

ATA REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 13TH DAY OF FEBRUARY, 2001, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

**A. ROLL CALL**

John J. McGlennon, Chairman, Jamestown District  
Bruce C. Goodson, Vice Chairman, Roberts District

Jay T. Harrison, Sr., Berkeley District  
James G. Kennedy, Stonehouse District  
Ronald A. Nervitt, Powhatan District

Sanford B. Wanner, County Administrator  
Leo P. Rogers, Deputy County Attorney

**B. PLEDGE OF ALLEGIANCE**

Mr. David Ardit, a Lafayette High School student, led the Board and citizens in the Pledge of Allegiance.

**C. PUBLIC COMMENT**

Mr. Ed Oyer, 139 Indian Circle, commented on the installation of a sanitary line on Plantation Road 18 years ago; a conservation program for pick-up of white goods that Wise County has; and a ruling by the State Supreme Court on placing wireless communication towers on VDOT right-of-ways in Fairfax County. Mr Oyer also made a Freedom of Information request for copies of any additional correspondence, written, faxed or e-mailed, pertaining to his Virginia Municipal League claim that the County has received since November 2000.

**D. PRESENTATION**

1. Celebrate Diversity Month

Mr. McGlennon announced the Board is declaring February as "Diversity Month," to celebrate the richness of diversity in all of our citizens. Mr. McGlennon read the resolution to citizens and members of the Board, then presented it to Mr. Harrison to present at the Black History program on Thursday, February 22, 2001, at the Human Services Center.

On a roll call, the vote was: (AYE): Harrison, Kennedy, Nervitt, Goodson, McGlennon (5). NAY: (0).

**E. CONSENT CALENDAR**

Mr. McGlennon asked if a member wished to pull any items from the consent calendar.

Mr. Harrison requested Item Number 3, Section 8 Housing Choice Voucher Program Administration, parts (a) and (b), be pulled.

Mr. Kennedy requested Items Number 5, Establishment of Full-Time Librarian I Position, and 6, Authorization for Two Police Overhires, be pulled.

Mr. Kennedy made a motion to approve the remaining items on the consent calendar.

On a roll call, the vote was: AYE: Harrison, Kennedy, Nervitt, Goodson, McGlennon (5). NAY: (0).

1. Minutes, January 9, 2001, Regular Meeting  
Minutes, January 23, 2001, Regular Meeting  
Minutes, January 24, 2001, Work Session
2. Celebrate Diversity Month

**RESOLUTION****"CELEBRATE DIVERSITY" MONTH**

WHEREAS, James City County, founded in 1607, is the birthplace of the American experiment with democracy; and

WHEREAS, through the rich history of James City County, many individuals and groups have contributed to its progress, whether it be our early settlers, our African-American community, or our newest citizens, James City County recognizes that diversity has made us a more vibrant community; and

WHEREAS, James City County values and is committed to building a diverse workforce which brings together a richer mix of viewpoints and experiences leading to innovation, more effective results, and better service to our citizens; and

WHEREAS, it is appropriate during the month of February as we celebrate Black History Month to recognize the richness of diversity in all of our citizens.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby declares the month of February 2001, as "Celebrate Diversity" Month and calls upon citizens to recognize the value of diversity to our community.

4. Award of Contract - Baseball Field Lighting, District Park Sports Complex**RESOLUTION****AWARD OF CONTRACT—BASEBALL FIELD LIGHTING,****DISTRICT PARK SPORTS COMPLEX**

WHEREAS, bids have been received for the installation of lights on three baseball fields at the District Park Sports Complex; and

WHEREAS, staff has reviewed all bids and determined that Branham Electric Corporation submitted the lowest responsive bid and determined Branham Electric Corporation to be qualified to complete the project; and

WHEREAS, the bid is within the Capital Budget allocated for the District Park Sports Complex.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute a contract with Branham Electric Corporation, in the amount of \$128.118.

3. Section 8 Housing Choice Voucher Program Administrationa. Transfer of Section 8 annual Contributions Contractb. Section 8 Housing Choice Voucher Program Administration

Mr. Richard Hanson, Housing and Community Development Administrator, explained the transfer of Section 8 units and the annual contributions contract with the U.S. Department of Housing and Urban Development (HUD) from the Virginia Housing Development Authority (VHDA) to the County's Office of Housing and Community Development (OHCD). Mr. Hanson stated this would be beneficial to clients and the County. This change will allow the County to increase the number of units under the Section 8 Program. Some internal staff changes would need to be made to assure conformance with HUD regulations and to assume the transfer of additional responsibilities.

Mr. Harrison questioned if OHCD would be able to handle the increased responsibilities.

Mr. Hanson explained his office will upgrade a vacant 30-hour staff position to full-time, realign current staff responsibilities, and improve technology. The cost will be picked up by anticipated additional program administration fees for more units. OHCD will be paid on a per unit basis and will receive \$42 per unit per month versus the current \$36.

Mr. Goodson inquired if other localities had made this transfer.

Mr. Hanson responded he had talked to other localities. The City of Virginia Beach was withdrawing all units from the program; Newport News and Hampton did not participate in program and York County is not withdrawing.

Mr. McGlennon summarized the discussion by stating that under the current program, OHCD is not able to do as much as it would like since the number of units under VHDA is frozen.

Mr. Harrison made a motion to adopt the resolutions.

On a roll call, the vote was: AYE: Harrison, Kennedy, Nervitt, Goodson, McGlennon (5). NAY: (0).

**RESOLUTION**

**CONVERSION OF PART-TIME LIMITED TERM SENIOR OFFICE ASSISTANT**

**TO FULL-TIME LIMITED TERM HOUSING ASSISTANT**

- WHEREAS, the Board of Supervisors of James City County has adopted a resolution regarding the transfer of the Section 8 Annual Contributions Contract; and
- WHEREAS, conversion of the part-time limited term Senior Office Assistant position to a full-time limited term Housing Assistant position will assist the Office of Housing and Community Development to perform additional responsibilities under a direct Annual Contributions Contract with HUD; and
- WHEREAS, there are sufficient funds in the FY 2001 budget to fund the requested full-time limited term Housing Assistant position and Section 8 administrative fee income is anticipated to be available to fund this position in future fiscal years.
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby change the part-time limited term Senior Office Assistant position in the Office of Housing and Community Development to a full-time limited term Housing Assistant position.

**RESOLUTION**

**TRANSFER OF SECTION 8 ANNUAL CONTRIBUTIONS CONTRACT**

- WHEREAS, the U.S. Department of Housing and Urban Development (HUD) has consented or will consent to the transfer of the Annual Contributions Contract dated November 22, 2000, and designated as Number VA901 from the Virginia Housing Development Authority to the James City County Office of Housing and Community Development; and
- WHEREAS, such transfer requires the Transferee to agree to certain conditions; and
- WHEREAS, as a Transferee, James City County desires to agree to the aforesaid conditions.
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby agree that the funds authorized by the transfer will be used for the same purposes as originally intended; that is, to provide eligible families with the Housing Choice Vouchers (CFR 24 part 982); that the same population as originally intended (CFR 24 part 982) will be served; and that the vouchers will be used in James City County as originally intended.

**RESOLUTION****SECTION 8 HOUSING CHOICE VOUCHER PROGRAM ADMINISTRATION**

WHEREAS, the James City County Office of Housing and Community Development (OHCD) will be assuming responsibility for the Section 8 Housing Choice Voucher Program under a direct contract with the U.S. Department of Housing and Urban Development (HUD); and

WHEREAS, transfer of this program will increase efficiency, productivity, and result in better service to our clients; and

WHEREAS, transfer of this program will require additional duties and responsibilities of the OHCD staff in order to ensure conformance with HUD administrative regulations.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve changing a part-time limited term Senior Office Assistant position to a full-time limited term Housing Assistant position.

5. **Establishment of Full-Time Librarian I Position**

Mr. John Moorman, Library Director, stated the need for creating one full-time permanent Librarian I position and eliminating two vacant part-time permanent Librarian I positions and one Building Maintenance Assistant position. The part-time positions are difficult to fill and constant staff vacancies negatively impact staff morale and effective Library operations. He also explained the positive effects of a full-time position.

Mr. Kennedy inquired if the change to a full-time position would create any additional salary requirements.

Mr. Moorman explained the only additional cost is that of benefits and funding is available in the FY 01 Budget.

Mr. Goodson wanted to know about skills for the new position.

Mr. Moorman responded that the skills of the two vacant part-time positions are the same as the requested full-time position. The part-time Building Maintenance was not.

Mr. Kennedy made a motion to adopt the resolution.

On a roll call, the vote was: AYE: Harrison, Kennedy, Nervitt, Goodson, McGlennon (5). NAY: (0).

**RESOLUTION****ESTABLISHMENT OF FULL-TIME LIBRARIAN I POSITION**

WHEREAS, the Williamsburg Regional Library currently has two vacant part-time permanent Librarian I positions; and

WHEREAS, the Williamsburg Regional Library has experienced disruptive turnover and difficulty attracting professional Librarians to part-time positions; and

WHEREAS, funds are available within the existing Library budget to create one full-time Librarian I position by eliminating two part-time Librarian I positions and one part-time Building Maintenance Assistant.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby eliminate two part-time permanent Librarian I positions and one part-time permanent Building Maintenance Assistant position and establish one full-time Librarian I position.

6. Authorization for Two Police Overhires

Chief David Daigneault stated the Police Department needs to improve its staffing situation by creating two overhire positions. The Department has only been fully staffed five months out of the previous 32 months, averaging 1.4 vacancies per month. This has not affected the safety of County residents but places additional stress on current employees covering the extra hours when turnover occurs. Chief Daigneault explained that the hiring and training period for new police officer recruits can take three to six months for a minimally trained employee. He also advised that funds are available in the FY 01 Budget due to turnover.

Mr. Kennedy inquired if there is more turnover with new hires.

Chief Daigneault provided statistics on the last 16 employees who left. Departure reasons included moving to other law enforcement agencies, retirement, and termination for cause.

Mr. Kennedy asked if the entry level salary was sufficient to retain police officers and if the high cost of training should encourage the County to bump up the entry level salary to prevent turnover.

Chief Daigneault said the starting salary was not the problem. Most of the officers that had left were moving up or retiring.

Mr. Kennedy wanted to know if the officers could find affordable housing in the County.

Chief Daigneault replied that most of the officers lived in James City County.

Mr. Goodson inquired how long it has been since the force has grown.

Chief Daigneault responded most of the growth has been in the School Resource Officer Program where two officers were added last year.

Mr. Goodson questioned if the two overhire positions were approved would the Department have sufficient vehicles.

Chief Daigneault replied the Department did have sufficient vehicles.

Mr. McGlennon noted that when he served on the Peninsula Jail Board he discovered that law enforcement nationwide was having troubles recruiting.

Mr. Kennedy moved to approve the resolution.

On a roll call, the vote was: AYE: Harrison, Kennedy, Nervitt, Goodson, McGlennon (5). NAY: (0).

**RESOLUTION****AUTHORIZATION FOR TWO POLICE OVERHIRES**

- WHEREAS, the insufficient staffing in the Police Department adversely affects service delivery and places additional stress on employees already working in dangerous and stressful occupations; and
- WHEREAS, the Police Department has averaged 1.4 vacancies per month in the previous 32 months; and
- WHEREAS, overhire positions are an efficient and effective way to provide staffing and continuity of service during recruitment and training periods; and
- WHEREAS, funds are available within the existing Police Department FY 2001 budget.
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby establish two full-time permanent Police Officer Recruit overhire positions.

**F. PUBLIC HEARINGS****1. Case No. SUP-01-01. Wright Family Subdivision**

Mr. Christopher Johnson, Planner, stated that Mr. Robert P. Wright has applied for a special use permit to allow a family subdivision of a three-acre parcel into two parcels in the A-1, General Agricultural, Zoning district. The property is located at 4797 Fenton Mill Road and is further identified as Parcel No. (1-2A) on James City County Real Estate Tax Map No. (24-1). Mr. Wright intends to construct a new single-family home for himself on the newly created parcel and convey the remaining parcel to his son, Raymond P. Wright, Sr. The proposed subdivision is consistent with the Comprehensive Plan.

Mr. Goodson inquired if the parcel had been subdivided before.

Mr. Johnson replied it was subdivided over 15 years ago and that Mr. Wright's daughter lives on that parcel.

Mr. Nervitt said he was concerned about the number of trailers already on the property.

Mr. Johnson stated that Mr. Wright's home would be located on the one acre parcel while the two trailers are on the other two acres.

Mr. McGlennon opened the public hearing.

M. Anderson Bradshaw, attorney representing Mr. Robert Wright, explained the reasons for requesting a special use permit and provided the Board with the history of how Mr. Wright acquired the land and why it was previously divided. Mr. Bradshaw supported the staff report and thanked staff for their assistance.

Mr. Nervitt asked if the land had passed a perk test.

Mr. Bradshaw said all agencies approvals had been received and that the subdivision could not be approved until the Health Department issued the septic system permit.

There being no other speakers, Mr. McGlennon closed the public hearing.

Mr. Harrison wanted to know who lived in the two trailers.

Mr. Bradshaw responded tenants.

Mr. Nervitt made a motion to approve the resolution.

On a roll call, the vote was: AYE: Harrison, Kennedy, Nervitt, Goodson, McGlennon (5). NAY: (0).

## RESOLUTION

### CASE NO. SUP-1-01. WRIGHT FAMILY SUBDIVISION

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a special use permit process; and

WHEREAS, the applicant has requested a special use permit to allow for a family subdivision in an A-1, General Agricultural District, of a parcel generally 3.0 acres in size that would be subdivided into two parcels, 1.0 acre and 2.0 acres, located at 4797 Fenton Mill Road, further identified as Parcel No. (1-2A) on James City County Real Estate Tax Map No. (24-1).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-1-01 as described herein with the following conditions:

1. This special use permit is valid for only one (1) family subdivision as generally depicted on the subdivision plat dated December 22, 2000, and titled "Wright Family Subdivision, Lots 1 and 3."
2. Final subdivision approval must be received from the County within twelve (12) months from the issuance of this special use permit or the permit shall become void.
3. The special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

2. Case No. SUP-25-00. Stonehenge Kennels

Mr. Christopher Johnson, Planner, presented the staff report recommending denial of this special use permit application to expand the kennel by adding a one-story structure approximately 3,200 square feet. Staff believes the proposed expansion is inconsistent with the character of the surrounding residential community and inconsistent with the Rural Lands Land Use designation. The Planning Commission on January 8, 2001, recommended approval of this application by a unanimous vote. Should the Board recommend approval of this application, the Planning Commission recommends placing the conditions contained in the staff report upon its approval. Mr. Johnson explained the kennel expansion would increase traffic, noise, and negatively impact the surrounding small residential community. The addition of landscaping, fencing, building location, and materials will not mitigate the noise issue. The narrow one-lane gravel right-of-way is not designed to function for the higher volume of traffic that would result if the kennel was expanded.

Mr. Goodson inquired if this is the same process that any applicant would need to go through if they wanted to start a kennel operation in the County except for a M-1 zoning district.

Mr. Johnson said there are only three districts where kennels are allowed under the Zoning Ordinance.

Mr. Goodson inquired about site and landscape requirements and if these requirements apply to every applicant wanting to start a kennel. He also wanted to know if there was anything preventing the applicant from providing a 35-foot buffer.

Mr. Johnson responded that the requirements were the same for all applicants and that the closest residential property to the kennel is 300 feet away.

Mr. Kennedy asked if the applicant continued to provide gravel to maintain the driveway as was indicated from the January Planning Commission minutes.

Mr. Johnson responded the applicant has spread three tons of gravel on driveway.

Mr. Kennedy wanted to know if three tons of gravel covered the right-of-way and if it was enough to make it 3-inches thick.

Mr. Johnson stated it would take 400 tons of gravel today and yearly to maintain.

Mr. Kennedy asked who would be liable if there was an accident on the right-of-way.

Mr. Rogers said it depended on what caused the accident and that all property owners could potentially be part of the lawsuit.

Mr. Kennedy inquired about an acceptable traffic count and what that included.

Mr. Johnson said he was uncertain what is included.

Mr. Rogers said the noise ordinance does not apply to this property.

Mr. McGlennon asked about the traffic count.

Mr. Johnson stated the traffic count number did not include the grooming business, employee trips, or residents at the site. It solely counted the number of trips related to picking up or dropping off dogs.

The Board and staff discussed the standards for maintaining the gravel right-of-way, noise concerns and if there are reports available on decibel levels, the potential increase in traffic, waste problems, and operating conditions.

Mr. McGlennon opened the public hearing.

Gregory R. Davis, attorney for the applicant, explained there is a definite need for the kennel expansion, it is in an appropriate location, and the applicant has worked hard to minimize the impact of an expansion on the neighbors. Mr. Davis informed the Board that the design of the new facility would face the current building thereby blocking the dogs view of traffic and people and minimize barking. Mr. Davis stated the applicant plans to install a high acoustical ceiling, cinder block walls, and maintain gravel right-of-way which will increase construction cost by 50 percent. Mr. Davis said VDOT does not have published standards for gravel roads. He spoke to Donald Hunt who also owns a gravel road. According to Mr. Hunt it takes ten tons of gravel a year and requires grading one to four times a year. Mr. Davis stated how conditions recommended to mitigate the impact of expansion would be detrimental to his client's business. Closing the kennel on Sunday would create more traffic on Saturday or Monday. The kennel would lose important tourist weekend business if customers could not pick up their pets on Sunday. To fully enclose the kennel is unfeasible

because the open runs provide the "bread and butter" business for a kennel operation. The family cannot afford to build an enclosed kennel facility. Of the nine houses surrounding the kennel, six were built after the kennel opened.

Mr. Kennedy stated that most kennels are opened on Sunday and inquired if most have private driveways.

Mr. Davis responded that survey didn't cover that subject.

Mr. Kennedy asked if the Christmas trees planted in the last three years were for buffering the kennel.

Mr. Davis replied the trees were not for buffering but were planted to meet landscaping requirements in the Ordinance.

The Board wanted to know about landscaping requirements and buffering for kennel, stadium noise effect, maximum capacity of the kennel operation, increase in traffic, gravel maintenance requirements, noise control for surrounding neighbors, and building materials to lessen noise.

Mr. Nervitt referred to a January 31, 2001, letter the applicant had written indicating he would install acoustic material to dampen noise. Mr. Nervitt asked if the County could have the applicant put that in proffers or in an agreement.

Mr. Rogers stated the special use permit application only applies to the proposed facility. If the applicant chooses to improve the current building on his own, that would be his decision but the County cannot require such changes under this application.

Mr. Glen Coven, Owner, responded by stating he planned to put acoustic sound materials in for his family's health reasons and would be glad to put it in writing for the County.

Mr. Nervitt stated the conditions do not show operating hours, the main issues are the right-of-way easement and noise, the neighbors and the applicants need some kind of operating plan they can live with.

Mr. Coven stated he has responded to each new condition staff has requested. However, new conditions generate additional conditions. He also said the traffic count of 100 vehicles a day in the staff report is inaccurate. Mr. Coven commented on the negative effect limiting operating hours would be, but if the Board required it, they would comply.

Mr. Nervitt reiterated that he would like to see the applicant, the neighbors, and staff work out a mutually agreeable plan for operating hours and conditions.

Mr. McGlennon opened the public hearing.

1. Kay Little, 5580 Riverview Road, stated she lived next door to the kennel. No one takes better care of animals than the applicant. She opposes the expansion for numerous reasons: not proper land use for kennel, more dogs will increase noise level and traffic, limit hours of operation, ABKA has a website with standards for kennel owners, no plan for maintenance of gravel road, investors should have considered the area is landlocked, the change in Zoning Ordinance, the number and closeness of neighbors to kennel, no public road frontage, and the business does not serve the neighborhood.

Mr. McGlennon inquired when dogs are taken in for the night.

Ms. Little said around 7:00 to 7:30 p.m. now and around 9:00 p.m. in the summer.

2. Donald White, 5594 Riverview Road, stated he also lived next door and opposes expansion. He explained he and his family have worked on the driveway to maintain it for the resident's personal use. The road was built for his grandmother and it was not designed for commercial use. There is no provision for drainage; he has spent over \$600.00 in repairs; and has planted 40 trees to buffer sound. He pointed out the applicant has contributed \$70 for road repairs; the dogs create a health hazard because the applicant does not clean up the animal waste that is left next to Mr. White's property. Mr. White expressed concerned that his shallow well will become contaminated. Mr. White stated the Planning Commission report recommended the applicant clean up after the dogs, but the Board does not have that condition in their recommendations.
3. Jim Smith, 5440 Riverview Road, stated he lives 800 feet from the kennel which is closer than some houses next to the kennel. Before he purchased his property in 1983, he contacted the County regarding any conditions that might affect his property. The kennel was grandfathered. There was no inherent right to expand the kennel. Customers have not been the issue, the issue is a 50 dog kennel in a residential neighborhood. Since noise does not travel in a straight line, a five-foot fence and token landscaping do not suppress noise. A 50 dog kennel would destroy the character of the neighborhood. He opposes the expansion.
4. Jean Smith, 5440 Riverview Road, said the kennel is a commercial use and expansion would create more noise on a narrow road in a residential neighborhood. Eight years ago, the Planning Department advised her that commercial use was inappropriate for that area. She asked the Board to vote no to the expansion request.
5. Linette Lancaster, 5576 Riverview Road, stated it was stressful and upsetting to listen to barking dogs all the time. She has changed the time when she feeds her horses; has trouble backing her horse trailer into the driveway because of the increase in traffic; most people who use a kennel wouldn't want to live next door to one; the traffic count is accurate; and the right-of-way does not meet VDOT standards. She opposes the expansion.
6. Brenda White, 5596 Riverview Road, spoke in opposition on behalf of her grandmother who was unable to attend meeting. She said before the current owners took over the kennel, the roadway only had to be repaired once a year, now repairs are needed more frequently; increase in traffic is a concern for safety of the children; dog waste presents danger of shallow well contamination; and the smell is unpleasant.
7. Shandelle Henson, 3710 W. Steeplechase Way, spoke in support of the expansion. She stated the kennel provides excellent service, it's clean and she has never seen dog waste or smelled any bad odors.
8. Earl Wysong, 1908 Patriots Colony Drive, emphasized the need for expansion and stated as more people with pets move into the County, the kennel services will be needed.
9. Virginia Taylor, 210 Plains View Road, spoke in support. She stressed the kennel provided good service and the lack of the number of kennels available in the County.
10. John Curtis, 113 Huntercombe, wants the kennel to expand because the current owner provides excellent service and there is a need for a good facility in the County. Wherever he has lived, in the States or overseas, he wants a clean place to board his pets. He has not seen any speeding on the road and said expansion is good for the community.
11. Richard B. Davis, 103 Woodhall Spa, spoke in favor of expansion. Mr. Davis stated his experience has been that the operating hours are strictly enforced, but there should be an escape clause for operating hours. He explained low pitch sound goes around barriers while high pitch sound travels up. Mr. Davis said the new kennel owner provides excellent care. He offered advice to the applicant and neighbors, based on his personal experience, to meet and draw up a plan for maintenance and usage of the right-of-way.

12. Ben Fenton, 8374 York River Park Road, lives about 400 feet from kennel and opposes the expansion. He is annoyed by barking dogs and commercial use of a private driveway. He said many of his comments have already been stated. He mentioned Mr. Coven's letter of December 12, 2000, which stated the driveway is comparable to other cul-de-sac in other subdivisions. Mr. Fenton asked if this is true. He said the Little's own the easement, pay taxes on it but have little to say about the use of it.

13. Elizabeth McKenna, 105 Gladys Drive, stated she was in favor of the kennel expansion. She said change is hard to deal with but the Comprehensive Plan changes over time as the County grows. There is a need for a good kennel service and the facility and the operator do a good job. She considers the kennel like a day care situation for dogs.

14. Lori Starks, 5598 Riverview Road, opposes the expansion because it will increase traffic and noise. She stated she hears the dogs all day at all hours even when she is inside her home. She is concerned about the increase in traffic and safety for her children.

15. Margaret Bradenhamm, 305 East Tazewell, spoke in favor of expansion. She stated that growth creates changes and services are needed. There are not many kennels in area. Stonehenge provides good services especially for multiple night stays. She believes with proper controls, Stonehenge should be allowed to expand. If you permit growth, you need to approve services.

16. Steve Brady, 2632 Sir Thomas Way, stated you can trust people who treat animals well and you can trust these people. We need to look at both sides of the issue. He does not think more dogs will make more noise. He favors the kennel expansion.

17. Bill Unaitis, 221 Charleston Place, spoke in favor of expansion. He questioned the number of trips the staff report listed, and a noise level of 120 decibels. Mr. Unaitis stated he had worked with OSHA officials in a previous job and didn't think dog barking meets OSHA standards. Mr. Unaitis opposes limiting hours of operation which would make it difficult to retrieve pets. He stated Stonehenge provides excellent service.

18. James Heller, 10 Coventry Road, said he supports expansion and has not smelled odors or heard noise levels that were talked about tonight.

19. John Donaldson, 112 Crownpoint Road, spoke in favor of expansion. He stated the press has made this a local dispute but the Planning Commission did not see this as a local issue. He asked the Board to consider the kennel expansion as a community need and as a broad public interest matter that needs equal consideration. The public has a great need for quality service and the expansion request is not a personal dispute between neighbors. The Coven's proposal is reasonable.

20. Albert Beck, 8251 Wrenfield Drive, spoke in favor of expansion and said he is a retired veterinarian. He stated Stonehenge provides superior service compared to his facility in New York. He was not aware of odors at Stonehenge and said somebody is doing "fuzzy math" with the traffic count.

21. Ed Oyer, 139 Indian Circle, stated he has been in the Board room 211 times and this meeting is like a microcosm of the General Assembly. He has no dispute about the kennel but only about the expansion. He said the kennel should remain as is.

22. Michael Heikes, attorney for William and Kay Little, stated he was not present on behalf of the Little's but wanted to clarify their reason for the lawsuit against the kennel owners. Mr. Heikes explained the easement for the driveway was granted before the kennel started. Now the driveway is being used for a different purpose than originally approved.

Mr. McGlennon closed the public hearing as there were no other speakers.

Mr. Kennedy stated he had worked with staff to prepare some amendments to the conditions for the proposed kennel expansion. He read the eight conditions to the Board and moved adoption of the conditions.

Mr. Nervitt stated that he would have appreciated having these amendments earlier rather than at this time.

Mr. Kennedy explained that he spoke to staff yesterday and worked out the conditions at the last minute and had only received the final version this afternoon. Mr. Kennedy apologized to the Board for the short notice.

Mr. Nervitt commented the original conditions needed to be tightened up, the applicant and his neighbors needed time to work out operating conditions; he thanked Mr. Donaldson for eloquently stating the Board's role in this case; reiterated that this is a quality of life issue and each citizen that spoke tonight mentioned the noise was intolerable; and the issue needs to be worked out or we're stuck with the situation as it is. Mr. Nervitt questioned why staff did not present the amended conditions before tonight.

Mr. Wanner stated the applicant was given a copy of the conditions. The conditions only were finalized this afternoon.

Mr. Goodson moved that the case be sent back to the Planning Commission for review.

Mr. McGlennon explained the Planning Commission has already approved the application with less restrictions.

Mr. Kennedy said he hopes the applicant and neighbors can come to an agreement. If the issue is deferred, the neighbors will still be neighbors, and will still need to work together. Mr. Kennedy made a motion to defer the case and have staff look at the new conditions.

Mr. Rogers stated there were three motions on the table and explained that Mr. Nervitt's motion to defer came first; then Mr. Goodson made a motion to send the case back to the Planning Commission; and third Mr. Kennedy's motion to defer the case so the applicant and neighbors can look at the new list of conditions.

Mr. Kennedy withdrew his motion.

Mr. Nervitt again stated it was important to tighten up the conditions the Planning Commission approved; that Mr. Coven may not always be the kennel owner but the kennel will still be there. Mr. Nervitt would like the applicant and neighbors to have time to work out some conditions they can live with.

Mr. Nervitt amended his motion of deferral to defer the matter to the March 27, 2001, Board meeting.

On a roll call, the vote was: AYE: Nervitt, Goodson, McGlennon (3). NAY: Harrison, Kennedy (2).

Mr. McGlennon recessed the Board at 10:29 p.m.

Mr. McGlennon reconvened the Board at 10:40 p.m.

Mr. McGlennon requested the Board to give staff some direction on what Board members would like staff to do.

Mr. Nervitt stated that the conditions are missing operating hours, days, where things are actually done on the site; and landscaping requirements for screening and buffering.

Mr. Goodson asked staff to keep in mind that this is a business adjacent to a residential area.

Mr. Nervitt added that staff needed to look at acoustical standards for the current building to bring it up to standards.

Mr. Rogers commented that he would talk to Mr. Davis regarding some changes to enhance soundproofing of the current kennel by making the nonconforming use a conditional use with applicant's consent. Mr. Rogers reminded the Board that the applicant has to agree to making any improvements to the existing facility.

## **G. BOARD CONSIDERATIONS**

### **1. Route 199 and Jamestown Road Locally Preferred Alternative**

Mr. Sanford Wanner, County Administrator, presented the County's "Locally Preferred Alternative" for the Route 199 and Jamestown Road intersection. He explained that the County's resolution does not include the installation of sound walls along the east side of Route 199 adjacent to residential properties located in the City. The City's resolution adopting its "Locally Preferred Alternative" does contain a provision for sound walls in that area.

Mr. McGlennon made a motion to adopt the resolution.

On a roll call, the vote was: (AYE): Harrison, Kennedy, Nervitt, Goodson, McGlennon (5). NAY: (0).

## **H. PUBLIC COMMENT - none**

## **I. REPORTS OF THE COUNTY ADMINISTRATOR**

Mr. Wanner announced the Board will have a Work Session at 4:00 p.m., on Wednesday, February 21, 2001, in the Board of Supervisors meeting room, to discuss Purchase of Development Rights; a financial trends presentation will be conducted by John McDonald, Manager of Financial and Management Services, and Carol Swindell, Assistant Manager of Financial and Management Services; and a Closed Session for the six-month evaluation of the County Administrator.

## **J. BOARD REQUESTS AND DIRECTIVES**

Mr. Kennedy asked Mr. Wanner to have the Police provide speed enforcement in the Kings Village and Racefield subdivisions and the downtown Toano area; to contact VDOT regarding trash on I-64 exit ramps 227 and 231 and along Route 60 and Route 5.

Mr. Nervitt thanked the Board for the flowers sent to his wife who is home and recovering.

Mr. McGlennon stated he and Marvin Sowers, Planning Director, met with representatives from Dominion Virginia Power regarding trimming trees along easement lines. The County averages 200 minutes a year for power outages compared to 90 minutes for other communities in Virginia. The residents of Heritage Landing and the First Colony subdivisions are especially concerned about extensive cuttings and would like less evasive cutting methods and notification ahead of time. Heritage Landing has underground wiring.

Mr. McGlennon said he received a call from Mr. Tom Ross of Cox Cable to follow-up on the sales tax issue citizens had questioned Mr. Ross on at the last Board meeting. Mr. McGlennon reported the sales tax was a computer program error and was not applicable to County subscribers. March bills will show a refund to those customers charged the tax after Cox upgraded the system.

#### K. CLOSED SESSION

Mr. Goodson made a motion to go into closed session at 10:55 p.m. as recommended by the County Administrator.

On a roll call, the vote was: (AYE): Harrison, Kennedy, Nervitt, Goodson, McGlennon (5). NAY: (0).

Mr. McGlennon reconvened the Board into open session at 11:09 p.m.

Mr. Harrison made a motion to adopt the Closed Session resolution.

On a roll call, the vote was: (AYE): Harrison, Kennedy, Nervitt, Goodson, McGlennon (5). NAY: (0).

### 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, Section 2.1-344(A)(1), to consider a personal matter(s), the appointment of individuals to County boards and/or commissions..

i. Appointment of Individuals to County Boards and/or Commissions, Section 2.1-344(A)(1) of the Code of Virginia

a. Wetlands Board

Mr. Kennedy made a motion to appoint Larry Waltrip to a five-year term on the Wetland Board, term to expire on February 14, 2006.

On a roll call, the vote was: (AYE): Harrison, Kennedy, Nervitt, Goodson, McGlennon (5). NAY: (0).

b. Redistricting Committee

Mr. Kennedy made a motion to appoint Casey Duplantier, Deborah Schneider, Robert Dunn, Jim Stam, James Barth, Vera Jones, Linda Burgess-Getts, Celestine Bolden, Jeffrey Ryer, and Paul Gerhardt to serve on the Redistricting Committee.

On a roll call, the vote was: (AYE): Harrison, Kennedy, Nervitt, Goodson, McGlennon (5). NAY: (0).

The Board discussed a proposal from Williamsburg Land Conservancy to gauge Board interest in encouraging the Conservancy to apply for a Farm Land Preservation Program Grant to acquire a 30 year conservation easement over Mainland Farm.

Mr. Harrison made a motion to adjourn at 11:34 p.m.

On a roll call, the vote was: (AYE): Harrison, Kennedy, Nervitt, Goodson, McGlennon (5). NAY: (0).



Sanford B. Wanner  
Clerk to the Board

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