the Soil and Water Conservation District Annual Report.

Introduction of Assistant County Administrator

Mr. Sanford B. Wanner, County Administrator, introduced Mr. William C. Porter, Jr., newly selected Assistant County Administrator, employment effective December 16, 1996.

Board and staff welcomed Mr. Porter and family, and Mr. Porter expressed thanks for the opportunity to work for James City County.

C. MINUTES - October 23, 1996, Regular Meeting
October 26, 1996, Special Meeting

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

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

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

D. 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, DePue, Edwards, Sisk (4). NAY: (0).

- 1. Donation of Surplus Vehicle to Big Brothers/Big Sisters of Williamsburg, Inc.

RESOLUTION

BIG BROTHERS/BIG SISTERS OF WILLIAMSBURG, INC.

WHEREAS, James City County ("County") owns a 1992 Chevrolet Caprice 4-door sedan vehicle that the County Administrator has declared to be surplus (Vehicle Identification Number 1G1BL5379NR136614) that is suited for the purposes of Big Brothers/Big Sisters ("Big Brothers"), a nonprofit charitable organization; and

WHEREAS, the citizens of James City County are served by the efforts of Big Brothers.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to endorse the title to the surplus vehicle (Vehicle Identification Number 1G1BL5379NR136614) over to Big Brothers and execute such other documents as necessary to transfer the vehicle to Big Brothers, in consideration for the ongoing efforts of Big Brothers within James City County.

- 2. Trash and Grass Lien, 99 Canterbury Place

RESOLUTION

CODE VIOLATION LIEN

WHEREAS, the Director of Code Compliance has certified to the Board of Supervisors of James City County, Virginia, that the property owners as described below have failed to pay a bill in the amount listed, for cutting of grass and weeds or removal of trash and debris, although the County has duly requested payment; and

WHEREAS, the unpaid and delinquent charges are chargeable to the owner and collectible by the County as taxes and levies and constitute a lien against the Property.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors, James City County, Virginia, that in accordance with Sections 7-4 and 7-5 of the Code of the County of James City, Virginia, the Board of Supervisors directs that the following delinquent charges for services rendered, plus interest at the legal rate from the date of recordation until paid, shall constitute a lien against the Property to wit:

Cleaning of Trash/Debris and/or Cutting of Grass, Weeds, etc.:

ACCOUNT: Ronald Spicer and Jeanette Bryan
99 Canterbury Place
Williamsburg, VA 23188

DESCRIPTION: 99 Canterbury Place

TAX MAP NO.: (33-3)(02-0-0027)
James City County, Virginia

AMOUNT DUE: \$213.00

3. Appointment of Administrator for the Erosion and Sedimentation Control Program**RESOLUTION****APPOINTMENT OF ADMINISTRATOR FOR THE****EROSION AND SEDIMENTATION CONTROL PROGRAM**

WHEREAS, pursuant to Section 5A-3 of the Code of the County of James City, the Board of Supervisors is responsible for appointing the Administrator of the Erosion and Sedimentation Control Program; and

WHEREAS, an appointment is necessary to replace the Director of Code Compliance as Administrator; and

WHEREAS, the Director of Development Management recommends that Darryl E. Cook be appointed in this position.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby appoints Darryl E. Cook as Administrator for Erosion and Sedimentation Control Program.

4. Budget Amendment - Social Services Division**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 for annual operations.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby amends the FY 97 Operating Budget, as follows:

Revenues:

Department of Emergency Services \$19,505

Expenditures:

Emergency Services - 001-073-0318 \$19,505

- 5. Dedication of Streets in Berkeley's Green, Phases 7 and 8

RESOLUTION

DEDICATION OF STREETS IN BERKELEY'S GREEN, PHASES 7 AND 8

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.

E. PUBLIC HEARINGS

- 1. Authorize Sale of Land to Virginia Natural Gas to Construct a Reducing Station (Continued from October 23, 1996)

Mr. Leo P. Rogers, Deputy County Attorney, stated that the property of 1.392± acres sought by Virginia Natural Gas, Inc., was located along utility easements and northwest property line of the Warhill Tract. He stated the matter was continued from the October 23, 1996, Board of Supervisors meeting to allow time for a meeting on Friday, November 8 of residents, staff and Supervisor DePue .

Staff recommended approval.

Mr. Sisk opened the public hearing.

1. Mr. Harley Stone, 143 Ruth Lane, stated concerns were noise, safety, location and odor.
2. Mr. Ralph Stone, 127 Ruth Lane, stated concerns of odor, quality of maintenance, location and the possibility that extra land being purchased would be used for another project.
3. Mr. Mark Rinaldi, representative of Virginia Natural Gas, responded to the citizens' concerns.

Mr. DePue expressed appreciation for the meeting with the residents and asked that the letter from Virginia Natural Gas dated November 12, 1996, become a part of formal record so that if agreement were broken, action could be taken by the County.

Mr. Sisk closed the public hearing.

Mr. DePue made a motion to approve the resolution.

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

RESOLUTION

SALE OF PROPERTY TO VIRGINIA NATURAL GAS, INC.

- WHEREAS, James City County has a real property interest in 527.2± acres commonly know as the Warhill Tract and designated as a portion of Parcel No. (1-12) on Real Estate Tax Map No. (32-1); and
- WHEREAS, Virginia Natural Gas, Inc., wishes to purchase a small portion, 1.392± acres, of this property for \$8,850 to install a reducing station along its utility easement; and
- WHEREAS, the Board of Supervisors, following a public hearing, is of the opinion that it is in the public interest to convey 1.392± acres to Virginia Natural Gas, Inc.
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes and directs the County Administrator, Sanford B. Wanner, to execute such deed and other documents necessary to sell the above-referenced property to Virginia Natural Gas, Inc., for \$8,850.

2. Ordinance Amendment Chapter 19B, Chesapeake Bay Preservation, Sections 19B-3, 19B-5, 19B-7 through 19B-12, 19B-14 through 19B-17

Mr. Darryl E. Cook, Development Engineer, stated that the ordinance amendment proposal would change the designation of the administrator of the Chesapeake Bay Preservation Ordinance from the Director of Code Compliance to the Manager of Development or his designee.

Mr. DePue asked staff for a discussion of enforcement guidelines for Chesapeake Bay Preservation Act used by other localities.

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

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

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



Virginia Natural Gas

5100 East Virginia Beach Blvd.
Norfolk, Virginia 23502-3488
(804) 466-5400

1505
FM
MS
A CNG COMPANY

November 12, 1996

Mr. Sanford B. Wanner
County Administrator
James City County
101-C Mounts Bay Road
Williamsburg, VA 23187

**RE: Virginia Natural Gas, Inc.
Proposed Purchase of a Portion of Warhill Tract
for a Measurement and Regulation (M & R) Station**

Dear Mr. Wanner:

Virginia Natural Gas, Inc. (VNG) proposes the purchase of approximately 1.4 ± acres of land within the Warhill tract from James City County. This acquisition request was the subject of a duly advertised public hearing before the Board of Supervisors on October 24, 1996. Upon the motion of Supervisor DePue, the case was deferred until November 12, 1996, pending an on-site meeting between VNG, Supervisor DePue and interested residents of the Camelot subdivision and pending subsequent consideration by the Board of Supervisors.

At the public hearing, it was requested that VNG reduce to writing two (2) key representations made in support of the purchase request. These issues included noise levels on the site and safety issues such as fire, explosion or injury. At a subsequent on-site meeting with Mr. DePue and several residents of the Camelot subdivision on November 8, 1996, VNG was asked to address additional issues in writing. These issues are as follows:

1. Based on acoustic modeling of the above ground facilities proposed for the Warhill M & R Station, and without consideration given to existing and proposed vegetation on the site, noise levels at the perimeter of the proposed property are expected to be below 67.5 dB (decibels) during normal working operations. Please note that existing and proposed vegetation will serve only to reduce the transmission of noise beyond the proposed property line, further reducing off-site noise levels. It should be pointed out that this station has been designed to include the use of noise baffles on the gas regulators, at an additional expense of over three thousand dollars, thus reducing the expected noise levels beyond those typically experienced.

Mr. Sanford B. Wanner
November 12, 1996
Page 2

2. As for the issue of safety, nowhere and at no time, in over 200 hundred regulators or measurements and regulation stations within the VNG system, has there ever been a fire or explosion, nor has any person, either authorized or trespassing on VNG property at one of these stations, been injured or killed. Additionally, the station is fully automated, and off-site technicians monitor the status of pipeline and station conditions twenty-four hours per day; VNG will know of an anomaly in the system immediately should one arise.
3. The proposed facilities at the M&R station on the subject property have been designed to accommodate the natural gas needs of southwestern James City County for the next 15 to 20 years. In planning for this growth, VNG has sized equipment on this station appropriately, with the tallest structure on the site being the vent stack for the heater unit which measures ten (10) inches in diameter and rises to a maximum fifteen (15) feet above grade. Should future expansion be required at this station, VNG will restrict any above ground facilities to within the fenced area, and no such future structure will exceed sixteen (16) feet in height above grade.
4. It was agreed at the on-site meeting that the location of this proposed station and the nature of the topography and existing vegetation immediately surrounding the station is such that the station will not be visible from any existing homes in the vicinity. It is currently anticipated that disturbance to vegetation to accommodate the 90' x 90' fenced area will be limited to an area roughly 150' x 150'; this figure may change slightly with final engineering design. VNG will direct the preparation of the site plan for this station such that land disturbance is kept to the minimum possible and such that the fenced area of the site will be located as far to the east and south of the property as grading and drainage requirements permit. Further, VNG reaffirms its commitment to supplement the surrounding extensive evergreen (primarily holly and pine species) and deciduous vegetation with plantings along the perimeter of the fenced area pursuant to Section 20-39 of the James City County Zoning Ordinance. These plantings will consist of Leyland Cypress (*Cupressocyparis leylandii*) along the easement frontage of the site and Wax Myrtle (*Myrica cerifera*) along the other three sides of the fenced area, with all such plantings to be installed 3 to 5 feet in height on 10 to 15 foot centers.
5. As part of the transfer of property, VNG will work with the County Attorney's office to ensure that appropriate language is included to allow the County to enjoy rights of access across, over and through the balance of the site not disturbed for the fenced station. This point was agreed to from the first discussion with Staff, and VNG reaffirms its willingness to permit County sponsored trails, paths or other passive uses within the undisbursed portions of the property proposed for purchase.

Mr. Sanford B. Wanner
November 12, 1996
Page 3

- 6. The routine operation of an M&R station does not involve the emission of natural gas into the atmosphere. It will be extremely unlikely that anyone will notice an odor emanating from this station. Residents of the Camelot subdivision and other homes in the vicinity will certainly not be able to detect an odor from their homes. VNG performs routine inspection and maintenance of all its stations and equipment therein, and as an added measure, operates a 24-hour toll free number (1-800-552-7473) for residents to use in reporting any problems with the station. Clearly, the safety record for regulator stations described above can be attributed to the diligence VNG follows in the design, construction and operation of facilities throughout the VNG system.

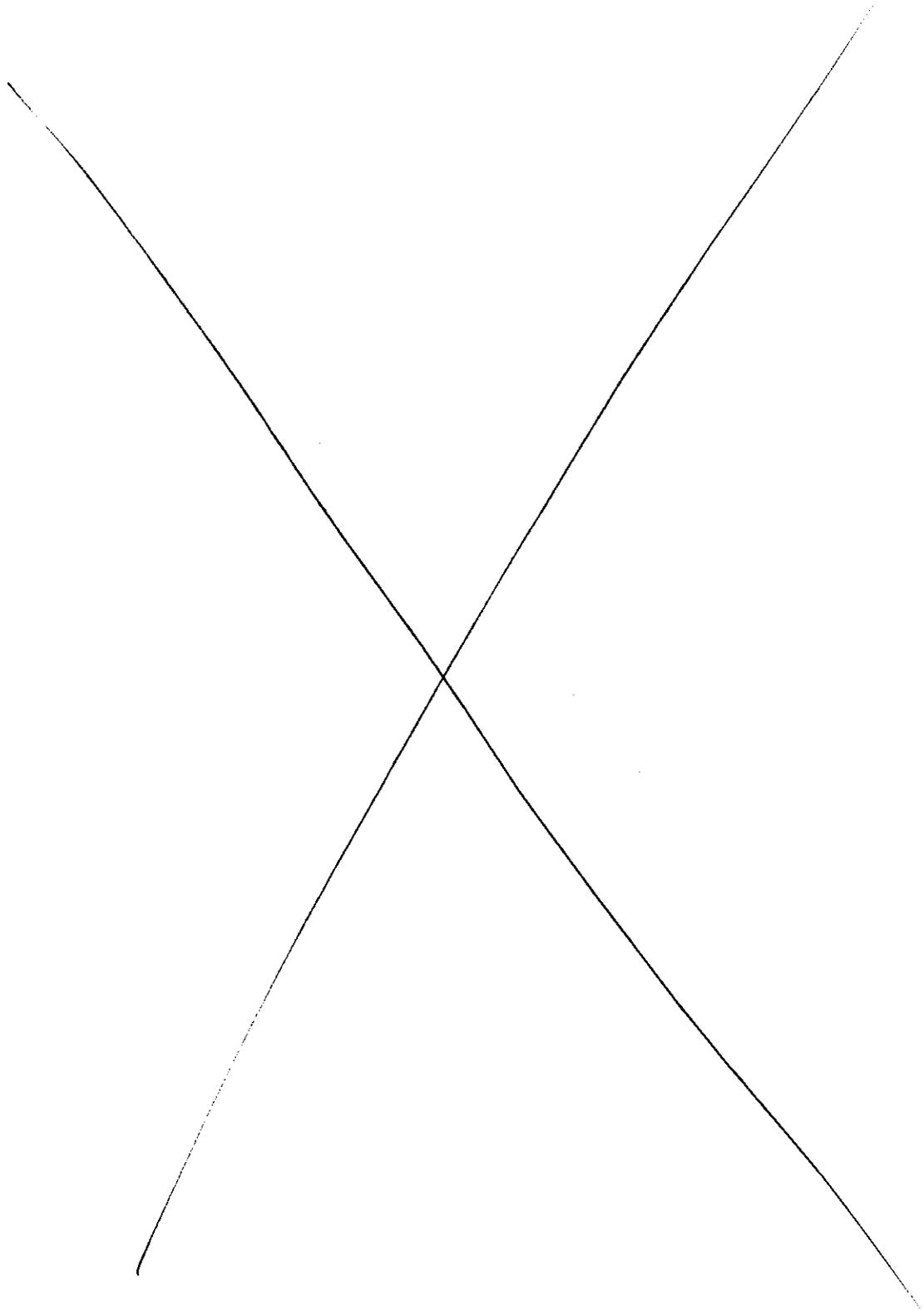
We respectfully submit these clarifications in hopes that both the Board of Supervisors and the residents of Camelot alike will be secure in the knowledge that the proposed M & R station will be a quiet and safe addition to the vicinity providing a much needed public benefit for southwestern James City County. By copy of this letter, we are making this document available to Mr. DePue and all other members of the Board of Supervisors through Ms. Marylou Smith, Clerk to the Board.

Very truly yours,



Brian S. Machamer, P.E.
Manager, Transmission & Process Control

cc: Mr. Perry M. DePue
Ms. Marylou Smith



3. Case No. SUP-22-96. Merrimac Trail Convenience Store

Mr. Gary A. Pleskac, Planner, stated that Mr. Kamal M. Helal had applied on behalf of Dare Pike Limited for a special use permit to operate a convenience store on property zoned B-1, General Business, located at 7294 Merrimac Trail, further identified as Parcel No. (8-1A) on James City County Real Estate Tax Map No. (50-2).

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

In concurrence with staff, the Planning Commission by a 7-0 vote recommended denial of the application.

Mr. Sisk opened the public hearing.

1. Captain Ayman El Sayed, Egyptian officer, spoke in favor of the application as the convenience store would be the only store in the area selling Middle Eastern food.

2. Ms. Elsie Helal, 121 Nelson Drive, asked for approval of the application so the small store could sell Middle Eastern food, vitamins, and herbs. She felt that the store would be less obtrusive than some permitted uses; explained that the store was called a convenience store only because of its size; and, the parking area would not be a gathering place for unwanted activities.

3. Ms. Nancy James, 7254 Merrimac Trail, asked for denial of the application to keep the area residential since a majority of the residents are elderly persons who have lived there many years. She further stated that the convenience store activities would impact an adjacent property owner.

Mr. Sisk closed the public hearing.

Board members emphasized the residents' concerns of traffic, noise and not needing the convenience store as reasons for denial.

Mr. Sisk made a motion to deny the application.

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

F. BOARD CONSIDERATIONS

1. Case Nos. Z-7-96 and MP-3-96. Governor's Land Master Plan Amendment (Deferred from 10/23/96)

Mr. Pleskac stated that Mr. Vernon M. Geddy, III, had applied on behalf of Governor's Land Associates to rezone two separate parcels, approximately 38 acres, from A-1, General Agricultural, to R-4, Residential Planned Community, with amended proffers, for the purpose of incorporating both parcels into the Governor's Land Planned Community for development of 12 additional single-family detached homes, Parcel No. (1-17) on James City County Real Estate Tax Map No. (44-2) and 16 acres identified as Parcel No. (1-9) on James City County Real Estate Tax Map No. (43-2).

Mr. Pleskac stated that staff concurred with the applicant's request to defer until the November 26, 1996, Board of Supervisors meeting to allow time to revise proffers to reflect that only the 22-acre parcel would be developed and the smaller parcel of 16 acres would remain undeveloped.

Without objection, Mr. Sisk deferred the cases until the November 26, 1996, Board of Supervisors' meeting to allow the applicant time to revise the proffers.

2. Tape Playback System Proposal Award

Ms. Veda McMullen, Video Services Coordinator, stated that funds were included in the FY 97 budget to purchase a digital encoding and playback system to broadcast the County's two and the City of Williamsburg's one local access channels from the Community Video Center.

She stated one response was received to the Request for Proposal, and recommended approval of the contract to Two Rivers/I Video for \$61,841.

Mr. Edwards made a motion to approve the resolution.

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

RESOLUTION

TAPE PLAYBACK SYSTEM PROPOSAL AWARD

WHEREAS, the Fiscal Year 1997 adopted budget includes funds to purchase a digital encoding and playback system to broadcast the County's two and the City's one local access channel from the new Community Video Center; and

WHEREAS, as part of the agreement with the City and Continental Cablevision to jointly fund the daily operation of the Community Video Center, the County assumes the responsibility of the programming and live broadcast of Channels 36, 38, and 5; and

WHEREAS, TWO RIVERS/IVIDEO has offered all needed hardware, software, delivery, installation, training, and maintenance to fully support this project at a cost of \$61,841; and

WHEREAS, the City of Williamsburg and Continental Cablevision have contributed \$36,000 for the system purchases and the balance of the funds have been appropriated within the Communications and Neighborhood Connections budget.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes and directs Sanford B. Wanner, County Administrator, to award and execute the contract for the tape playback system to TWO RIVERS/IVIDEO for the sum of \$61,841.

3. Transfer Control of Cable Franchise

Mr. Rogers stated that the County Code required approval of transfer of ownership or control of a cable television franchise and that a merger had been proposed between the current franchisee, Continental Cablevision, Inc., and U.S. WEST.

Staff recommended approval of the resolution.

Mr. Sisk made a motion to approve the resolution.

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

RESOLUTION**RESOLUTION OF THE COUNTY OF JAMES CITY APPROVING THE
CONTINUED OPERATION OF THE CABLE SYSTEM BY CONTINENTAL
CABLEVISION OF VIRGINIA, INC.**

- WHEREAS, Continental Cablevision of Virginia, Inc., ("Franchisee") is the duly authorized holder of a franchise (as amended to date, the "Franchise") authorizing the operation and maintenance of a cable television system and authorizing Franchisee to serve the County of James City ("Franchise Authority"); and
- WHEREAS, Franchisee is a subsidiary of Continental Cablevision, Inc., ("Parent Company"); and
- WHEREAS, the Parent Company and U.S. WEST, Inc., have entered into an Agreement and Plan of Merger dated as of February 27, 1996, whereby by Parent Company will merge with a wholly-owned subsidiary of U.S. WEST ("U.S. WEST"); and
- WHEREAS, in connection with the merger contemplated by the Agreement, the Parent Company will merge with U.S. WEST; and
- WHEREAS, Franchisee will remain in place and continue to hold the Franchise; and
- WHEREAS, to the extent the Franchise requires, Franchisee seeks authorization to continue to operate the cable system; and
- WHEREAS, Parent Company and U.S. WEST have assured the County of their commitment to provide high quality cable service at reasonable rates and to continue their commitment to provide the County with a usable fiber optic network.

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

The Franchise Authority hereby consents to the continued operation of the cable system by the Franchisee, Continental Cablevision of Virginia, Inc., through the merger of Continental Cablevision, Inc., and U.S. WEST, Inc.

G. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, stated that no buffer existed between Poplar Hall Plantation and Country Village Mobile Home Park; he was pleased to read that the School Division was searching for alternate sites for schools; and, he reiterated his proposal of a need to select a person who would serve to break a tie vote.

H. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner introduced Mr. Sowers for an update on the telecommunication towers.

Mr. Sowers stated that negotiations were continuing with the consultant to pursue development of a regional ordinance with cost shared by City of Williamsburg and York County. He anticipated the item would be brought forward at the November 26, 1996, Board of Supervisors meeting.

The Board questioned about the height alternatives, number of structures and disposal methods when towers are no longer needed.

Mr. DePue assured the citizens that no action would be taken on pending applications until the process was complete, and they would be notified of the meeting at which the action would be taken.

Mr. Wanner noted American Education Week of November 17 - 23, 1996, and invited citizens to Community Open House at Lafayette High School on November 17, 1996, from 1:00-3:00 p.m. for a tour of renovations and to a ground breaking at Rawls Byrd Elementary on Friday, November 22, 1996, from 1:00-1:30 p.m. for expansion and renovation.

Mr. Wanner acknowledged a "Last Word" article in The Virginia Gazette and read the Budget Guidance for FY 98 memorandum sent to Department heads and Constitutional Officers. He noted budget talks with citizens held on October 29, 1996, at James River Elementary; November 4, 1996, at James Blair Middle School; and last one scheduled at Norge Elementary on Thursday, November 14, 1996, at 7:00 p.m.

Mr. Wanner recommended the Board go into 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.

I. BOARD REQUESTS AND DIRECTIVES

Mr. Taylor presented a letter from Ms. Martha Ware regarding property for right-of-way. Mr. Wanner stated staff would respond to the request.

Mr. Taylor stated that many citizens had contacted him regarding the Board's taking of property from longtime residents for a school site. He expressed pleasure that the School division was searching for alternative sites.

The Board responded that difficult decisions are made with extreme caution for public responsibility and prudent use of limited funds.

Mr. DePue made a motion to go into executive session as recommended by the County Administrator, at 9:15 p.m.

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

Mr. Sisk reconvened the Board at 9:35 p.m.

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

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

RESOLUTION

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

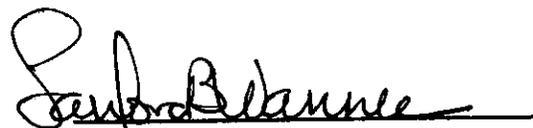
WHEREAS, Section 2.1-344.1 of the Code of Virginia requires a certification by the Board that such executive meeting was conducted in conformity with Virginia law.

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. Edwards made a motion to recess until 5:00 p.m., Tuesday, November 26, 1996, for a work session.

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

The Board recessed at 9:45 p.m.



Sanford B. Wanner
Clerk to the Board

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ORDINANCE NO. 183A-1

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 19B, CHESAPEAKE BAY PRESERVATION, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING SECTION 19B-3, DEFINITIONS; SECTION 19B-5, PERMITTED USES; SECTION 19B-7, REQUIRED CONDITIONS; SECTION 19B-8, DETERMINING RESOURCE PROTECTION AREA BOUNDARIES; SECTION 19B-9, PERFORMANCE STANDARDS; SECTION 19B-10, PLAN OF DEVELOPMENT; SECTION 19B-11, WATER QUALITY IMPACT ASSESSMENT; SECTION 19B-12, WAIVERS; SECTION 19B-14, EXCEPTIONS; SECTION 19B-15, APPLICATIONS FOR WAIVERS OR EXCEPTIONS; SECTION 19B-16, GRANTING WAIVERS OR EXCEPTIONS; AND SECTION 19B-17, APPEALS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 19B, Chesapeake Bay Preservation is hereby amended and reordained by amending Section 19B-3, Definitions; Section 19B-5, Permitted uses; Section 19B-7, Required conditions; Section 19B-8, Determining resource protection area boundaries; Section 19B-9, Performance standards; Section 19B-10, Plan of development; Section 19B-11, Water quality impact assessment; Section 19B-12, Waivers; Section 19B-14, Exceptions; Section 19B-15, Applications for waivers or exceptions; Section 19B-16, Granting waivers or exceptions; and Section 19B-17, appeals.

Chapter 19B. Chesapeake Bay Preservation

Sec. 19B-3. Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings ascribed below:

Manager means the Manager of Development Management or his designee.

Sec. 19B-5. Permitted uses.

Permitted uses, special permit uses, accessory uses and special requirements shall be as established by the zoning district for that lot, parcel or acreage as specified in Chapter 20 of this Code, unless specifically modified by the requirements set forth herein. All land-disturbing activities shall be prohibited on slopes of ~~twenty-five (25)~~ percent or greater unless permitted in other sections of this chapter and determined by the ~~director of code compliance~~ *manager* to be consistent with the intent of this chapter.

Sec. 19B-7. Required conditions.

(c) A water quality impact assessment shall be required for any proposed development or redevelopment within RPAs and for any other development within RMAs when required by the ~~director of code compliance~~ *manager* because of the unique characteristics of the site or intensity of development or potential impacts on water quality or RPAS.

Sec. 19B-8. Determining resource protection area boundaries.

The CBPA map shall be used as a guide to the general location of RPAS. Site-specific boundaries of the RPA shall be determined by the applicant through the performance of an environmental inventory. Site-specific boundaries determined by the applicant shall be reviewed and approved by the ~~director of code compliance~~ *manager*.

Sec. 19B-9. Performance standards.

(b) *General performance standards:*

- (1) Land disturbance shall be limited to the area necessary to provide for the desired use or development.
 - a. In accordance with an approved plan of development, the limits of clearing and/or grading shall be clearly defined. These limits shall be clearly shown on submitted plans and physically marked on the development site in accordance with subsection (2)b. below.
 - b. Impervious cover shall not exceed ~~sixty (60)~~ percent of the site.
 - c. Ingress and egress during construction shall be limited to one (~~+~~) access point, unless otherwise approved by the ~~director of code compliance~~ *manager*.

Ordinance to Amend and Reordain
Chapter 19B. Chesapeake Bay Preservation
Page 4

- (7) For any development or redevelopment, stormwater runoff shall be controlled by the use of BMPs that achieve the following:
- b. For redevelopment sites, the nonpoint source pollution load shall be reduced by at least ten (10) percent. The ~~director of code compliance~~ *manager* may waive or modify this requirement for redevelopment sites that originally incorporated best management practices for stormwater runoff quality control, provided the following provisions are satisfied:
1. In no case may the post-development nonpoint source pollution runoff load exceed the predevelopment runoff load;
 2. If BMPs are structural, evidence shall be provided that facilities are currently in good working order and performing at the design levels of service. The ~~director of code compliance~~ *manager* may require a review of both the original structural design and maintenance plans to verify this provision. A new maintenance agreement may be required to ensure compliance with this chapter:
- (8) Prior to initiating grading or other on-site activities on any portion of a lot or parcel, all wetlands permits required by federal, state and county laws and regulations shall be obtained and evidence of such submitted to the ~~director of code compliance~~ *manager*; and
- (c) *Buffer area requirements.* To minimize the adverse effects of human activities on the other components of RPAS, state waters and aquatic life, a 100-foot buffer area of vegetation that is effective in retarding runoff, preventing erosion and filtering nonpoint source pollution from runoff shall be retained if present and established

during development where it does not exist. A buffer area not less than ~~one hundred (100)~~ feet in width shall be located adjacent to and landward of other RPA components and along both sides of any tributary stream. The full buffer area shall be designated as the landward component of the RPA. The ~~one hundred (100)~~ foot buffer area shall be deemed to achieve a ~~seventy-five (75)~~ percent reduction of sediments and a ~~forty (40)~~ percent reduction of nutrients. A combination of a buffer area not less than ~~fifty (50)~~ feet in width and appropriate BMPs located landward of the buffer area which collectively achieve water quality protection, pollutant removal, and water resource conservation at least the equivalent of the ~~one hundred (100)~~ foot buffer area may be employed in lieu of the 100-foot buffer if approved by the ~~director of code compliance~~ *manager*. All subdivision plats submitted for approval after August 6, 1990, shall clearly identify the boundaries of any RPA within the property. Such plat shall contain a statement that all existing vegetation within the RPA shall remain in its undisturbed natural state, except for vegetation weakened by age, storm, fire or other natural cause. Developers shall install signs identifying the landward limit of the RPA. Signs shall be obtained, installed and maintained in accordance with guidelines established by the ~~director of code compliance~~ *manager*. The following additional performance criteria shall apply:

- (1) In order to maintain the functional value of the buffer area, indigenous vegetation may be removed only to provide for reasonable sight lines, access paths, general wood lot management and BMPS, as follows:
 - a. Trees may be pruned or removed as necessary to provide for sight lines and vistas; provided, that where removed they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion and filtering nonpoint source pollution from runoff. Any removal of existing vegetation shall require approval following review of the plan of development;
 - b. Access paths shall be constructed and surfaced so as to effectively control erosion;

Ordinance to Amend and Reordain
Chapter 19B. Chesapeake Bay Preservation
Page 6

- c. Dead, diseased, or dying trees or shrubbery may be removed at the discretion of the landowner, based upon the approval of the ~~director of code compliance~~ *manager*, who may require a recommendation by a professional forester or arborist; and
- d. For shoreline erosion-control projects, trees and woody vegetation may be removed, necessary control techniques employed and appropriate vegetation established to protect or stabilize the shoreline in accordance with the best available technical advice and applicable permit conditions or requirements.

Sec. 19B-10. Plan of development.

Any development or redevelopment exceeding ~~two thousand five hundred (2,500)~~ square feet of land disturbance in the CBPA shall be accomplished through a plan of development process prior to any clearing or grading of the site or the issuance of any building permit unless the ~~director of code compliance~~ *manager* determines that due to the scope and nature of the proposed development certain of the required information is unnecessary. Administration of the plan of development process shall be in accordance with chapter 20 of this Code for site plans and chapter 17 of this Code for subdivision plans. The following plans or studies shall be submitted, unless otherwise provided for:

- (1) *Site and subdivision plans.* Site plans in accordance with the provisions of chapter 20 of this Code or subdivision plans in accordance with chapter 17 of this Code;

Ordinance to Amend and Reordain
Chapter 19B. Chesapeake Bay Preservation
Page 7

- (2) *Environmental inventory.* An environmental inventory shall be submitted in conjunction with preliminary site plan or preliminary subdivision plan approval applications. This requirement may be waived by the ~~director of code compliance~~ *manager* when the proposed use or development would result in less than ~~five thousand (5,000)~~ square feet of disturbed area. For existing single-family lots in a RPA, showing items a. i. through 4. below on the plat plan normally required as part of the building permit application shall satisfy the requirements for an environmental inventory. An environmental inventory is not required for existing single-family lots in the RMA.
- (4) *Stormwater management plan.* A stormwater management plan shall be submitted as part of the plan of development process required by this chapter and in conjunction with site plan or subdivision plan preliminary approval. A stormwater management plan is not required for existing single family lots.

To control stormwater runoff structural BMPs shall be required for site plans with impervious cover exceeding ten ~~(10)~~ percent of site area and for subdivisions with more than one-half dwelling unit per acre. Single-family subdivisions of five ~~(5)~~ lots or less shall not be subject to this requirement. Any contiguous property owned by the same subdivider, or deemed by the ~~director of code compliance~~ *manager* as a logical part of a contiguous subdivision, cannot be subdivided into greater than five ~~(5)~~ lots without complying with the requirements of this chapter. BMPs shall be designed and constructed in accordance with guidelines established by the ~~director of code compliance~~ *manager*.

Performance assurances shall be provided that all BMPs required in plans of development shall be constructed to comply with the performance criteria set forth therein. The form of agreement and type of bond, letter of credit or other security shall be to the satisfaction of and approved by the county

attorney. The amount of bond, letter of credit or other security and designated length of completion time shall be set by the ~~director of code compliance~~ *manager* or his authorized designee.

Sec. 19B-11. Water quality impact assessment.

A water quality impact assessment shall be required for any proposed development or redevelopment with RPAs and for development or redevelopment in RMA, when required by the ~~director of code compliance~~ *manager*, because of the unique characteristics of the site or intensity of the proposed development or redevelopment or potential impact on water quality or RPAs. A water quality impact assessment shall identify impacts of proposed development on water quality and land in RPAs and recommended measures for mitigation of these impacts. Water quality impact assessments shall address NSP components set forth in Section 19B-3 of this chapter and shall follow guidelines established by the ~~director of code compliance~~ *manager*. Development or redevelopment within an RMA shall not require a water quality impact assessment when impervious cover is less than ~~forty~~ (40) percent of the total site area.

Sec. 19B-12. Waivers.

It is not the intent of this chapter to prevent beneficial use or minor modification or alteration of structures legally existing prior to adoption of this chapter, or to prevent the practical use of lots or structures existing prior to adoption of this chapter whose proximity to a RPA leaves insufficient area suitable for building outside the RPA, or which lacks soil suitable for reserve or alternate drainfields, or which contains other factors which make

Ordinance to Amend and Reordain
Chapter 19B. Chesapeake Bay Preservation
Page 9

the property practically unusable upon application of the requirements of this chapter. Waivers to all or part of this chapter may be granted by the ~~director of code compliance~~ *manager* to allow the beneficial use of property; provided that:

- (1) Waivers granted shall be the minimum necessary to provide for buildable area or practical beneficial use;
- (2) Facilities, to the extent practical, which are not water dependent shall be located outside of a RPA;
- (3) Waivers granted shall cause no increase in nonpoint source pollution load;
- (4) Land disturbances in excess of ~~two thousand five hundred (2,500)~~ square feet shall comply with chapter 5A of this Code; and
- (5) The application for waiver is made pursuant to Section 19B-15.

Sec. 19B-14. Exceptions.

(a) Exceptions to the requirements of this chapter may be granted by the ~~director of code compliance~~ *manager*; provided that exceptions to the requirements shall be the minimum necessary to afford relief and reasonable and appropriate conditions upon any exception granted shall be imposed as necessary so that the purpose and intent of the Act is preserved.

Ordinance to Amend and Reordain
Chapter 19B. Chesapeake Bay Preservation
Page 10

(b) Exceptions from these requirements may be granted for the following land disturbances in RPAS: water wells; passive recreational facilities, such as boardwalks, trails, and pathways; and, historic preservation and archaeological activities; provided, that it is demonstrated to the satisfaction of the ~~director of code compliance~~ *manager* that:

- (1) Any required permits, except those to which this exception specifically applies, shall have been issued;
- (2) Sufficient and reasonable proof is submitted that the intended use will not deteriorate water quality; and
- (3) The intended use does not conflict with nearby planned or approved uses.

Sec. 19B-15. Applications for waivers or exceptions.

Applications for waivers or exceptions shall be made in writing to the ~~director of code compliance~~ *manager* and shall include the following:

- (1) Name and address of applicant and property owner;
- (2) Legal description of the property and type of proposed use and development;
- (3) A sketch of the dimensions of the lot or parcel, location of buildings and proposed additions relative to the lot lines, the RPA, slopes greater than ~~twenty-five (25)~~ percent and all wetlands; and

Ordinance to Amend and Reordain
Chapter 19B. Chesapeake Bay Preservation
Page 11

- (4) Location and description of any existing private water supply or sewage system.

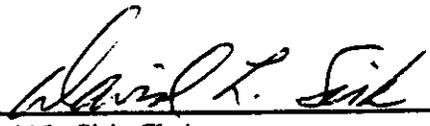
Sec. 19B-16. Granting waivers or exceptions.

The director of code compliance *manager* may grant waivers or exceptions as set forth herein. When reviewing applications, the director *manager* will consider written comments from the county engineer, the director of planning and other interested parties. Waivers or exceptions granted will become null and void if building foundations are not completed within twelve (12) months.

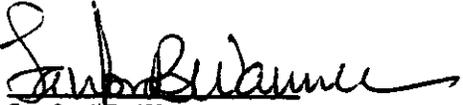
Sec. 19B-17. Appeals.

(a) An owner of property subject to an administrative decision, order or requirement under this chapter may appeal by submitting a written application for review to the wetlands board ("board") no later than thirty (30) days from the rendering of such decision, order or requirement. The board shall hear the appeal as soon as practical after receipt of the application. The appellant, the board of supervisors, the director of code compliance *manager*, the planning director and any person or agency expressing an interest in the matter shall be notified by the board not less than ten (10) days prior to the date of the hearing. Published notice of the board's public meetings shall state that appeals from decision under the Chesapeake Bay Preservation Ordinance may be heard.

Ordinance to Amend and Reordain
Chapter 19B. Chesapeake Bay Preservation
Page 12


David L. Sisk, Chairman
Board of Supervisors

ATTEST:


Sanford B. Wanner
Clerk to the Board

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

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of November, 1996.

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