

A G E N D A

JAMES CITY COUNTY BOARD OF SUPERVISORS

County Government Center Board Room

November 12, 2002

7:00 P.M.

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- A. ROLL CALL**
- B. MOMENT OF SILENCE**
- C. PLEDGE OF ALLEGIANCE** – Mr. Donte’ Lewis, a senior at Lafayette High School
- D. PUBLIC COMMENT**
- E. PRESENTATIONS**
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- F. CONSENT CALENDAR**
 - 1. Minutes
 - a. October 22, 2002, Work Session
 - b. October 22, 2002, Regular Meeting
 - c. October 28, 2002, Budget Retreat
 - 2. Temporary Appointment of Acting Zoning Administrator
 - 3. Award of Contract - Community Center Pool Lights
 - 4. Chesapeake Bay Preservation Ordinance Violation - Civil Charge -
Don and Paula Dazley
- G. PUBLIC HEARINGS**
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Multi-Year Motor Vehicle Decal
 - 2. Case No. ZO-2-02. Zoning Ordinance Amendment - Manufactured Home Replacement ...
 - 3. Vacation of a Portion of Right-of-Way for Louise Lane
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 - 1. General Obligation Public Improvement Refunding Bond
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- K. BOARD REQUESTS AND DIRECTIVES**
- L. ADJOURNMENT**

MEMORANDUM

DATE: November 12, 2002
TO: The Board of Supervisors
FROM: Sanford B. Wanner, County Administrator
SUBJECT: Employee and Volunteer Outstanding Service Awards

The Recognition Program is designed to provide meaningful recognition of exceptional achievement, performance, and improvements by employees and volunteers of James City County and the James City Service Authority.

The Recognition Review Committee recommends the following groups to receive Outstanding Service Awards at the November 12, 2002, Board of Supervisors meeting:

- eight teams of employees;
- six individual employees;
- one employee and volunteer team;
- two teams of volunteers;
- five individual volunteers; and
- one Lifesaving award.

Staff requests that the Board Chairman present these awards at the November 12, 2002, meeting.

Sanford B. Wanner

SBW/gs
recawd.mem

AT A WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 22ND DAY OF OCTOBER, 2002, AT 4:00 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
Frank M. Morton, III, County Attorney

B. BOARD CONSIDERATION

1. Groundwater Treatment Plant Financing Plan

Mr. Foster introduced David Rose and Courtney Rogers of Davenport & Company, LLC, the financial advisors, and provided an overview of the Groundwater Treatment Facility project.

Mr. Rose and Mr. Rogers provided the Board with an overview of the goals and objectives of the financing plan for the Groundwater Treatment Plant.

Mr. Brown inquired about the proposed ratio of debt versus cash to fund the capital projects identified over the next five to fifteen years.

Mr. Goodson inquired about the King William Reservoir Project financing and the capital outlay expected from the County.

Mr. Foster provided the anticipated fiscal costs of the project based on cost per million gallons per day of production capacity of raw water at various withdrawal levels. It is anticipated that the cost of the project would be \$15-20 million per 2 million per production capacity. The JCSA's share could range from \$30 to 80 million.

The Board, Mr. Rose, and Mr. Rogers discussed the current interest rates and borrowing at the low rates, not borrowing, borrowing a portion of the needed funds for the project, and maximizing cash reserves in order to position the Authority for the next capital project.

Mr. Rose and Mr. Rogers provided the Board with financing options that include building cash reserves, borrowing for the project, amortize the debt over fifteen years, and to pay down the loan prior to final maturity; provided funding strategies for the project; and discussed funding methods.

Mr. Foster requested questions, guidance, and direction from the Board.

Mr. Kennedy inquired about the proffered money from developers towards the desalinization project.

Mr. Foster stated that the proffered money is set aside as build-out occurs and the fees are paid.

The Board and staff held a discussion on allocating the proffered money towards a water supply project, anticipated growth models for the development of the recommendations as well as other factors utilized in the development of the recommendations; the potential impacts of water conservation/restrictions on the Authority's revenues was also discussed.

The Board recommended that Davenport & Company, LLC, move forward with its recommendation and refinancing, and then bring back an update to the Board at its meeting on November 12, 2002. The recommendation included funding the entire debt of approximately \$17 million over a 15 year amortization period.

2. Meeting with Members of the General Assembly

Mr. Wanner introduced Senator Norment, Delegate Barlow, and Delegate Hamilton, and stated that a key issue is the State budget shortfalls and the impacts on localities.

Mr. Morton thanked the legislators for taking the time to meet with the Board.

a. Budget

Senator Norment stated that the General Assembly members have worked hard to minimize the State Budget reduction impacts to citizens and provided a quick overview of some of the reductions.

Delegate Hamilton stated that the second round of cuts would be significant.

The Board and legislators discussed the biennial budget reductions, the need for contingencies, car tax relief, the desire to provide support for public education, public safety, and health care that includes: mental health and retardation services as well as substance abuse prevention services.

A discussion was held regarding equality of taxing powers between cities and counties.

b. Land-Use Issues

The Board and legislators discussed the role of the State government vs. local government in controlling urban sprawl and land-use zoning.

c. Adequate Public Facilities Legislation

Mr. McGlennon requested information on the possible proposal for legislation for adequate public facilities test.

Mr. Norment stated that legislation is being drafted, citizen input is welcome, that the balance of adequacy of the public facilities must be outlined in a reasonable manner, and the comprehensive plans could establish a benchmark for the adequacy of public facilities.

d. Legislation Proposals that Impact Local Government

The Board and legislators discussed legislation that has significant impacts at local levels, the volume of bills proposed each session, and the role of the local government in lobbying legislation.

e. Dillon Rule

The Board and legislators discussed the feasibility of amending a portion of the Dillon Rule to permit local government greater flexibility to govern.

f. Photo-Red

The Board and legislators discussed the possibility of the Photo-Red legislation to be brought back for reconsideration during the 2003 session.

g. Water

The Board and legislators discussed the comprehensive way the County has addressed the water supply concerns, that the State will be limiting the number of studies initiated in the upcoming years, and that rolling studies together such as desalinization and gray-water would be recommended.

h. Solid Waste Importation

The Board and legislators discussed the importation of solid waste to Commonwealth landfills.

The Board thanked the legislators for taking the opportunity to answer questions and demonstrated interest in representing the localities.

The legislators stated that although there are bipartisan differences in representation, they work closely together representing the localities and they welcome input from the localities and citizens on any legislation proposal.

i. November 5, 2002, Bond Referenda Issues

The State legislators stated support for the proposed Bond Referenda for higher education facilities and State parks and recreation.

D. ADJOURNMENT

At 6:19 p.m. the Board took a dinner break until 7 p.m.

Sanford B. Wanner
Clerk to the Board

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 22ND DAY OF OCTOBER, 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
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

Mr. Thomas Nichols, a sixth grader at James Blair Middle School, led the Board and citizens in the Pledge of Allegiance.

D. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, stated opposition to the Transportation Referendum proposed on the November 5 Ballot.

E. PRESENTATIONS

1. Volunteer Recognition - James D. Dorsey

Mr. Kennedy recognized James D. Dorsey for his extraordinary voluntary service to the County as a member of the Parks and Recreation Advisory Commission for fourteen years.

Mr. Dorsey stated that he joined the Historical Commission, Williamsburg Land Conservancy, and the Parks and Recreation Advisory Commission to see land preserved and would like to see more conservation in the community.

2. Head Start Awareness Month - October 2002

Mr. Goodson presented a resolution recognizing October 2002 as Head Start Awareness Month to ms. Patricia Banks, Head Start Director for the Williamsburg-James City County Community Action Agency.

Ms. Banks thanked the Board for the recognition.

3. Weatherization Day - October 30, 2002

Mr. Harrison presented a resolution designating October 30, 2002, as Weatherization Day in the County to Ms. Kathy McCoin, Housing Coordinator for the Community Action Agency.

Ms. McCoin thanked staff and the Community Action Agency for their support.

F. CONSENT CALENDAR

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

Mr. Goodson requested Item Number 6, Partnership - Eastern State Hospital Bathhouse, be pulled.

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

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

1. Minutes

a. October 8, 2002, Regular Meeting

2. Resolution Commending Dr. Thomas T. Shields, Sr.

RESOLUTION

COMMENDING DR. THOMAS T. SHIELDS, SR.

WHEREAS, Dr. Thomas T. Shields was called as Pastor of the historic First Baptist Church, Williamsburg, in November 1982 and during his tenure, the Church has continued its role as a leader in the religious and civic life of the community; and

WHEREAS, Dr. Shields has served as President of the Williamsburg Clergy Fellowship, the Tri-County Pastors Association, President of Area II Ministers Council for the American Baptist Churches of the South, and member of the Board of Directors, Williamsburg Pastoral Counseling Center; and

WHEREAS, Dr. Shields is a past First Vice President of the local NAACP, former member of the Community Action Board of Directors, former local chair of the Southern Christian Leadership Council, former chair of the Schools Minority Achievement Committee, and served on the Board of Trustees of Thomas Nelson Community College; and

WHEREAS, he has been honored for his achievements and contributions to the community by the Kappa Alpha Psi Fraternity and The Williamsburg Men's Club, and has received the Public Schools Friends of Education Award and the Virginia Leadership Award from former Governor James Gilmore; and

WHEREAS, Dr. Shields will retire from the First Baptist Pastorate on December 31, 2002, after 20 years of service to the Church and after more than 37 years in the ministry.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby commend Dr. Thomas T. Shields, Sr., for his service to the First Baptist Church and to the community and does wish Dr. Shields a long and happy retirement.

3. Head Start Awareness Month - October 2002

RESOLUTION

HEAD START AWARENESS MONTH - OCTOBER 2002

WHEREAS, established in 1965, Head Start is a national, Federally funded early childhood development program that serves children and families and whose purpose is to help children achieve their full potential; and

WHEREAS, Head Start provides comprehensive health, nutritional, educational, social services, family and community development, and meaningful parent involvement; and

WHEREAS, Head Start focuses on children's language development, early literacy, social skills, numeracy skills, and giving their parents the skills in becoming their child's first and best teacher; and

WHEREAS, Head Start is committed to the development of each child and provides preventative and early intervention of services to children and families regardless of their economic status; and

WHEREAS, the Williamsburg-James City County Community Action Head Start serves 147 diverse preschool children including children with special needs and their families.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby designate October 2002 as Head Start Awareness Month and encourage all parents of preschool-age children to participate in literacy activities, such as reading a book with your child, attending a play with your child, and going to the library with your child during the month of October.

4. Weatherization Day - October 30, 2002

RESOLUTION

WEATHERIZATION DAY

WHEREAS, the County of James City, Virginia, has long recognized the plight of low-income families and individuals in meeting their home energy needs; and

WHEREAS, low-income households spend a disproportionate percentage of their annual incomes on home energy bills; and

WHEREAS, the United States Department of Energy developed the Weatherization Assistance Program in 1976 as the Federal government's cost-effective, permanent solution for reducing the heavy burden on low-income Americans; and

WHEREAS, the Weatherization Assistance Program keeps jobs and dollars in local communities by operating through a network of well-trained program providers serving every community in Virginia.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby proclaim October 30, 2002 as:

Weatherization Day

in James City County, Virginia, and encourages State and local weatherization professionals to deliver cost-effective, advanced technologies to increase energy savings in each home served, to leverage State, local, and private resources to get the most from every Federal dollar, and to heighten the awareness of energy efficiency in communities throughout the State.

5. Installation of "Watch for Children" Sign - Scott's Pond

RESOLUTION

INSTALLATION OF "WATCH FOR CHILDREN" SIGN - SCOTT'S POND

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, the residents of Scott's Pond have requested that a "Watch for Children" sign be installed on Scott's Pond Road as illustrated on the attached drawing titled "Scott's Pond '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.

7. Dedication of School House Lane

RESOLUTION

DEDICATION OF SCHOOL HOUSE LANE

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 May 28, 2002, for the crossing of a dam which applies to this request for addition; 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.

WHEREAS, the County guarantees the necessary surety amount of \$7,500 to provide for all loss, cost, damage, or expense incurred to correct faulty workmanship or materials, associated with the construction of the street and/or related drainage facilities. The effective period of this surety obligation will last one calendar year from the day the street is added to the Secondary System of State Highways.

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, this Board hereby rescinds the resolution adopted September 10, 2002, requesting dedication of this same street into the Secondary System of State Highways.

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

6. Partnership - Eastern State Hospital Bathhouse

Mr. John E. McDonald, Manager of Financial and Management Services, stated that the Schools, Eastern State Hospital, and the Williamsburg Aquatics Club (WAC) have worked to make the Eastern State Hospital swimming pool user friendly to various community groups. The WAC installed a bubble over the pool and made other improvements to make the pool available for winter swimming. The partners proposed a new bathhouse to provide rest rooms, showers, and a dressing area for high school swimmers early in the morning. Additionally, Eastern State Hospital benefits from more flexibility in programming daytime use of the pool for staff and residents, and the James City/Williamsburg Community Center benefits from the proposal through the elimination of the conflicting use of swim teams for early morning practices.

Although the County will be providing funding for the facility, it is otherwise not involved and no operating costs or maintenance responsibilities are assumed. Furthermore, the facility will be owned by the State.

Mr. McDonald stated that staff recommends the Board adopt the resolution authorizing the County Administrator to enter into an agreement with Eastern State Hospital and amends the FY 03 appropriation to allow that money to be used for reimbursement.

Mr. Goodson made a motion to adopt the resolution.

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

RESOLUTION

PARTNERSHIP – EASTERN STATE HOSPITAL BATHHOUSE

WHEREAS, the varsity swim teams of both Jamestown and Lafayette High Schools have early morning practices at the James City/Williamsburg Community Center (JCWCC) and it has proven difficult to allow both teams, as well as members of the JCWCC, unencumbered use of the pool; and

WHEREAS, an outdoor pool at Eastern State Hospital (ESH) has been converted, by the acquisition and installation of a bubble enclosure by the Williamsburg Aquatic Club (WAC) into a year-round swimming facility; and

WHEREAS, both ESH and WAC have agreed to work with the County to build a bathhouse at the ESH pool to allow one or both of the high school swim teams the ability to practice at the ESH pool and the ability to shower and dress before going to school; and

WHEREAS, the Board of Supervisors previously appropriated funds in the Capital Budget to build a bathhouse, which must, since it is located on ESH property, be owned by ESH with ESH responsible for all maintenance and utility bills; and

WHEREAS, WAC has agreed to facilitate the construction of the bathhouse for ESH through the use of parent volunteers.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute the needed agreements with both Eastern State Hospital (ESH) and the Williamsburg Aquatic Club to facilitate the construction of a bathhouse adjoining the ESH pool.

BE IT FURTHER RESOLVED that funds set aside for the capital construction of such a bathhouse, in the amount of \$150,000 in the FY 2003 Capital Budget, be available to execute such agreements.

H. PUBLIC HEARINGS

1. Case No. Z-5-01. Ford's Colony Proffer Amendment

Mr. Christopher M. Johnson, Senior Planner, stated that Mr. Vernon Geddy, III, has applied on behalf of Realtec, Inc., to rezone property from R-4, Residential Planned Community, with proffers, to R-4, Residential Planned Community, with amended proffers. The applicant seeks to amend Proffer No. 4 of the amended and restated Ford's Colony Proffers dated September 29, 1995, to permit access from Ford's Colony onto Country Club Drive for the development of Section XII, 70 lots on 45 acres.

Staff found that the proffers offered by the developer sufficiently address the issues and concerns identified by staff, the Virginia Department of Transportation (VDOT), and the Williamsburg West Civic Association.

Staff also found the development of Ford's Colony, Section XII to be consistent with surrounding zoning and development and the Comprehensive Plan.

The Planning Commission recommended approval of the application by a vote of 7-0 at its meeting on October 7, 2002.

Staff recommends approval of the application and acceptance of the voluntary proffers.

The Board and staff held a brief discussion on the traffic access into the remainder of Ford's Colony from the new Section.

Mr. Kennedy opened the Public Hearing.

1. Mr. Vernon Geddy, III, provided an overview of the proposal and stated support for the revised proffer granting access to Section XII.

2. Ms. Anna Garrett, 106 Country Club Drive, spoke on behalf of the Williamsburg West Homeowners Association in voicing support for the proposal. Ms. Garrett expressed concern that the Williamsburg West residents' landscaping concerns were not shown on the landscape plans yet. She wanted to ensure that maintenance of the road met the standards of the Williamsburg West residents.

The Board, applicant, applicant's landscaping engineer, and staff held a discussion regarding the landscaping expectations and resolved the issued with a planned review of the landscaping plan after VDOT provides a line-of-site report for the buildout.

3. Mr. Earnest Bazzle, 103 Country Club Drive, owner of Bazzle Apartments, stated that there was no objection to changing the access to the apartments and that the residents are concerned that the landscaping should not devalue properties in Williamsburg West.

The Board inquired if the representative of Williamsburg West is satisfied with the changes proposed to the entrance.

Ms. Garrett stated that there were no objections to changing the entrance.

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

Mr. Brown made a motion to adopt the Amendment.

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

RESOLUTION

CASE NO. Z-5-01. FORD'S COLONY 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, adjoining property owners notified, and a hearing scheduled on Zoning Case No. Z-5-01 for rezoning approximately 2,778 acres from R-4, Residential Planned Community, with proffers, to R-4, Residential Planned Community, with amended proffers; and

WHEREAS, the Planning Commission of James City County, following its public hearing on October 7, 2002, recommended approval of Case No. Z-5-01, by a vote of 7 to 0; and

WHEREAS, the property is identified as Parcel No. (1-11) on James City County Real Estate Tax Map No. (32-3).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-5-01 and accepts the voluntary proffers.

2. An Ordinance to Amend and Reordain Emergency Ordinance No. 196 Implementing the Governor of Virginia's Executive Order 33

Mr. Larry M. Foster, General Manager of the James City Service Authority, stated that on September 10, 2002, the Board approved an Emergency Ordinance in response to the Governor's Executive Order 33. Staff has prepared a permanent ordinance in accordance with the Emergency Provision adopted by the Board of Supervisors and recommended that the Board adopt the amended permanent Ordinance implementing Executive Order 33 in James City County.

The Board and staff held a brief discussion on the possibility of the Governor lifting Executive Order 33 and the process for rescinding this proposed Ordinance when the Governor lifts Executive Order 33.

Mr. Kennedy opened the Public Hearing.

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

Mr. McGlennon made a motion to adopt the Ordinance as presented.

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

3. Guest Register Ordinance

Mr. Leo P. Rogers, Deputy County Attorney, stated that staff has worked with the Williamsburg Hotel and Motel Association as well as with other jurisdictions to develop the proposed Ordinance, authorized by Virginia Code Section 35.1-9, to require places of lodging to maintain a guest register. The purpose of the Ordinance is to protect the public safety of local residents, guests to the area, and employees of the places of lodging through the assistance of law enforcement personnel to research information pertinent to an investigation.

Lt. D. Linhart, James City County Police Department, presented the law enforcement position on the proposed ordinance.

The Board and staff held a discussion on the frequency of law enforcement officials accessing such records, the cooperation of local hotels and motels, and the legal process to establish probable cause.

Mr. Kennedy opened the Public Hearing.

1. Mr. Ernie Young, President of the Williamsburg Hotel and Motel Association, stated support for the Ordinance and thanked the Police Department for working so closely with the Association.

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

Mr. Harrison made a motion to adopt the Ordinance as presented.

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

I. PUBLIC COMMENT

Mr. Kennedy recognized the Planning Commission representative, Mr. George Billips.

1. Mr. Ed Oyer, 139 Indian Circle, again stated opposition to the proposed referendum on transportation.

J. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner stated that the Community Conversation locations for the 2003 Comprehensive Plan are in flyers around the County, on the County web site, and will be located throughout the community in November and encouraged citizens to attend and voice their opinion on the County's future.

Mr. Wanner recommended that the Board recess while the James City Transit Company Board of Directors hold a brief meeting followed by a meeting of the James City Service Authority Board of Directors, then the Board should reconvene into Open Session to go into Closed Session pursuant to Section 2.2-3711(A)(1) of the Code of Virginia to consider the appointment of individuals to County boards and/or commissions and Section 2.2-3711(A)(3) of the Code of Virginia to consider the acquisition of a parcel of property for public use.

K. BOARD REQUESTS AND DIRECTIVES

Mr. McGlennon and Mr. Harrison introduced Mr. Andrew Johnson, Ms. Dara Young, and Ms. Annabelle Ombac, students from the local high schools, who are shadowing them to learn about local government through participating in a Board member's daily schedule.

Mr. McGlennon made a motion for the Board to adopt a resolution of endorsement of the referenda on higher education facilities and the State parks and recreation.

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

A RESOLUTION OF SUPPORT FOR CERTAIN REFERENDA ON THE NOVEMBER 2002 ELECTION BALLOT

WHEREAS, the Governor and General Assembly of the Commonwealth of Virginia have authorized the following referenda for the November 5, 2002, Ballot:

1. Virginia Educational Facility Bonds not to exceed \$900,488,642. These General Obligation Bonds would provide funds for numerous higher education capital projects, including approximately \$61 million for the College of William and Mary and approximately \$17.7 million for development of the Williamsburg area campus for Thomas Nelson Community College.
2. Virginia Parks and Recreational Facility Bonds not to exceed \$119,040,000. These General Obligation Bonds would provide funds for numerous capital projects and State parks including the York River State Park located in James City County; and

WHEREAS, the Board of Supervisors of James City County finds that these two Bond programs are necessary and proper to meet capital needs in the areas of higher education and State parks for the good of the County, the Hampton Roads Region, and the Commonwealth of Virginia.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby endorse and support an affirmative vote for the November 2002 referenda on the Virginia Educational Facility Bonds and the Virginia Parks and Recreation Facilities Bonds.

Mr. Goodson stated that the ribbon cutting to celebrate the connection of the Williamsburg Area Transport and Hampton Road Transport services would be held at 3 p.m. on October 25 in Lee Hall.

Mr. Kennedy stated that on October 19 the Annual Fish Fry held at Fire Station No. 1 was well attended.

Mr. Kennedy recessed the Board at 8:12 p.m.

Mr. Kennedy reconvened the Board at 8:26 p.m.

L. CLOSED SESSION

At 8:27 p.m., Mr. Harrison made a motion to go into Closed Session pursuant to Section 2.2-3711(A)(1) of the Code of Virginia to consider the appointment of individuals to County boards and/or commissions and Section 2.2-3711(A)(3) of the Code of Virginia to consider the acquisition of a parcel of property for public use.

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

Mr. Kennedy reconvened the Board into Open Session at 8:45 p.m.

Mr. McGlennon made a motion to adopted the Closed Session resolution.

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

RESOLUTION

CERTIFICATION OF CLOSED MEETING

WHEREAS, the Board of Supervisors of James City County, Virginia, (Board) has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by the Board that such closed meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge: i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies; and, (ii) only such public business matters were heard, discussed, or considered by the Board as were identified in the motion, Section 2.2-3711(A)(3) to consider the acquisition of a parcel of property; and Section 2.2-3711(A)(1), to consider personnel matters, the appointment of individuals to County boards and/or commissions.

Mr. Goodson made a motion to appoint Mr. Brown to the Comprehensive Plan Steering Committee.

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

At 8:48 p.m., Mr. Kennedy recessed the Board until 3:30 p.m. on October 18, 2002.

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

Sanford B. Wanner
Clerk to the Board

102202bs.min

AT A BUDGET RETREAT OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 28TH DAY OF OCTOBER, 2002, AT 3:30 P.M. IN THE GRACE AND STANLEY KITZINGER COMMUNITY ROOM OF THE WILLIAMSBURG REGIONAL LIBRARY, 7770 CROAKER 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
Frank M. Morton, III, County Attorney

B. BOARD DISCUSSION

1. Budget Guidance

The Board and Mr. John E. McDonald, Manager of Financial and Management Services, discussed the status of the adopted FY 04 Budget, the impacts of the State budget shortfalls on the County's FY 04 Budget, Revised Revenue Estimates, FY 04 Capital Improvement Budget, Budget Calendar, Biennial Assessment, tax rate, and guidance to County staff and the Schools.

C. ADJOURNMENT

Mr. Kennedy recessed the Board at 5:15 p.m. until 6 p.m. for a Joint Meeting with the School Board and City Council.

Sanford B. Wanner
Clerk to the Board

MEMORANDUM

DATE: November 12, 2002
TO: The Board of Supervisors
FROM: Sanford B. Wanner, County Administrator
SUBJECT: Temporary Appointment of Acting Zoning Administrator

The attached resolution provides for the temporary appointment of an Acting Zoning Administrator to cover for the anticipated absence of Allen Murphy from work for medical reasons. Mr. Murphy will be on sick leave for an estimated six week period between the end of this month and the end of January.

Staff recommends approval of the attached resolution.

Sanford B. Wanner

SBW/gs
murphy.mem

Attachment

RESOLUTION

TEMPORARY APPOINTMENT OF ACTING ZONING ADMINISTRATOR

WHEREAS, pursuant to Section 24-5 of the Code of the County of James City, the Board of Supervisors is responsible for appointing the Zoning Administrator; and

WHEREAS, an appointment of an Acting Zoning Administrator is necessary on a temporary basis beginning November 12, 2002, and ending January 31, 2003.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby appoints John T. P. Horne as Acting Zoning Administrator for the time period specified herein.

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 12th day of
November, 2002.

murphy.res

MEMORANDUM

DATE: November 12, 2002

TO: The Board of Supervisors

FROM: Darryl E. Cook, Environmental Director
Leo P. Rogers, Deputy County Attorney

SUBJECT: Chesapeake Bay Preservation Ordinance Violation - Civil Charge - Don and Paula Dazley

Attached is a resolution for consideration by the Board of Supervisors involving a violation of the Chesapeake Bay Preservation Ordinance. The case involves unauthorized removal of vegetation from the Resource Protection Area (RPA).

In accordance with provisions of the Ordinance, replanting of vegetation and a civil charge are proposed to remedy the RPA violation. The property owner has entered into an Interim Chesapeake Bay Restoration Agreement with the County, submitted landscape plans, and provided surety to guarantee the implementation of the approved landscape plan to restore the impacted areas on their property.

The attached resolution presents the specific details of the violation and a recommended civil charge. Under the provisions of the Ordinance, the Board may accept a civil charge of up to \$10,000 as offered by the property owner. Staff and the property owner agreed to the recommended civil charge of \$4,000 based on the Chesapeake Bay Preservation Ordinance Civil Penalty Procedures Policy adopted by the Board in August 1999. The Policy considers the water quality impact and the degree of noncompliance involved in the case. The water quality impact was considered moderate, and the property owner has worked with staff to restore the impacted areas.

Staff recommends the Board adopt the attached resolution establishing a civil charge for the RPA violation presented.

Darryl E. Cook

Leo P. Rogers

DEC/gb
dazleycharge2.mem

Attachments

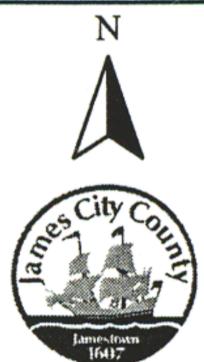


CHESAPEAKE BAY VIOLATION 129 SAWMILL ROAD - DAZLEY



Area of
Violation

200 0 200 Feet

A scale bar with markings for 200, 0, and 200 feet.

RESOLUTION

CHESAPEAKE BAY PRESERVATION ORDINANCE VIOLATION -

CIVIL CHARGE - DON AND PAULA DAZLEY

WHEREAS, Don and Paula Dazley are the owners of a 21.91± acre parcel of land, commonly known as 129 Saw Mill Road, designated as Parcel No. (16) on James City County Real Estate Tax Map No. (36-3), hereinafter referred to as the (“Property”); and

WHEREAS, on or about February 13, 2002, it was determined by County staff that vegetation was removed from approximately 22,000-square feet of area in the Resource Protection Area on the Property; and

WHEREAS, Mr. and Ms. Dazley agreed to a Restoration Plan to replant trees, and shrubs, install silt fencing and construct a fence to keep horses out, on the Property in order to remedy the clearing violation under the County’s Chesapeake Bay Preservation Ordinance and Mr. and Mrs. Dazley have provided surety to the County to guarantee the survival of the vegetation in the Resource Protection Area on the Property; and

WHEREAS, Mr. and Mrs. Dazley have agreed to pay \$4,000 to the County as a civil charge under the County’s Chesapeake Bay Preservation Ordinance; and

WHEREAS, the James City County Board of Supervisors is willing to accept the restoration of the impacted areas and the civil charge as an interim settlement of the Chesapeake Bay Preservation Ordinance violation, in accordance with Sections 23-10 and 23-18 of the Code of the County of James City.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to accept the \$4,000 civil charge from Don and Paula Dazley as an interim settlement of the Chesapeake Bay Preservation Ordinance Violation.

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 12th day of November 2002.

dazleycharge3.res

MEMORANDUM

DATE: November 12, 2002
TO: The Board of Supervisors
FROM: David A. Daigneault, Chief of Police
SUBJECT: Police Department Grant

The Department of Motor Vehicles has approved a grant in the amount of \$9,000 to the Police Department to address traffic problems to include: D.U.I., Speed, and Occupancy Restraint Usage. The funds will provide overtime hours for officers and equipment needed for traffic enforcement.

Staff recommends adoption of the attached resolution to appropriate funds.

David A. Daigneault

DAD/adw
dmvgrant2.mem

Attachment

RESOLUTION

POLICE DEPARTMENT GRANT

WHEREAS, the Department of Motor Vehicles (DMV) has approved a grant in the amount of \$9,000 to the Police Department for traffic enforcement, overtime, and related equipment; and

WHEREAS, the grant only requires soft money local match, thus eliminating any additional spending by the Police Department, excluding court overtime and equipment maintenance; and

WHEREAS, the grant is administered by the DMV according to the Federal Government Fiscal Year, which runs from October 1 through September 30, thus allowing any unspent funds as of June 30, 2003, 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 authorizes the following appropriation amendments:

Revenues:

Department of Motor Vehicles	<u>\$9,000</u>
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Expenditures:

Police Department Budget	<u>\$9,000</u>
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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 12th day of November, 2002.

dmvgrant2.res

MEMORANDUM

DATE: November 12, 2002

TO: The Board of Supervisors

FROM: Ann Davis, Treasurer
Richard Bradshaw, Commissioner of the Revenue

SUBJECT: An Ordinance to Amend and Re-ordain Chapter 13, Section 13-40.4, Parking Without a Valid License Plate Decal; Section 13-40.5 Issuance of Citation; Amount and Pre-Payment of Fines, Protest, Article IV, Vehicle Decals; Section 13-53, Decal Required; Section 13-54, Exemptions; Section 13-55, Decal Year; Section 13-56, Decal Procurement; Section 13-59, Application, When Decal Available For Sale; Section 13-60, Payment of Fee and Issuance of Decal Generally; Section 13-62, Presumption Arising Form Absence of County Decal; and Section1 13-65, Transfer of Decal to Another Vehicle.

At the September 24, 2002, work session, the Board endorsed the concept of distribution of a multi-year decal to the taxpayers of James City County beginning January 1, 2003.

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

- It shall be unlawful to park a vehicle within the County without a valid decal.
- The fine for violation of the ordinance will be \$25.00 if paid within five days and \$50.00 thereafter.
- Provisions for a multi-year decal (set to expire on December 31, 2007).
- Amending vehicle registration fee from \$5.00 to \$10.00.
- Provision for exemptions to requirements.
- General provisions for registration of vehicles.

Fines for violation of this ordinance will be collected by the Treasurer's Office. Taxpayers with current taxes paid will receive decal upon proper registration. Taxpayers with delinquent taxes will be required to pay outstanding balances before settlement of fine. Part payment agreements will be available.

The Treasurer, Commissioner, and staff recommend adoption of the amended ordinance.

Ann Davis

Richard Bradshaw

AD/RB/gs
decal.mem

Attachment

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 13, MOTOR VEHICLES AND TRAFFIC, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE III, STOPPING, STANDING AND PARKING; SECTION 13-40.4, PARKING WITHOUT A VALID LICENSE PLATE DECAL; AND SECTION 13-40.5, ISSUANCE OF CITATION; AMOUNT AND PRE-PAYMENT OF FINES; PROTEST; ARTICLE IV, VEHICLE DECALS, SECTION 13-53, DECAL REQUIRED; SECTION 13-54, EXEMPTIONS; SECTION 13-55, DECAL YEAR; SECTION 13-56, DECAL PROCUREMENT; SECTION 13-59, APPLICATION; WHEN DECAL AVAILABLE FOR SALE; SECTION 13-60, PAYMENT OF FEE AND ISSUANCE OF DECAL GENERALLY; SECTION 13-62, PRESUMPTION ARISING FROM ABSENCE OF COUNTY DECAL; AND SECTION 13-65, TRANSFER OF DECAL TO ANOTHER VEHICLE.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 13, Motor Vehicles and Traffic, is hereby amended and reordained by amending Section 13-40.4, Parking without a valid license plate decal or motor vehicle decal; Section 13-40.5, Issuance of citation; amount of pre-payment of fines; protest; Section 13-53, Decal required; Section 13-54, Exemptions; Section 13-55, Decal period; Section 13-56, Decal procurement; Section 13-59, Application; when decal available for sale; Section 13-60, Payment of fee and issuance of decal generally; Section 13-62, Presumption arising from absence of county decal; and Section 13-65, Transfer of decal to another vehicle.

Chapter 13. Motor Vehicles and Traffic

Article IV. Vehicle Decals

Section 13-40.4. Parking without a valid license plate decal *or motor vehicle decal.*

(a) It shall be unlawful for any owner of a vehicle required to have a license plate decal to park his or her vehicle (including motorcycles, motor-bikes and minibikes), trailer or semitrailer on any highway which is part of the state secondary system of highways within James City County without having obtained a valid license plate decal which is displayed on such vehicle (including motorcycles, motorbikes and minibikes), trailer or semitrailer.

(b) It shall be unlawful for any owner of a motor vehicle, trailer, or semitrailer required to have a county motor vehicle decal pursuant to section 13-53 to park his or her motor vehicle, trailer, or semitrailer on any of the streets, alleys, lanes, public places of the county, or parking lots that are open to the public within the county, without a valid county motor vehicle decal attached thereto.

(c) It shall be unlawful for any owner of a motor vehicle, trailer, or semitrailer from another locality to park his or her motor vehicle, trailer, or semitrailer on any of the streets, alleys, lanes, public places of the county, or parking lots that are open to the public within the county, without a valid local motor vehicle decal attached thereto, provided that the owner is required by a jurisdiction that is a party to a compact with James City County for the regional enforcement of local motor vehicle license requirements to obtain a local motor vehicle decal or local motor vehicle license.

Section 13-40.5. Issuance of citation; amount and pre-payment of fines; protest.

(a) Any law enforcement officer of James City County may issue a citation charging a person parking in violation of this article, or if such person is not known, then the registered owner of the motor vehicle parked in violation of this article. Such citations may be posted on the windshield or other conspicuous place of each vehicle found illegally parked.

(b) Except as otherwise noted in this article, violation of any provision of this article shall be a traffic infraction punishable by a fine according to the following schedule:

Type of violation:	Fine paid within 5 days of violation:	Fine paid more than 5 days after violation:
Sec. 13-40.1 (handicapped parking)	\$100	\$200
Sec. 13-40.3 (fire lanes/near fire hydrants)	\$ 50	\$100
<i>Sec. 13-40.4 (b) or (c)</i> <i>(no valid motor vehicle decal)</i>	<i>\$ 25</i>	<i>\$ 50</i>
Other violations of this Article	\$ 10	\$ 20

Section 13-53. Decal required.

(a) Every person owning a motor vehicle, trailer or semitrailer normally garaged, stored or parked in the county shall procure ~~an annual~~ *a multi-year* county motor vehicle decal.

In the event it cannot be determined where such motor vehicle, trailer or semitrailer is normally garaged, stored or parked, the situs for the motor vehicle decal or license requirement shall be the domicile of the owner of such motor vehicle. For the purposes of this article, "motor vehicle, trailer and semitrailer" shall be defined in accordance with section 46.2-100 of the Code of Virginia.

- (b) The following shall be the duty of persons taking residence in the county:
- (1) A nonresident or nondomiciled owner of a motor vehicle, trailer or semitrailer shall, upon taking residence or becoming domiciled in the county, procure a county motor vehicle decal within 30 days.
 - (2) Owners moving to the county from elsewhere in the state where a local decal or license was required, who at the time of moving to the county had obtained a local decal or license from that jurisdiction for the current year, shall obtain a current county motor vehicle decal and display it in accordance with the provisions of this article. Upon proof of purchase of a current motor vehicle decal or license from such other jurisdiction, the office of the county treasurer shall provide those newly moving into the county, upon *presentation of proof of registration with the commissioner of the revenue and* payment of ~~\$5.00~~ *a \$10.00 registration fee*, with a county motor vehicle decal ~~for that decal year~~. Upon expiration of the aforesaid local decal or license from another jurisdiction, and in all successive years in which the owner remains a resident of or domiciled in James City County, unless otherwise excepted, a current county motor vehicle decal shall be procured ~~for each decal year~~ in accordance with the provisions of this article.
- (c) Every purchaser of a new or used motor vehicle, trailer or semitrailer which will be normally garaged, stored or parked in the county shall have 30 days from the date of purchase to procure a county motor vehicle decal.
- (d) It shall be unlawful for any owner or operator of a motor vehicle, trailer, semitrailer, or motorcycle who is required by law by another locality to obtain and display on the owner's or operator's motor vehicle, trailer, semitrailer, or motorcycle a valid decal issued by such locality to drive or park such motor vehicle, trailer, semitrailer, or motorcycle on any highway in the county unless a current decal from such other locality is displayed thereon. This subsection shall only be applicable if such other locality is a party to a compact with the county pursuant to § 46.2-752(K), Code of Virginia, as amended, for the regional enforcement of licensing requirements.

State law reference-Authority of county to license motor vehicles, etc., and provisions relating thereto, Code of Va., §§ 46.2-752, 46.2-755.

Section 13-54. Exemptions.

(a) The county shall not require a county motor vehicle decal for any motor vehicle, trailer or semitrailer when:

- (1) A similar tax or license fee is imposed by the county, city or town wherein such motor vehicle, trailer or semitrailer is normally garaged, stored or parked;
- (2) The motor vehicle, trailer or semitrailer is owned by a nonresident of the county and is used exclusively for pleasure or personal transportation and not for hire or for the conduct of any business or occupation other than that set forth in paragraph (3) of this subsection;
- (3) The motor vehicle, trailer or semitrailer is owned by a nonresident and is used for transporting into and within the county for sale in person or by his employees of wood, meats, poultry, fruits, flowers, vegetables, milk, butter, cream or eggs produced or grown by him, and not purchased by him for sale;
- (4) The motor vehicle, trailer or semitrailer is owned by an officer or employee of the Commonwealth of Virginia who is a nonresident of the county and who uses the vehicle in the performance of his duties for the Commonwealth under an agreement for such use;
- (5) The motor vehicle, trailer or semitrailer is kept by a dealer or manufacturer for sale or for sales demonstration;
- (6) The motor vehicle, trailer or semitrailer is operated by a common carrier of persons or property operating between cities and towns in this Commonwealth and not in intracity transportation or between cities and towns on the one hand and points and places without cities and towns on the other and not in intracity transportation;

(7) The motor vehicle, trailer or semitrailer is owned by a governmental agency and operated solely within such governmental agency's business.

(b) ~~The county shall provide, free of charge, a county~~ *Upon payment of the \$10.00 registration fee, the county shall provide a* motor vehicle decal for any one motor vehicle owned and used personally by any veteran who holds a current state motor vehicle registration card establishing that he has received a disabled veteran's exemption from the Department of Motor Vehicles and has been issued a disabled veteran's motor vehicle license plate as prescribed in section 46.2-739 of the Code of Virginia.

(c) The county shall not require a county motor vehicle decal for any daily rental passenger car, the rental of which is subject to the tax imposed by section 58.1-2402(A)(4) of the Code of Virginia.

(d) Every nondomiciliary member of the armed forces residing in this county in compliance with military or naval orders ~~are exempt from the county motor vehicle decal fee requirement~~ *shall be entitled to receive a county motor vehicle decal*; provided, however, that all such military and naval personnel shall ~~obtain, free of charge, a county motor vehicle decal in accordance with the provisions of this article~~ *register the motor vehicle with the commissioner of the revenue and pay the \$10.00 registration fee.*

Section 13-55. Decal year *period.*

~~Commencing in 1995, and continuing in each year thereafter, the decal year, under the terms of this article, shall commence on the fifteenth day of January and shall expire on the fifteenth day of February of the following calendar year. If the fifteenth of February falls on a Saturday, Sunday or a legal holiday, the decal year shall expire on the next day that is not a Saturday, Sunday or a legal holiday.~~ *The multi-year decal period shall commence on January 1, 2003, and shall terminate on December 31, 2007, unless otherwise extended by the board of supervisors.*

Section 13-56. Decal procurement.

On or before February fifteenth of ~~each year~~ *2003, unless subject to a 30 day grace period otherwise provided in this article*, the owner of each motor vehicle, trailer or semitrailer required by this ~~chapter~~ *article* to procure an annual county motor vehicle decal shall procure such decal from the county treasurer.

Section 13-59. Application; when decal available for sale.

(a) Application for a ~~county motor vehicle decal~~ *motor vehicle registration* shall be made at the office of the county commissioner of the revenue or at any other location designated by him, on forms provided for the name and address of the applicant and a description of the motor vehicle, trailer or semitrailer for which the decal is to be issued.

(b) An applicant ~~for a decal~~ *registering a motor vehicle* shall provide the commissioner of the revenue the original or an accurate copy of the permanent ~~state~~ *Virginia* vehicle registration.

(c) *Upon completing registration and payment of the registration fee*, ~~€~~ county motor vehicle decals shall be available ~~for sale~~ in the office of the county treasurer, or at any location designated by him, ~~on January fifteenth of each year.~~

Section 13-60. Payment of fee and issuance of decal generally.

The county motor vehicle ~~decal~~ *registration* fee provided for in this article shall be paid at the office of the county treasurer, or at any other location designated by him. Upon the payment of such *registration* fee, the county treasurer or his agent shall issue to the applicant a county motor vehicle decal for the motor vehicle, trailer or semitrailer for which the fee is paid.

Section 13-62. Presumption arising from absence of county decal.

The finding of any motor vehicle, trailer or semitrailer registered in the county on any of the streets, alleys, lanes, parking lots or public places of the county, or parking lots that are open to the public within the county without a ~~proper~~ *valid* county motor vehicle decal attached thereto, shall be a prima facie evidence that such motor vehicle, trailer or semitrailer is normally garaged, stored or parked in the county by the owner thereof.

Section 13-65. Transfer of decal to another vehicle.

(a) Any owner who sells or transfers a motor vehicle, trailer or semitrailer currently issued a decal under the provisions of this article may have the county motor vehicle decal and the registration number thereon assigned to another vehicle of like design and titled in such owner's name, upon application to the county commissioner of the revenue on forms providing for the name and address of the applicant and a description of the motor vehicle for which such decal has been issued, as well as a description of the motor vehicle for which such decal is to be transferred. Such application shall be accompanied by a *registration* fee of ~~\$5.00~~ *\$10.00*; provided, that ~~if the decal was issued under section 13-54, there shall be no charge for such transfer~~ *no registration shall be required if exempted by section 13-54.*

(b) For the purposes of this section, "like design" shall mean that the original vehicle issued a decal and the one to which the county motor vehicle decal is transferred either are both motorcycles or are both any other type of motor vehicles, trailers or semitrailers as defined by state law.

(c) No person shall display a county motor vehicle decal on a motor vehicle, trailer or semitrailer other than that decal issued for that vehicle, unless a transfer has been made under the circumstances covered by and as provided in this section.

This ordinance shall become effective January 1, 2003.

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 12th day of November, 2002.

decals1002.ord

MEMORANDUM

DATE: November 12, 2002
TO: The Board of Supervisors
FROM: Christy H. Parrish, Zoning Officer
SUBJECT: Case No. ZO-02-02. Zoning Ordinance Amendment - Manufactured Home Replacement

On April 8, 2002, the Virginia General Assembly amended Section 15.2-2307, Vested rights not impaired; nonconforming uses of the Code of Virginia. This amendment permits the replacement of a valid nonconforming manufactured home with a comparable one that meets HUD standards. Due to this State Code change, localities can no longer require any further legislative approvals of such homes.

Currently, the James City County Zoning Ordinance requires the issuance of a special use permit by the Board of Supervisors for the replacement of a nonconforming manufactured home. The amendment as proposed would eliminate references to requiring a special use permit and the language would mirror that of the Code of Virginia.

On October 7, 2002, the Planning Commission voted 7-0 to approve the ordinance amendment. Staff recommends approval of this amendment to ensure the consistency between the James City County Zoning Ordinance and the Code of Virginia.

Christy H. Parrish

CONCUR:

O. Marvin Sowers, Jr.

CP/gs
ZO-02-02.mem

Attachments:

1. Planning Commission Minutes
2. Revised Nonconformities Ordinance

ORDINANCE NO.

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE VII, NONCONFORMITIES, SECTION 24-634, RESTORATION/REPLACEMENT OF A NONCONFORMING USE.

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 VII, Nonconformities, Section 24-634, Restoration/replacement of a nonconforming use.

Chapter 24. Zoning

Article VII. Nonconformities

Sec. 24-634. Restoration/replacement of a nonconforming use.

(a) A nonconforming use damaged by casualty may be restored in accordance with the provisions of this section, provided such restoration has started within 12 months of the date of the casualty and is complete within 24 months of the date of the casualty. By casualty shall mean as a result of a fire or other cause beyond the control of the owner or by an act of God. By casualty shall not include damage caused by age or ordinary wear and tear or damage intentionally caused by the owner or an agent thereof.

(b) Nonconforming uses other than buildings and signs (such as, but not limited to, underground storage tanks, private sewage disposal systems and parking lots) may be restored or replaced when such structures become unsafe or unsound. A relocation on the same lot may be approved by the zoning administrator, provided the new location is less nonconforming than the original location, and further provided that the new location shall not cause a greater detrimental impact on conforming uses in the neighborhood.

(c) Such restoration shall not include any minor alterations, cosmetic modifications, interior renovations or similar changes unless approved under the provisions of section 24-633 of this article, nor shall such restoration include any expansion unless approved under the provisions of section 24-633. Such restoration may include changes that make the use less nonconforming than it was prior to the casualty.

~~(d) Nonconforming mobile homes or manufactured homes in any district may be replaced with manufactured homes upon the issuance of a special use permit; however, a special use permit shall not be required where mobile or manufactured homes are a permitted use as stated in other sections of this zoning ordinance.~~ *Nothing in this section shall be construed to prevent the removal of a valid nonconforming manufactured home from property and replacement of that unit with another comparable manufactured home that meets the current HUD manufactured housing code. Such replacement unit shall retain the valid nonconforming status of the prior unit.* For purposes of this article, a "nonconforming mobile home or manufactured home" shall be defined as any mobile home or manufactured home which does not meet all current zoning requirements and which was:

- (1) Located in the county prior to April of 1969, or any replacement thereof;
- (2) Located pursuant to a conditional use permit, either with or without an expiration date;
- (3) Located pursuant to a special use permit; provided, however, any manufactured home located pursuant to a special use permit with an expiration date shall be removed from the site upon expiration of the special use permit unless a new special use permit is approved to lawfully continue the use; or
- (4) A replacement for a mobile home or manufactured home located pursuant to a conditional or special use permit not specifically prohibited by the permit.

(e) A nonconforming office building meeting all current zoning requirements except connection to public water and sewer which is located within an industrial district may be replaced upon issuance of a special use permit excepting the use from the public water and sewer requirements. The replacement office building shall not exceed 4,000 square feet in floor area.

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 12th day of November, 2002.

nonconform.ord

UNAPPROVED MINUTES TO THE OCTOBER 7, 2002, PLANNING COMMISSION MEETING

CASE NO. ZO-2-02 ZONING ORDINANCE AMENDMENT – MANUFACTURED HOMES

Mrs. Christy Parrish presented the staff report in regards to replacing a non-conforming manufactured home to ensure the consistency between the James City County Zoning Ordinance and the Code of Virginia. The Virginia General Assembly amended Section 15.2-2307, Vested rights not impaired; nonconforming uses of the Code of Virginia. This amendment permits the replacement of a valid nonconforming manufactured home with a comparable one that meets HUD standards. Due to this State Code change, localities can no longer require legislative approvals of such homes. Currently the James City County Zoning Ordinance requires the issuance of a special use permit by the Board of Supervisors for the replacement of a nonconforming manufactured home. Staff recommends approval of this amendment.

Mr. Joe Poole opened up questions to the PC members.

Mr. Donald Hunt inquired if a 30-year old trailer can be moved to a new location.

Mrs. Christy Parrish responded that it would have to be replaced in its same location, and would not be allowed to be transported to another location.

Mr. Joe Poole opened up the public hearing. Seeing no speakers, he closed the public hearing.

Mr. John Hagee made a motion to approve.

Mr. Joe McCleary seconded.

Mr. Joe Poole noted the motion was to approve. In a roll call vote, motion passed (7-0). AYE: Wildman, McCleary, Hagee, Hunt, Kale, Billups, Poole (7); NAY: (0).

MEMORANDUM

DATE: November 12, 2002

TO: The Board of Supervisors

FROM: Wayland N. Bass, County Engineer
Leo P. Rogers, Deputy County Attorney

SUBJECT: Vacation of a Portion of Right-of-Way for Louise Lane

Attached for your consideration, is an Ordinance of Vacation that will vacate portions of the right-of-way for Louise Lane. The County is working towards improving Louise Lane under the Dirt Street Program. Louise Lane needs to be designed and constructed to the Virginia Department of Transportation (VDOT) standards in order to be accepted into the State Secondary Highway System.

As shown on the attached plat, portions of the old right-of-way need to be vacated and an additional right-of-way conveyed to the County in order to redesign Louise Lane to meet VDOT standards. The property owners along Louise Lane have signed a plat which will dedicate the necessary right-of-way to the County. Those portions of the old right-of-way vacated by the County will be conveyed to the adjacent property owners with lot lines adjusted accordingly. Staff recommends that no fee be charged for the transfer of such property because the property owners are dedicating other lands to the County for the new Louise Lane right-of-way.

Staff recommends adoption of the attached Ordinance.

Wayland N. Bass

Leo P. Rogers

CONCUR:

John T. P. Horne

WNB/LPR/gs
LouiseLn.mem

Attachments:

ORDINANCE NO. _____

AN ORDINANCE TO VACATE A PORTION OF THAT CERTAIN SUBDIVISION PLAT ENTITLED “PLAT OF THE 2ND SUBDIVISION OF TEMPLE HALL ESTATES” AND MORE PARTICULARLY DESCRIBED AS THE VACATION OF LOUISE LANE AND THE ADJUSTMENT OF CERTAIN LOT LINES.

Whereas, the right-of-way for Louise Lane was dedicated by plat entitled “PLAT OF THE 2ND SUBDIVISION OF TEMPLE HALL ESTATES” recorded in the James City County Circuit Court Clerk’s Office in Plat Book 20 at Page 47 (“Recorded Plat”); and

Whereas, the plat entitled “PLAT OF RIGHT-OF-WAY TO BE DEDICATED TO JAMES CITY COUNTY BEING A PORTION OF LOUISE LANE” dated August 28, 2002, prepared by Mitchell-Wilson Associates, P.C., (“New Plat”), reflects the property owners along Louise Lane desire to dedicate property in order to realign right-of-way for Louise Lane in order for the road to be improved and be dedicated into the State Secondary Highway System; and

Whereas, a public hearing was advertised pursuant Virginia Code Sections 15.2-2272 and 15.2-2204, and after holding such public hearing the Board of Supervisors of James City County was of the opinion that the vacation of portions of right-of-way for Louise Lane as shown on the New Plat would not result in any inconvenience and is in the best interests of the public health, safety and welfare; and

Whereas, in exchange for the dedication of the new right-of-way for Louise Lane, the vacated portions of the old right-of-way as shown on the New Plat should be conveyed to the adjacent property owners for no monetary consideration.

Now, therefore, be it ordained by the Board of Supervisors of James City County, Virginia that:

1. A portion of the Recorded Plat entitled “PLAT OF THE 2ND SUBDIVISION OF TEMPLE HALL ESTATES” recorded in the James City County Circuit Court Clerk’s Office in Plat Book 20 at Page 47 be so vacated as to permit the recording of the New Plat vacating portions of the old right-of-way for Louise Lane, conveying such portions of the vacated right-of-way of Louise Lane to the adjacent property owners and creating new lot lines in accordance with the New Plat.
2. The New Plat entitled “PLAT OF RIGHT-OF-WAY TO BE DEDICATED TO JAMES CITY COUNTY BEING A PORTION OF LOUISE LANE” dated August 28, 2002, prepared by Mitchell-Wilson Associates, P.C., be approved by James City County and be put to record in the James City County Circuit Court Clerk’s Office.
3. That the following persons be indexed as Grantors in the real estate records of the James City County Circuit Clerk: Robert A. ROSS; Joseph V. & Leesa L. MCKEOUN; Sarah C. PIERSA & Kelly L. BLACKWELL, Jr.; Kimberly A. HAZELWOOD; William ALLEN & Carmen Lee COWAN; Kelly S. ORDONIA; James E. & Barbara M. COOK; Christopher Lacy NELSON; Ronald L. & Deborah H. NELSON; and the COUNTY OF JAMES CITY, Virginia.

4. That the following persons be listed as Grantees in the real estate records of the James City County Circuit Court Clerk: Robert A. ROSS; Sarah C. PIERSA & Kelly L. BLACKWELL, Jr.; Kimberly A. HAZELWOOD; William ALLEN & Carmen Lee COWAN; Kelly S. ORDONIA; Ronald L. & Deborah H. NELSON and the COUNTY OF JAMES CITY, Virginia.

This Ordinance shall be in full force and effect from the date of its adoption.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

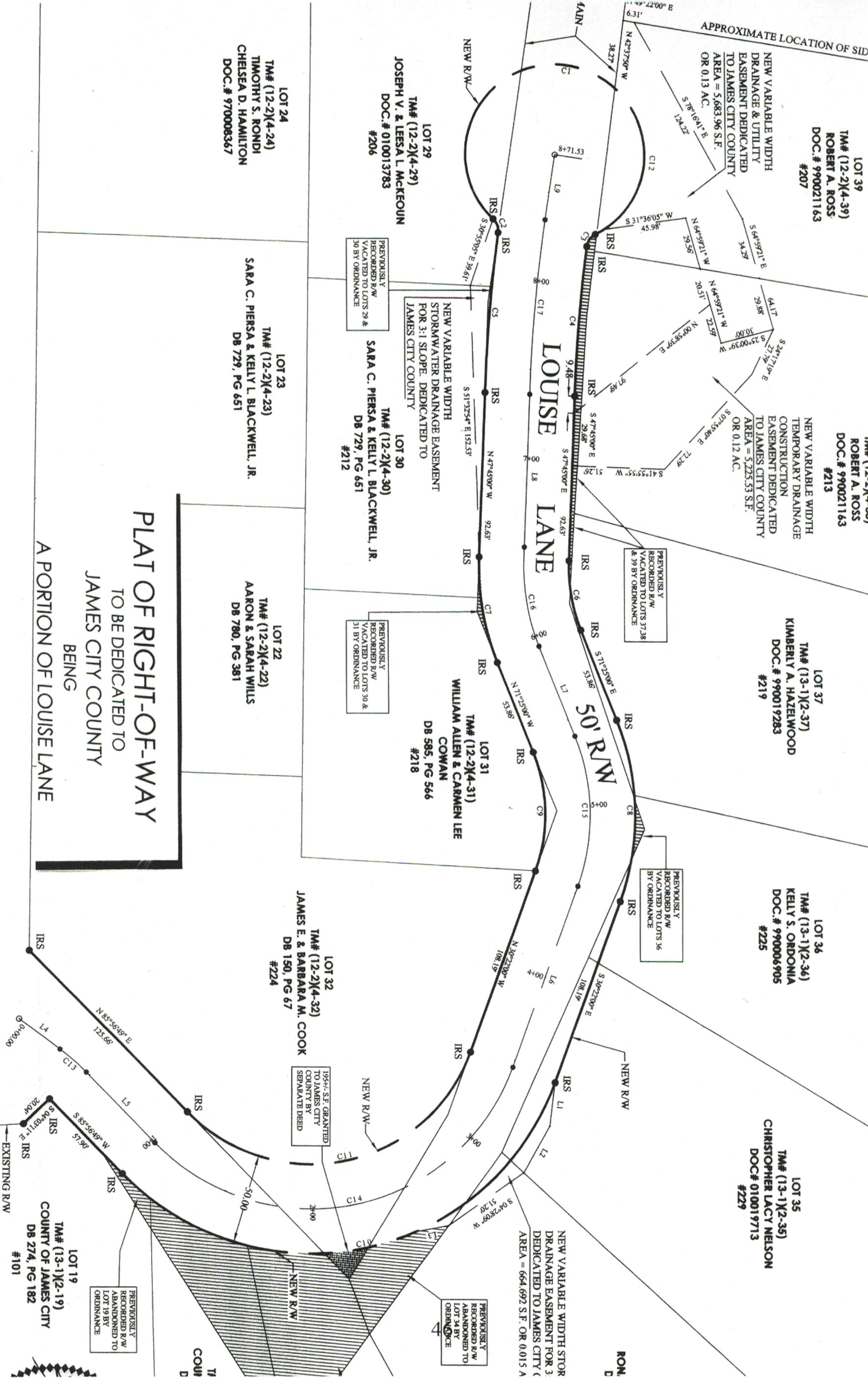
Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of November, 2002.

LouiseLn.ord

WELSTEAD STREET 50' R/W

PLAT OF RIGHT-OF-WAY TO BE DEDICATED TO JAMES CITY COUNTY BEING A PORTION OF LOUISE LANE



LOT 39
 TM# (12-2)(4-39)
 ROBERT A. ROSS
 DOC.# 990021163
 #207

LOT 38
 TM# (12-2)(4-38)
 ROBERT A. ROSS
 DOC.# 990021163
 #213

LOT 37
 TM# (13-1)(2-37)
 KIMBERLY A. HAZELWOOD
 DOC.# 990019283
 #219

LOT 36
 TM# (13-1)(2-36)
 KELLY S. ORDONIA
 DOC.# 990006905
 #225

LOT 35
 TM# (13-1)(2-35)
 CHRISTOPHER LACY NELSON
 DOC.# 010019713
 #229

LOT 29
 TM# (12-2)(4-29)
 JOSEPH V. & LEESA L. MCKEQUIN
 DOC.# 010013783
 #206

LOT 30
 TM# (12-2)(4-30)
 SARA C. PIERSA & KELLY L. BLACKWELL, JR.
 DB 729, PG 651
 #212

LOT 31
 TM# (12-2)(4-31)
 WILLIAM ALLEN & CARMEN LEE COWAN
 DB 585, PG 566
 #218

LOT 32
 TM# (12-2)(4-32)
 JAMES E. & BARBARA M. COOK
 DB 150, PG 67
 #224

LOT 24
 TM# (12-2)(4-24)
 TIMOTHY S. RONDI
 CHELSEA D. HAMILTON
 DOC.# 970008367

LOT 23
 TM# (12-2)(4-23)
 SARA C. PIERSA & KELLY L. BLACKWELL, JR.
 DB 729, PG 651

LOT 22
 TM# (12-2)(4-22)
 AARON & SARAH WILLS
 DB 780, PG 381

LOT 19
 TM# (13-1)(2-19)
 COUNTY OF JAMES CITY
 DB 274, PG 182
 #101

PREVIOUSLY RECORDED R/W ABANDONED TO LOT 19 BY ORDINANCE

1954 S.F. GRANTED TO JAMES CITY COUNTY BY SEPARATE DEED

PREVIOUSLY RECORDED R/W ABANDONED TO LOT 34 BY ORDINANCE

PREVIOUSLY RECORDED R/W VACATED TO LOTS 37, 38 & 39 BY ORDINANCE

PREVIOUSLY RECORDED R/W VACATED TO LOTS 36 BY ORDINANCE

PREVIOUSLY RECORDED R/W VACATED TO LOTS 29 & 30 BY ORDINANCE

NEW VARIABLE WIDTH STORMWATER DRAINAGE EASEMENT FOR 3:1 SLOPE, DEDICATED TO JAMES CITY COUNTY AREA = 664,692 S.F. OR 0.015 A

NEW VARIABLE WIDTH DRAINAGE & UTILITY EASEMENT DEDICATED TO JAMES CITY COUNTY AREA = 5,683.96 S.F. OR 0.13 AC.

NEW VARIABLE WIDTH TEMPORARY DRAINAGE CONSTRUCTION EASEMENT DEDICATED TO JAMES CITY COUNTY AREA = 5,225.53 S.F. OR 0.12 AC.

NEW VARIABLE WIDTH STORMWATER DRAINAGE EASEMENT FOR 3:1 SLOPE, DEDICATED TO JAMES CITY COUNTY

LOUISE LANE

50' R/W

APPROXIMATE LOCATION OF SID

RON D

TY COU D

MEMORANDUM

DATE: November 12, 2002
TO: The Board of Supervisors
FROM: Suzanne R. Mellen, Director of Budget and Accounting
SUBJECT: General Obligation Public Improvement Refunding Bond

On August 3, 1994, the County issued \$9,500,000 in General Obligation Public Improvement Bonds to finance a portion of the costs for School Improvements as approved in a special election held on March 1, 1994. These bonds were issued at rates ranging from 5.6 percent to 5.85 percent.

It is advantageous at this time to take advantage of lower interest rates in the capital market and refund the portion of the bonds maturing on or after December 15, 2007. The County has received a proposal from SunTrust Bank to purchase the refunding bonds in the principal amount of \$4,278,000 at a rate of 3.75 percent. This equates to savings of approximately \$16,000 to \$19,000 annually and total present value savings of approximately \$178,500.

The attached resolution authorizes the issuance and sale of \$4,280,000 General Obligation Public Improvement Refunding Bond, Series 2002. Staff recommends approval of the attached resolution.

Suzanne R. Mellen

CONCUR:

John E. McDonald

SRM/tlc
genoblnd02.mem

Attachment

RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF

\$4,280,000 GENERAL OBLIGATION PUBLIC IMPROVEMENT REFUNDING BOND,

SERIES 2002, OF THE COUNTY OF JAMES CITY, VIRGINIA

AND PROVIDING FOR THE FORM, DETAILS, AND PAYMENT THEREOF

WHEREAS, the issuance of general obligation bonds by the County of James City, Virginia (the "County"), in the maximum principal amount of \$38,600,000 was approved by the qualified voters of the County at a special election held on March 1, 1994, to finance a school construction program (the "School Improvements"). On August 3, 1994, the County issued its \$9,500,000 General Obligation Public Improvement Bonds, Series of 1994 (the "1994 Bonds") to finance a portion of the costs of the School Improvements; and

WHEREAS, the County's Board of Supervisors (the "Board") determines that it is in the best interests of the County to take advantage of lower interest rates now prevalent in the capital markets and to issue and sell general obligation public improvement refunding bonds to refinance the 1994 Bonds maturing on and after December 15, 2007. The Board has received a proposal from SunTrust Bank (the "Bank") to purchase such refunding bonds on substantially the terms set forth in Proposed Terms and Conditions (the "Proposal") dated November 1, 2002, and delivered by the Bank to the Board.

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

Section 1. Authorization, Issuance and Sale. There is hereby authorized to be issued and sold, pursuant to the Constitution and statutes of the Commonwealth of Virginia, including the Public Finance Act of 1991, Chapter 26, Title 15.2, Code of Virginia of 1950, as amended (the "Act"), general obligation public improvement refunding bonds of the County in the principal amount of \$4,280,000 to refund the 1994 Bonds maturing on and after December 15, 2007 (the "1994 Refunded Bonds") and to pay the costs incurred in connection with issuing such refunding bonds. The Board hereby elects to issue such refunding bonds under the provisions of the Act.

Section 2. Bond Details. Such refunding bonds shall be issued as a single bond designated "General Obligation Public Improvement Refunding Bond, Series 2002" (the "Bond"), shall be dated the date of its issuance (the "Issuance Date"), which shall be no later than December 31, 2002, shall be in registered form, registered initially in the name of the Bank, shall be in the principal amount of \$4,280,000, and shall be numbered R-1. Interest on the Bond shall accrue at the rate per year of 3.75% and shall be payable on each June 15 and December 15, commencing December 15, 2002. Interest shall be calculated on the basis of a year of 360 days with twelve 30-day months. The Bond shall mature on December 15, 2014. Principal installments of the Bond shall be payable on December 15 in the years and

the principal amounts set forth below:

<u>December 15</u>	<u>Principal Installment Payable</u>
2002	\$ 80,000
2003	46,000
2004	48,000
2005	50,000
2006	52,000
2007	529,000
2008	522,000
2009	514,000
2010	506,000
2011	497,000
2012	488,000
2013	479,000
2014	469,000

If not earlier paid, the aggregate principal amount outstanding under the Bond, together with all accrued and unpaid interest thereon, shall be due and payable on December 15, 2014.

The Board authorizes the issuance and sale of the Bond to the Bank on the terms set forth above, consistent with the Proposal, which Proposal is hereby accepted by the Board. The Bank shall purchase the Bond from the County for the purchase price of \$4,280,000.

The County Administrator is hereby designated as the Registrar for the Bond (the "Registrar"). Principal and interest shall be payable by check or draft mailed to the registered owner at its address as it appears on the registration books kept by the Registrar as of the close of business on the day preceding the principal or interest payment date. A "Business Day" is any day other than a Saturday, Sunday, legal holiday or other date on which banking institutions are authorized or obligated by law to close in the Commonwealth of Virginia. In case any principal or interest payment date is not a Business Day, then payment of principal and interest need not be made on such date, but may be made on the next succeeding Business Day, and if made on such next succeeding Business Day no additional interest shall accrue for the period after such principal or interest payment date. Principal and interest on the Bond shall be payable in lawful money of the United States of America.

Section 3. Prepayment Provisions. The Bond is subject to prepayment at the option of the County in whole or in part at any time or from time to time on or after December 15, 2008 at a prepayment price of 100% of the principal amount to be prepaid plus accrued interest to the prepayment date. Any such prepayment shall be applied to the principal installments due on the Bond in inverse chronological order.

The County shall cause notice of each prepayment to be sent to the registered owner by facsimile transmission, registered or certified mail, or overnight express delivery, not less than thirty (30) nor more than sixty (60) days prior to the prepayment date.

Section 4. Preparation and Delivery; Execution and Authentication. The Chairman or Vice Chairman and the Clerk or Deputy Clerk of the Board are authorized and directed to take all proper steps to have the Bond prepared and executed in accordance with its terms and to deliver the Bond to the Bank upon payment therefor.

The Bond shall be signed by the manual signature of the Chairman or Vice Chairman of the Board and the County's seal shall be affixed thereto and attested to by the manual signature of the Clerk or Deputy Clerk of the Board.

Section 5. Bond Form. The Bond shall be in substantially the form set forth in Exhibit A attached hereto.

Section 6. Pledge of Full Faith and Credit. The full faith and credit of the County are irrevocably pledged for the payment of principal of and interest on the Bond. Unless other funds are lawfully available and appropriated for timely payment of the Bond, the County shall levy and collect an annual *ad valorem* tax, over and above all other taxes authorized or limited by law and without limitation as to rate or amount, on all locally taxable property in the County sufficient to pay the principal of and interest on the Bond, as the same become due.

Section 7. Registration, Transfer and Owner of Bond. The Registrar shall maintain registration books for the registration of the Bond. Upon surrender of the Bond at the designated office of the Registrar, together with an assignment duly executed by the registered owner or his duly authorized attorney or legal representative in such form as shall be satisfactory to the Registrar, the County shall execute a new Bond having an equal principal amount, of the same form and maturity, bearing interest at the same rate, and registered in names as requested by the then registered owner or its duly authorized attorney or legal representative. Any such exchange shall be at the expense of the County, except that the Registrar may charge the person requesting such exchange the amount of any tax or other governmental charge required to be paid with respect thereto.

The Registrar shall treat the registered owner as the person exclusively entitled to payment of principal and interest and the exercise of all other rights and powers of the owner.

Section 8. Refunding; Escrow Agreement. The Board hereby irrevocably calls for the optional redemption of the 1994 Refunded Bonds on December 15, 2004 (the "Redemption Date") at a redemption price equal to 102% of the principal amount of the 1994 Refunded Bonds plus accrued interest to the

Redemption Date.

To facilitate the defeasance of the 1994 Refunded Bonds and the payment of the principal of, premium and interest on the 1994 Refunded Bonds from the Issuance Date through the Redemption Date, the Board hereby authorizes the use of the Escrow Agreement dated the Issuance Date (the "Escrow Agreement") between the County and SunTrust Bank, as escrow agent (the "Escrow Agent"). The substantially final form of the Escrow Agreement has been made available to the Board prior to the adoption of this Resolution. The Escrow Agreement is hereby approved in substantially the form made available to the Board. There may, however, be changes, insertions, completions or omissions to the form of the Escrow Agreement to reflect the final terms of the Bond or other commercially reasonable provisions. All of such changes, insertions, completions or omissions will be approved by the Chairman or the Vice Chairman of the Board, whose approval shall be evidenced conclusively by the execution and delivery of the Escrow Agreement. The Board hereby authorizes the Chairman or the Vice Chairman of the Board to execute and deliver the Escrow Agreement on behalf of the County.

Section 9. Arbitrage Covenants.

- (a) No Composite Issue. The County represents that there have not been issued, and covenants that there will not be issued, any obligations that will be treated as part of the same issue of obligations as the Bond within the meaning of the Internal Revenue Code of 1986, as amended, including regulations issued pursuant thereto (the "Code").
- (b) No Arbitrage Bonds. The County covenants that it shall not take or omit to take any action the taking or omission of which will cause the Bond to be an "arbitrage bond" within the meaning of Section 148 of the Code, or otherwise cause interest on the Bond to be includable in the gross income for federal income tax purposes of the registered owner thereof under existing law. Without limiting the generality of the foregoing, the County shall comply with any provision of law which may require the County at any time to rebate to the United States any part of the earnings derived from the investment of the gross proceeds of the Bond, unless the County receives an opinion of nationally recognized bond counsel that such compliance is not required to prevent interest on the Bond from being includable in the gross income for federal income tax purposes of the registered owner thereof under existing law. The County shall pay any such required rebate from its legally available funds.

Section 10. Non-Arbitrage Certificate and Elections. Such officers of the County as may be requested are authorized and directed to execute an appropriate certificate setting forth the expected use and investment of the proceeds of the Bond in order to show that such expected use and investment will not violate the provisions of Section 148 of the Code, and any elections such

officers deem desirable regarding rebate of earnings to the United States, for purposes of complying with Section 148 of the Code. Such certificate and elections shall be in such form as may be requested by bond counsel for the County. The County shall comply with any covenants set forth in such certificate regarding the use and investment of the proceeds of the Bond.

Section 11. Limitation on Private Use; No Federal Guaranty. The County covenants that it shall not permit the proceeds of the Bond to be used in any manner that would result in (a) ten percent (10%) or more of such proceeds being used in a trade or business carried on by any person other than a state or local governmental unit, as provided in Section 141(b) of the Code, (b) five percent (5%) or more of such proceeds being used with respect to any output facility (other than a facility for the furnishing of water), within the meaning of Section 141(b)(4) of the Code, or (c) five percent (5%) or more of such proceeds being used directly or indirectly to make or finance loans to any persons other than a state or local governmental unit, as provided in Section 141(c) of the Code; *provided*, that if the County receives an opinion of nationally recognized bond counsel that any such covenants need not be complied with to prevent the interest on the Bond from being includable in the gross income for federal income tax purposes of the registered owners thereof under existing law, the County need not comply with such covenants.

The County represents and agrees that the Bond is not and will not be “federally guaranteed,” as such term is used in Section 149(b) of the Code. No portion of the payment of principal of or interest on the Bond is or will be guaranteed, directly or indirectly, in whole or in part by the United States or an agency or instrumentality thereof.

Section 12. Bank Qualification. The Bond is hereby designated as a qualified tax-exempt obligation under Section 265(b)(3)(B) of the Code for the purpose of facilitating its sale to a financial institution. The County has not and will not designate more than \$10,000,000 of obligations, including the Bond, as qualified tax-exempt obligations in calendar year 2002. The County has not issued more than \$10,000,000 of tax-exempt obligations in calendar year 2002, including the Bond. Neither the County, its industrial development authority nor any other entity which issues obligations on behalf of the County (together, the “County Entities”) has issued any “private activity bonds” which are “qualified 501(c)(3) bonds,” within the meaning of Sections 141 and 145 of the Code during calendar year 2002. Barring circumstances unforeseen as of the date of delivery of the Bond, the County Entities will not issue tax-exempt obligations if the issuance of such tax-exempt obligations would, when aggregated with all other tax-exempt obligations theretofore issued by the County Entities in calendar year 2002, result in the County Entities having issued a total of more than \$10,000,000 of tax-exempt obligations in calendar year 2002, including the Bond but not including any private activity bonds other than qualified 501(c)(3) bonds. The County has no reason to believe that it will issue such tax-exempt obligations in 2002 in an aggregate amount that will exceed such

\$10,000,000 limit; *provided*, that if the County receives an opinion of nationally recognized bond counsel that compliance with any covenant set forth above in this paragraph is not required for the Bond to be a qualified tax-exempt obligation, the County need not comply with such covenant.

Section 13. Discharge upon Payment of Bond. The Bond may be defeased, as permitted by the Act. Any defeasance of the Bond, as permitted by the Act, shall not release the County or the Registrar from its obligations hereunder to register and transfer the Bond or release the County from its obligations to pay the principal of and interest on the Bond as contemplated herein until the date the Bond is paid in full, unless otherwise provided in the Act. In addition, such defeasance shall not terminate the obligations of the County under Sections 9 and 11 until the date the Bond is paid in full.

Section 14. Other Actions. All other actions of the Supervisors, officers, staff, and agents of the County in conformity with the purposes and intent of this Resolution and in furtherance of the issuance and sale of the Bond and the refunding of the 1994 Refunded Bonds are approved and confirmed. The officers and staff of the County are authorized and directed to execute and deliver all certificates and instruments, including Internal Revenue Service Form 8038-G and to take all such further action as may be considered necessary or desirable in connection with the issuance, sale and delivery of the Bond.

Section 15. Limitation of Liability of Officials of the County. No covenant, condition, agreement or obligation contained herein shall be deemed to be a covenant, condition, agreement or obligation of a Supervisor, officer, employee or agent of the County in his or her individual capacity, and no officer of the County executing the Bond shall be liable personally on the Bond or be subject to any personal liability or accountability by reason of the issuance thereof. No Supervisor, officer, employee, or agent of the County shall incur any personal liability with respect to any other action taken by him or her pursuant to this Resolution, provided he or she acts in good faith.

Section 16. Contract with Registered Owner. The provisions of this Resolution shall constitute a contract between the County and the registered owner of the Bond for so long as the Bond is outstanding. Notwithstanding the foregoing, this Resolution may be amended by the County in any manner that does not, in the opinion of the County, materially adversely affect the registered owner of the Bond.

Each year, within thirty (30) days of such document becoming available, the County shall send to the registered owner of the Bond a copy of the County's Comprehensive Annual Financial Report.

Section 17. Repeal of Conflicting Resolutions. All resolutions or parts of resolutions in conflict herewith are repealed.

Section 18. Effective Date. This Resolution shall take effect immediately upon its adoption. The Clerk and any Deputy Clerk of the Board are hereby authorized and directed to see to the immediate filing of a certified copy of this Resolution with the Circuit Court of the County of James City, Virginia.

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 12th day of November, 2002.

gobonds02.res