

A G E N D A

JAMES CITY COUNTY BOARD OF SUPERVISORS

County Government Center Board Room

July 23, 2002

7:00 P.M.

Page

A. ROLL CALL

B. MOMENT OF SILENCE

C. PLEDGE OF ALLEGIANCE – Ms. Cassandra Da-Costa, a student at D.J. Montague Elementary School

D. PRESENTATION

1. Volunteer Recognition – Donald Greenhow
2. Historic Preservation Awards
3. Resolution of Appreciation – Marie E. Sheppard
4. 2002 National Association of Counties Achievement Awards

E. PUBLIC COMMENT

F. HIGHWAY MATTERS

G. CONSENT CALENDAR

1. Minutes
 - a. June 25, 2002, Work Session
 - b. July 9, 2002, Regular Meeting
2. Chesapeake Bay Restoration Fund Grant
3. Lease Agreement-James City-Bruton Volunteer Fire Department
4. Resolution of Appreciation-Marie E. Sheppard
5. Agreement to Maintain Dam for Warhill Trail Road
6. Microsoft Desktop License Enterprise Agreement

H. PUBLIC HEARINGS

1. An Ordinance to Amend Chapter 11, Section 11-65, Restrictions on Outdoor Watering and Section 11-66, Violations of Article
2. An Ordinance to Amend Chapter 20, of the James City County Code to Provide Tax on Local Telecommunication Service
3. An Ordinance to Amend Chapter 16, Public Parks and Recreation Facilities, Section 16-7, Use of Parks and Recreational Facilities by Children

- CONTINUED -

I. BOARD CONSIDERATION

1. FY 03 Annual Grounds Maintenance Agreement for Williamsburg-James City County School Division

J. PUBLIC COMMENT

K. REPORTS OF THE COUNTY ADMINISTRATOR

L. BOARD REQUESTS AND DIRECTIVES

M. CLOSED SESSION

1. Appointment of Individuals to County Boards and/or Commissions, Pursuant to Section 2.2-3711 (A)(1) of the Code of Virginia
 - a. Clean County Commission
 - b. Fair Committee
 - c. Industrial Development Authority
 - d. Peninsula Virginia Alcohol Safety Action Program
 - e. Williamsburg Regional Library System Board

N. ADJOURNMENT

MEMORANDUM

DATE: July 23, 2002
TO: The Board of Supervisors
FROM: Carol Schenk, Volunteer Services Coordinator
SUBJECT: Volunteer Recognition

James City County is fortunate to have outstanding volunteers who donate their time and talents to enhance our community. This month, we recognize Donald Greenhow, who has served as a member of the James City County Fire Department Auxiliary for more than 20 years.

Mr. Greenhow volunteers 60 to 70 hours each month responding to calls, conducting public education sessions, and performing tasks that support the Fire Department's mission. He is currently President of the Auxiliary.

Staff would like to recognize Mr. Greenhow not only for donating his time to the County, which today has a value of more than \$230,000, but for his ongoing dedication and professionalism, which is priceless.

On behalf of our citizens, we thank Mr. Greenhow for his extraordinary volunteer service to James City County.

Carol A. Schenk

CONCUR:

Carol M. Luckam

CAS/gb
volrecog2.mem

**AT A WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY,
VIRGINIA, HELD ON THE 25TH DAY OF JUNE, 2002, AT 7:00 P.M. IN THE COUNTY
GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY,
VIRGINIA.**

A. ROLL CALL

James G. Kennedy, Chairman, Stonehouse District
Jay T. Harrison, Sr., Vice Chairman, Berkeley District
John J. McGlennon, Jamestown District
Michael J. Brown, Powhatan District
Bruce C. Goodson, Roberts District

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

B. BOARD CONSIDERATIONS

1. Technology Update

Mr. Thomas R. Pennington, Director of Information Resources Management, provided the Board with an overview of the accomplishments within the Department including registration for the Parks and Recreation programs through the internet, upgrading network connections among the various off-site offices; provided an overview of major projects such as the new office building at the Government Complex, E-Gov initiative with web development, and interactive Voice Response Systems with JCSA and Code Compliance; and consideration of Microsoft's new licensing policy.

The Board and staff held discussions regarding the fiscal impacts of Microsoft's new licensing policy, and anti-virus software investments.

Mr. Pennington provided the Board with an overview of the efforts to connect the Metro Area with networking from Toano to Newport News.

The Board and staff held a discussion regarding the network connections through cable and the Agreement with Cox.

2. Property Maintenance Code

Mr. John T. P. Horne, Director of Development Management, stated that the Board requested staff to review instituting a Property Maintenance Code and staff is presenting its findings.

Doug Murrow, Director of Code Compliance, provided the Board with an overview of the Uniform Statewide Building Code and the purpose, applicability, and provisions of the Property Maintenance Code found in Chapter 1 "Maintenance of Existing Structures."

The Board and staff held discussions concerning homes within the County that do not have running water, Trash and Grass Liens, and the Blight Abatement Program.

Mr. Murrow also provided the Board with a list of resources the County has for providing enforcement of most of the Property Maintenance Code provision and recommended that the Board consider adopting an Unsafe Structures Ordinance in lieu of adoption of the Property Maintenance Code to address significant derelict structures in the County.

The Board and staff held a discussion regarding derelict structures in the County, homes without running water, abandoned appliances on properties, defining unsafe structures, and concerns about provisions in the Code not being adequate to keep property in good condition.

The Board requested information on what is available to residents and staff for addressing these issues, if an inspection fee could be assessed on repeat offenders to offset staff costs, and the County neighborhood clean-up day.

3. Williamsburg Area Transport Update

Mr. Anthony Conyers, Jr., Managers of Community Services, provided the Board with an overview of the regional focus of the Williamsburg Area Transport and connection with Hampton Roads Transit.

Mr. Conyers provided the Board with three connection options with Hampton Roads Transit at the Food Lion shopping center in the Lee Hall area of Newport News.

The Board and staff discussed the options, funding mechanisms, serving Newport News residents employed in the County, and bus schedules with traffic congestion.

4. New Business

Mr. Kennedy requested the Board provide guidance regarding its position on the Hampton Roads referendum on transportation for the upcoming Hampton Roads Mayors and Chairs meeting.

The Board discussed the proposal and concluded that its position remains neutral until additional information regarding the details of the referendum is provided.

Mr. Kennedy stated that a forum will be held in September/October with the City of Williamsburg, York County, Colonial Williamsburg, William & Mary, and several regional entities regarding the growth and regionalism within the Historic Triangle Area, and requested the Board's interest in participating in the forum.

The Board requested time to consider the invitation.

Mr. Wanner stated that a tour of the County has been requested by *The Daily Press* and will keep the Board informed.

C. ADJOURNMENT

At 5:52 p.m. Mr. Kennedy recessed the Board until 7:00 p.m. on July 9, 2002.

Sanford B. Wanner
Clerk to the Board

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AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 9TH DAY OF JULY, 2002, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

James G. Kennedy, Chairman, Stonehouse District
Jay T. Harrison, Sr., Vice Chairman, Berkeley District, Absent
John J. McGlennon, Jamestown District
Michael J. Brown, Powhatan District
Bruce C. Goodson, Roberts District

Sanford B. Wanner, County Administrator
Frank M. Morton, III, County Attorney

B. MOMENT OF SILENCE

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

C. PLEDGE OF ALLEGIANCE

Ms. Charlotte Armstead, a sixth grade student at Toano Middle School, led the Board and citizens in the Pledge of Allegiance.

D. PUBLIC COMMENT

1. Mr. Richard Coakley, a former Board of Supervisors member, requested funding support of up to \$1,000 for a commemorative stamp, to be designed by school children, in recognition of the founding of Jamestown.

2. Mr. Arthur C. Hilstrom, Sr., 3724 Brick Bat Road, stated concern regarding the water conditions in the County and the impacts of the drought on area wells; recommended that meters be put on private wells within the PSA; requested a moratorium on new hookups to the James City Service Authority until the water issue has been addressed and resolved; stated concerns about development in the community and the increasing development impact on traffic congestion.

3. Mr. Ed Oyer, 139 Indian Circle, echoed Mr. Hilstrom's comments, mentioned a recent newspaper article about citizens watching taxes and expenditures, recommended staff address the concerns of part-time employees for equal compensation, and inquired about the pre-paid sewer hookups for undeveloped lots on Indian Circle.

Mr. Kennedy requested Mr. Larry Foster, General Manager of the James City Service Authority, provide the Board and citizens with an update on the water demands and situation within the County.

Mr. Foster stated that the region is experiencing drought conditions and that surrounding localities have implemented voluntary and mandatory water restrictions.

Mr. Foster stated that the water demands in the month of June averaged 5.7 mgd and that July 1-8 the water demands averaged 6.4 mgd and that the Service Authority's system cannot support this level of water demands for long.

Mr. Foster stated that one of the Stage I Drought Declaration parameters as outlined in Section 11-53 of the County Code, has been met and that the County Administrator has directed voluntary water conservation measures be implemented; that staff anticipates reaching Stage II of the Drought Declaration parameters within 15 days; and that if Stage II is reached, outdoor watering activities will be prohibited except by using three-gallon buckets.

Mr. Foster requested the citizens to make efforts to reduce outdoor watering levels such that the average water demands drop to 5.5 mgd to avoid Stage II.

The Board and staff held a discussion regarding the water demands of this summer that have exceeded the peak demands of last summer and doubled the water demands experienced in the months of February, the number of warnings issued to citizens violating the Emergency Ordinance, considered factors impacting the increased water demands, and the Drought Declaration vs. the Emergency Ordinance enacted on June 25, 2002.

Mr. Kennedy recognized Ms. Peggy Wildman in the audience, representative of the Planning Commission.

E. CONSENT CALENDAR

Mr. Kennedy asked if a member wished to pull an item from the Consent Calendar.

Mr. Kennedy requested Item Number 3, Appropriation of Subdivision Surety Funds – Wexford Hills, Section I, be pulled.

Mr. Goodson made a motion to adopt the remaining items on the Consent Calendar.

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

1. Minutes

a. June 11, 2002, Regular Meeting

b. June 25, 2002, Regular Meeting

2. Dedication of Street in Governor's Land, Fowler's Lake

RESOLUTION

DEDICATION OF STREET IN GOVERNOR'S LAND, FOWLER'S LAKE

WHEREAS, the street described on the attached Additions Form SR-5(A), fully incorporated herein by reference, is shown on plats recorded in the Clerk's Office of the Circuit Court of James City County; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation advised the Board that the street meets the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation; and

WHEREAS, the County and the Virginia Department of Transportation entered into an agreement on November 1, 1993, for comprehensive stormwater detention which applies to this request for addition.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests the Virginia Department of Transportation to add the street described on the attached Additions Form SR-5(A) to the secondary system of State highways, pursuant to §33.1-229, of the Code of Virginia, and the Department's Subdivision Street Requirements.

BE IT FURTHER RESOLVED, the Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills and drainage.

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

4. Appropriation of Funds – Bulletproof Vest

RESOLUTION

APPROPRIATION OF FUNDS - BULLETPROOF VEST PARTNERSHIP PROGRAM

WHEREAS, James City County has received a reimbursement grant from the Bulletproof Vest Partnership Program in the amount of \$6,930.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the acceptance of the grant and makes the following FY 2003 Budget appropriations:

Revenue:

Bulletproof Vest Partnership Program \$6,930

Expenditures:

Police Department (001-062-0325) \$6,930

5. U. S. Bureau of Justice Assistance Block Grant

RESOLUTION

U. S. BUREAU OF JUSTICE ASSISTANCE BLOCK GRANT-POLICE

WHEREAS, the Bureau of Justice Assistance has approved a Block Grant providing \$19,514 to the Police Department for law enforcement training and equipment; and

WHEREAS, local matching funds of \$2,168 are available in the Police Department budget.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following appropriation amendment:

Revenue:

Bureau of Justice Assistance \$19,514

Expenditures:

Police Department Budget \$19,514

3. Appropriation of Subdivision Surety Funds – Wexford Hills, Section I

Mr. John T. P. Horne, Development Manager, stated that the developer of Wexford Hills, Section 1, did not construct the subdivision street in accordance with Virginia Department of Transportation’s (VDOT) standards and staff recommends that the County utilize the Developer’s surety to complete the work and turn the streets over to VDOT for maintenance.

The Board and staff held a brief discussion concerning the amount of surety and estimated cost to bring the streets up to standard.

Mr. Morton stated that if the County provides funds for the completion of the project, that the County would pursue collection of the advancement from the original developer.

Mr. Kennedy made a motion to adopt the resolution.

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

RESOLUTION

APPROPRIATION OF SUBDIVISION SURETY FUNDS - WEXFORD HILLS, SECTION 1

WHEREAS, County staff has obtained \$135,000 as surety to complete streets in Wexford Hills subdivision, Section 1.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby appropriates these funds to complete streets and stormwater facilities in Section 1 of Wexford Hills subdivision in accordance with Virginia Department of Transportation (VDOT) and County requirements.

Carry Forward Funds	\$135,000
Road Improvements	\$135,000

F. PUBLIC HEARINGS

1. Case No. SUP-10-02. VoiceStream Wireless – VDOT Tower Extension

Mr. Paul D. Holt, III, Senior Planner, stated that Nathan Holland of VoiceStream Wireless has applied to extend an existing monopole telecommunications tower by ten feet on land zoned A-1, General Agricultural, at the intersection of Interstate 64 and Croaker Road, further identified as Exit Number 231.

Staff found that the existing tower is not consistent with the Comprehensive Plan, that the proposed antenna addition would not have an additional impact on surrounding zoning and development; and that the co-location would prevent the need for construction of a new tower.

The Planning Commission voted 6-1 to recommend approval of the application at its meeting on June 3, 2002.

Staff recommended the Board approve the application with conditions.

Mr. Kennedy opened the Public Hearing.

1. Mr. Nathan Holland, applicant, stated that with the proposed tower extension the service provider will be able to provide adequate coverage, and that landscaping of the tower has been negotiated.

2. Mr. Joe McCleary, member of the Planning Commission, stated that a recent Virginia Gazette article quoted him out of context regarding cell towers, and clarified those statements that were misquoted.

As no one else wished to speak, Mr. Kennedy closed the Public Hearing.

Mr. Goodson made a motion to adopt the resolution.

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

RESOLUTION

CASE NO. SUP-10-02. VOICESTREAM WIRELESS - VDOT TOWER EXTENSION

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

WHEREAS, the applicant has requested a special use permit to allow for a ten foot extension of the existing monopole telecommunications tower located in the northern most quadrant of Exit No. 238 on Interstate 64; and

WHEREAS, the existing monopole telecommunications tower is located on State-owned property which is currently zoned A-1, General Agricultural, and designated Low Density Residential on the 1997 Comprehensive Plan Land Use Map; and

WHEREAS, on June 3, 2002, the Planning Commission recommended approval of the application by a vote of 6-1.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-10-02 as described herein with the following conditions:

1. This special use permit shall be valid for one monopole tower not to exceed a height of 199 feet.
2. Tree clearing after the issuance of this special use permit shall be limited to the minimum necessary to accommodate all new accessory facilities and access ways as determined by the Planning Director. Any new access drive shall be designed in a manner that provides no off-site view of the tower's base or related facilities as determined by the Planning Director.
3. A final inspection by the James City County Codes Compliance division shall be obtained within one year of approval of this special use permit, or the permit shall become void.
4. Within 30 days of the final inspection by the James City County Codes Compliance division, certification by the manufacturer, or an engineering report by a Virginia-registered structural engineer, shall be filed by the applicant indicating the tower height, design, structure, installation, and total anticipated capacity of the structure, including number and type of antennas, which could be accommodated, demonstrating to the satisfaction of the building official that all structural requirements and other safety considerations set forth in the BOCA Basic Building Code and Section 222(D) of the standards adopted by the Electronics Industrial Association, or any amendment thereof, have been met.
5. Prior to any final inspections by the James City County Codes Compliance division, around the south-western limits of the existing equipment compound, evergreen shrubs, planted four feet on center, and Loblolly pine trees, planted eight feet on center, shall be planted in a manner approved by the Director of Planning. The final locations of the vegetation to be planted may be adjusted by the Director of Planning depending on the location of existing vegetation to better reforest the site and screen the base of the tower and the equipment pads from the roadway.

6. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

2. Case No. SUP-12-02. Mount Gilead Baptist Church – SUP Amendment and SUP for Temporary School Trailers

Mr. Paul D. Holt, III, Senior Planner, stated that Abram Frink has applied on behalf of the Mount Gilead Baptist Church for an amendment to the conditions of approval for SUP-9-01, adopted by the Board of Supervisors on June 26, 2001; and applied on behalf of William Washington to locate two temporary school trailers and an accessory playground on a portion of approximately 1.19 acres zoned R-2, General Residential, at 8672 Pocahontas Trail, further identified as Parcel No. (4-1) on the James City County Real Estate Tax Map No. (52-3).

Staff found that there would not be additional traffic impacts, and that with the proposed conditions, the proposal would be consistent with the Comprehensive Plan; and that there would not be negative impacts to the surrounding development.

The Planning Commission voted 7-0 to approve the application at its meeting on June 3, 2002.

Staff recommended approval of the resolution with conditions.

Mr. Kennedy opened the Public Hearing.

1 & 2. Mr. Abram Frank, applicant, introduced Rev. Dawson of the Mount Gilead Baptist Church for a brief presentation on the proposal.

Rev. Dawson provided the Board and citizens with an overview of the proposed playground development, parcel layout, and trailer specifications; stated that the Church is attempting to get accreditation for the program and that one of the requirements for accreditation is that the school program must be located separately from the daycare; and that it is the Church's goal to build a new facility that can house both programs as well as a new sanctuary.

Mr. McGlennon inquired about the timeframe for placement of the playground equipment and trailers on the lot.

Rev. Dawson stated that the trailers will be put in place first and that the playground equipment will be put in later through two phases.

The Board and applicant had a brief discussion concerning rest room facilities.
As no one else wished to speak, Mr. Kennedy closed the Public Hearing.

Mr. Goodson made a motion to adopt the resolution.

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

RESOLUTION

CASE NO. SUP-12-02. MOUNT GILEAD BAPTIST CHURCH -

SUP AMENDMENT AND SUP FOR TEMPORARY SCHOOL TRAILERS

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 an amendment to the conditions of approval for SUP-9-01, which permitted the operation of a daycare and private school at the existing Mount Gilead church located at 8660 Pocahontas Trail. This property is more specifically identified as Parcel No. (2-34) on the James City County Real Estate Tax Map No. (52-3); and

WHEREAS, the applicant has also applied for a special use permit to allow for the placement of up to two temporary school trailers at 8672 Pocahontas Trail. This property is currently zoned R-2, General Residential, designated Low-Density Residential on the 1997 Comprehensive Plan Land Use Map and more specifically identified as Parcel No. (4-1) on the James City County Real Estate Tax Map No. (52-3); and

WHEREAS, on June 3, 2002, the Planning Commission recommended approval of the application by a vote of 7-0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-12-02 as described herein with the following conditions:

The following conditions shall apply to the portion of the property that contains the existing church (i.e., the church property as it exists prior to the re-subdivision required under Condition No. 7, below):

1. This Special Use Permit shall be valid for the operation of a daycare and a school.
2. A certificate of occupancy for the daycare and school use within the existing church building shall be obtained within two years of SUP approval of SUP-9-01, or the SUP shall be void.

The following conditions shall apply to that portion of the property where the proposed school trailers and playground are to be located, as generally described and illustrated in the staff report (i.e., that portion of the property which is located generally behind the existing residence at 8672 Pocahontas Trail and which will be added to the existing church property by plat entitled "Boundary Line Adjustment of property standing in the name of Trustees of Mount Gilead Baptist Church and William Harold Washington and Suzanne Washington," dated June 11, 2002, and prepared by Mitchell-Wilson Associates, P.C.):

3. This Special Use Permit shall be valid for a maximum of two temporary school trailers.
4. The temporary school trailers shall be permitted for a period of five years from the date of SUP approval. The trailers shall be removed from the property within 30 days of the expiration date of the SUP.

5. A certificate of occupancy for at least one trailer shall be obtained within 18 months of SUP approval, or the SUP shall be void.
6. To better buffer and screen the trailers and playground from adjacent residentially zoned property, evergreen landscaping shall be provided along the east, west, and southern property lines that exceed the County's Landscape Ordinance requirements by an additional 15 percent.
7. Prior to any preliminary site plan approval, the area containing the school trailers and the playground shall be subdivided from the area where the single-family house currently exists, and a lot line extinguishment shall occur such that the area containing the school trailers and the playground is incorporated into the existing Mount Gilead church property.
8. No trailer or piece of playground equipment shall be located closer than 35 feet to the eastern or southern property lines. The entrances to the classroom trailers, and walkways to the trailers shall be generally oriented towards the interior of the property and shall not face the eastern or southern property lines. Furthermore, the playground shall be located generally adjacent to the existing church parking lot and the western property lines, in a final location as approved by the Director of Planning and shall be shown on the final site plan.

The following conditions shall apply to both and all portions of the site:

9. The daycare and school operations shall be limited to the following hours of operation, 6:00 a.m. - 6:00 p.m., Monday through Friday, and shall be limited to a total enrollment capacity of 104 children maximum. This condition shall not prohibit the operation of a daycare accessory to church functions on Sunday.
10. The children's drop-off and pick-up location for both the daycare and school shall be limited to the existing entrance located at the rear (north side) of the church.
11. Any new exterior, free standing signage advertising the daycare and/or school shall be combined with the existing free standing signage for the church and shall be in accordance with Article II, Division 3, of the James City County Zoning Ordinance.
12. No additional curb cuts shall be created on Route 60.
13. Any new exterior site lighting shall be limited to fixtures which are horizontally mounted on light poles not to exceed 15 feet in height and/or other structures and shall be recessed fixtures with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side. No glare, defined as 0.1 footcandle or higher shall extend outside the property lines.
14. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

3. Case No. Z-2-02. Greensprings Proffer Amendment

Ms. Karen Drake, Senior Planner, stated that Marc Sharp applied on behalf of Greensprings Office Park to amend the existing proffers for Greensprings to permit up to 120-foot tall monopine communication towers on about 13.7 acres zoned R-4, Residential Planned Community, at 3900 John Tyler Highway, further identified as Parcel No. (1-7) on the James City County Real Estate Tax Map No. (46-1).

Staff found the proposal consistent and compatible with the surrounding zoning, development, and the Comprehensive Plan.

The Planning Commission voted 7-0 to approve the application at its meeting on June 3, 2002.

Staff recommended approval of the resolution.

Mr. Goodson inquired as to how many service providers can be co-located on the monopine pole.

Mr. Kennedy opened the Public Hearing.

1. Mr. Vernon Geddy, III, representing the applicant, stated that the applicant concurs with the staff report and that the application is designed to cover a service gap without negatively impacting the character of the community, and that there could potentially be three antenna on the pole.

2. Mr. Arthur C. Hilstrom, Sr., 3724 Brick Bat Road, stated concern that antennas and wireless services are interfering with his radio reception.

As no one else wished to speak, Mr. Kennedy closed the Public Hearing.

Mr. Goodson made a motion to approve the resolution.

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

RESOLUTION

CASE NO. Z-2-02. GREENSPRINGS PROFFER AMENDMENT

WHEREAS, in accordance with § 15.2-2204 of the Code of Virginia, and Section 24-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjacent property owners notified, and a hearing was scheduled for Case No. Z-2-02 for rezoning approximately ±1396.5 acres from R-4, Residential Planned Community, with proffers, to R-4, Residential Planned Community, with revised proffer; and

WHEREAS, the site can be further identified as Parcel No. (1-7) on James City County Real Estate Tax Map No. (46-1); and

WHEREAS, the Planning Commission of James City County, following its public hearing on June 3, 2002, recommended approval of Case No. Z-2-02, by a vote of 7 - 0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-2-02 as described herein, and accepts the voluntary proffers.

G. PUBLIC COMMENT - None

H. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner stated that in accordance with Chapter 11, Section 11-53 of the Code of James City County, it has been determined that one of the Stage I Drought Declaration parameters has been met and as authorized by the Code, has directed the General Manager of the James City Service Authority to implement the necessary Stage I actions as set forth in the JCSA Water Conservation and Drought Management Plan.

Mr. Wanner recommended that at the conclusion of the meeting, the Board adjourn until 4:00 p.m. on July 23 for a Work Session/Closed Session for the annual evaluation of the County Administrator.

I. BOARD REQUESTS AND DIRECTIVES

Mr. McGlennon recognized the passing of two prominent County citizens: Ms. Marie Sheppard, former member of the Historical Commission, and Ms. Joy Archer, founding member of the Williamsburg Land Conservancy and longtime member of the Parks and Recreation Advisory Commission.

Mr. Kennedy stated that Mr. Harrison requested that the Board discuss the Regional Issue Committee's (RIC) recommendation to rename Route 199 to Williamsburg Parkway.

The Board and staff held a discussion on possible alternative names for Route 199, desire for a regional name of the Route, and that further discussion on the recommendation will be made and shared with the RIC.

Mr. Morton addressed the comment made by Mr. Arthur C. Hilstrom, Sr., regarding a moratorium on development and stated that moratoriums are permitted under very limited and strict guidelines.

Mr. McGlennon inquired how close the County is to meeting the guidelines for implementing a moratorium.

Mr. Brown requested that Mr. Morton and Mr. Foster collaborate on preparing a document outlining the conditions for moratoriums.

Mr. Morton stated that staff will research the request and report back to the Board.

Mr. Goodson stated that the Board of Supervisors and Board of Directors have been taking steps to address water concerns within the County.

Mr. Kennedy stated concern that an agreement with Newport News Waterworks is not a long-term solution to the County's water concerns and stated concern regarding continued development while also cutting off current citizens' water use.

Mr. Kennedy requested additional letters be addressed to the appropriate State offices regarding the County's water situation.

Mr. Wanner stated that staff will follow up on the requests.

J. ADJOURNMENT

Mr. Kennedy requested a motion to adjourn until 4:00 p.m. on July 23, 2002.

Mr. Goodson made a motion to adjourn.

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

Mr. Kennedy adjourned the Board at 8:15 p.m.

Sanford B. Wanner
Clerk to the Board

MEMORANDUM

DATE: July 23, 2002
TO: The Board of Supervisors
FROM: Needham S. Cheely, III, Director of Parks and Recreation
SUBJECT: Chesapeake Bay Restoration Fund Grant

James City County's Division of Parks and Recreation has been awarded a \$4,340 Chesapeake Bay Restoration Fund Grant from the Commonwealth of Virginia's Division of Legislative Services.

The purpose of the matching grant is to assist with the cost of offering a special three-day environmental education program at every Total Rec Camp site for children to study the Chesapeake Bay Watershed and its importance to the community. The three-day experience is modeled after the existing week long Camp Marine Marshals that may be space and cost prohibitive for many area children. As part of the experience, children will visit Chippokes State Park, conduct water quality testing, and go to the Virginia Marine Science Museum.

Staff recommends approval of the attached resolution accepting the \$4,340 grant for the special marine camp and to appropriate the funds as described in the attached resolution.

Needham S. Cheely, III

CONCUR:

Anthony Conyers, Jr.

NSC/gs
ChesBayFundGrant.mem

Attachment

RESOLUTION

CHESAPEAKE BAY RESTORATION FUND GRANT

WHEREAS, the Chesapeake Bay Restoration Fund, which is funded through the sale of Chesapeake Bay license plates, has made funds available for the restoration and education of the Bay; and

WHEREAS, funds are needed to provide an enriching and SOL based environmental component to the Division's Total Rec Camp Program.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, accepts the \$4,340 grant awarded by the Chesapeake Bay Restoration Fund to help with the additions to the summer camp program.

BE IT FURTHER RESOLVED that this resolution hereby authorizes the following appropriation:

Revenues:

From the Commonwealth	<u>\$4,340</u>
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Expenditures:

Contractual Services (001-161-0335)	\$3,840
Supplies (001-161-0318)	<u>500</u>
Total	<u>\$4,340</u>

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 23rd day of July, 2002.

ChesBayFundGrant.res

MEMORANDUM

DATE: July 23, 2002
TO: The Board of Supervisors
FROM: Richard M. Miller, Fire Chief
SUBJECT: Lease Agreement - James City-Bruton Volunteer Fire Department

The existing lease of the County owned property in Toano for use as a volunteer fire department by the James City-Bruton Volunteer Fire Department expires in 2005. The volunteers have asked for an early renewal of the lease in order to permit them to invest in desired building improvements and enhancements. The terms of the lease are acceptable to the volunteers and staff.

A resolution is attached authorizing the County Administrator to execute the attached lease agreement between James City County and James City-Bruton Volunteer Fire Department, Inc.

Staff recommends approval of the attached resolution.

Richard M. Miller

CONCUR:

Sanford B. Wanner

RMM/adw
leaseagr.mem

Attachments

RESOLUTION

LEASE AGREEMENT JAMES CITY-BRUTON VOLUNTEER FIRE DEPARTMENT

WHEREAS, the Board of Supervisors of James City County has been requested to approve a lease agreement between the County of James City and the James City-Bruton Volunteer Fire Department, Inc.; and

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute a lease agreement between James City County and the James City-Bruton Volunteer Fire Department, Inc.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 23rd day of July,
2002.

leaseagr.res

MEMORANDUM

DATE: July 23, 2002
TO: The Board of Supervisors
FROM: David Anderson, Planner
SUBJECT: Marie E. Sheppard

Marie E. Sheppard, a resident of Croaker, Virginia, and a member of the James City County Historical Commission passed away on Thursday, June 27, 2002.

To recognize her contributions as a member of the Historical Commission and the community, John Labanish, Chairman of the Historical Commission, will present a resolution in her honor.

David Anderson

CONCUR:

O. Marvin Sowers

DA/gs
sheppard.mem

Attachment

RESOLUTION

MARIE E. SHEPPARD

WHEREAS, Marie E. Sheppard was a charter member of the James City County Historical Commission appointed by the Board of Supervisors on August 26, 1985, and passed away on June 27, 2002; and

WHEREAS, Ms. Sheppard was a lifelong member of the First Baptist Church, where she served as Chairperson of the Church History Committee, and also served as Chairperson of the Friends of African-American History; and

WHEREAS, Ms. Sheppard's tireless efforts have resulted in the awareness of historical information available about the African-American experience in James City County during the colonial period; and

WHEREAS, the Board of Supervisors and the Historical Commission express their deepest sympathy to Ms. Sheppard's family.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that Marie E. Sheppard is hereby recognized as an exemplary member of the James City County community and honors her for her contribution in preserving the history of James City County.

BE IT FURTHER RESOLVED that this resolution be recorded in the minutes of the Historical Commission to be preserved in perpetuity and that a copy of this resolution be presented to the descendants of Marie E. Sheppard.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 23rd day of July, 2002.

sheppard.res

MEMORANDUM

DATE: July 23, 2002

TO: The Board of Supervisors

FROM: Bernard M. Farmer, Jr., Capital Projects Administrator
Leo P. Rogers, Deputy County Attorney

SUBJECT: Agreement to Maintain Dam for Warhill Trail Road

Attached for your consideration is a resolution authorizing the County Administrator to enter into an agreement with the Virginia Department of Transportation (VDOT) for the County to maintain or pay for the maintenance of Warhill Trail Road. This agreement is required before VDOT will accept Warhill Trail Road into the State's Secondary Roads System.

The County will be reimbursed for a portion of the costs of building Warhill Trail Road, the entrance to the District Sports Park, once the road has been accepted by the State. Execution of the Dam Maintenance Agreement is needed prior to the local VDOT resident engineer beginning the process of road dedication. Staff will bring a resolution to the Board of Supervisors dedicating Warhill Trail Road as soon as staff receives the approval of the local VDOT resident engineer.

We recommend adoption of the attached resolution.

Bernard M. Farmer, Jr.

Leo P. Rogers

JC/LPR/gs
WarhillDam.mem

Attachment

RESOLUTION

AGREEMENT TO MAINTAIN DAM FOR WARHILL TRAIL ROAD

WHEREAS, the County built Warhill Trail Road as the entrance to the District Sports Park; and

WHEREAS, the County will receive certain grant funds to reimburse the cost for building Warhill Trail Road once it is accepted in the Virginia Department of Transportation (VDOT) Secondary Roads System; and

WHEREAS, prior to acceptance of Warhill Trail Road into the Secondary Roads System, VDOT requires the County to assume certain responsibilities to maintain the dam over which Warhill Trail Road is situated.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the County Administrator is hereby authorized and directed to execute a Dam Maintenance Agreement with VDOT to insure maintenance of a dam for Warhill Trail Road.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 23rd day of July,
2002.

WarhillDam.res

MEMORANDUM

DATE: July 23, 2002
TO: The Board of Supervisors
FROM: Thomas R. Pennington, Director, Information Resources Management
SUBJECT: Microsoft Desktop Licensing Expenditure

Our analysis indicates that the most cost-effective alternative for remaining a Microsoft customer is to purchase an "Enterprise" license, which will cover all County desktop operating systems and Microsoft Office licenses. The State has negotiated pricing with Microsoft, and licenses for the number of desktop and laptop computers the County operates will not cost more than \$140,000.

The enclosed resolution will permit our acquiring an Enterprise Agreement. Prices and contract arrangements have been executed by the Commonwealth. Passage of this resolution will permit the County to remain current with Microsoft releases, rather than repurchasing all Microsoft desktop software. I recommend approval of the attached resolution.

Thomas R. Pennington

CONCUR:

John E. McDonald

TRP/tlc
msenterpriselic.mem

Attachment

RESOLUTION

MICROSOFT DESKTOP LICENSE ENTERPRISE AGREEMENT

WHEREAS, funds are available in Operating Expense Accounts for the purchase of Microsoft desktop software licenses; and

WHEREAS, the purchase of these licenses is necessary for continued cost-effective operation and the licenses are only available and must be purchased from Microsoft Corporation; and

WHEREAS, Commonwealth of Virginia Enterprise-wide contract licensing is available to the County only through July 31, 2002, and based on the number of County computers to be included under the license the cost will not exceed \$140,000.

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 Microsoft Corporation not to exceed the amount of \$140,000.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 23rd day of July, 2002.

msenterpriselic.res

MEMORANDUM

DATE: July 23, 2002

TO: The Board of Supervisors

FROM: Larry M. Foster, General Manager, James City Service Authority

SUBJECT: An Ordinance to Amend Chapter 11, Section 11-65, Restrictions on Outdoor Watering and Section 11-66, Violation of Article

At the June 11, 2002, meeting the Board approved an Emergency Ordinance regulating the days and times of outdoor water use for the JCSA customers. Since the Ordinance was approved under emergency conditions it must be re-adopted within 60 days of its original adoption.

The attached Ordinance has been duly advertised as required by the Code of Virginia and includes the following provisions:

- Outdoor Water Use allowed for:
 - * Odd Street Number & Common Property on Wednesday, Friday and Sunday.
 - * Even Street Number and parcels with multiple street numbers on one parcel on Tuesday, Thursday, and Saturday.
- No outdoor water use between 8:00 a.m. and 5:00 p.m.
- Designated day for outdoor water use begins at 12:00 midnight.
- The Ordinance will be in effect between May 1 and September 30 each year.
- No outdoor water use on Monday.
- One time sixty-day exemption allowed as grow-in period for new lawn or turf.
- Allows watering of plants anytime using a container not to exceed three gallons.
- Commercial nurseries allowed to water nursery stock and plant material as needed.
- Violations constitute a Class I Misdemeanor punishable by up to a \$2,500 fine.

The Emergency Ordinance has been in place for approximately six weeks. Since approval there have been 110 warnings and no violations issued.

Ordinance - Outdoor Water Use

July 23, 2002

Page 2

The purpose of the Ordinance is to try to manage water demands to reduce water system pressure losses during peak demand periods. While the results have not been as successful as desired, we have seen positive results. Staff will continue to monitor the impacts through September 30, 2002, the end of the traditional high demand season, and report back to the Board of Supervisors on the effectiveness of the Ordinance.

Staff recommends that the Board approve the attached Ordinance.

Larry M. Foster

LMF/adw
outdoorwater.mem

Attachments

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 11, HEALTH AND SANITATION, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY ADDING ARTICLE VII, OUTDOOR WATER USE, SECTION 11-65, RESTRICTIONS ON OUTDOOR WATER USE; AND SECTION 11-66, VIOLATIONS OF ARTICLE.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 11, Health and Sanitation, is hereby amended and reordained by adding Article VII, Outdoor Water Use, Section 11-65, Restrictions on outdoor water use; and Section 11-66, Violations of article.

Chapter 11. Health and Sanitation

Article VII. Outdoor Water Use

Sec. 11-65. Restrictions on Outdoor Water Use

In order to protect the public health, safety and welfare and insure the integrity of the James City Service Authority water system, during the period beginning May 1 and ending September 30 of each year, outdoor use of James City Service Authority water is prohibited, except that properties with even-numbered street addresses can use water outdoors on Tuesdays, Thursdays and Saturdays and properties with odd-numbered street addresses can use water outdoors on Wednesdays, Fridays and Sundays provided that outdoor water use occurs between the hours of midnight and 8:00 a.m. and 5:00 p.m. and midnight. No outdoor water use shall occur on Mondays. For the purpose of this section, the last whole number of a property address shall be used to determine whether the property address is odd or even. All street addresses on a lot or parcel which has one or more structures with both odd and even street addresses shall be deemed to be even, regardless of such units actual street address. Open or common areas shall be deemed to have

an odd street address regardless of whether such areas have a designated street address. Open or common areas shall consist of land in a multi-lot development, either commercial or residential, which is owned by a corporation or association for the beneficial use of the owners or tenants of land in the development. Outdoor water use shall include, but is not limited to, the following:

(a) The watering of shrubbery, trees, lawns, grass, plants or other vegetation, except that the following shall be exempted from the prohibition on outdoor watering:

(1) the watering of a new lawn or turf for a period of 60 days after installation provided the owner or tenant of a lot, piece or parcel of real property receives the one-time exception provided herein. In order to be eligible for this one-time exception, the property owner or tenant shall provide prior written notice to the general manager of the James City Service Authority identifying the property address and the date of lawn or turf installation. No notice shall be required for watering a new lawn or turf installed on property that has a certificate of occupancy pending for a structure;

(2) the watering of plants from a bucket or other container not exceeding three gallons in capacity;

(3) the watering of nursery stock or plant material performed by a nursery business on property where it grows, cultivates or sells nursery stock or plants material and has a business license to perform such activities.

(b) The washing of automobiles, trucks, trailers, boat, motor bikes, airplanes or other motor vehicles, except this prohibition on washing vehicles shall not apply to any facilities operating a water recycling system approved by the general manager of the James City Service Authority, provided that such a facility prominently displays for public view a notice stating that such a water recycling system is in operation; and

(c) The washing of streets, driveways, parking lots, sidewalks, service station aprons, the exterior

of homes, apartments, office building or commercial establishments, or other outdoor surfaces, except that such activities may be performed by businesses which are regularly engaged in these activities as a service for hire and have a business license to perform such activities.

(d) In the event the county administrator declares a water shortage, the provisions of this section shall be superceded by Article VII, Drought Management of Chapter 11, Health and Sanitation.

Sec. 11-66. Violations of article.

A violation of any provision of this article shall constitute a misdemeanor punishable by a fine of up to \$2,500.00, each day that a violation exists shall constitute a separate offense.

This Ordinance repeals the Emergency Ordinance adopted on June 11, 2002.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 23rd day of July, 2002.

OutdoorWtrUpdte_Final.ord

MEMORANDUM

DATE: July 23, 2002

TO: The Board of Supervisors

FROM: John E. McDonald, Manager of Financial and Management Services

SUBJECT: An Ordinance to Amend Chapter 20, of the James City County Code to provide a Tax on Local Telecommunication Service.

Section 20-25 of the Code of James City County, Virginia, as authorized by the Code of Virginia, would establish a tax, per month, not to exceed \$1.20 on telecommunications services. This is known as a consumer utility tax and would be imposed on customers, including cellular phone customers within James City County. This tax would be billed to telecommunication customers and collected by the service provider who would then remit the proceeds monthly.

Section 20-70 and 20-71 of the Code of James City County, Virginia, would reduce the current E-911 tax from \$2.20 per month to \$0.75 per month. The purpose of this proposal is to reduce the current taxes paid, through the E-911 tax, on residential and commercial land lines in the County to an amount equal to the E-911 tax paid by wireless and cellular phone users to the State.

This is not a tax revenue initiative, but a revenue-neutral redesign of the County's taxes on telecommunication services. It attempts to equalize the monthly tax burden on all telecommunication service users without distinguishing between land-lines and wireless users.

The monthly tax rate on a land-line phone would drop from \$2.20 a month to a total of \$1.95. The monthly tax on wireless or cellular service would increase from \$0.75 per month to the same \$1.95, although the County would only collect \$1.20 directly.

The County has the legal authority to impose a consumer utility tax not to exceed 20 percent of the first \$15 of a residential phone bill (up to \$3 a month), and there is no ceiling on the taxable portion of non-residential users. The proposed County tax establishes a ceiling of \$1.20 a month on all users, residential or commercial.

These ordinance amendments would go into effect on January 1, 2003. This takes into consideration a 120-day notice to the telecommunications companies required by State law.

Staff recommends that the Board approve the attached Ordinance.

John E. McDonald

CONCUR:

Sanford B. Wanner

JEM/gs
TeleTax.mem

Attachments

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 20, TAXATION, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE V, SPECIAL TAX FOR ENHANCED 911 EMERGENCY TELEPHONE SYSTEM, SECTION 20-25, TAX IMPOSED; AND BY ADDING ARTICLE X, TAX ON LOCAL TELECOMMUNICATION SERVICE, SECTION 20-70, DEFINITIONS; AND SECTION 20-71, LEVY, AMOUNT OF TAX ON LOCAL TELECOMMUNICATION SERVICE.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 20, Taxation, is hereby amended and reordained by amending Article V, Special Tax for Enhanced 911 Emergency Telephone System, Section 20-25, Tax imposed; and by adding Article X, Tax on Local Telecommunication Service, Section 20-70, Definitions; and Section 20-71, Levy; Amount of tax on local telecommunication service.

Chapter 20. Taxation

Article V. Special Tax for Enhanced 911 Emergency Telephone Service

Sec. 20-25. Tax imposed.

Pursuant to the provisions of Section 58.1-3813.1 of the Code of Virginia, there is hereby imposed a special tax of ~~\$2.20~~ **\$0.75** per month on each consumer of telephone service for each telephone line provided by any corporation subject to the provisions of chapter 26 of title 58.1 of the Code of Virginia;

provided, however, that this tax is not imposed on federal, state or local government agencies. The definitions provided in article 4, chapter 38 of title 58.1 shall apply to this article.

*Article X. Tax on Local Telecommunication Service**

Sec. 20-70. Definitions

(a) *Local telecommunication service. Subject to the exclusions stated in this article, includes without limitation, the two-way local transmission of messages through use of switched local telephone services; telegraph services; teletypewriter; local cellular mobile radio telecommunication services; specialized mobile radio; stationary two-way radio; or any other form of two-way mobile and portable communications.*

(b) *Local telephone service. Subject to the exclusions stated in this article, includes any services subject to federal taxation as local telephone service as that term is defined in section 4252 of the Internal Revenue Code of 1986, as amended, or any successor statute. As it applies to an E-911 system, "local telephone service" shall mean switched local exchange access service.*

(c) *Mobile local telecommunication service. Any two-way mobile or portable local telecommunication service, including cellular mobile radio telecommunication service and specialized mobile radio.*

**State law reference - Authority of county to impose and regulate a tax on local telecommunication service, Code of Va., § 58.1-3812.*

(d) Mobile service consumer. A person having a telephone number for mobile local telecommunications service who has made a taxable purchase of such service or on whose behalf another person has made a taxable purchase of such service.

(e) Mobile service provider. Every person engaged in the business of selling mobile local telecommunication services to consumers.

(f) Public safety agency. A functional division of a public agency, which provides firefighting, police, medical or other emergency services or a private entity, which provides such services on a voluntary basis.

(g) Public safety answering point. A communications facility operated on a 24-hour basis which first receives E-911 calls from persons in an E-911 service area and which may, as appropriate, directly dispatch public safety services or extend, transfer or relay E-911 calls to appropriate public safety agencies.

(h) Residential consumer. As it relates to local telecommunications service. Any person furnished service classified as "residential" under tariffs filed with the state corporation commission. A residential consumer shall not include any consumer of mobile local telecommunication service.

(i) Service address. The location of the telecommunication equipment from which the telecommunication is originated or at which the telecommunication is received by a consumer. However, if the service address is not a defined location, as in the case of mobile telephones, maritime systems, air-to-ground systems and the like, "service address" shall mean the location of the subscriber's primary use of the telecommunication equipment within the licensed service area. A mobile service provider may obtain a

signed statement from a consumer indicating which county, city or town within the licensed service area is the location of the consumer's primary use of the telecommunication equipment. A mobile service provider shall be entitled to rely absolutely on a consumer's signed statement and shall remit the taxes collected to the county, city or town identified by the consumer. In the absence of a signed statement by a consumer, a mobile service provider shall identify the county, city or town of the consumer's primary use and shall remit the tax to such county, city or town based on any other reasonable method, including, without limitation, the consumer's billing address, service address or telephone number within the licensed service area.

(j) Service provider. Every person engaged in the business of selling local telecommunication services to consumers or delivering electricity services to consumers.

(k) Taxable purchase. The acquisition of telecommunication services for consumption or use; however, "taxable purchase" does not include; (i) the provision of telecommunications among members of an affiliated group of entities by a member of the group for their own exclusive use and consumption and; (ii) the purchase of telecommunications for resale in the subsequent provision of telecommunications, including, without limitation, carrier access charges, right of access charges and charges for use of intercompany facilities; however, the acquisition of telecommunications by a provider of enhanced services is not the purchase of telecommunications for resale, even when the cost of the telecommunications is separately stated to the purchaser of the enhanced services, as long as the primary object of the purchase of the telecommunications by the provider is for the provision of enhanced services and not telecommunications. A person may make tax-free purchases of telecommunications for resale if the person provides to the service provider a sworn affidavit indicating that the person's purchases are nontaxable sales for resale.

Sec. 20-71. Levy; Amount of tax on local telecommunication service.

(a) There is hereby imposed and levied by the county upon each and every taxable purchase by a consumer of local telecommunication service provided that the consumer's service address is located within the county a tax in the amount of ten percent of the gross charge made by the service provider against the consumer with respect to each and every taxable purchase; provided, however, that:

(1) In any case any monthly bill submitted by any service provider for residential, commercial, or industrial service shall exceed \$12.00 for a residential consumer, there shall be no tax computed on so much of such bill as shall exceed \$12.00; and

(2) In any case any monthly bill submitted by any service provider to a consumer for mobile local telecommunication service shall exceed \$12.00, there shall be no tax computed on so much of such bill as shall exceed \$12.00.

All such taxes shall be computed to the nearest whole cent. Bills shall be considered monthly bills if submitted 12 times per year for periods of approximately one month each.

(b) A service provider of local telecommunication services shall collect the tax from the consumer by adding the tax to the monthly gross charge for such services and the tax shall be paid by the consumer to the service provider at the time the gross charge shall become due and payable under the agreement between the consumer and the service provider. The tax shall, when collected, be stated as a distinct item separate and apart from the monthly gross charge. Until the consumer pays the tax to the service provider, the tax shall constitute a debt of the consumer to the county. If any consumer refuses to pay the tax, the service provider shall notify the county. After the consumer pays the tax to the service provider, the taxes collected shall be deemed to be held in trust by the service provider until remitted to the county.

(c) Such reports and remittance, including those required under section 20-26 relating to the special tax for enhanced 911 emergency telephone service, shall be made on or before the twentieth day of each month, covering the amount of tax collected during the preceding month. The treasurer shall have the power and the duty of collecting the taxes imposed and levied hereunder and shall cause the same to be paid into the general treasury for the county. If any seller whose duty it is to do so shall fail or refuse to file any report required by this article or to remit to the treasurer the tax required to be collected and paid under this article within the time and in the amount specified in this article, there shall be added to such tax by the treasurer a penalty in the amount of ten percent thereof and interest thereon at the rate of ten percent per annum, which shall be computed upon the taxes and penalty from the date such taxes are due and payable. The treasurer shall forward a copy of the report to the commissioner of the revenue.

(d) Any consumer shall be entitled to a refund from the county equal to the amount of any tax the consumer paid to a jurisdiction outside of the state if such tax was legally imposed in such other jurisdiction; however, the amount of credit or refund shall not exceed the tax paid to the county on such purchase.

(e) Each service provider of local communication service shall keep complete records showing all purchases of such service in the county. Such records shall show the price charged to each purchaser, the date thereof and the date of payment, and the amount of tax imposed under this article. Such records shall be kept open for inspection by authorized agents of the commissioner of the revenue during regular business hours. Authorized agents shall have the authority to make such copies or transcripts of these records as may be required. In the event the records are maintained outside the county, copies of the appropriate books and records shall be sent to the office of the commissioner of the revenue upon demand.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 23rd day of July, 2002.

telecom.ord

MEMORANDUM

DATE: July 23, 2002

TO: The Board of Supervisors

FROM: Needham S. Cheely, III, Director, Division of Parks and Recreation

SUBJECT: An Ordinance to Amend Section 16-7, Use of Public Park and Recreational Facilities by Children, of the James City County Code

The Division of Parks and Recreation will distribute a Park User Guide this fall to all park visitors. The purpose of a park users guide is to educate the public about the laws and regulations that govern the use of the parks. The safety and enjoyment of our park patrons and the protection of the public facilities are our major concerns.

When reviewing the County Ordinances, staff discovered an inconsistency related to the age of children being left unsupervised in parks. The James City County Division of Social Services has a policy enforced by the local Commonwealth's Attorney's Office that states that parents of any child under the age of 12 left unsupervised could be criminally prosecuted. The existing County Ordinance governing the operation of parks, Section 16-7 of the County Code, states that children under the age of the age of six must be supervised. Staff believes that this Ordinance should be changed to the age of 12 to be consistent with the Division of Social Services' policy.

Staff recommends that the Board of Supervisors approve the attached ordinance that amends the County Code, Section 16-7, to provide consistency with the policies and practices of the Division of Social Services and the Commonwealth's Attorney's Office.

Needham S. Cheely, III

CONCUR:

Anthony Conyers, Jr.

NSC/gs
AmendSection16-7.mem

Attachment

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 16, PUBLIC PARKS AND RECREATION FACILITIES, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE II, REGULATIONS GOVERNING PUBLIC PARKS AND RECREATION FACILITIES, BY AMENDING SECTION 16-7, USE OF PUBLIC PARK AND RECREATION FACILITIES BY CHILDREN.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 16, Public Parks and Recreation Facilities, is hereby amended and reordained by amending Section 16-7, Use of public park and recreation facilities by children.

Chapter 16. Public Parks and Recreation Facilities

Article II. Regulations Governing Public Parks and Recreation Facilities

Sec. 16-7. Use of public park and recreation facilities by children

No parent or guardian shall permit a child under the age of ~~six~~ *twelve* years, ~~or such other age as is specifically posted by the director~~, to make use of public park and recreational facilities without providing for direct supervision of the child.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 23rd day of July, 2002.

children.ord

MEMORANDUM

DATE: July 23, 2002

TO: The Board of Supervisors

FROM: Sanford B. Wanner, County Administrator

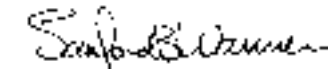
SUBJECT: FY 03 Annual Grounds Maintenance Agreement for Williamsburg-James City County School Division

The FY 03 Budget reflected the recommendation of the County Administrator that focused attention on the need for a contractual service agreement for grounds maintenance with the Schools. The thrust of the agreement was to provide the County with the necessary management oversight in order to provide grounds maintenance that optimized the use of public funds for both the Williamsburg-James City County Schools and the County.

The County's FY 03 Operating Budget contains \$326,221 in a Contingency account, pending a contractual agreement being reached between the Williamsburg-James City County Public Schools and the County, to manage the grounds maintenance function.

The attached Agreement has been developed between the School Superintendent and the County Administrator. Key provisions included in the Agreement are: the County will participate in the hiring process, the supervision and evaluation process, and that School personnel would be able to work on County property, although the priority of efforts is to the public school grounds.

The School Board, on July 16, 2002, unanimously approved the Agreement. I recommend that the Board adopt the attached resolutions authorizing the County Administrator to enter into the Grounds Maintenance Agreement for Fiscal Year 2003 and transfer the funds in the County's Contingency for Schools Ground to the Williamsburg-James City County School Board Local Contribution.



Sanford B. Wanner

SBW/adw
schoolground.mem

Attachments

RESOLUTION

FY 03 ANNUAL GROUNDS MAINTENANCE AGREEMENT FOR

WILLIAMSBURG-JAMES CITY COUNTY SCHOOL DIVISION

WHEREAS, the Board of Supervisors of James City County, Virginia, and the School Board of the Williamsburg-James City County School Division desire to formalize the arrangement for maintaining school grounds.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to execute the FY 03 Annual Grounds Maintenance Agreement for Williamsburg-James City County School Division, by and between the County of James City and the Williamsburg-James City County School Division.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 23rd day of July, 2002.

03GroundMaintAgr.res

RESOLUTION

CONTINGENCY TRANSFER-SCHOOLS GROUNDS MAINTENANCE

WHEREAS, the Board of Supervisors has entered into an agreement with the James City County-Williamsburg School Board to provide grounds maintenance services; and

WHEREAS, funds were budgeted in the FY 2003 budget to provide for this function.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby transfers \$326,221 from the Contingency for School Grounds account to the Local Contribution to the School Board account.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 23rd day of July, 2002.

contingtrans_sch.res