

**AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 12TH DAY OF JANUARY, 1999, AT 1:39 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.**

**A. ROLL CALL**

Jack D. Edwards, Chairman, Berkeley District  
David L. Sisk, Vice Chairman, Roberts District

John J. McGlennon, Jamestown District  
Ronald A. Nervitt, Powhatan District  
M. Anderson Bradshaw, Stonehouse District  
Sanford B. Wanner, County Administrator  
Frank M. Morton, III, County Attorney

**B. EXECUTIVE SESSION**

Mr. Edwards called the meeting to order.

Mr. Edwards made a motion to convene into executive session pursuant to Section 2.1-344(A)(1) to consider personnel matters, appointments and Section 2.1-344(A)(3) to consider acquisition of a parcel of property for public use.

On a roll call, the vote was: AYE: Sisk, McGlennon, Bradshaw, Nervitt, Edwards (5). NAY: (0).

Mr. Edwards reconvened the Board into open session at 2:59 p.m.

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

On a roll call, the vote was: Sisk, McGlennon, Bradshaw, Nervitt, Edwards (5). 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 were heard, discussed or considered by the Board as were identified in the motion, Section 2.1-344(A)(1), appointment of individuals to County boards and/or commissions and Section 2.1-344(A)(3) acquisition of a parcel of property for public use.

Mr. Edwards made a motion to recess the Board for a James City County Transit meeting at 3:16 p.m.

On a roll call, the vote was: AYE: Sisk, McGlennon, Bradshaw, Nervitt, Edwards(5). NAY: (0).

Mr. Edwards reconvened the Board at 3:18 p.m.

Mr. Edwards declared a recess until 7:00 p.m., January 12, 1999, at 3:18 p.m.

### **C. ORGANIZATIONAL MEETING**

Mr. Edwards reconvened the Board into open session at 7:02 p.m.

Mr. Edwards asked the audience to stand for recitation of the Pledge of Allegiance.

Mr. Edwards asked for nominations for Chairman for 1999.

Mr. Bradshaw made a motion to elect Mr. Edwards as Chairman for 1999.

On a roll call, the vote was: AYE: Nervitt, Sisk, McGlennon, Bradshaw, Edwards(5). NAY: (0).

Mr. Edwards asked for nominations for Vice-Chairman.

Mr. McGlennon made a motion to elect Mr. Sisk as Vice-Chairman.

On a roll call, the vote was: AYE: Nervitt, Sisk, McGlennon, Bradshaw, Edwards(5). NAY: (0).

Mr. Edwards asked for nomination for James City County Transit Company President.

Mr. Sisk made a motion to elect Mr. Edwards as Transit President.

On a roll call, the vote was: Nervitt, Sisk, McGlennon, Bradshaw, Edwards(5). NAY: (0).

Mr. Sanford B. Wanner, County Administrator, read the Board appointments to Boards and/or Commissions:

Williamsburg Chamber of Commerce  
Community Action Agency

Sisk  
Nervitt/Katherine Cheves  
Sisk/John O'Hare  
Edwards/Tony Conyers  
Bradshaw/Edwards

Courthouse Committee

Hampton Roads Planning District Commission	Edwards
Williamsburg Area Medical Assistance Corp.	Bradshaw
Regional Issues	Nervitt
Safe and Drug-Free Schools and Communities Committee	Sisk
School Liaison Subcommittee	Edwards/McGlennon
Peninsula Alliance for Economic Development	Edwards
Historical Commission	McGlennon
Local Emergency Preparedness	Nervitt
Farmers Advisory Committee	Bradshaw
Joint Sanitary District # 1 Board	McGlennon/Sisk
Industrial Development Authority Liaison	Nervitt
Community Services Coalition	Nervitt
Parks and Recreation Advisory Commission	Unassigned
Virginia Peninsula Regional Jail Authority	McGlennon

Mr. Sisk made a motion to approve the appointments of Board members to Boards and Commissions.

On a roll call, the vote was: AYE: Nervitt, Sisk, McGlennon, Bradshaw, Edwards(5). NAY: (0).

Mr. Bradshaw made a motion to approve the Organizational resolution and Board calendar for 1999.

On a roll call, the vote was: AYE: Nervitt, Sisk, McGlennon, Bradshaw, Edwards(5). NAY: (0).

## RESOLUTION

### ORGANIZATIONAL MEETING OF THE BOARD OF SUPERVISORS

WHEREAS, the Board of Supervisors of James City County, Virginia, is required by State law to organize at the first meeting in January.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the following rules shall apply for the year 1999.

1. Regular meetings of the Board shall be held as shown on the attached 1999 calendar, in the Board Room of the James City County Government Center. The meeting time shall be 7:00 p.m.

Work session meetings of the Board shall be held at 2:00 p.m., Wednesday following the second regular meeting in the Board Room of the James City County Government Center.

2. The Board shall for parliamentary purposes follow Robert's Rules of Order and more specifically those provisions which pertain to the conduct of Business in Boards, Newly Revised, 1981 at p. 404 as follows; provided, however, the Board may amend by Resolution the Rules as it deems appropriate.

Procedure in Small Boards: In a board meeting where there are not more than about a dozen members present, some of the formality that is necessary in a large

assembly would hinder business. The rules governing such meetings are different from the rules that hold in assemblies, in the following respects:

Members are not required to obtain the floor before making motions or speaking, which they can do while seated.

Motions need not be seconded.

There is no limit to the number of times a member can speak to a question, and motions to close or limit debate generally should not be entertained.

Informal discussion of a subject is permitted while no motion is pending.

The Chairman can speak in discussion without rising or leaving the chair; and, subject to rule or custom within the particular board (which should be uniformly followed regardless of how many members are present), he usually can make motions and usually votes on all questions.

3. In addition, the Board agrees to the following:

A motion to rescind shall not be in order in a land use decision involving a rezoning or a special use permit. A motion to reconsider such a decision must be made at the same meeting the decision is made by the Board.

Should it be necessary to cancel an advertised Board of Supervisors meeting due to weather or other conditions, the meeting shall be continued forty-eight hours to the same time and place.

#### **D. PRESENTATION**

Mr. William C. Porter, Jr., Assistant County Administrator, gave an update on the pickup of debris from the December 24, 1998, ice storm. He thanked the jurisdictions of Hampton, Poquoson, and Newport News for supplying equipment and workers, and all citizens who were helping in the enormous task. Mr. Porter stated that the project would continue for several weeks because of the immense amount of debris.

Mr. McGlennon asked staff to prepare slides with information on the debris pickup for broadcast on the Government Access Channel.

#### **E. PUBLIC COMMENT**

1. Ms. Ingrid Jahn, 118 Dover Road, asked if the debris might be cleared by a shredder that would take larger pieces as elderly neighbors have no equipment nor the strength to cut the fallen trees into desired length for pick up by the trucks.

2. Mr. Arthur Hilstrom, 3724 Brick Bat Road, spoke in opposition to further residential growth because of inadequate water supply and increased traffic.

3. Mr. Kingston Fairclough, 4 Peale Court, spoke in opposition to any ordinance restricting the flying of American flags and their size. He voiced a complaint about Cox Communications and expressed the need for cable television competition in the County.

4. Mr. Tom Austin, 172 Red Oak Landing, asked that Red Oak Landing be considered for paving in the upcoming budget.

**F. CONSENT CALENDAR**

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

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

On a roll call, the vote was: AYE: Nervitt, Sisk, McGlennon, Bradshaw, Edwards(5). NAY: (0).

- 1. Minutes of December 22, 1998, Regular Meeting
- 2. Additional Fields at the Seventh Elementary School

**RESOLUTION**

**ADDITIONAL FIELDS AT**

**THE SEVENTH ELEMENTARY SCHOOL**

WHEREAS, the Williamsburg/James City County School Board received bids for the seventh elementary school; and

WHEREAS, the bid includes an alternate in the amount of \$82,910 to complete additional site work for one more youth baseball/softball field and one soccer field; and

WHEREAS, it is cost effective to complete the additional site work.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the completion of the site work for two additional sports fields as part of the seventh elementary school project.

- 3. Declaration of Local Emergency

**RESOLUTION**

**LOCAL EMERGENCY**

WHEREAS, the Board of Supervisors of the County of James City, Virginia, does hereby find that on December 24, 1998, James City County faced potential property damage and threats to life and safety of its citizens due to an ice storm; and

WHEREAS, James City County opened a shelter for the evacuation of persons within the County.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, confirms the declaration of an emergency on December 24, 1998, by the James City County Deputy Director of Emergency Services.

**G. PUBLIC HEARINGS**

1. PreBudget

Ms. Carol Davis, Assistant Manager of Financial and Management Services, briefly outlined the upcoming budget schedule and invited public comment on the budget for citizen guidance in preparation of the budget.

Mr. Edwards opened the public hearing.

1. Mr. Ed Oyer, 139 Indian Circle, stated the County should have a communication plan and the necessary equipment/facilities to respond to emergencies when they happen.

Mr. Edwards closed the public hearing.

Mr. Nervitt asked staff to advertise in the newspaper that citizens can telephone or send electronic mail, facsimile, or letter with comments on the FY 2000 budget.

2. Case No. AFD-12-86. Gospel Spreading Church/Powell Addition

Ms. Jill E. Schmidle, Planner, stated that Mr. Jay Garrett, on behalf of Dr. Stanley H. and Mrs. Mavis Powell, had applied for addition to the Gospel Spreading Church Agricultural and Forestal District, of 26.46 acres, zoned R-2, General Residential, located at 2247 Lake Powell Road, further identified as Parcel No. (1-33) on James City County Real Estate Tax Map No. (47-4).

In concurrence with staff, the Agricultural and Forestal District Advisory Board by a 5-0 vote, and the Planning Commission by a 6-0 vote, recommended approval of the application.

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

Mr. McGlennon made a motion to approve the ordinance.

On a roll call, the vote was: AYE: Nervitt, Sisk, McGlennon, Bradshaw, Edwards (5). NAY: (0).

3. Case No. MP-5-98. Warhill Tract Master Plan Amendment

Ms. Tamara Rosario, Senior Planner, stated that Mr. Vernon M. Geddy, III, on behalf of TMB Service Corporation, had applied for a Master Plan amendment for the Warhill Tract, 67.72 acres, zoned PUD-C, Planned Unit Development - Commercial, located at the corner of Centerville Road and Richmond Road, further identified as Parcel No. (1-13) on James City County Real Estate Tax Map No. (32-1).

Ms. Rosario stated the main amendment to the proffers was to the use limitations, changing retail from 150,000 square feet to 225,000 square feet and other uses to 150,000 square feet from 360,000 square feet, for a total of 375,000 square feet.

Staff determined the proposal was consistent with surrounding properties and uses, and with the Comprehensive Plan.

In concurrence with staff, the Planning Commission by a 5-0 vote recommended approval of the Master Plan amendment.

Board and staff discussed whether easement roadway connected District Park to this property; additional buffers to 150 feet on Centerville Road and around Mt. Zion Baptist Church and cemetery; more parking needed for less square footage; more traffic generated by retail business; and would applicant be interested in Research and Development uses.

Mr. Edwards opened the public hearing.

1. Vernon Geddy, III, Esq., stated that the applicant was interested in 150,000 square feet of retail use and architecture and landscaping would be subject to review by the County.

Mr. Nervitt stated that an architectural rendering of what might be constructed would be helpful; structures should not be visible from Centerville Road or the Route 199 overpass; and inform applicant of the Research and Development ordinance.

2. Mr. Kingston Fairclough, spoke in favor of professional renderings and asked about the traffic impact on Centerville Road and Route 60.

Mr. Edwards closed the public hearing.

Board members discussed professional renderings would be required at the site plan review; the request was an amendment to an existing Master Plan and consistent with current regulations and not a request for rezoning or special use permit; and marketing property for Research and Development would minimize traffic.

Mr. Bradshaw made a motion to approve the resolution.

Mr. Nervitt made a motion to defer until the February 9, 1999, Board of Supervisors meeting to allow applicant time to be informed regarding the Research and Development zoning, and consider additional buffering around church and cemetery and along roadways.

On a roll call, the vote was: AYE: Nervitt, Sisk, McGlennon, Edwards (4). NAY: Bradshaw (1).

4. Alabama Company Property Adjacent to Ware Creek Reservoir

Mr. Andrew H. Herrick, Assistant County Attorney, stated that Alabama Company had requested that the County convey a 0.323-acre landlocked strip to reunite Alabama Company's two parcels. He further stated that the assessed per-acre value was \$3,600, the purchase price to original owners during disposition of Ware Creek Reservoir properties in 1995.

Staff recommended approval of the resolution.

Board and staff discussion followed regarding purchase the surrounding property rather than sale of 0.323 acre.

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

Mr. Sisk made a motion to approve the resolution.

On a roll call, the vote was: AYE: Nervitt, Sisk, McGlennon, Bradshaw, Edwards (5). NAY: (0).

## RESOLUTION

### SALE OF PROPERTY TO THE ALABAMA COMPANY

WHEREAS, in 1986, James City County acquired a certain 33.37-acre parcel from the Alabama Company for construction of the proposed Ware Creek Reservoir; and

WHEREAS, the Alabama Company now wishes to repurchase a 0.323-acre strip of land to reunite two of its existing parcels; and

WHEREAS, the Alabama Company has offered to pay \$1,162.80 for said 0.323-acre parcel; and

WHEREAS, the Board of Supervisors, following a public hearing, is of the opinion the County should convey such property to the Alabama Company, its successors, or assigns for the agreed-upon price.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes and directs Sanford B. Wanner, County Administrator, to execute a deed and any other document needed to convey the above-referenced property to the Alabama Company, its successors, or assigns for \$1,162.80.

#### 5. Sale of Strawberry Plains Road Property (formerly Farmer's Market)

Mr. William C. Porter, Assistant County Administrator, stated that the Board endorsed the staff and Industrial Development Authority's plan to sell the property located at 3701 Strawberry Plains Road (formerly Farmer's Market). He further stated that one written bid was received in response to the advertised bid.

Mr. Porter stated that the Declaration of Covenants and Restrictions agreement and sale had been authorized by the Industrial Development Authority.

Staff recommended approval of the Declaration of Covenants and Restrictions and the resolution that would release the reverter clause.

Mr. Edwards opened the public hearing.

1. Mr. Ed Oyer, 139 Indian Circle, spoke in favor of sale of the Farmer's Market.

Mr. Edwards closed the public hearing.

Mr. Sisk made a motion to approve the resolution.

On a roll call, the vote was: AYE: Nervitt, Sisk, McGlennon, Bradshaw, Edwards (5). NAY: (0).

**RESOLUTION**

**TO CONVEY REVERSIONARY INTEREST TO IDA AND**

**RECORD DECLARATION OF COVENANTS**

**WHEREAS,** in 1987 the County retained a reverter when it conveyed the real property commonly known as 3701 Strawberry Plains Road (the "Property") to the Industrial Development Authority; and

**WHEREAS,** the County no longer desires to require that Property be used as a farmer's market; and

**WHEREAS,** by releasing the County's reversionary interest and recording a declarations of covenants the County will assist the Industrial Development Authority in marketing the Property for economic development.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to execute a deed and such other documents as may be necessary to release, transfer and otherwise convey the County's reversionary interest in the real property commonly known as 3701 Strawberry Plains Road.

**BE IT FURTHER RESOLVED** that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to execute and record a declaration of covenants to mutually bind and restrict the future use and development of the County owned property on the eastern side of State Route 199, designated as Parcel No. (1-38) on James City County Real Estate Tax Map No. (38-4) and the adjoining IDA owned property at 3701 Strawberry Plains Road.

**6. New Town Community Development Authority and Tax District**

Mr. Leo Rogers, Deputy County Attorney, stated that the Board of Supervisors adopted a resolution creating New Town Community Development Authority (New Town CDA) and Tax District on December 22, 1997. He further stated that petitioners sought deletion of a portion of Paragraph No. 4, deleting the imposition of the Supplemental Assessment of \$23,000 per acre for land sold to government entities and not-for-profit organizations which would be exempt from annual real estate taxes. The proposed Paragraph No. 4 would eliminate the Supplemental Assessment and would provide that the Petitioners, New Town CDA and County would later agree to an amount and methodology for imposing a special assessment on real property in the New Town CDA Tax District.

Staff recommended approval of the resolution.

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

Mr. Bradshaw made a motion to approve the resolution.

On a roll call, the vote was: AYE: Nervitt, Sisk, McGlennon, Bradshaw, Edwards (5). NAY: (0).

**AMENDED, RESTATED AND READOPTED RESOLUTION****CREATION OF THE NEW TOWN COMMUNITY DEVELOPMENT AUTHORITY AND****THE NEW TOWN COMMUNITY DEVELOPMENT AUTHORITY TAX DISTRICT**

- WHEREAS,** the Board of Supervisors of James City County, Virginia, ("County Board") has received a petition ("Petition") requesting the creation of the New Town Community Development Authority ("Authority") and the New Town Community Development Authority Tax District ("District") pursuant to Virginia Code Section 15.2-5152 et seq. from landowners representing at least fifty-one percent of the acreage of all the land within the boundaries of the proposed District ("Petitioners"); and
- WHEREAS,** the Petition complies with the requirements of Virginia Code Section 15.2-5154 et seq.; and
- WHEREAS,** notice has been given pursuant to Virginia Code Section 15.2-5156, by publication for three successive weeks in a newspaper of general circulation in James City County; a public hearing was held on the question of the adoption or approval of the resolution creating the Authority and the District, a copy of this resolution was delivered to the Petitioners, and written waivers of their right to withdraw their signatures from the Petition have been received from all Petitioners in accordance with Virginia Code Section 15.2-5156; and
- WHEREAS,** the County has approved a rezoning of the land of C. C. Casey Limited Company ("Casey"), one of the Petitioners, within the District from M-1, Limited Business/Industrial, to MU, Mixed Use, with proffers and from M- 1, Limited Business/Industrial, and R-8, Rural Residential, to R-8, Rural Residential, with proffers, and in conjunction therewith has approved Master Plans for the development of the land within the District (the "Master Plans"); and
- WHEREAS,** the development of the Property generally in accordance with the above-described Master Plans, as amended from time to time, will benefit the County in a number of ways as set forth herein; and
- WHEREAS,** the Petitioners and the County desire to provide for the orderly and appropriate development of the Property in a comprehensive and coordinated way generally in accordance with the Master Plans described above, as the same may be amended from time to time, so that the desired balance between neo-traditional urban/village design, land development, transportation, public improvements, and economic considerations can be maintained; and
- WHEREAS,** the Petitioners and the County have determined that a community development authority has the greatest opportunity for providing for the desired coordination and balanced development of the Property; and
- WHEREAS,** the Petitioners wish to join with the County to forge an important public-private partnership designed to implement a carefully balanced plan for the development of the Property; and
- WHEREAS,** the proposed improvements to be financed and constructed by the Authority would be in accordance with the County's Comprehensive Land Use Plan for the development of the land within the District and would promote development of the land within the District in a neo-traditional urban/village design avoiding many of the issues with traditional suburban development and would promote economic development by creating new construction jobs

and increasing the real estate tax rolls. In addition, the proposed improvements will provide services adequate to support the neo-traditional urban/village development, including the business development therein, envisioned by the County's Comprehensive Plan for this area and will allow the Property to be developed in a more orderly manner than would be possible with traditional financing methods; and

**WHEREAS,** the proposed transportation improvements would substantially improve traffic movement through the land within the District years earlier than otherwise possible and improve transportation access for County residents; and

**WHEREAS,** the proposed commercial development in the District would maintain the appropriate balance between desirable growth and economic development; and

**WHEREAS,** the creation of new stormwater management facilities and the widening of certain floodplain channels contribute to the health, welfare and safety of residents of the County and contribute to the protection of the environment; and

**WHEREAS,** the proposed improvements will result in increases in the County's tax base, which benefit all residents in the County; and

**WHEREAS,** the improvement of civic spaces within the Property will benefit all residents in the County; and

**WHEREAS,** the development of the Property as envisioned by the aforementioned Master Plans, as amended, will create a town center for the County enhancing the civic and economic vitality of the County; and

**WHEREAS,** the creation of the proposed district is in the best interests of the residents and owners of the property within the District and in furtherance of the public health, safety and general welfare.

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

1. Creates the New Town Community Development Authority and the New Town Community Development Authority Tax District pursuant to Virginia Code Section 15.2-5152 et. seq., and approves the Articles of Incorporation of the Authority attached hereto as Exhibit D. The District includes the Tax Map Parcels listed on Attachment A- 1 and the boundaries of the District are shown on Attachment A-2. The Authority is and shall be a body politic and corporate.
2. Declares that the purpose of the Authority is to finance and construct certain infrastructure and public improvements, including, public sewers; stormwater management ponds and facilities; public floodplain channels; water lines; and public road improvements (roads, sidewalks and related facilities); and improvements to civic spaces (the civic green and the civic square) and a trail system. A specific list of the facilities and improvements which may be provided by the Authority is attached as Exhibit C. The Authority will not finance or construct any other facilities or improvements without the prior approval of the County Board. The Petitioners shall cooperate in granting each other the necessary easements in mutually agreeable locations to provide access to the facilities and improvements

constructed by the Authority. It is anticipated that the Authority will not own or maintain facilities or improvements on a long-term basis other than stormwater management ponds and facilities, civic spaces, and a trail system and shall convey all other facilities and improvements to the appropriate public entity within a reasonable time after their completion. The Authority anticipates owning stormwater management ponds and facilities, civic spaces, and a trail system only if such improvements are financed with the proceeds of tax-exempt bonds and in that case only while such bonds are outstanding. The Authority shall not provide services which are provided by, or are obligated to be provided by, any authority already in existence whose charter requires or permits service within the District, unless the existing authority first certifies to the County Board that the services provided by the Authority will not have a negative impact on the existing authority's operational or financial condition.

3. Provides that the board of the Authority ("Authority Board") be structured and appointed as follows. The Authority Board shall consist of five members. Two members shall be appointed by the County Board without restriction as to their identity (the "County Members"). Initially, two members shall be designated by Casey for appointment by the County Board (the "Landowner Members"). Casey shall retain the right to designate two members for appointment to the Authority Board until the later of i) the date upon which the liquidity requirements imposed upon Casey by the bondholder have terminated as described in Section 8 of this Resolution and any other obligations of the Authority to Casey have been satisfied; or ii) the date Casey ceases to own at least 25 percent of the real property designated on Attachment A-1 as the Casey Parcel. Thereafter, the right to designate the Landowner Members for appointment to the Authority Board shall vest in the Board of Directors of the master property owners association for the land within the District. The Petitioners and the County may agree upon another method of appointing the successors to the Landowner Members. The fifth member of the Authority Board shall be appointed to the Authority Board by a majority of the other four Authority Board members. The County Members and the Landowner Members shall each serve a term of four years, provided, however, that the initial term of such members may be less than four years to establish staggered terms for Authority Board members. The fifth member of the Authority shall serve a one-year term. Members of the Authority Board may succeed themselves and may serve an unlimited number of terms. Any vacancy on the Authority Board shall be filled by appointment of a new member in the same manner as the departing member was appointed. Alternate Board members may be appointed in accordance with Va. Code §15.2-5113.
4. States that upon the written request of the Authority Board, i) the County Board should adopt a resolution to impose an annual special real estate tax assessment ("District Tax") commencing on the later of: a) January 1, 1998; or b) the closing of the bond issuance described herein at a maximum rate of twenty-five cents per \$100 of the assessed fair market value of any taxable real estate within the District; and, ii) the County Board should adopt a resolution to impose special assessments ("Assessments") on all real property within the District in accordance with Va. Code §15.2-5158. The amount and methodology of apportioning such Assessments shall be set forth in an agreement among the Petitioners, the NTCDA and the County and shall be subject to the approval of the Board prior to imposition. All revenue received by the County pursuant to the District Tax and the Assessments shall be

paid over to the Authority for its use in accordance with the Act and this resolution creating the District, subject to annual appropriation.

5. Directs the Authority to reimburse the Petitioners for all reasonable costs and expenses incurred in the formation of the Authority and the District, including legal, consulting, engineering fees, and other reasonable and appropriate costs in an amount not to exceed \$75,000.00.
6. Provides that the District may be abolished at any time by a resolution passed by the County Board: i) upon its own motion; or ii) upon the joint petition of the Authority Board and the owners of land constituting at least fifty-one percent (51%) of the acreage or the assessed value of the land area located within the District; provided that the District may not be abolished while any District obligation remains outstanding.
7. The facilities and improvements shall be constructed by the Authority upon availability of funding and the Authority will not commence construction of a facility or improvement until the Authority Board is satisfied sufficient funding is available to the Authority to for the completion of such facility or improvement. The Authority Board shall consult with the Petitioners regarding the timing of the construction of facilities and improvements and take into account the land sales and development needs of Petitioners. Authority may contract for the construction of the planned facilities and improvements. The total estimated costs of the facilities and improvements is approximately \$7,425,450.00. The Authority will obtain the necessary financial resources to provide funding for such facilities and improvements through the issuance of revenue bonds as described herein, through the proceeds of the Assessments or contractual payments in lieu of the Assessments and through other funds available to the Authority, if any. The Authority will issue revenue bonds in a single private placement of approximately \$4,000,000.00 secured by a pledge of Authority revenues. The timing and phasing of the bond issue will depend on development requirements. Bond proceeds will be used for purposes permitted under Virginia law, including, the construction and acquisition of the facilities and improvements described herein, payment of interest during construction, and payment of bond issuance costs. It is anticipated that the bonds will be deemed "bank-qualified" bonds within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986 and will be purchased by a financial institution(s) in a private placement. It is anticipated that bond proceeds will not be funded at closing but will be funded as necessary to make Authority construction payments. Casey will enter into a separate liquidity agreement with the bondholder under which Casey will agree to: i) meet certain liquidity requirements; and, ii) to provide for debt service payments on the bonds if the Authority is unable to make such payments. In addition, expenditures of bond proceeds will be limited by the separate liquidity agreement. It is anticipated that the bonds will pay interest only for the four-year development period and will amortize thereafter over a 20-year period. The Authority will make every effort to prepay the bonds prior to their scheduled maturity with any excess funds, if any, from the District Tax, the Assessments and through other funds available to the Authority, if any. Following the end of the four year development period, at such time as the annual District Tax is generating sufficient funds, net of District operating costs, to pay an amount equal to 120 percent of annual debt service on the Authority bonds, the liquidity requirements imposed upon Casey will terminate. Funds received by the Authority from the

proceeds of the District Tax will be used by the Authority only to fund Authority operating expenses, reserves and to repay Authority obligations. The Authority shall reimburse the Petitioners for amounts paid by Petitioners to bondholder pursuant to the liquidity agreement to meet obligations of the Authority which the Authority is not able to meet at the time when due. In no event will land or real property assets outside the District be taxed or assessed, nor shall the County be obligated to make payments from the County's revenue sources or assets in order to pay debt service on the Authority bonds. The Authority's revenue bonds shall not constitute a pledge of the full faith and credit of or constitute an obligation of the County but shall be payable solely from revenues received by the Authority.

8. Confirms the intention of the Williamsburg-James City Courthouse and the Authority to enter into a contract pursuant to which the Williamsburg-James City Courthouse will make a payment to the Authority in the amount equal to \$23,000.00 per acre for the total acreage in the parcel upon which the Williamsburg-James City Courthouse is to be constructed and the Authority will finance and construct certain utilities and stormwater management facilities that will serve the Williamsburg-James City Courthouse.

#### **H. BOARD CONSIDERATIONS**

##### **1. Subdivision Street Width Request - Brandon Woods (Deferred from December 22, 1998)**

Ms. Schmidle stated that the item was deferred at the December 22, 1998, Board of Supervisors meeting to request additional information regarding the impacts of land clearing, impervious area and traffic calming of the various street widths. She further stated that information had been provided.

Staff recommended approval of the resolution.

Mr. Sisk made a motion to approve the resolution.

On a roll call, the vote was: AYE: Nervitt, Sisk, McGlennon, Bradshaw, Edwards (5). NAY: (0).

### **RESOLUTION**

#### **REDUCED STREET WIDTH - BRANDON WOODS**

**WHEREAS,** the Board of Supervisors of James City County, Virginia, has received a request on behalf of Brandon Woods for support of a request to the Virginia Department of Transportation (VDOT) for a reduced street width; and

**WHEREAS,** Section 24 VAC-30-90-130 of the VDOT *Subdivision Street Requirements* requires a written request from the Board.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of James City County, Virginia, hereby requests VDOT to approve a reduced street width along the main, public road in Brandon Woods.

BE IT FURTHER RESOLVED that the County will require off-street parking in Brandon Woods in conformance with Section 24 VAC-30-90-130 of the VDOT *Subdivision Street Requirements*.

2. Williamsburg Regional Library Contract Amendment (Deferred from December 8, 1998)

Mr. Wanner stated that the Williamsburg Regional Library contract ended June 30, 1998. He further stated that the City of Williamsburg and James City County reviewed the contract and proposed several amendments regarding hours of operation, include employees, with exception of Library Director, in the Compensation Plan, Personnel Policies, and benefit programs of the County, reduce City Board of Trustee membership, provide technical amendments for Library budget planning purposes, define interior maintenance responsibilities, etc.

Staff recommended approval of the five-year contract and resolution.

Mr. Edwards made a motion to approve the resolution.

On a roll call, the vote was: AYE: Nervitt, Sisk, McGlennon, Bradshaw, Edwards (5). NAY: (0).

**RESOLUTION**

**WILLIAMSBURG REGIONAL LIBRARY CONTRACT AMENDMENT**

WHEREAS, the County of James City, the City of Williamsburg, and the Williamsburg Regional Library Board are desirous of amending the existing Contract for the Operation of the Williamsburg Regional Library System.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that it hereby approves that Contract and authorizes and directs the Chairman and Clerk to the Board to execute the said Contract.

**I. PUBLIC COMMENT**

1. Mr. Ed Oyer, 139 Indian Circle, spoke in opposition to drilling a supplemental well in the Chickahominy Piney Point aquifer because of effect on private wells.

2. Mr. Keith Nowadly, 4702 Wood Violet Lane, spoke in favor of setting money aside for a study of purchasing of development rights.

**J. REPORTS OF THE COUNTY ADMINISTRATOR**

**Storm Debris Collection and Disposal**

Mr. Wanner spoke on the debris pickup and asked the Board to consider a resolution authorizing a transfer of \$290,000 from Operating Contingency to the Solid Waste budget. He stated that a State program that could compensate localities with extraordinary expenses for responding to a natural disaster/emergency required detailed record keeping of all expenses. 17

Mr. McGlennon made a motion to approve the resolution.

On a roll call, the vote was: AYE: Nervitt, Sisk, McGlennon, Bradshaw, Edwards (5). NAY: (0).

## RESOLUTION

### STORM DEBRIS COLLECTION AND DISPOSAL

WHEREAS, residents of the County have accumulated significant amounts of storm debris due to the extraordinary severity of the Christmas 1998 ice storm; and

WHEREAS, the County has contracted with other jurisdictions and private companies to collect storm debris from residential neighborhoods and properly dispose of it; and

WHEREAS, the County's FY 99 Operating Budget does not contain funding for such a program and will need to be amended.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the transfer of \$290,000 from Operating Contingency to the Solid Waste budget as the initial step in funding the collection and disposal of storm debris.

Mr. Wanner recommended an executive session to discuss a prospective industry and recommended the Board, at the appropriate time, adjourn until Tuesday, January 26, 1999. He announced a work session on Wednesday, January 27, 1999, at 2:00 p.m., and a new citizen orientation on Saturday, January 23, 1999, at the James City-Williamsburg Community Center.

#### **K. BOARD REQUESTS AND DIRECTIVES - None**

Mr. Edwards made a motion to convene into executive session pursuant to Section 2.1-344(A)(5) to discuss a prospective industry, at 9:33 p.m.

On a roll call, the vote was: AYE: Nervitt, Sisk, McGlennon, Bradshaw, Edwards (5). NAY: (0).

Mr. Edwards reconvened the Board into open session at 10:35 p.m., and made a motion to approve the executive session resolution.

On a roll call, the vote was: AYE: Nervitt, Sisk, McGlennon, Bradshaw, Edwards (5). 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

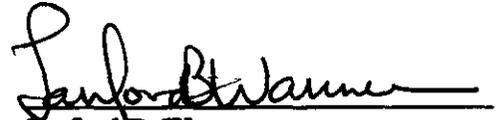
WHEREAS, Section 2.1-344.1 of the Code of Virginia requires a certification by the Board that such executive meeting was conducted in conformity with Virginia law.

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 were heard, discussed or considered by the Board as were identified in the motion, Section 2.1-344(A)(5), discuss a prospective business or industry.

Mr. Edwards made a motion to adjourn.

On a roll call, the vote was: AYE: Nervitt, Sisk, McGlennon, Bradshaw, Edwards (5). NAY: (0).

The Board adjourned at 10:36 p.m.

  
Sanford B. Wanner  
Clerk to the Board

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JAN 12 1999

## ORDINANCE NO. 173A-11

BOARD OF SUPERVISORS  
JAMES CITY COUNTYGOSPEL SPREADING CHURCH AGRICULTURAL AND FORESTAL DISTRICT VIRGINIA(AFD-12-86) POWELL ADDITION

WHEREAS, an Agricultural and Forestal District has been established in the Gospel Spreading Church Area; and

WHEREAS, in accordance with Section 15.2-4305 of the Code of Virginia, property owners have been notified, public notices have been filed, public hearings have been advertised, and public hearings have been held on the application for an addition to the Gospel Spreading Church Agricultural and Forestal District; and

WHEREAS, the Agricultural and Forestal Districts Advisory Committee at its meeting on December 3, 1998, recommended approval of the application by a vote of 6-0; and

WHEREAS, the Planning Commission following its public hearing on December 7, 1998, recommended approval of the application by a vote of 5-0.

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

1. The Gospel Spreading Church Agricultural and Forestal District is hereby amended by the addition of the following parcel:

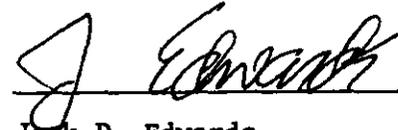
Dr. Stanley H. and Mrs. Mavis Powell (47-4) (1-33) 26.46 acres

provided, however, that all land within 25 feet of the Lake Powell Road (Route 617) right-of-way shall be excluded from the district.

2. That pursuant to the Virginia Code, Section 15.2-4312 and 15.2-4313, as amended, the Board of Supervisors requires that no parcel in the Gospel Spreading Church Agricultural and Forestal District be developed to a more intensive use without prior approval of the Board of Supervisors. Specifically, the following restrictions shall apply:
  - a. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of communications towers and related equipment provided: a) The subdivision does not result in the total acreage of the District to drop below 200 acres; and b) The subdivision does not result in a remnant parcel of less than 25 acres.
  - b. No land outside the Primary Service Area (PSA) and within the Agricultural and Forestal District may be rezoned and no application for such rezoning

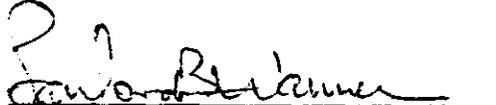
shall be filed earlier than six months prior to the expiration of the district. Land inside the PSA and within the Agricultural and Forestal District may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996.

- c. No special use permit shall be issued except for agricultural, forestal, or other activities and uses consistent with the State Code Section 15.2-4301 et. seq. which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue special use permits for wireless communications facilities on AFD properties which are in accordance with the County's policies and ordinances regulating such facilities.



Jack D. Edwards  
Chairman, Board of Supervisors

ATTEST:



Sanford B. Wanner  
Clerk to the Board

SUPERVISOR	VOTE
NERVITT	AYE
SISK	AYE
MCLENNON	AYE
BRADSHAW	AYE
EDWARDS	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of January, 1999.

afd-pow.res



30 October 98

Jill Schmidle, Planner  
Department of Planning  
101 E. Mounts Bay Rd.  
P. O. Box 8784  
Williamsburg, VA 23187

RE: Property of Stanley H. & Mavis Powell - AFD  
Map# (47-4) (1-33) (Roll Back tax)

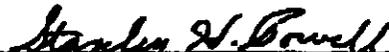
Dear Ms. Schmidle:

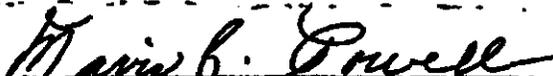
This will confirm that we have discussed with our attorney the information that he obtained from you today. We were not aware and did not understand the effect of withdrawing from AFD. We are not presently intending to sell or do anything with this property. We would very much appreciate it if the property can be put back in AFD as before. Mr. Garrett has discussed this with Mrs. Beth Stevens.

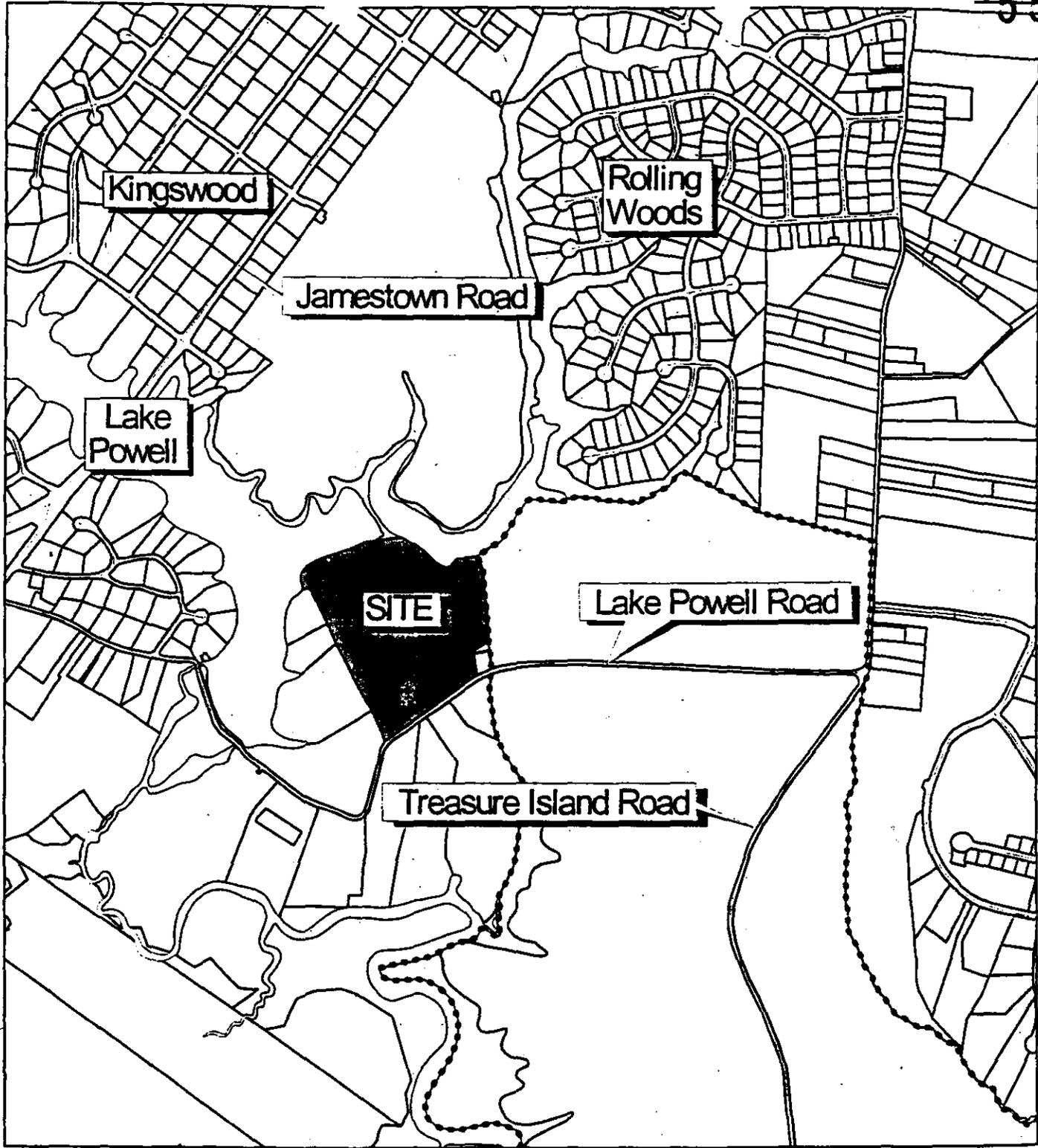
If there is anything else to be done or signed please call Mr. Garrett at 757 484 0030 or send it to him at P. O. Box 7804, Portsmouth, VA 23707 or FAX him at 757 393 4478.

Thank you for your assistance.

Sincerely,

  
\_\_\_\_\_  
Stanley H. Powell

  
\_\_\_\_\_  
Mavis Powell



Case No. AFD-12-86, Gospel Spreading Church - Powell Addition

