

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 27TH DAY OF JUNE, 2000, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

Ronald A. Nervitt, Chairman, Powhatan District
Bruce C. Goodson, Vice Chairman, Roberts District

John J. McGlennon, Jamestown District
Jay T. Harrison, Sr., Berkeley District
James G. Kennedy, Stonehouse District
Sanford B. Wanner, County Administrator
Frank M. Morton, III, County Attorney

B. PLEDGE OF ALLEGIANCE

Mr. Lee Cooley, an 11th grade student at Jamestown High School, led the Board and citizens in the Pledge of Allegiance.

C. PUBLIC COMMENT

1. Nicki Lunsford, Jamestown 1607 Homeowners Association, voiced concerns about Cox Communications digging up the Jamestown 1607 property, the damage being created, and cable reception to the residents is fuzzy or nonexistent.

2. Mr. Arthur C. Hilstrom, Sr., 3724 Brick Bat Road, stated the landscaping of News Road needs improvement; the County needs to preserve and plant trees; the County should take action on water conservation issues; and requested help in getting assistance for a neighbor with the removal of vehicles.

3. Mr. Ed Oyer, 139 Indian Circle, requested information on the accountability for the School construction problems; voiced his concern about the new courthouse space utilization and space planning; and the conservation and utilization of water by the County.

4. Mr. Jay Everson, 103 Branscome Boulevard, stated his pleasure at seeing some action concerning water desalinization and expressed his support of several water conservation efforts recently referred to by the Board.

D. HIGHWAY MATTERS

Mr. Jim Brewer, Resident Engineer for the Virginia Department of Transportation (VDOT) gave the Board an update on the shoulder restoration project on Route 31.

Mr. Goodson requested the water drainage and maintenance of Ron Springs Drive be improved.

Mr. McGlennon requested the drainage and erosion problems at the intersection of Winston Drive and Hurst Street be corrected.

Mr. McGlennon requested a project schedule for the removal of sand from the streets.

Mr. Kennedy requested a speed study on Route 30 near Route 601, King's Village.

Mr. Kennedy requested the potholes be filled at the intersection of Louise Drive and Welstead Street.

Mr. Nervitt requested a schedule of litter pickup programs throughout the County.

Mr. Nervitt requested information concerning litter control for Brick Bat Road.

E. CONSENT CALENDAR

Mr. Nervitt inquired if any Board member wished to have an item pulled from the Consent Calendar.

As no one wished to pull an item, Mr. McGlennon made a motion to approve the items on the Consent Calendar.

On a roll call, the vote was: AYE: McGlennon, Goodson, Kennedy, Nervitt (4). NAY: (0). ABSENT: Harrison.

1. Minutes

- a. April 19, 2000, Budget Work Session
- b. April 25, 2000, Regular Meeting
- c. June 9, 2000, Joint Work Session, James City County Board of Supervisors, Williamsburg-James City County School Board, and Williamsburg City Council
- d. June 12, 2000, Joint Retreat Meeting, James City County Board of Supervisors and the Industrial Development Authority
- e. June 13, 2000, Regular Meeting

2. July - Recreation and Parks Month

RESOLUTION

JULY - RECREATION AND PARKS MONTH

WHEREAS, parks and recreation activities enhance the physical health and mental well-being of individuals, work forces, and communities; and

WHEREAS, participation in recreation programs builds self-esteem and promotes positive and constructive behavior; and

WHEREAS, parks and open space are vital to the appearance and livability of communities, protect our air and water, and balance our ecosystem.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, proclaims July as Recreation and Parks Month and encourages all citizens of James City County to recognize that recreation and park services are essential to the quality of life.

3. Budget Amendment – Commissioner of the Revenue

RESOLUTION

BUDGET AMENDMENT - COMMISSIONER OF THE REVENUE

WHEREAS, the Board of Supervisors of James City County has been advised that additional funds have been granted by the State Compensation Board to both the Treasurer and the Commissioner of the Revenue; and

WHEREAS, both offices have had additional full-time positions identified for Partial State funding.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize the following budget and appropriation amendments to the FY 2001 Budget to accommodate these changes:

that a part-time, permanent Deputy I/II position approved for the Office of the Commissioner of the Revenue in FY 2001 be eliminated, and a full-time Deputy I/II be approved instead, and that the following changes be made in revenues and expenditures in the FY 2001 Budget:

General Fund

Revenues:

From the Compensation Board - Treasurer	\$ 9,500
Commissioner of the Revenue	<u>8,840</u>
	<u>\$18,340</u>

Expenditures:

Commissioner of the Revenue	\$11,965
Operating Contingency	<u>6,375</u>
	<u>\$18,340</u>

4. Improvements and Dedication of Cedar Drive from Riverside Drive to Turn Around Cypress Point Subdivision

RESOLUTION

IMPROVEMENTS AND DEDICATION OF CEDAR DRIVE FROM RIVERSIDE DRIVE

TO TURN AROUND CYPRESS POINT SUBDIVISION

WHEREAS, the street described below was established October 12, 1960 and currently serves at least three families per mile; and

- WHEREAS, the Virginia Department of Transportation has deemed that James City County's current subdivision control ordinance meets all necessary requirements to qualify this County to recommend additions to the secondary system of State highways, pursuant to § 33.1-72.1, Code of Virginia; and
- WHEREAS, the James City County Board of Supervisors recommends that Cedar Drive, from Riverside Drive to a turnaround, more particularly described below, be accepted as an addition to the Secondary System of State Highways; and
- WHEREAS, after examining the ownership of all property abutting this street, neither the original developer, the developers, nor successive developers retain a speculative interest in property abutting Cedar Drive from Riverside Drive to the turnaround, the Board finds that speculative interest does not exist.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby request that the Virginia Department of Transportation improve and add to the Secondary System of State Highways, pursuant to § 33.1-72.1(C), Code of Virginia:

Name of Street:	Cedar Drive			
Length:	500 feet (0.10 mile)			
From:	State Route 715 (Riverside Drive)			
To:	0.10 Mile Northwest State 715 (Turnaround)			
Guaranteed Right-of-Way Width:	50 feet			
Recorded Date	Deed Book	Page	Plat Book	Page
10/12/1960	76	484		
06/10/1987	357	619		

BE IT FURTHER RESOLVED that the 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 the Board requests the Virginia Department of Transportation to improve said street to the prescribed minimum standards, funding said improvements pursuant to § 33.1-721(C), Code of Virginia.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby commit to fund 50 percent of the actual street improvements costs which are estimated by the Virginia Department of Transportation to be \$52,916.

BE IT STILL FURTHER RESOLVED that this resolution be forwarded to the Resident Engineer of the Virginia Department of Transportation along with a check in the amount of \$26,458; certified copies of plats indicating street rights-of-way, turnaround right-of-way, place of recordation, and a detailed record of current lot ownership.

5. Utility Participation Agreement – James City County/James City Service Authority

RESOLUTION

UTILITY PARTICIPATION AGREEMENT -

JAMES CITY COUNTY/JAMES CITY SERVICE AUTHORITY

WHEREAS, the Board of Supervisors of James City County has been requested by the James City Service Authority (JCSA) to enter into a utility participation agreement; and

WHEREAS, that agreement will ask, in return for \$39,812, that the County up-size the 3,600 linear foot waterline now planned for the District Park Sports Complex from 8 inches to 12 inches.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize the County Administrator to enter into a utility participation agreement with the JCSA to upgrade a planned 3,600 linear foot waterline from 8 inches to 12 inches at a cost of \$39,812 to be paid by the JCSA and that the FY 2001 Capital Budget be amended, and funds appropriated, as follows:

Capital Fund

Revenues:

From the JCSA	<u>\$39,812</u>
---------------	-----------------

Expenditures:

District Park Sports Complex Construction	<u>\$39,812</u>
---	-----------------

F. PUBLIC HEARING

1. Sale of Surplus Property at 127 Pasbehegh Drive and 128 Duer Drive

Mr. Andrew H. Herrick, Assistant County Attorney, stated that last year the County acquired the Sydnor waterworks for the James City Service Authority (JCSA) service to the surrounding area. Since JCSA will not need these properties to service the surrounding area, the County is looking to sell these surplus properties.

The County received an offer from The Greater First Colony Area Civic Association, Inc., in the amount of \$3,500 for the purchase of a 0.252-acre parcel at 127 Pasbehegh Drive.

The County received an offer from Lisa Leek, contract purchaser of an adjacent property, in the amount of \$4,500 for the purchase of a 0.23-acre parcel at 128 Duer Drive.

Staff recommended that the Board authorize the sale of these surplus parcels for the amount offered.

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

The Board and staff held a discussion on how property values are determined.

Mr. McGlennon made a motion to adopt the resolutions authorizing the sale of these surplus parcels.

On a roll call, the vote was: AYE: McGlennon, Goodson, Kennedy, Nervitt (4). NAY: (0). ABSENT: Harrison.

RESOLUTION

SALE OF SURPLUS PROPERTY AT 127 PASBEHEGH DRIVE

- WHEREAS, in 1999, James City County acquired a certain 0.252-acre parcel at 127 Pasbehegh Drive from Sydnor Pump and Well Company for use by the James City Service Authority (JCSA); and
- WHEREAS, the JCSA no longer requires this property or facility for its operations; and
- WHEREAS, the Greater First Colony Area Civic Association, Inc., owner of the neighboring First Colony Park, has offered to pay \$3,500 for this property; and
- WHEREAS, the Board of Supervisors, following a public hearing, is of the opinion the County should convey this property to the Greater First Colony Area Civic Association, Inc., 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 property at 127 Pasbehegh Drive to the Greater First Colony Area Civic Association, Inc., its successors, or assigns for \$3,500.

RESOLUTION

SALE OF SURPLUS PROPERTY AT 128 DUER DRIVE

- WHEREAS, in 1999, James City County acquired a certain 0.23-acre parcel at 128 Duer Drive from Sydnor Pump and Well Company for use by the James City Service Authority (JCSA); and
- WHEREAS, the JCSA no longer requires this property or facility for its operations; and
- WHEREAS, Lisa Leek, contract purchaser of a neighboring property, has offered to pay \$4,500 for this property; and
- WHEREAS, the Board of Supervisors, following a public hearing, is of the opinion the County should convey this property to Lisa Leek, her 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 property at 128 Duer Drive to Lisa Leek, her successors, or assigns for \$4,500.

2. Ordinance to Amend Chapter 13, Motor Vehicles and Traffic, Article I, In General, Section 13-7, Adoption of A State Law; Article II, Driving Automobiles, Etc., While Intoxicated or Under the Influence of Any Drug, Section 13-28, Adoption of State Law, Generally

Mr. Leo P. Rogers, Deputy County Attorney, stated the Ordinance presented to the Board incorporates by reference into the James City County Code, the Amendments made by the 2000 General Assembly to the D.W.I. and traffic laws.

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

Mr. Goodson made a motion to adopt the ordinance.

On a roll call, the vote was: AYE: McGlennon, Goodson, Kennedy, Nervitt (4). NAY: (0). ABSENT: Harrison.

3. Ordinance to Amend Chapter 20, Taxation, Article VII, Tax on Prepared Food and Beverages, Section 20-34, Definitions, and Section 20-47, Exemptions

Mr. Herrick stated James City County imposes a four-percent tax on prepared food and beverages, sometimes known as a "meal tax." The General Assembly recently amended the State authorizing legislation, requiring localities imposing such a tax to revise their prepared food and beverage tax accordingly.

The House Bill 255 made three changes to Virginia Code § 58.1-3833 and the ordinance will bring James City's prepared food and beverage tax into compliance with the new State law.

The Board and staff held a discussion regarding the possibility of its impact on revenue; and the equalization in the food industry to grocery store prepared dining and restaurant meals.

Mr. Nervitt opened the public hearing.

1. Mr. Jay Everson, 103 Branscome Boulevard, stated the grocery stores and convenience stores currently conflict with restaurants; and gave his support for the initiative.

2. Mr. Ed Oyer, 139 Indian Circle, referenced the General Assembly law and emphasized the fact that the adoption of this ordinance is optional.

As no one else wished to speak, Mr. Nervitt closed the public hearing.

Mr. McGlennon made a motion to adopt the ordinance.

On a roll call, the vote was: AYE: McGlennon, Goodson, Kennedy, Nervitt (4). NAY: (0). ABSENT: Harrison.

4. Ordinance to Amend Chapter 20, Taxation, Article I, In General, Section 20-4.1, Abatement of Levies on Buildings Razed, Destroyed, or Damaged by Natural or Accidental Events

Mr. Rogers stated the Ordinance before the Board amends the abatement of tax levies for buildings razed, destroyed, or damaged due to a natural or accidental event. At the request of the County, the State Code was amended to allow the abatement of taxes if a building is rendered unfit for use or occupancy for 30 or more days during the year.

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

Mr. Goodson made a motion to adopt the ordinance.

On a roll call, the vote was: AYE: McGlennon, Goodson, Kennedy, Nervitt (4). NAY: (0). ABSENT: Harrison.

5. Ordinance to Amend Chapter 20, Taxation, Article I, In General, Section 20-7.2, Refund of Levies Erroneously Paid

Mr. Rogers stated the Ordinance revises the requirement to pay interest on refunds due to erroneous assessments. The changes to the Ordinance reflect recent revisions to the State Code and a recent option from the Attorney General. The other change to the Ordinance reflects that payment of interest commences no earlier than July 1, 1999, which is in compliance with a recent Attorney General's opinion that the State Code requirement for interest to be paid on refunds for erroneous assessments is not retroactive from the July 1, 1999, effective date.

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

Mr. McGlennon made a motion to adopt the ordinance.

On a roll call, the vote was: AYE: McGlennon, Goodson, Kennedy, Nervitt (4). NAY: (0). ABSENT: Harrison.

G. BOARD CONSIDERATION

1. Transfer of Surplus Ware Creek Properties (deferred from May 23, 2000)

Mr. John T. P. Horne, Development Manager, stated that staff considered the issues of land use, green space, residential development, and water consumption raised by the Board at its May 23, 2000, regular meeting.

The Board was presented two resolutions for consideration. One provided for the transfer and subsequent sale of all these properties and the other provided for the transfer of the undevelopable properties for sale only to adjoining property owners.

Board and staff discussion followed concerning the cost of the properties, consequences and benefits of selling the surplus property, and the impact on future reconsideration of a Ware Creek Reservoir.

Mr. McGlennon made a motion to adopt the second resolution that allows for the transfer of undevelopable properties only for sale to adjoining property owners.

Mr. Wanner advised the Board of the need to reimburse JCSA for the cost of the land and pay the broker for the time spent on behalf of the County.

After further discussion, Mr. McGlennon withdrew his motion.

Mr. McGlennon moved to transfer the following Ware Creek surplus properties to the JCSA.

<u>Tax Map</u>	<u>Address</u>	<u>Acres</u>
12-2/3-26	106 Joanne Court	0.947
13-1/1-1	4001 Mt. Laurel Road	2.096
13-1/1-1E	4001-E Mt. Laurel Road	2.344
13-1/1-1F	4001-F Mt. Laurel Road	0.364
13-1/2-19	151 Louise Lane	2.590
13-2/3-1	3981 Rochambeau Drive	0.864
13-3/2-2	3985 Rochambeau Drive	1.293
13-3/2-3	3989 Rochambeau Drive	1.246
13-3/2-4	3993 Rochambeau Drive	0.685
13-3/2-5	3995 Joshua's Court	2.436
13-3/2-6	3999 Joshua's Court	2.614
13-3/2-7	4001 Joshua's Court	0.764
13-3/2-8	4003 Rochambeau Drive	0.532

On a roll call, the vote was: AYE: McGlennon, Goodson, Kennedy, Nervitt (4). NAY: (0). ABSENT: Harrison.

H. PUBLIC COMMENT

1. Mr. Arthur C. Hilstrom, Sr., 3724 Brick Bat Road, stated his pleasure in seeing the County preserve the Ware Creek surplus parcels for potential County use.

I. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. McGlennon made a motion to appoint the following individuals to the Fair Committee:

Loretta Garrett, Lynn Miller, Nancy Bradshaw, Richard Miller, Bill Porter, Ed Overton, Doris Heath, Ellen Powell, Ann Davis, Edythe Stewart, Diana Perkins, Shirley Webster, Angie Simms, Stacy Bates, Don Woolridge, Betsy Woolridge, Norman Danuser, Jim Bradsher, Katie Jones, Andy Bradshaw, Dwight Beamon, David Daigneault, Leigh Anne Langston, Dick Bradshaw, Lois Danuser, Pat Martin, Rick Mathis, Nancy Cournoyer, and William Cournoyer.

On a roll call, the vote was: AYE: McGlennon, Goodson, Kennedy, Nervitt (4). NAY: (0). ABSENT: Harrison.

Mr. Wanner recommended the Board recess for the JCSA Board of Directors meeting, following which, the Board would go into a closed session pursuant to Section 2.1-344(A)(1) to consider a personnel matter(s), the appointment of individuals to County boards or commissions.

Mr. Wanner recommended that following the closed session, the Board adjourn until the June 28, 2000, 4 p.m. Work Session.

J. BOARD REQUESTS AND DIRECTIVES

Mr. Nervitt inquired about the Lake Powell Dam progress.

Mr. McGlennon gave a brief update on the Lake Powell dam repairs.

Mr. Nervitt reported Hampton Roads Transit is in support of a light rail service to be complemented by an enhanced busing system.

Mr. Nervitt recessed the Board at 8:49 p.m. The Board reconvened at 9:03 p.m.

K. CLOSED SESSION

Mr. Nervitt made a motion to go into closed session as recommended by the County Administrator at 9:04 p.m.

On a roll call, the vote was: AYE: McGlennon, Goodson, Kennedy, Nervitt (4). NAY: (0). ABSENT: Harrison.

Mr. Nervitt reconvened the Board into open session at 9:08 p.m. and made a motion to approve the closed session resolution.

On a roll call, the vote was: AYE: McGlennon, Goodson, Kennedy, Nervitt (4). NAY: (0). ABSENT: Harrison.

RESOLUTION

CERTIFICATION OF CLOSED MEETING

WHEREAS, the Board of Supervisors of James City County, Virginia, (Board) has convened a closed 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 closed meeting was conducted in conformity with Virginia law.

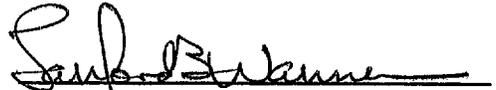
NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge: i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies; and, ii) only such public business matters were heard, discussed or considered by the Board as were identified in the motion and Section 2.1-344(A)(1) to consider a personnel matter(s), the appointment of individuals to County boards and/or commissions.

Mr. McGlennon made a motion to reappoint Janis MacQueston to the Colonial Services Board for a three-year term, term expiring on 06/30/03; to appoint Charles Wynder to the Colonial Services Board for a three-year term, term expiring on 06/30/03; to reappoint Earlene Robinson to the Social Services Advisory Board for a four-year term, term expiring on 07/01/04; and to appoint Carol Mason to the Social Services Advisory Board to an unexpired term, term expiring on 06/30/01.

Mr. Kennedy made a motion to adjourn until June 28, 2000, 4 p.m.

On a roll call, the vote was: AYE: McGlennon, Goodson, Kennedy, Nervitt (4). NAY: (0). ABSENT: Harrison.

The Board adjourned at 9:10 p.m.


Sanford B. Wanner
Clerk to the Board

062700bs.min

ADOPTED

JUN 27 2000

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

ORDINANCE NO. 66A-45

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 13, MOTOR VEHICLES AND TRAFFIC, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL, SECTION 13-7, ADOPTION OF STATE LAW; AND ARTICLE II, DRIVING AUTOMOBILES, ETC., WHILE INTOXICATED OR UNDER THE INFLUENCE OF ANY DRUG, SECTION 13-28, ADOPTION OF STATE LAW, GENERALLY.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 13, Motor Vehicles and Traffic, is hereby amended and reordained by amending Article I, In General, Section 13-7, Adoption of state law; and Article II, Driving Automobiles, etc., While Intoxicated or Under the Influence of Any Drug, Section 13-28, Adoption of state law, generally.

Chapter 13. Motor Vehicles and Traffic

Article I. In General

Sec. 13-7. Adoption of state law.

Pursuant to the authority of section 46.2-1313 of the Code of Virginia, as amended, all of the provisions and requirements of the laws of the state contained in Title 46.2 of the Code of Virginia, as amended, and in force on July 1, 1999 ~~2000~~, except those provisions and requirements the violation of which constitutes a felony and those provisions and requirements which by their very nature can have no application to or within the county, are hereby adopted and incorporated in this chapter by reference and made applicable

Ordinance to Amend and Reordain
Chapter 13. Motor Vehicles and Traffic
Page 2

within the county. Such provisions and requirements are hereby adopted, mutatis mutandis, and made a part of this chapter as fully as though set forth at length herein, and it shall be unlawful for any person, within the county, to violate or fail, neglect or refuse to comply with any provision of Title 46.2 of the Code of Virginia which is adopted by this section; provided, that in no event shall the penalty imposed for the violation of any provision or requirement hereby adopted exceed the penalty imposed for a similar offense under Title 46.2 of the Code of Virginia.

State law reference - Authority to adopt state law on the subject, Code of Va., § 46.2-1313.

**Article II. Driving Automobiles, Etc., While Intoxicated
or Under the Influence of any Drug**

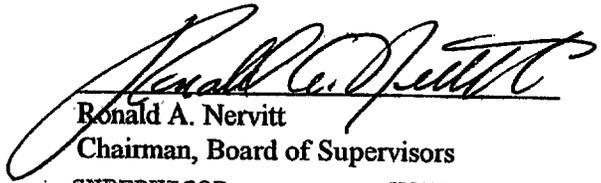
Sec. 13-28. Adoption of state law, generally.

Article 9 (section 16.1-278 et seq.) of Chapter 11 of Title 16.1 and Article 2 (section 18.2-266 et seq.) of chapter 7 of Title 18.2, Code of Virginia, as amended and in force July 1, 1999 ~~2000~~, is hereby adopted and made a part of this chapter as fully as though set out at length herein. It shall be unlawful for any person within the county to violate or fail, neglect or refuse to comply with any section of the Code of Virginia as adopted by this section.

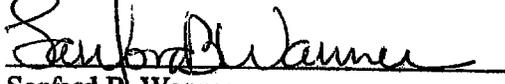
State law reference - Authority to adopt state law on the subject, Code of Va. § 46.2-1313.

Ordinance to Amend and Reordain
Chapter 13. Motor Vehicles and Traffic
Page 3

This Ordinance shall become effective on July 1, 2000.


Ronald A. Nervitt
Chairman, Board of Supervisors

ATTEST:


Sanford B. Wanner
Clerk to the Board

SUPERVISOR	VOTE
MCGLENNON	AYE
HARRISON	ABSENT
GOODSON	AYE
KENNEDY	AYE
NERVITT	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 27th day of June, 2000.

00mtrveh.ord

ADOPTED

JUN 27 2000

ORDINANCE NO. 107A-36

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 20, TAXATION, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE VII, TAX ON PREPARED FOOD AND BEVERAGES, SECTION 20-34, DEFINITIONS; AND SECTION 20-47, EXEMPTIONS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 20, Taxation, is hereby amended and reordained by amending Article VII, Tax on Prepared Food and Beverages, Section 20-34, Definitions; and Section 20-47, Exemptions.

Chapter 20. Taxation

Article VII. Tax on Prepared Food and Beverages

Sec. 20-34. Definitions.

The following words and phrases, when used in this article, shall have, for the purposes of this article, the following respective meanings except where the context clearly indicates a different meaning:

Beverage. Any alcoholic beverages as defined in section 4.1-100 of the Code of Virginia 1950, as amended, and nonalcoholic beverages, any of which are served as part of a meal, excluding alcoholic beverages sold in factory sealed containers and purchased for off-premises consumption.

Caterer. A person who furnishes food on the premises of another for compensation.

Commissioner of the revenue. The commissioner of the revenue of the county and any of his duly authorized deputies, assistants, employees or agents.

Ordinance to Amend and Reordain
Chapter 20. Taxation
Page 2

Food. Any and all edible refreshments or nourishment, liquid or otherwise, including alcoholic beverages and nonalcoholic beverages served with a meal, purchased in or from a restaurant or from a caterer, except snack foods.

~~*Meal.* Any food as herein defined, other than a beverage, sold for consumption on the premises or elsewhere, whether designated as breakfast, lunch, snack, dinner, supper, or by some other name, and without regard to the manner, time, or place of service.~~

Person. Any individual, corporation, company, association, firm, partnership or any group of individuals acting as a unit.

Purchaser. Any person who purchases food in or from a restaurant or from a caterer.

Restaurant.

- (1) Any place where food is prepared for service to the public whether on or off the premises ~~including a deli/deliessen counter at a grocery store or convenience store selling prepared foods ready for human consumption;~~
- (2) Any place where food is served to the public; or
- (3) Any place or operation which prepares or stores food for distribution to persons of the same business operations or of a related business operation for service to the public.

Ordinance to Amend and Reordain
Chapter 20. Taxation
Page 3

Examples include a dining room; grill; coffee shop; cafeteria; café; snack bar; lunch counter; lunchroom; short-order place; tavern; delicatessen; confectionery; bakery; eating house; eatery; drugstore; catering service; lunch wagon or truck; pushcart or other mobile facility that sells food; dining facility in a public or private club, resort, bar, or lounge; kitchen facility of a hospital or nursing home; and dining facility of a public or private school or college.

Seller. Any person who sells food in or from a restaurant or as a caterer.

Snack food. Chewing gum, candy, popcorn, peanuts and other nuts, and unopened prepackaged cookies, donuts, crackers, potato chips and other items of essentially the same nature and consumed for essentially the same purpose.

Treasurer. The treasurer of the county and any of his duly authorized deputies, assistants, employees or agents.

Sec. 20-47. Exemptions.

The following purchases of food shall not be subject to the tax under this article:

- (a) Food furnished by restaurants to employees as part of their compensation when no charge is made to the employee.
- (b) Food sold by nonprofit day care centers, public or private elementary or secondary schools or food sold by any college or university to its students or employees.

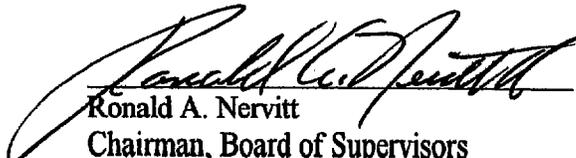
Ordinance to Amend and Reordain
Chapter 20. Taxation
Page 4

- (c) Food for use or consumption by the commonwealth, any political subdivision of the commonwealth or the United States.
- (d) Food furnished by a hospital, medical clinic, convalescent home, nursing home, home for the aged, infirm or handicapped or other extended care facility to patients or residents thereof.
- (e) Food furnished by a nonprofit charitable organization to elderly, infirm, handicapped or needy persons in their homes or at central locations.
- (f) Food sold by a nonprofit educational, charitable or benevolent organization on an occasional basis as a fund-raising activity or food sold by a church or religious body on an occasional basis.
- (g) Food furnished by boardinghouses that do not accommodate transients.
- (h) Food sold by cafeterias operated by industrial plants for employees only.
- (i) Food sold by nonprofit cafeterias in public schools, nursing homes and hospitals.
- (j) Food sold by churches, fraternal and social organizations and volunteer fire departments and reserve squads which hold occasional dinners and bazaars of one- or two-day duration, at which food prepared in the homes of members or in the kitchen of the organization is offered for sale to the public.

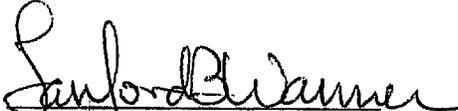
Ordinance to Amend and Reordain
 Chapter 20. Taxation
 Page 5

- (k) Food furnished by churches which serve meals for their members as a regular part of their religious observance.
- (l) Food sold through vending machines.
- (m) ~~Food sold by grocery stores and convenience stores except for prepared sandwiches, single-meal platters and prepared food ready for human consumption sold at a delicatessen counter.~~
~~Any food or food product purchased for home consumption as defined in the federal Food Stamp Act of 1977, 7 U.S.C. section 2012, or amended, except for salad bar items sold from a salad bar, prepackaged single-serving salads consisting primarily of an assortment of vegetables, and non-factory sealed beverages. This exemption does not include hot food or hot food products ready for immediate consumption.~~
- (n) Any other sale of food which is exempt from taxation under the Virginia Retail Sales and Use Tax Act, or administrative rules and regulation issued pursuant thereto.

~~State law reference - Code of Va. §58-1-5833.~~


 Ronald A. Nervitt
 Chairman, Board of Supervisors

ATTEST:


 Sanford B. Wanner
 Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
MCLENNON	AYE
HARRISON	ABSENT
GOODSON	AYE
KENNEDY	AYE
NERVITT	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 27th day of June, 2000.

JUN 27 2000

ORDINANCE NO. 107A-34

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 20, TAXATION, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL, SECTION 20-4.1, ABATEMENT OF LEVIES ON BUILDINGS RAZED, DESTROYED, OR DAMAGED BY NATURAL OR ACCIDENTAL EVENTS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 20, Taxation, is hereby amended and reordained by amending Section 20-4.1, Abatement of levies on buildings razed, destroyed, or damaged by natural or accidental events.

Chapter 20. Taxation

Article I. In General

Sec. 20-4.1. Abatement of levies on buildings razed, destroyed, or damaged by natural or accidental events.

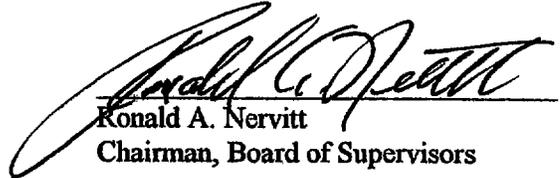
Buildings which are razed, destroyed, or damaged due to a natural or accidental event and through no fault of the owner shall receive an abatement for tax levies computed according to the ratio which the portion of the year the building was fit for use, occupancy, or enjoyment bears to the entire year. No such abatement shall occur unless:

1. The destruction or damage to such building decreases its value by \$500 or more;
2. The destruction or damage to such building shall not be repaired during the same calendar year in which it occurred ~~renders it unfit for use and occupancy for 30 or more days during the year;~~ and

Ordinance to Amend and Reordain
Chapter 20. Taxation
Page 2

- 3. The owner of such building makes application for the abatement within six months of the date on which the building was razed, destroyed, or damaged.

State law reference - Code of Va., §58.1-3222.



Ronald A. Nervitt
Chairman, Board of Supervisors

ATTEST:



Sanford B. Wanner
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
MCGLENNON	AYE
HARRISON	ABSENT
GOODSON	AYE
KENNEDY	AYE
NERVITT	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 27th day of June, 2000.

JUN 27 2000

ORDINANCE NO. 107A-35

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 20, TAXATION, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL, SECTION 20-7.2, REFUND OF LEVIES ERRONEOUSLY PAID.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 20, Taxation, is hereby amended and reordained by amending Article I, In General, Section 20-7.2, Refund of levies erroneously paid.

Chapter 20. Taxation

Article I. In General

Sec. 20-7.2. Refund of levies erroneously paid.

Pursuant to section 58.1-3990 of the Code of Virginia, 1950, as amended, the board of supervisors hereby provides for the refund of any local levies erroneously assessed on tangible personal property, machinery and tools, or merchant's capital, or a local license tax or real estate.

If upon application, the commissioner of the revenue is satisfied that he or his predecessor in office has erroneously assessed such applicant with any local levies as provided herein, he shall certify to the tax-collecting officer the amount erroneously assessed. If the levies have not been paid, the applicant shall be exonerated from so much thereof as is erroneous, and if such levies have been paid, the tax collecting officer or his successor in office shall refund to the applicant the amount erroneously paid, together with any penalties and interest paid thereon.

A refund of any payment made ~~on or after July 1, 1999~~, due to an erroneous assessment shall bear interest in the amount of ten percent per annum commencing the first day of the month following the month in which such

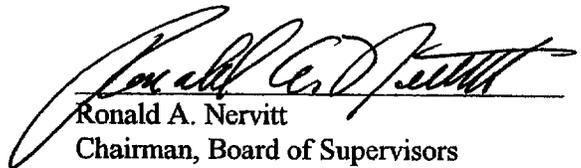
Ordinance to Amend and Reordain
Chapter 20. Taxation
Page 2

taxes are due or in which such taxes are paid, whichever is later, ~~but in no event prior to July 1, 1999.~~ For the purposes of this paragraph, an erroneous assessment shall mean an assessment that a taxpayer can demonstrate, by clear factual evidence, that he or she was not subject to such assessment for the year in question. ~~Correction of an assessment due to the sale, transfer or other disposition of property shall not be deemed to be an erroneous assessment. In addition, an assessment which is incorrect due to the action or inaction of a taxpayer shall not be deemed to be an erroneous assessment.~~ ~~No interest shall be paid if the refund is ten dollars or less or if the refund is the result of proration pursuant to section 58.1-351.6 of the Code of Virginia.~~

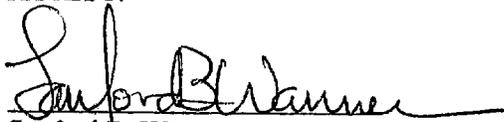
No refund shall be made in any case when application therefor was made more than three years after the last day of the tax year for which such taxes were assessed; provided, that if any tax is declared to be unconstitutional by a court of competent jurisdiction, the board of supervisors shall grant a refund of such tax hereunder to all taxpayers for those years to which the court proceeding was applicable.

State law reference-Code of Va., §58.1-3916.

~~This ordinance shall become effective July 1, 2000.~~


Ronald A. Nervitt
Chairman, Board of Supervisors

ATTEST:


Sanford B. Wanner
Clerk to the Board

SUPERVISOR	VOTE
MCLENNON	AYE
HARRISON	ABSENT
GOODSON	AYE
KENNEDY	AYE
NERVITT	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 27th day of June, 2000.