

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 25TH DAY OF SEPTEMBER 2007, 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
James O. Icenhour, Jr., Vice Chairman, Powhatan District
Jay T. Harrison, Sr., Berkeley District
Bruce C. Goodson, Roberts District
M. Anderson Bradshaw, Stonehouse District

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

B. MOMENT OF SILENCE

Mr. McGlennon requested the Board and citizens observe a moment of silence.

C. PLEDGE OF ALLEGIANCE - Kellie Rodgers, an eighth-grade student at Berkeley Middle School, led the Board and students in the Pledge of Allegiance.

D. PUBLIC COMMENT

1. Mr. Robert Richardson, 2786 Lake Powell Road, commented in support of the Cool Counties Declaration.

2. Mr. Stephen Pond, 2840 Durfees Mill Road, requested property assessments adjacent to Lake Powell be reduced to those in the surrounding neighborhood rather than the assessed premium value.

3. Dr. Christine Llewellyn, 3000 Heritage Landing Road, commented in support of the Cool Counties program and requested approval of the resolution.

4. Ms. Kensett Teller, 125 Lake Drive, on behalf of James City County Citizens' Coalition, stated support for the Cool Counties energy plan.

5. Ms. Sarah Kadec, 3504 Hunters Ridge, read a letter on behalf of Terence Elkins commenting on the Cool Counties Declaration resolution, noting that in his experience mankind bears responsibility for global warming and stated support for the Cool Counties Declaration resolution.

6. Mr. Ed Oyer, 139 Indian Circle, commented on the number of letters to the editor that did not support the Hampton Roads Transportation Authority; local authority of road repairs; cost of school construction; dam construction Request for Proposals (RFPs); and real estate assessments on Indian Circle.

Mr. McGlennon noted that the high school was constructed for 1,450 students, not 800 as Mr. Oyer mentioned.

E. HIGHWAY MATTERS

Mr. Mike Cade, Virginia Department of Transportation (VDOT) Assistant Residency Administrator, stated the work on Route 608 was completed.

Mr. Bradshaw stated there was a compliment from a constituent that a stoplight at Rochambeau Drive and Croaker Road improved traffic and noted that VDOT may want to implement a similar solution at Lightfoot Road and Route 60.

Mr. Icenhour thanked Mr. Cade for quick patching in Forest Glen and noted the pending installation of stop and yield signs and a "Watch for Children" sign in that subdivision.

Mr. McGlennon thanked Mr. Cade for the work in Brookhaven.

F. CONSENT CALENDAR

Mr. Harrison made a motion to adopt the items on the Consent Calendar, including the amendment to the minutes.

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

1. Minutes - September 11, 2007, Regular Meeting
2. Installation of "Watch for Children" Sign - Norvalia Subdivision

RESOLUTION

INSTALLATION OF "WATCH FOR CHILDREN" SIGN – NORVALIA SUBDIVISION

WHEREAS, Section 33.1-210.2 of the Code of Virginia provides for the installation and maintenance of signs by the Virginia Department of Transportation, alerting motorists that children may be at play nearby, upon request by a local governing body; and

WHEREAS, Section 33.1-210.2 further requires that the funding for such signs be from the secondary road system maintenance allocation for the County; and

WHEREAS, residents of the Norvalia community have requested that a "Watch for Children" sign be installed on Farmville Lane as illustrated on the attached drawing titled "Norvalia Subdivision 'Watch for Children Sign'."

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby request that the Virginia Department of Transportation install and maintain one "Watch for Children" sign as requested with funds from the County's secondary road system maintenance allocation.

- 3. Office of Justice Programs of the Department of Justice - Justice Assistance Grant (JAG) - \$12,913

RESOLUTION

OFFICE OF JUSTICE PROGRAMS OF THE DEPARTMENT OF JUSTICE –

JUSTICE ASSISTANCE GRANT (JAG) - \$12,913

WHEREAS, the Office of Justice Programs of the Department of Justice – Justice Assistance Grant (JAG) has awarded the James City County Police Department a grant in the amount of \$12,913; and

WHEREAS, the grant is effective for three years and expires on September 30, 2010; and

WHEREAS, the grant requires no local matching funds; and

WHEREAS, the funds will be used to support six School Resource Officers' attendance to the Virginia Gang Investigators Association Conference and to purchase equipment and supplies to increase the Community Services Unit's ability to provide crime prevention education throughout the community.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of James City County, Virginia, hereby authorizes the following appropriation to the Special Project/Grants fund:

Revenues:

Justice Assistance Grant \$12,913

Expenditures:

Justice Assistance Grant \$12,913

- 4. Office of Justice Programs of the Department of Justice - FY 2007 Gang Resistance Education and Training (G.R.E.A.T.) Program - \$127,927

RESOLUTION

OFFICE OF JUSTICE PROGRAMS OF THE DEPARTMENT OF JUSTICE – FY 07 GANG

RESISTANCE EDUCATION AND TRAINING (G.R.E.A.T.) PROGRAM - \$127,927

WHEREAS, the Office of Justice Programs of the Department of Justice – FY 07 Gang Resistance Education and Training (G.R.E.A.T.) Program has awarded James City County Police Department a grant in the amount of \$127,927 (federal share of \$70,095; local match \$57,832); and

WHEREAS, the matching funds are available in the County's Grant Match account; and

WHEREAS, the funds will be used to pay for travel and training for seven Community Services Officers to attend G.R.E.A.T. training, as well as the salary and benefits of a full-time (2,167 hours/year), limited-term Police Officer I (G.R.E.A.T. Officer) who will be responsible for coordinating and teaching the G.R.E.A.T. program in the County's middle schools and during a summer camp; and

WHEREAS, the grant expires November 30, 2008, thus allowing any unexpended funds as of June 30, 2008, to be carried forward to James City County's next fiscal year.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of James City County, Virginia, hereby establishes a full-time limited-term position within the Police Department and authorizes the following appropriation to the Special Projects/Grants fund:

Revenues:

GREAT	\$70,095
County Grant Match Account	<u>57,832</u>
Total	<u>\$127,927</u>

Expenditures:

GREAT	<u>\$127,927</u>
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- 5. Contract Award - Boom Truck with Dump Body

RESOLUTION

CONTRACT AWARD – BOOM TRUCK WITH DUMP BODY

WHEREAS, a Request for Proposals to furnish a Boom Truck with Dump Body was publicly advertised and staff reviewed proposals from three firms interested in performing the work; and

WHEREAS, upon evaluating the proposals, staff determined that Virginia Truck Center of Tidewater was the most fully qualified and submitted the proposal that best suited the County's needs as presented in the Request for Proposals.

NOW, THEREFORE BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, awards the \$121,934 contract to furnish a Boom Truck with Dump Body to Virginia Truck Center of Tidewater.

G. PUBLIC HEARINGS

- 1. Real Estate Land Book and Needed Changes to the FY 2008 Budget

Mr. John E. McDonald, Manager of Financial and Management Services, stated taxes had increased in James City County, but this was not due to a tax rate increase but an assessment value increase for homes in

the County. He stated this was the second public hearing on tax increases, following the budget public hearing in April. Since then the estimated assessment increase was adjusted from 4.1 percent to 4.7 percent on average, which may be higher for some citizens. Mr. McDonald stated that staff received notice of this in August and an amendment to the budget for a change in assessments requires 30 days notice by State Code. Mr. McDonald stated that staff did not recommend decreasing the tax rate below the current \$0.77 per \$100 assessed value. He stated the tax rate was necessary for funding additional costs for Matoaka Elementary School and Warhill High School. He stated the revenue shortfall this fiscal year was because new construction had fallen short of expectations and had to be recalculated based on the July 1, 2007, landbook. Mr. McDonald stated the adopted budget overestimates revenue by \$2.9 million, which will be met by reductions in spending and not reductions in reserves. He stated that staff was not recommending an increase in fees or taxes.

Mr. McDonald stated that the \$2.9 million required to close the gap was supplied by FY 2007 under-spending, a \$1.2 million reduction in capital projects, and a reduction in County departmental operating budgets. He stated there were no reductions for outside agencies such as schools. He stated the proposed resolution confirms the real estate tax rate of \$.077 per \$100 assessed value.

Mr. McDonald stated that individual assessments or appeals can be heard at the Office of Real Estate Assessments, and if a citizen did not feel this action was satisfactory, the Board of Equalization would hear an appeal from the Real Estate Assessment Office. He stated the required forms can be found in that office and on the website.

Mr. Goodson asked about the proposed reduction in spending to support industrial property infrastructure, specifically at the James River Commerce Center.

Mr. McDonald stated that approximately \$2 million was allocated for this and the budget revision would reduce the funding by \$300,000. He stated that in addition to these funds, the Economic Development Authority has funds available for investment as well as available grants and opportunity monies for industrial properties. Mr. McDonald stated he was confident the reduction would not have a significant impact on industrial development.

Mr. Goodson asked for confirmation that there would be little or no impact on industries in the County.

McDonald stated this was correct.

Mr. Wanner stated this was a fund that has built up over a number of years.

Mr. McDonald confirmed this.

Mr. Harrison asked if the improvements to the gymnasium and HVAC system in Clara Byrd Baker Elementary School were being delayed by these cuts.

Mr. McDonald stated there was funding proposed for the HVAC system at the school consisting of \$2.6 million, which would be divided between FY 2008 and FY 2009. He stated the reduction would lower the contribution this fiscal year, hopefully to be made up in FY 2009.

Mr. Harrison asked about the breakdown of the funding.

Mr. Wanner stated the required funds would be \$200,000 for each fiscal year, and the deficit from the current fiscal year's contribution would be made up with additional money in the budget next year..

Mr. McGlennon asked if the HVAC system was functional.

Mr. McDonald stated it was functioning but there were mechanical issues.

Mr. Wanner stated the Schools have been advised of this change and did not object.

Mr. Harrison asked if the gymnasium could be postponed in favor of the HVAC system.

Mr. McDonald stated this could be done but did not feel this was necessary.

Mr. McGlennon stated this could be examined in the next budget process.

Mr. McDonald stated this was correct.

Mr. Harrison asked if there were other areas that might have been considered for reduction.

Mr. McDonald stated that they were trying to keep what was adopted by the Board as far as service and reduce spending for those services. He stated staff was trying to make sure the reductions would have little or no impact on services to citizens.

Mr. Icenhour asked about the percentage of growth for County operations.

Mr. McDonald stated he was not aware of the percentage.

Mr. Icenhour stated this was the lowest percentage of growth in the budget.

Mr. McDonald stated the majority of growth in budget went to schools.

Mr. McGlennon opened the Public Hearing.

1. Mr. Lee Fehrenkamp, 3709 Mulberry Lane, commented on assessed value of his property, which increased over 15 percent.

As no one else wished to speak to this matter, Mr. McGlennon closed the Public Hearing.

Mr. McGlennon asked staff about unusually high real estate assessments.

Mr. McDonald stated that was an issue of which staff was aware.

Mr. McGlennon stated that this was due to an aggressive real estate market, and overall assessment average was reduced from last year to 4.7 percent. He stated those with significant increases will likely not continue to see this as rates catch up to market.

Mr. McDonald stated that assessment process follows the sales and the market is much flatter than a few years ago.

Mr. McGlennon stated an assessment was looking at actual market prices.

Mr. McDonald stated Real Estate Assessments examined comparable sales prices and comparable properties.

Mr. McGlennon stated as these prices drop there will be a decrease in assessments.

Mr. McDonald stated this was correct.

Mr. McGlennon stated the resolution outlined a shortfall due to the decreased value of new construction.

Mr. McDonald stated this was correct.

McGlennon stated \$1 million was brought forward from the FY 2007 budget from under-spending and money for future school sites was saved because the land was County-owned. He stated that this comprised over half the needed funds and the additional monies would be provided by slowing down the pace of some capital improvements at the Warhill High School and Clara Byrd Baker Elementary School sites to save about \$400,000. Mr. McGlennon stated the reduction in industrial property infrastructure support would be \$300,000 out of the \$2 million set aside, and there would be \$200,000 in the County operating budget savings to meet the budgetary gap. He asked if this may effect budgeting through other sources of revenue.

Mr. McDonald stated the revenues will be revisited in January at the Retreat and revenues would be supplemented by the second part of the County's personal property taxes and business taxes in the spring.

Mr. Icenhour stated \$1 million is pulled from FY 2007 under-spending and asked for confirmation that the budget was not padded, but this was match money set aside for a VDOT program that was not matched.

Mr. McDonald stated this was correct.

Mr. Harrison asked if the money set aside to be matched was for projects that were no longer deemed necessary.

Mr. McDonald stated that each year, money was set aside to be matched dollar-for-dollar for secondary road projects, but the County reduced funds which were intended to support projects on Longhill Road projects last year since VDOT failed to match the funds. He stated that the budget was now carrying unspent match money which could help offset the lower landbook values.

Mr. Harrison asked if the programs were funded eventually.

Mr. McDonald stated this match was for the Ironbound Road Project and that there would be funds to match it this year, but previously the State did not supply money to match the County funds.

Mr. Wanner stated that each year the Board's budget puts in revenue-sharing match money and the State allocates money depending on its budget. He stated in FY 2007 the State revenue-sharing budget was delayed and there was no State match for the funds. He stated that the project was restarted this year.

Mr. Harrison asked if an additional \$1 million was matched.

Mr. McDonald stated this was correct.

Mr. Harrison asked if the additional \$1 million was extra money.

Mr. Wanner stated at the time of the budget adoption it was not known that the State would not match the funds.

Mr. Harrison asked if other areas needed to be examined to avoid further hits to the Capital Improvements Program (CIP) as the housing market slows down.

Mr. McDonald stated that next year's budget will be challenging.

Mr. Harrison stated staff should look for other areas that were constantly growing to absorb deductions.

Mr. McDonald stated he understood the concern but noted that staff has also implemented spending reductions for the County's operating budget while not reducing budgets for operating agencies including schools. He stated that other areas could be considered by the Board in the FY 2009-10 budget.

Mr. Icenhour made a motion to adopt the resolution.

On a roll call vote, the vote was: AYE: Bradshaw, Goodson, Icenhour, McGlennon. (4). NAY: Harrison (1).

RESOLUTION

REAL ESTATE LANDBOOK AND AMENDMENTS TO THE FY 2008 BUDGET

WHEREAS, the Board of Supervisors of James City County has been presented with the results of the July 1, 2007, general reassessment, in the form of the annual landbook; and

WHEREAS, the general reassessment results in an average increase of 4.7 percent in the values of property contained in the landbook, which is an increase in the taxes paid by the average property owner even without a change in the tax rate; and

WHEREAS, the Board had previously adopted a budget for the fiscal year ending June 30, 2008, and had adopted a tax rate of \$0.77 per \$100 of assessed value; and

WHEREAS, projected revenues based on the actual landbook will not meet the estimated revenues included in the adopted budget, resulting in a budget shortfall of \$2,900,000.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County reaffirms the tax rate of \$0.77 per \$100 of assessed value of real property in the County and authorizes amendments to the FY 2008 General Fund and Capital Budgets, as follows:

General Fund Revenues

General Property Taxes	\$ (2,900,000)
Fund Balance	\$ 1,000,000
	<u>\$ (1,900,000)</u>

General Fund Expenditures

Administrative	\$ (5,618)
Human Resources	\$ (7,215)
Financial Administration	\$ (8,664)
General Services	\$ (61,364)
Information Resource Management	\$ (12,069)
Development Management	\$ (10,013)
Public Safety	\$ (62,770)

Community Services	\$ (24,449)
Transfer to Other Funds	\$ (7,838)
Non Departmental	\$ (500,000)
Contribution-Capital Projects	<u>\$ (1,200,000)</u>
	\$ (1,900,000)

Capital Projects Fund

Capital Projects Revenue

Transfer from General Fund	\$ (1,200,000)
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Capital Projects Expenditures

School Sites	\$ (500,000)
Industrial Property Infrastructure	\$ (300,000)
Warhill Gymnasium	\$ (200,000)
Baker Elementary School HVAC	<u>\$ (200,000)</u>
	\$ (1,200,000)

2. Amendment to the Zoning Ordinance - Floodplain Regulations

Mr. Darryl Cook, County Engineer, stated the County's Code needed to be updated to become compliant with the FEMA regulations in order to maintain its floodplain insurance. He stated there were no substantive changes in the study or flood map and those currently eligible to participate are still eligible. Staff recommended approval of the ordinance amendment.

Mr. McGlennon opened the Public Hearing.

1. Ms. Sarah Kadec, 3504 Hunters Ridge, on behalf of the James City County Citizens' Coalition, commented that this was a timely issue which brought floodplain insurance to light and deterred development in floodplain areas. She requested approval of the ordinance amendment.

As no one else wished to speak to this matter, Mr. McGlennon closed the Public Hearing.

Mr. Harrison made a motion to adopt the ordinance.

Mr. Rogers stated there is no effective date provision at the end and recommended an effective date of September 28, 2007.

Mr. Harrison made a motion to adopt the ordinance and the amendment to provide an effective date of September 28, 2007.

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

3. Amendment to the Stormwater Management Ordinance - Illicit Discharge

Mr. Darryl Cook, County Engineer, stated the Stormwater Management ordinance needed to be amended to meet the requirements of the State, which requires stormwater management programs to fulfill six management measures. He stated one of those measures was to develop an illicit discharge program for any substance that is not entirely stormwater to be permitted only by the ordinance provision. He stated this would help stop discharge of pollutants and would be administered by the Stormwater Department. Staff recommended approval of the ordinance amendment.

Mr. McGlennon opened the Public Hearing.

As no one wished to speak to this matter, Mr. McGlennon closed the Public Hearing.

Mr. Harrison made a motion to adopt the ordinance amendment.

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

4. Case No. ZO-005-2007. Heavy Equipment Sales and Service in the M-2, General Industrial, District

Ms. Melissa Brown, Deputy Zoning Administrator, stated this ordinance would allow for heavy equipment sales and service in the M-2 General Industrial, zoning district. Ms. Brown stated that the Planning Commission and the Policy Committee recommended approval unanimously on September 12, 2007. She stated the company in question currently had facilities in Hampton and Chesapeake and would like to open an additional location in an industrial park in Williamsburg. She stated staff found the ordinance amendment provided consistency and flexibility and support for businesses in General Industrial zoning areas. Ms. Brown stated the ordinance provided for screening from adjacent properties as well as environmental and water quality standards. Staff recommended approval of the ordinance amendment.

Mr. McGlennon opened the Public Hearing.

As no one wished to speak to this matter, Mr. McGlennon closed the Public Hearing.

Mr. Goodson made a motion to adopt the ordinance amendment.

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

H. BOARD CONSIDERATION

1. Cool Counties Declaration

Mr. Bill Porter, Assistant County Administrator, stated on September 11, 2007, the Board deferred action on the resolution to support the Cool Counties Declaration. He stated that four counties had recently adopted this declaration, including New Kent County, which made an amendment to not only work in the Richmond region but also Hampton Roads. Staff recommended approval of the resolution.

Mr. Goodson stated he appreciated the deferral and that there was conflict in the scientific community but felt it was a concern that could be valid. He stated he has supplied an alternate resolution focusing on action by local government that will not require additional staff and incorporates actions already done by the County. He noted there was considerable debate about this issue. Mr. Goodson made a motion to adopt the alternate resolution.

Mr. Bradshaw thanked Mr. Goodson for his concern, stating that some elements of the original initiative would not be part of our program. He stated the alternate resolution was removing the concept that human actions cause global warming and he felt that if there was no acknowledgement of responsibility, there would be no commitment to change. He stated he appreciated the concerns but felt the evidence is clear and the alternate resolution does not acknowledge human responsibility. Mr. Bradshaw stated he could not support the alternate resolution.

Mr. Harrison stated that they must recognize responsibility and that he could support the alternative resolution because it maintains the primary goals of the original resolution. Mr. Harrison stated he was in support of the action of the alternate resolution.

Mr. Goodson stated that there was not indisputable evidence that humans are responsible for global warming and he felt the alternate resolution offered speaks more to County issues and local government issues.

Mr. Harrison stated he felt that the resolution supporting the actions should be the primary goal of the program.

Mr. Icenhour stated he agreed with taking action if there is a reasonable assumption that the action addresses a problem. If action is taken, it must incur responsibility and he stated his support on the original resolution and not the alternate resolution.

Mr. McGlennon stated his appreciation for foregoing involvement in national issues but this was not included in the resolution. He stated the resolution was an acknowledgement that there was an issue that needed to be addressed and showed support in joining with other local governments for this purpose, which is spelled out in the introductory paragraphs. Mr. McGlennon stated the original resolution proposed the same actions as Mr. Goodson's resolution but the original resolution outlines why these actions should be taken.

On a roll call vote, the vote was: AYE: Harrison, Goodson (2). NAY: Bradshaw, Icenhour, McGlennon. (3). The alternate resolution failed.

Mr. Icenhour made a motion to adopt the original resolution as amended.

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

RESOLUTION

COOL COUNTIES DECLARATION

WHEREAS, there is a consensus among the world's leading scientists that global warming caused by human emission of greenhouse gases is among the most significant problems facing the world today; and

WHEREAS, documented impacts of global warming include but are not limited to increased occurrences of extreme weather events (i.e., droughts and floods), adverse impacts on plants and wildlife habitats, threats to global food and water supplies - all of which have an economic impact on communities and their local governments; and

WHEREAS, leading scientists have projected that stabilization of climate change in time to minimize such impacts will require a reduction of global warming emissions to 80 percent below current levels by the year 2050; and

WHEREAS, the U.S. Conference of Mayors has endorsed the U.S. Mayors Climate Protection Agreement, which commits cities to reduce global warming emissions to 7 percent below 1990 levels by 2012, and calls for a federal limit on emissions; and

WHEREAS, many counties throughout the nation, both large and small, are reducing global warming pollutants through programs that provide economic and quality of life benefits such as reducing energy bills, preserving green space, implementing better land use policies, improving air quality, promoting waste-to-energy programs, expanding transportation and work choices to reduce traffic congestion, and fostering more economic development and job creation through energy conservation and new technologies.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, will take immediate steps to help the nation, State, and the County to achieve the 2050 climate stabilization goal by:

1. Creating an inventory of County government (operational) greenhouse gas ("GHG") emissions and implement policies, programs, and operations to achieve significant, measurable and sustainable reduction of those operational GHG emissions to 80 percent below current levels by 2050.
2. Working closely with local, state, and federal governments to reduce County GHG emissions to 80 percent below current levels by 2050, by developing a GHG emissions inventory and plan that establishes short-, mid-, and long-term GHG reduction targets, with recommended goals to stop increasing emissions by 2010, and to achieve a 10 percent reduction every five years thereafter through to 2050.

I. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, commented on customer service in the County.

J. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner responded to Mr. Oyer's question about the dam RFP and stated that the James City Service Authority (JCSA) is responsible for one of the dams in Mirror Lakes, and the RFP was for repairs required for maintaining that dam.

Mr. Wanner recommended that when the Board completed its business, it adjourn until 7 p.m. on October 9, 2007, for two budget-related public hearings including proposed changes to increase tax relief for the elderly and disabled and a public hearing regarding moving the evaluation date of the landbook from July 1 to January 1. He noted that the Celebration of Cultures would take place on Sunday, September 30, 2007, at Chickahominy Riverfront Park. He stated the event was sponsored by the All Together group and James City County Parks and Recreation and would be held from noon to 6 p.m. free of charge. Mr. Wanner recommended that when the Board completed its business, it hold a meeting of the JCSA.

K. BOARD REQUESTS AND DIRECTIVES

Mr. Harrison requested a recess in rezonings, a potential need to address residential rezonings.

Mr. Goodson presented a certificate from the National Association of Counties, which recognized the County's Computers for Kids program that worked in direct partnership with Youth Family Services, Computer Recycling of Virginia, and James City County Parks and Recreation.

Mr. McGlennon stated at the conference for the National Association of County Information Officers, the County was awarded two certificates for excellent performance.

Mr. Wanner responded stating if there was a consensus for that resolution, staff could have it come forward at the second meeting of October. He stated the County Attorney has done research but staff did not feel there was direction from a majority of the Board to bring it forward.

Mr. McGlennon asked if Mr. Harrison had a resolution and noted that the resolution by Prince William County suggested a break in residential rezonings until the General Assembly took action on land use and transportation. He stated that though legislators did take that action this year by way of HB 3202, the language of that particular resolution would not be appropriate. Mr. McGlennon asked for suggested language for the resolution.

Mr. Harrison asked if staff would put together draft resolutions for evaluation by the Board.

Mr. Wanner stated drafts could be created.

Mr. Harrison stated on Thursday, September 27, 2007, at 6:30 p.m, there would be a symposium to address gang activity and increase community awareness for gang activity and youth violence prevention at the Warhill High School auditorium.

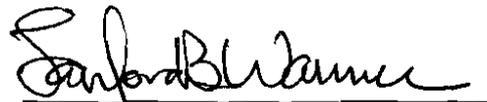
Mr. McGlennon stated October 13, 2007, would mark the dedication ceremony for Warhill High School and October 20, 2007, would be the dedication of Matoaka Elementary School. He noted that both ceremonies would take place at 10:30 a.m.

L. ADJOURNMENT - until 7 p.m. on October 9, 2007.

Mr. Icenhour made a motion to adjourn

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

Mr. McGlennon adjourned the Board until 7 p.m. on October 9, 2007.



Sanford B. Wanner
Clerk to the Board

ADOPTED

SEP 25 2007

ORDINANCE NO. 31A-228

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL, SECTION 24-2, DEFINITIONS; AND BY AMENDING ARTICLE VI, OVERLAY DISTRICTS, DIVISION 3, FLOODPLAIN AREA REGULATIONS, SECTION 24-586, STATEMENT OF INTENT; SECTION 24-588, COMPLIANCE AND LIABILITY; SECTION 24-589, DEFINITIONS; SECTION 24-590, DESIGNATION OF FLOODPLAIN DISTRICTS; SECTION 24-591, OFFICIAL MAP; SECTION 24-596, REGULATIONS FOR SUBDIVISIONS AND SITE PLANS; SECTION 24-600, REGULATIONS FOR FILLING IN FLOOD FRINGE AND APPROXIMATED FLOODPLAIN DISTRICTS; AND SECTION 24-602, EXISTING STRUCTURES IN FLOODPLAIN DISTRICTS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article I, In General, Section 24-2, Definitions; and by amending Article VI, Overlay Districts, Section 24-586, Statement of intent; Section 24-588, Compliance and liability; Section 24-589, Definitions; Section 24-590, Designation of floodplain districts; Section 24-591, Official map; Section 24-596, Regulations for subdivisions and site plans; Section 24-600, Regulations for filling in flood fringe and approximated floodplain districts; and Section 24-602, Existing structures in floodplain districts.

Chapter 24. Zoning

Article I. In General

Section 24-2. Definitions.

For the purpose of this chapter, the following words and phrases have the meaning respectively ascribed to them by this section:

Base flood elevation. The Federal Emergency Management Agency (FEMA) designated 100-year water surface elevation.

Basement. A story having part but not more than one-half of its height below grade. A basement shall be counted as a story for the purpose of height regulations if it is used for business purposes or for dwelling purposes by other than a janitor employed on the premises. *Solely for the purposes of Article VI, Overlay District, Division 3, Floodplain Area Regulations, this term shall mean any area of the building having its floor subgrade (below ground level) on all sides.*

Flood or flooding. The terms include:

- (1) *A general or temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters, or the unusual and rapid accumulation or runoff of surface water from any source.*
- (2) *The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph 1 of this definition.*

Floodplain. ~~A relatively flat or low land area adjoining a river, stream, or watercourse which is subject to partial or complete inundation, and any area subject to the unusual and rapid accumulation or runoff of surface water from any source.~~ *Any land area susceptible to being inundated by water from any source.*

Floodway. ~~The designated area of the floodplain required to carry and discharge floodwaters of a given magnitude. For the purposes of these regulations, the floodway shall be capable of accommodating a flood of the 100-year magnitude. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.~~

Lowest Floor. *The lowest floor of the lowest enclosed area including the basement. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Federal Code 44CFR Section 60.3.*

New Construction. *For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after July 18, 1975, the effective date of an initial Flood Insurance Rate Map, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which start of construction commenced on or after August 8, 1977, the effective date of these floodplain management regulations, and includes any subsequent improvements to such structures.*

Substantial damage. *Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.*

Substantial improvement. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage regardless of the actual repair work performed. The term does not, however, include either:

- (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or*
- (2) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.*

Watercourse. A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Article VI. Overlay Districts

Division 3. Floodplain Area Regulations

Sec. 24-586. Statement of intent.

(a) These regulations are intended to prevent the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:

- (1) Regulating uses, activities and development which, alone or in combination with other existing or future uses, activities and development, may cause unacceptable increases in flood heights, velocities and frequencies;
- (2) Restricting or prohibiting certain uses, activities and development within districts subject to flooding;
- (3) Requiring *uses*, activities and developments that do occur in flood-prone districts to be protected and/or flood-proofed against flooding and flood damage; and
- (4) Protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

(b) These regulations comply with the requirements of the National Flood Insurance Program (42 USC 4001-4128) of the Federal Insurance Administration. These regulations are necessary in order for all property owners within the county to be eligible for the National Flood Insurance Program and thereby purchase such insurance at nominal rates.

Sec. 24-588. Compliance and liability.

(a) No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged or structurally altered except in full compliance with the terms and provisions of these regulations and any other applicable ordinances and regulations.

(b) The degree of flood protection sought by the provisions of these regulations is for reasonable regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. These regulations do not imply that districts outside the floodplain district or that land uses permitted within such district will be free from flooding or flood damage.

(c) *Records of actions associated with administering these regulations shall be kept on file and maintained by the county engineer.*

(d) These regulations shall not create liability on the part of the county or any officer or employee thereof for any flood damages that result from reliance on these regulations or any administrative decision lawfully made thereunder.

Sec. 24-589. ~~Reserved.~~ Definitions

The terms used in these regulations are defined in Section 24-2 of this chapter except for the Board of Zoning Appeals, which is defined in Section 24-645.

Sec. 24-590. Designation of floodplain districts.

(a) The various floodplain districts shall include areas subject to inundation by waters of the 100-year flood. The minimum basis for the delineation of these districts shall be, but not limited to, the ~~February 6, 1994~~ *September 28, 2007*, flood insurance study *prepared by the Federal Emergency Management Agency (FEMA), Federal Insurance Agency (FIA)*, since other flood-prone areas exist in the County which are not shown on the floodplain maps. To determine these areas, the 100-year flood elevations and floodways from federal, state and local sources may be used when available. Where the specific 100-year flood elevation cannot be determined for an area by using available sources of data, then the applicant for the proposed use, development and/or activity shall determine this elevation to the satisfaction of the county engineer in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall consider full development of the watershed and shall be submitted in sufficient detail to allow a thorough review by the county engineer.

Where flood elevations are provided by the FIS, these elevations shall not be changed except with FEMA approval. Local sources of floodplain data include, but are not limited to, the following reports: *Drainage Study of Upper Powhatan Creek Watersheds, Camp Dresser and McKee 1987; Mill Creek-Lake Watershed Study, GKY and Associates, 1988.*

(b) The floodway district, minimally shown on the maps accompanying the flood insurance study, is established for purposes of these regulations using the criterion that certain areas within the floodplain

must be kept free of encroachment in order that the 100-year flood be conveyed without increasing the water surface areas included in this district.

(c) The flood-fringe district shall be that area of the 100-year floodplain not included in the floodway district. The basis for the outmost boundary of the district shall be the 100-year flood elevations minimally shown as Zone AE on the maps accompanying the flood insurance study.

(d) The approximated floodplain district shall be that floodplain area for which no detailed flood profiles or elevations are provided but where a 100-year floodplain boundary has been approximated. Such areas are minimally shown as Zone A on the maps accompanying the flood insurance study.

Sec. 24-591. Official map.

The boundaries of floodway, flood-fringe and approximated floodplain districts in section 24-590(b), (c) and (d) above are established as minimum areas, as shown on the flood insurance rate map *dated September 28, 2007*, which is declared to be a part of these regulations and which shall be kept on file at the office of the county engineer.

Sec. 24-596. Regulations for subdivisions and site plans.

The applicant of any subdivision of land or site plan within the county shall submit with his application a statement by a licensed surveyor or engineer as to whether or not any property shown on the plat or plan is at an elevation lower than the 100-year flood level. Where a 100-year flood level exists, the extent of this area shall be shown on the plat or plan. Further, the elevation of the finished surface of the ground at each building location shall be shown. Lots created after February 6, 1991, which are within a floodplain district having a 100-year flood elevation greater than 87-½ feet, shall contain a natural, unfilled building site at least one foot above the 100-year flood elevation adequate to accommodate all proposed structures. All structures shall be constructed solely within such building site.

Sec. 24-600. Regulations for filling in flood fringe and approximated floodplain districts.

No permit shall be issued or approved until the site development plan for such fill meets the following requirements:

- (1) The filling of land shall be designed and constructed to minimize obstruction to and effect upon the flow of water and more particularly that:
 - a. Such fill will not result in any increase in flood levels during the occurrence of a 100-year flood discharge.
 - b. The flood-carrying capacity of the watercourse shall be maintained.
- (2) Fill shall be effectively protected against erosion by vegetative cover, riprap, gabions, bulkhead or other acceptable method. Any structure, equipment or material permitted shall be firmly anchored to prevent dislocation due to flooding;
- (3) Fill shall be of a material that will not pollute surface water or groundwater;
- (4) Where, in the opinion of the ~~director of code compliance~~ *county engineer*, additional topographic, engineering and other data or studies are necessary to determine the effects of flooding on a proposed structure or fill and/or the effect of such structure or fill on the flow of water in flood stage, the applicant shall submit such data or studies.

Sec. 24-602. Existing structures in floodplain districts.

A structure or use of a structure or premises which lawfully existed before the enactment of these regulations, but which is not in conformity with these regulations, may be continued subject to the following conditions:

- (1) Existing structures in the floodway district shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed expansion would not result in any increase in the 100-year flood elevation;
- (2) Any modification, alteration, repair, reconstruction or improvement of any kind to a structure and/or use located in any floodplain area to an extent or amount of less than 50 percent of its

market value shall be elevated ~~and/or flood proofed to the greatest extent possible~~ *to or above the base flood elevation*; and,

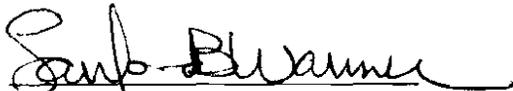
- (3) The ~~modification, alteration, repair, reconstruction or~~ *substantial* improvement of any kind to a structure and/or use, regardless of its locations in a floodplain area, to an extent or amount of 50 percent or more of its market value shall be undertaken only in full compliance with the provisions of these regulations and the Virginia Uniform Statewide Building Code- *and shall require that the entire structure be brought into full compliance with these provisions.*

This ordinance shall become effective September 28, 2007.



John J. McGlennon
Chairman, Board of Supervisors

ATTEST:



Sanford B. Wanner
Clerk to the Board

SUPERVISOR	VOTE
HARRISON	AYE
BRADSHAW	AYE
GOODSON	AYE
ICENHOUR	AYE
MCGLENNON	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of September, 2007.

FloodplainDefs_ord

ADOPTED

SEP 25 2007

ORDINANCE NO. 31A-229

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE V, DISTRICTS, DIVISION 12, GENERAL INDUSTRIAL DISTRICT, M-2, SECTION 24-436, PERMITTED USES.

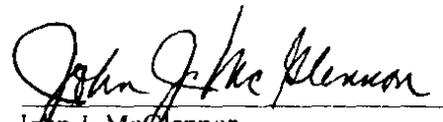
BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article V, Districts, Division 12, General Industrial District, M-2, Section 24-436, Permitted uses.

Chapter 24. Zoning
Article V. Districts
Division 12. General Industrial District, M-2

Sec. 24-436. Permitted uses.

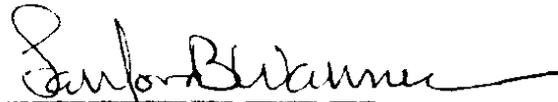
In the General Industrial District, M-2, buildings to be erected or land to be used shall be for one or more of the following or similar uses:

Heavy equipment sales and service, with major repair limited to a fully enclosed building or screened with landscaping and fencing from adjacent property.



John J. McGlennon
Chairman, Board of Supervisors

ATTEST:



Sanford B. Wanner
Clerk to the Board

SUPERVISOR	VOTE
HARRISON	AYE
BRADSHAW	AYE
GOODSON	AYE
ICENHOUR	AYE
MCGLENNON	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of September, 2007.

SEP 25 2007

ORDINANCE NO. 208A-1

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 18A, STORMWATER MANAGEMENT, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY ADDING ARTICLE I, ILLICIT DISCHARGE, SECTION 18A-20 PURPOSE; SECTION 18A-21, DEFINITIONS; SECTION 18A-22, PROHIBITIONS; SECTION 18A-23, PENALTIES; SECTION 18A-24, CIVIL CHARGES, AND SECTION 18A-25, INSPECTIONS AND MONITORING.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 18A, Stormwater Management, is hereby amended and reordained by adding Article I, Illicit Discharge; Section 18A-20, Purpose; Section 18A-21, Definitions; Section 18A-22, Prohibitions; Section 18A-23, Penalties; Section 18A-24, Civil charges; and Section 18A-25, Inspections and monitoring.

Chapter 18A. Stormwater Management

Article I. Illicit Discharge

Section 18A-20. Purpose.

This ordinance is adopted as part of the James City County stormwater management program so as to reduce pollutants to the storm sewer system from illicit discharges to the maximum extent practicable, as required by the county's Municipal Separate Storm Sewer Virginia Stormwater Management Program (VSMP) discharge permit.

Section 18A-21. Definitions.

The following words, terms, and phrases used in this ordinance shall have the following meanings, unless the context clearly indicates otherwise:

Director. The director of the stormwater division or his/her designee.

Discharge. Dispose, deposit, spill, pour, inject, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, dumped, leaked or placed by any means.

Ground water. Subsurface water occupying the zone of saturation.

Illicit discharge. Any discharge to the storm sewer system that is not composed entirely of stormwater, except discharges pursuant to a Virginia Pollutant Discharge Elimination System (VPDES) or VSMP permit (other than the VSMP permit for discharges from the municipal separate storm sewer) or discharges from firefighting activities. This definition shall not include discharges listed in section 18A-22(b), unless such discharges are identified by the director to cause sewage, industrial wastes or other wastes to be discharged into the storm sewer system.

Industrial wastes. Liquid or other wastes resulting from any process of industry, manufacture, trade or business, or from the development of any natural resources.

Landscaping chemicals. Chemicals for maintaining lawns and landscapes including fertilizers, lime and pesticides which include herbicides, insecticides and fungicides.

Other wastes. Materials that can adversely affect waters of the United States should they be discharged into same, including, but not limited to, decayed wood, sawdust, chips, shavings, bark, leaves, lawn clippings, lawn chemicals (except those applied in accordance with manufacturer's recommendations), animal or vegetable matter, pet waste, construction debris, garbage, refuse, ashes, offal, tar, paint, solvents, petroleum products, gasoline, oil waste, antifreeze, or other automotive, motor or equipment fluids.

Person. Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town or other political subdivision of the commonwealth, any interstate body, or any other legal entity.

Sanitary sewer. A system of underground conduits, operating by either gravity or pressure flow, that collect and deliver wastewater, and all pumping stations and treatment plants and appurtenances, public or private.

Sewage. The water-carried human wastes from residences, buildings, industrial establishments or other places, together with such industrial wastes, stormwater or other water as may be present.

Storm sewer system. The system of roads, streets, catch basins, curbs, gutters, ditches, pipes, lakes, ponds, channels, infiltration facilities, storm drains and other facilities located within the county which are designed or used for collecting, storing, treating or conveying stormwater, or through which stormwater is collected, stored, treated or conveyed.

Stormwater. Runoff from rain, snow or other forms of natural precipitation, and surface runoff and drainage.

Section 18A-22. Prohibitions.

(a) It shall be a violation of this ordinance to:

(1) Discharge, or cause or allow to be discharged, sewage, industrial wastes or other wastes into the storm sewer system, or any component thereof, or onto driveways, sidewalks, parking lots or other areas draining to the storm sewer system; or

(2) Connect, or cause or allow to be connected, any sanitary sewer to the storm sewer system, including any sanitary sewer connected to the storm sewer system as of the date of adoption of this article.

(3) Throw, place or deposit or cause to be thrown, placed or deposited into the storm sewer system anything that impedes or interferes with the free flow of stormwater therein.

(b) The following activities shall not be in violation of this ordinance; provided they are otherwise in compliance with the county code:

Air conditioning condensation;

Any activity authorized by a valid Virginia Pollutant Discharge Elimination System (VPDES) permit or Virginia Pollution Abatement (VPA) permit; or

Any other water source not containing sewage, industrial wastes or other wastes.

Diverting stream flows or rising groundwater;

Flows from riparian habitats or wetlands;

Individual residential car washing;

Infiltration of uncontaminated groundwater;

Landscape irrigation;

Public safety activities, including but not limited to, law enforcement and fire suppression;

Street washing;

Swimming pool discharges that have been de-chlorinated or are free of other disinfecting agents;

Water line flushing;

Watering and maintenance with landscaping chemicals in accordance with manufacturer's recommendations;

Well-point dewatering or pumping of uncontaminated ground water, discharges from potable water sources, foundation drains, irrigation waters, springs, or water from crawl spaces or footing drains;

(c) In the event any of the activities listed in subsection (b) above are found to cause sewage, industrial wastes or other wastes to be discharged into the storm sewer system, the director shall so notify the person performing such activities or the property owner where such activities occur and shall order that such activities be stopped or conducted in such a manner as to avoid the discharge of sewage, industrial wastes or other wastes into the storm sewer system. The failure to comply with such an order shall constitute a violation of the provisions of this ordinance.

Section 18A-23. Penalties.

(a) *A willful violation of the provisions of this ordinance shall constitute a Class 1 misdemeanor. Each day that a continuing violation of this ordinance is maintained or permitted to remain shall constitute a separate offense.*

(b) *Any person who, intentionally or otherwise, commits any of the acts or allows such acts to be committed on his or her property prohibited by section 18A-22 of this ordinance shall be liable to the county for all costs of monitoring, containment, cleanup, abatement, removal and disposal of any substance unlawfully discharged into the storm sewer system.*

(c) *Any person who, intentionally or otherwise, commits any of the acts prohibited by section 18A-22 of this ordinance shall be subject to a civil penalty in an amount not to exceed \$1,000 for each day that a violation of this ordinance continues. The court assessing such penalties may, at its discretion, order such penalties be paid into the treasury of the county for the purpose of abating, preventing, monitoring, or mitigating environmental pollution.*

(d) *The county may bring legal action to enjoin a continuing violation of this ordinance, and the existence of any other remedy, at law or in equity, shall be no defense to any such action.*

(e) *The remedies set forth in this section shall be cumulative, not exclusive; and it shall not be a defense to any action, civil or criminal, that one or more remedies set forth herein has been sought or granted.*

Section 18A-24. Civil charges.

With the consent of any person who has violated any provision of this chapter, the county may provide for the payment of civil charges for violations in specific sums, not to exceed \$1,000. Civil charges shall be in lieu of any appropriate civil penalty. Such civil charges shall be paid into the treasury of the county for the purpose of abating environmental damages in the county.

Section 18A-25. Inspections and monitoring.

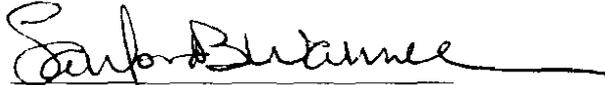
The director shall have authority to make such lawful inspections and conduct of monitoring of stormwater outfalls or other components of the storm sewer system as may be necessary or appropriate in the administration and enforcement of this ordinance.



John J. McGlennon
Chairman, Board of Supervisors

<u>SUPERVISOR</u>	<u>VOTE</u>
HARRISON	AYE
BRADSHAW	AYE
GOODSON	AYE
ICENHOUR	AYE
MCGLENNON	AYE

ATTEST:



Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of September, 2007.

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