

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE TENTH DAY OF AUGUST, NINETEEN HUNDRED EIGHTY-ONE AT 7:30 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

Jack D. Edwards, Chairman, Berkeley District  
 Abram Frink, Jr., Vice-Chairman, Roberts District  
 Gilbert A. Bartlett, Jamestown District  
 Perry M. DePue, Powhatan District  
 Stewart U. Taylor, Stonehouse District

James B. Oliver, Jr., County Administrator  
 Frank M. Morton, III, County Attorney

B. PUBLIC HEARINGS

1. Revisions to the Uniform Operating Policy - A joint public hearing between the Board of Supervisors of James City County and the Board of Directors of the James City Service Authority, to consider revisions to the Uniform Operating Policy which will effect the Mandatory Connection Policy and Section 4, Rates and Fees.

Mr. Abram Frink, Jr., Chairman of the Board of Directors, called the recessed meeting of the James City Service Authority to order. The following members were present:

ROLL CALL - JAMES CITY SERVICE AUTHORITY

Abram Frink, Jr., Chairman  
 Perry M. DePue, Vice-Chairman  
 Gilbert A. Bartlett  
 Jack D. Edwards  
 Stewart U. Taylor

James B. Oliver, Jr., Secretary  
 Wayland N. Bass, Consulting Engineer  
 Mr. Frank M. Morton, III, County Attorney

Mr. Frank M. Morton, III, County Attorney addressed the Board on this matter. He explained that the County has had a year and a half experience with the Uniform Operating Policy and as a result the staff is recommending revisions of a housekeeping nature as well as some of a fine-tuning nature. He highlighted the following changes: (1) redefining the Mandatory Connection Policy to ensure that all structures are required to connect under the mandatory connection policy regardless of whether they are occupied; (2) require large users, those with bills \$750 or over in a quarter to pay on a monthly basis, which will be beneficial to both the user and the County or the Authority; (3) cover the administrative costs of processing a bad check; (4) provide for collection by field personnel of delinquent monies; (5) asking for some additional forms of civil actions, namely distress, levy, garnishment, and attachment. Mr. Morton explained that in the near future he will provide the Board material indicating how his office plans to proceed with which forms of actions should be pursued. He said that a lot of the verbage of this ordinance simply entails language from the State Code. He asked if there were any questions.

Mr. Bartlett asked a question about Section 4-4E which includes the language concerning field personnel collecting delinquent monies. He asked specifically what size fees would the field personnel be collecting and asked if this is a bonding situation.

Mr. Morton answered that the field personnel would have to be bonded.

Mr. Bartlett asked what the chain of command would be for the field personnel collecting the monies.

Mr. Bass answered that the amount of money collected would be in the neighborhood of twenty-five to forty dollars and the field personnel would have receipts to account for the money.

Mr. Bartlett asked if this were to be done on a daily basis.

Mr. Bass answered that this would be done on a quarterly basis, but the accountability would be done on a daily basis.

Mr. Edwards explained to the public that this was a joint public hearing between the Board of Directors of the Service Authority and the Board of Supervisors, the membership being the same. Mr. Edwards opened the public hearing, there were no speakers, therefore he closed the public hearing.

Mr. Frink asked if this procedure would replace putting liens on property.

Mr. Morton answered that liens could still be placed on property, but this would give the County and the Service Authority more options.

Mr. Edwards asked for a motion on behalf of the Board of Supervisors. Mr. Bartlett moved to approve the ordinance. The motion carried by a unanimous roll call vote.

Mr. Frink asked for a motion on behalf of the Board of Directors. Mr. Taylor moved to approve the ordinance. The motion carried by a unanimous roll call vote.

#### JOINT RESOLUTION

##### Revisions to Operating Policy, Water and Sewer Utilities

WHEREAS, the Board of Supervisors of James City County and the Board of Directors of the James City Service Authority are desirous of making certain revisions to the Operating Policy, water and sewer utilities.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, and the Board of Directors of the James City Service Authority that the Operating Policy, water and sewer utilities be and the same is hereby amended by amending Section 2-7, Mandatory Connections Policy and Section 4, Rates and Fees as set forth in the attachments hereto.

2-7

#### MANDATORY CONNECTION POLICY

- (A) The owners or tenants of all structures *intended or* used for human occupancy or recreation or other purposes, *regardless of whether they are occupied*, and situated within a District/Area at a distance not greater than two hundred and fifty feet from a District/Area sewer gravity main or water line having adequate capacity, and having access to serve the owner without crossing the properties of any other persons with the exception of District/Area properties, shall be required to install suitable plumbing facilities therein and connect such facilities to the District/Area services.

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RATES AND FEES**

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**RATES AND FEES**

**4-1**     NEW ACCOUNTS

- (A) An application for new service or for a change in service involving a change in billing address, responsible party or facilities served shall be filed with the Department of Finance.
- (B) All applications except those in which only the billing address has been changed shall be accompanied by either an application charge (below) or an availability charge in those cases where service to the property are new.

Either Sewer or Water	\$10
Both Sewer and Water	\$10
Meter Reading (if required)	\$10

- (C) Consumers shall give at least five days notice of their desire to begin, change or terminate service.

**4-2**     AVAILABILITY CHARGES

**4-2.1**   GENERAL

- (A) There shall be an availability charge due at the time an application is made for new service connection to District/Area facilities.
- (B) The owner/developer shall assume financial responsibility for the installation of connections and payment of availability fees.
- (C) When a service is enlarged or upgraded, the consumer shall pay the District/Area the difference in the previous availability payment and the availability payment assessable if the user were applying for a new connection and all labor and construction costs necessary to increase the size of the meter or service lateral.
- (D) When a service is decreased or downgraded, the consumer shall bear the burden for proof thereof and shall bear the cost of making the change. No credit shall be allowed on a new installation and availability fee.

- (E) All users of water provided by the City of Newport News shall pay water connection charges to the City of Newport News in accordance with its established policies. These charges will be in addition to and separate from the District/Area availability charges.
- (F) All uses of sewerage services provided by the Hampton Roads Sanitation District shall pay sewer connection charges to the Hampton Roads Sanitation District in accordance with its established policies. These charges will be in addition to and separate from the District/Area availability charges.

#### 4-2.2 AVAILABILITY CHARGES

Tables included as an appendix to Section IV.

#### 4-3 SERVICE CHARGES

##### 4-3.1 GENERAL

- (A) Water and sewer service charges shall be billed quarterly to provide revenue for operation, administration, debt service and amortization of facilities. The District/Area shall bill customers whose bill exceeds \$750.00 a quarter on a monthly basis.
- (B) Water accounts shall be based on metered water consumption if the consumer is served by District/Area water and District/Area meters are available.
- (C) Billings for services will begin the day following connection to the system or the day following the expiration of the mandatory connection period, if applicable, whichever occurs first.
- (D) Sewer charges are normally based on the flat rate charges as detailed in Table 4-3.5(A). Quarterly Sewer Services Charges—Estimated Basis, as contained herein. Sewer customers other than single-family residents may request and receive approval from Public Works to be billed based on actual usage as determined from meter readings. Public Works approval for sewer billing based on actual water usage for non-District/Area water customers is contingent upon:
  - 1-) Where no meter currently exists, installation and dedication of water meter to District/Area at owners expense.
  - 2-) Where meters exist, owner obtaining written specific permission to allow District/Area to read the meter.
- (E) All meter installations shall be approved by the Director or his representatives. In reviewing proposed meter installation of this type, the Director or his representatives shall consider:
  - (1) Access of maintenance and meter reading.
  - (2) The potential for meter damages.
  - (3) Accounting for all water/sewage used.
- (F) No by-pass around any meter shall be installed unless determined by the Director to be necessary, and installation performed by the District/Area and where such devices exist, the use of same shall be regulated by the District/Area. Unauthorized use of the by-pass may result in removal of meter and shall constitute a misdemeanor.

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- (G) In no event shall the metered charge fall below the minimum charge, which shall generally be sufficient to amortize the facilities and services made available to customer, whether utilized or not.
- (H) The quantities of water delivered to separate premises may not be combined for billing, unless such premises are adjacent and commonly owned.
- (I) The resale of water is prohibited under any terms or conditions, except by other agencies of the County in the performance of its functions and when permitted by contract authorized by the District/Area.
- (J) All users of water provided by the City of Newport News shall pay water service charges to the City of Newport News in accordance with its established policies. These charges will be in addition to and separate from the District/Area quarterly charges.
- (K) All users of sewerage services provided by the Hampton Roads Sanitation District shall pay sewer service charges to the Hampton Roads Sanitation District in accordance with its established policies. These charges will be in addition to and separate from the District/Area quarterly charges.
- (L) The District/Area shall assess a ten dollar charge for all returned checks. The charge shall not apply if a letter is obtained from the bank indicating the problem was a banking error.

#### 4-3.2 ESTIMATED WATER USAGE BY USER CLASS, TYPE AND SIZE

Table included as an appendix to Section IV.

#### 4-3.3 QUARTERLY CHARGES - MINIMUMS

Table included as an appendix to Section IV.

#### 4-3.4 QUARTERLY CHARGES - METERED USAGE

Table included as an appendix to Section IV.

#### 4-3.5 QUARTERLY CHARGES - ESTIMATED USAGE (Flat rate)

Table included as an appendix to Section IV.

#### 4-3.6 BILLING AND PAYMENT SCHEDULE

- (A) All bills shall be due and payable upon presentation. A ten (10) percent penalty shall be assessed against quarterly charges not paid within thirty days of the mailing date or on payments postmarked after the due date. Services may be discontinued by the District/Area if bills are not paid within forty days of the mailing date.
- (B) The owner of the property shall remit all delinquent charges prior to reconnection of service, including, if applicable, any charges for disconnection and/or reconnection.
- (C) All unpaid service charges, if in excess of the minimum quarterly charge and defined to be delinquent, shall become a lien on land or property served by the water or sewerage lines.
- (D) Any payment received shall be credited first against the most delinquent account.

#### 4-3.7 PRO RATA BILLS

Owner/tenants requesting discontinuance or establishing new accounts for service shall be billed based on the pro rata portion of the billing period when service was provided. If notice of discontinuance of service is not given to the James City County Office of Finance by the owner/tenant, the quarterly bill shall be due in full.

4-4 DISCONNECTION, RECONNECTIONS AND SERVICE CALLS

- (A) Any customer-initiated request for a service call or reconnection not involving a change in services or a new account or application shall be made to the Director five days in advance and shall be accompanied by a fee:
- |                    |       |
|--------------------|-------|
| Water Reconnection | \$20  |
| Sewer Reconnection | \$100 |
| Service Call       | \$20  |
- (B) When actual District/Area expenses involved in the service call exceed the advance fee, the Director shall bill the customer for the additional costs incurred.
- (C) Quarterly charges shall be assessed all disconnected customers. Failure to pay quarterly charges shall result in an assessment of full availability charges for reconnection.
- (D) A deposit equal to the last previous quarterly service charge shall be made prior to the reconnection of any customer, other than single-family residents, disconnected due to nonpayment. Such deposit shall be returned upon termination of service.
- (E) Field personnel may collect delinquent charges from customers when attempting to terminate utility services. Field personnel shall provide the customer and the Finance Department with a receipt for all monies collected.

4-5 PROCEDURE FOR CURTAILING SERVICES AND COLLECTING DELINQUENT ACCOUNTS

- (A) District/Area shall keep a listing of all customers whose payments of quarterly or other charges are delinquent. A delinquent list shall be kept by the District/Area and all those accounts in arrears shall be reduced to a lien.
- (B) Owner Occupied and Leased Properties
1. District. If the rates, fees or charges for the services furnished by any system acquired or constructed by the district under the provisions of this chapter shall not be paid within forty days after the same shall become due and payable, and the person who incurred the debt is the occupant of such premises, the district may at the expiration of such forty day period disconnect the premises from the water and/or sewer system, or otherwise suspend services and the district may proceed to recover the amount of any such delinquent rates, fees or charges, with interest, in a civil action, including, but not limited to, distress, levy, garnishment, attachment or otherwise, without recourse to Court procedures, except so far as the selected procedure may require. And the governing body of the district shall have the power to designate as its agent for the collection such officer or officers, person or persons as it may determine, and the officer(s), person(s) shall be vested with the same power and authority as a sheriff may have in like procedure.

That if any rates, fees or charges for the use and services of any water or sewer system acquired or constructed by the district under the provisions of this chapter shall not be paid within forty days after the same becomes due and payable, the occupant-debtor of such premises shall cease to dispose of sewage or industrial wastes originating from or on such premises by discharge thereof directly or indirectly into the sewer system until such rates, fees or charges with interest, shall be paid; that

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if such occupant-debtor does not cease such disposal at the expiration of such forty day period, the political subdivision or district or other public corporation, board, or body supplying water to or selling water for use on such premises may, within five days after the receipt of notice of such delinquency, cease to supply water to or to sell water to such occupant-debtor. If such political subdivision or district or public corporation, board or body shall not, at the expiration of such five-day period, cease supplying water to or selling water for use by such occupant-debtor, then the governing body within whose geographical boundaries such district lines lie may shut off the supply of water to such premises.

The water supply to or for any occupant-debtor shall not be shut off or stopped under the provisions of this section, if the State Health Commissioner, upon application of the local board of health or health officer of the county wherein such water is supplied or such real estate is located, shall have found and shall certify to the authorities charged with the responsibility of ceasing to supply or sell such water, or to shut off the supply of such water, that ceasing to supply or shutting off such water supply will endanger the health of such person or the health of others in such county.

2. Authority

a. That if any rates, fees or charges for the use of and for the services furnished by any system acquired or constructed by the authority under the provisions of this chapter shall not be paid within forty days after the same shall become due and payable, the authority may at the expiration of such forty day period disconnect the premises from the water and/or sewer system, or otherwise suspend services and the authority may proceed to recover the amount of any such delinquent rates, fees or charges, with interest, in a civil action; including, but not limited to, distress, levy, garnishment, attachment or otherwise.

b. That if any rates, fees or charges for the use and services of any sewer system acquired or constructed by the authority under the provisions of this chapter shall not be paid within forty days after the same shall become due and payable, the owner, tenant or occupant of such premises shall cease to dispose of sewage or industrial wastes originating from or on such premises by discharge thereof directly or indirectly into the sewer system until such rates, fees or charges with interest, shall be paid; that if such owner, tenant or occupant shall not cease such disposal at the expiration of such forty day period it shall be the duty of any political subdivision, district, private corporation, board, body or person supplying water to or selling water for use on such premises to cease supplying water to or selling water for use on such premises within five days after the receipt of notice of such delinquency from the authority, and that if such political subdivision, district, private corporation, board, body or persons shall not, at the expiration of such five-day period, cease supplying water to or selling water for use on such premises, then the authority may shut off the supply of water to such premises.

c. The water supply to or for any person, or for use on real estate of any person, shall not be shut off or stopped under the provisions of this section, if the State Health Commissioner, upon application of the local board of health or health officer of the county wherein such water is supplied or such real estate is located, shall have found and shall certify to the authorities charged with the responsibility of ceasing to supply or sell such water, or to shut off the supply of such water, that ceasing to supply or shutting off such water supply will endanger the health of such person and the health of others in such county.

- (C) When services are terminated for reasons of delinquent payments, penalties and minimum service charges shall accrue until such time as all delinquent payments are made, including interest, penalties and reapplication and connection fees.
- (D) Any application having delinquent accounts who seeks water and/or sewer services shall pay any delinquent charges and fees owed by him.

#### 4-6 INDUSTRIAL COST RECOVERY

##### 4-6.1 GENERAL

- (A) Section 204(b)(1)(B) of the Federal Water Pollution Control Act Amendments of 1972 (PL92-500) requires industrial users of sewage works funded by the Environmental Protection Agency make payments for that portion of the construction of such sewerage works which is allocable to the treatment of such wastes.
- (B) The Federal Water Pollution Control Act supersedes local laws, ordinances and orders in conflict therewith. Any agreement between the grantee and any other political jurisdiction, or other party, which purports to relieve any industry from payment of the Federal share of the cost of construction from each industrial user shall not constitute grounds to circumvent or avoid the Industrial Cost Recovery requirements.

##### 4-6.2 CUSTOMERS SUBJECT TO ICR CHARGES

- (A) Any customer discharging an average of over twenty-five thousand gallons per day of nondomestic wastewater to ICR subject facilities for three or more consecutive months shall be subject to ICR charges in addition to normal quarterly charges.
- (B) In addition, any customer discharging wastewaters which exhibit characteristics not typical of domestic wastewaters or exceeding 250 mg/l biochemical oxygen demand (BOD) or 250 mg/l suspended solids (SS), shall be subject to a surcharge based on the strength and quantity of wastes discharged.
- (C) Each affected industrial discharge shall be monitored on a periodic basis at least once each year to determine flows and loadings; this data shall be used to compute and verify the industrial cost recovery charge amounts in effect at the time of monitoring.
- (D) The method of determining the applicable industrial cost recovery charge shall be in accordance with latest EPA published regulations and guidelines.
- (E) Industries affected by this ordinance shall have, upon receipt of written notification from the Director of a change in ICR costs, thirty days in which to appeal to the governing body the stipulated changes in ICR costs.

There being no further business of the James City Service Authority, Mr. Taylor moved to adjourn. The motion carried by a unanimous roll call vote. The Service Authority meeting ADJOURNED at 7:45 P.M.

#### 2. Dog Control Ordinance - An ordinance to amend and reordain Chapter 3, Animals and Fowl, of the Code of the County of James City, by amending Article II, Dogs, to update the fee schedule and generally revise the Article to conform to the State Code.

Mr. Frank M. Morton, III, presented this matter to the Board. He highlighted the proposed changes in the ordinance, commenting that it has been ten or twelve years since the ordinance has been updated. Mr. Morton said one of the proposed changes in the ordinance increases the license tax for individual dogs from \$3 to \$4 and the impoundment fee would increase from one dollar to four dollars per day to more accurately reflect the actual expenses incurred at the Landfill. He further commented that there is a section that prohibits vicious or dangerous dogs to remain in the County. Mr. Morton pointed out that a

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possible controversial item is the suggestion to include all subdivisions in the A-1 and A-2 Districts unless there are less than five lots in the subdivision or unless the lots are over one acre in size, as well as mobile home parks. He remarked that his office and the Planning Office perhaps receive more complaints about dog problems in these areas than any facet of county government. Mr. Morton said that he is not able to explain to those persons who live in the A-1 or A-2 Districts why the leash law does not protect them as it does in the "R" Districts. Lastly, Mr. Morton continued, there is a section that sets forth penalties for violations of this ordinance. He said that he would be glad to answer any questions.

Mr. Taylor asked if the County receives all proceeds concerning the dog ordinance. It was determined that the County receives all the funds.

Mr. Taylor asked if there is any provision for reduced fees for kennels.

Mr. Morton answered that up to ten dogs the fee is ten dollars; for eleven to twenty dogs the fee is fifteen dollars and for over twenty dogs the fee is twenty-five dollars.

Mr. DePue asked what would happen if a subdivision had lots that were less than an acre as well as lots more than an acre.

Mr. Morton answered that it had to be a subdivision where all of the lots are more than an acre before it would be exempt.

Mr. Edwards opened the public hearing.

Ms. Evelyn Becker asked if the fee is different if the dog is male, female, or spayed.

Mr. Morton answered there was no differentiation.

Mrs. Becker asked how the extra revenue will be used.

Mr. Oliver explained that the money goes to the County's general fund, but that the total dog fees probably don't approximate \$5,000 and. He said that the County operates a \$50,000 Animal Control/Kennel Program, so the County's general fund is substantially subsidizing the Animal Control Program.

Ms. Becker asked if the fee has gone up because the money is needed or because it has just not been raised in several years.

Mr. Oliver explained that the County is trying to make the fees approximate the administrative costs.

Mr. DePue moved to approve the ordinance.

Mr. Bartlett asked that Section 3-13 of the ordinance which reads ". . . the dog shall be ordered killed immediately." be changed to read the dog may be ordered killed immediately. He stated that he felt that the judge should have some latitude in this matter.

Mr. Bartlett's amendment carried by a unanimous roll call vote.

Mr. Taylor commented that he will not support an ordinance that will impose increased taxes.

The motion carried by a 4-1 roll call vote with Mr. Taylor voting no.

JAMES CITY COUNTY  
VIRGINIA

ORDINANCE NO. 7A-6

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 3, ANIMALS AND FOWL, OF THE CODE OF THE COUNTY OF JAMES CITY, BY AMENDING ARTICLE II, DOGS, TO UPDATE THE FEE SCHEDULE AND GENERALLY REVISE THE ARTICLE TO PROVIDE CLARITY AND DEFINITION AND INCREASE THE SCOPE.

BE IT ORDAINED by the Board of Supervisors of James City County, Virginia, that Chapter 3, Animals and Fowl, Article II, Dogs, of the County of James City be and the same is hereby amended and reordained by amending the several Sections of the Article to update the fee schedule and to provide clarity, uniformity, definition and increase the scope of coverage.

CHAPTER 3  
ANIMALS AND FOWL

Article II. Dogs

For State dog laws and control of rabies, see Code of Virginia, Section 29-213.6 et seq.

**Section 3-3, Required License and Vaccination.**

(a) Every owner or custodian of a dog over the age of six months owned, possessed or kept in the County of James City shall obtain a dog license, by making oral or written application with the County Treasurer, or his designee.

(b) Each application shall be accompanied by the amount of license tax and a certificate of vaccination by a duly licensed veterinarian, certifying that the dog has been properly vaccinated against rabies with a vaccine approved by the State Health Department. Any dog vaccinated in any year, with a type of vaccine "modified live virus", shall not be required to be vaccinated again until three years have elapsed since the date of the last vaccination with this type of vaccine, but dogs otherwise vaccinated shall be subject to annual vaccination. (8-10-64, Section 1)

**Section 3-4, Dog Tags.**

The County Treasurer, or his designee, shall requisition dog tags of a uniform type and size for all dogs. Such tags shall be stamped or otherwise permanently marked to show the name of the County, the sex of the dog, the calendar year for which issued and bear a serial number.

The Treasurer shall keep a record of all tags issued. All unsold tags shall be recorded and the unissued tags destroyed by the Treasurer at the end of the dog tax year. (8-10-64, Section 1)

**Section 3-4.1, Duplicate License Tags.**

If a dog license should become lost, destroyed or stolen, the owner or custodian shall at once apply to the County Treasurer, or his designee, for a duplicate license tag; presenting the original license receipt. Upon affidavit of the owner or custodian before the County Treasurer, or his designee, that the original license tag has been lost, destroyed or stolen, the Treasurer shall issue a duplicate license tag which shall be immediately affixed to the collar of the dog by its owner or custodian. The Treasurer, or his designee, shall endorse the number of the duplicate license tag and the date of issuance on the face of the original license receipt.

**Section 3-5, Annual Tax Imposed on Dogs and Kennels; Amount of Tax; When and Where Payable.**

There is hereby imposed an annual dog license tax upon all dogs over the age of six months which are owned, possessed or kept in the County, as follows:

All dogs regardless of sex	\$ 4.00
Kennel for up to ten dogs	10.00
Kennel for eleven to twenty dogs	15.00
Kennel for over twenty dogs	25.00
Duplicate for lost tax (Section 29-213.11, Code of VA)	1.00

The tax year shall be payable to the County Treasurer by January 1st of each year. (8-10-64, Section 1)

**EXCEPTION:** While tags shall be worn by all dogs over the age of six months, as provided in Section 3-4 of this Article, there shall be no charge for the tag for any dog that is trained and serves as a guide dog for a blind person or that is trained and serves as a hearing dog for a deaf or hearing impaired person. As used in this section, "hearing dog" means a dog trained to alert its owner by touch to sounds of danger and sounds to which the owner should respond.

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**Section 3-6 (Old Section 3-7), Dog License Tags to be Worn.**

Dog license tags shall be securely fastened to a substantial collar by the owner or custodian and worn by such dog, and it shall be unlawful for the owner to permit any licensed dog to run or roam at large at any time without a license tag. The owner of the dog may remove the collar and license tag required by this section (i) when the dog is engaged in lawful hunting, (ii) when the dog is competing in a dog show, (iii) when the dog has a skin condition which would be exacerbated by the wearing of a collar, (iv) when the dog is confined, or (v) when the dog is under the immediate control of its owner.

**Section 3-7, Running At Large Prohibited April 15 - July 15; Violations**

(a) Dogs are prohibited from running at large in the County in each calendar year during the period from April fifteenth to July fifteenth. During this time all dogs shall be kept on a leash or under direct control of the owner or custodian to insure that the dog is not roaming, running or self-hunting off the property of the owner or custodian.

(b) Any dog observed or captured during this restriction period, without proper identification, shall be disposed in accordance with Sections 3-10 and 3-11.

(c) Any dog identified as to ownership or custodianship: If such dog can be captured, the owner shall reimburse the County at the rate of four dollars per day for impoundment, and a fine of not less than fifteen dollars nor more than fifty dollars. Owners of dogs not impounded shall be issued a warrant for violation of this provision, and each day thereafter that this Section is not complied with shall constitute a separate offense. (8-10-64, Section 3; 4-29-66.)

**Section 3-8, Running At Large Prohibited Within Central Subdivisions; Penalty For Violation.**

It shall be unlawful for the owner or custodian of any dog, to allow such dog to run at large at any time within any area in the County, except those areas Zoned A-1, Agriculture, General, and A-2, Agriculture, Limited. This exception does not apply in the A-1 and A-2 areas when a portion or portions of those areas have been subdivided into five or more contiguous lots of one acre or more and at least three such lots are occupied by approved, completed dwellings. Neither does this exception apply to mobile home or trailer parks in A-1 and A-2 areas. Such dog shall be on a leash or under the immediate control of the owner or custodian.

The provisions of Subsections (b) and (c) of Section 3-7 pertaining to confinement and disposition shall be likewise applicable to this Section.

For purposes of this Section "at large" shall be taken to mean off the premises of the owner and not under the control of the owner, his agent or the custodian of the dog, either by a leash, cord or chain; provided, however, that a dog shall not be considered at large if during the hunting season it is on a bona fide hunt in the company of a licensed hunter or during field trials or training periods when accompanied by its owner or custodian.

It shall be the responsibility of owners or custodians of dogs which would be residing outside one of the areas covered by this Subsection, i.e., in an unrestricted A-1, or A-2 area, to refrain from permitting such dogs to roam in the areas covered by this Subsection.

**Section 3-9, Enforcement of Dog Laws; Dog Warden and Deputies.**

In accordance with Section 29-213.8 of the Code of Virginia, the enforcement of the dog laws for this County, and the enforcement of this Article is vested in a Dog Warden and Deputy Dog Warden, who shall be appointed pursuant to Section 29-213.8 of the Code of Virginia. (8-10-64, Section 4.)

**Section 3-10, Impoundment and Redemption of Dogs Not Wearing Tags.**

The Dog Warden and other officials appointed under the provisions of Section 29-213.8 of the Code of Virginia (1950) as amended, are hereby required to impound any dog not wearing a collar with a current dog license tag securely attached thereto as prescribed by Section 3-6 or any dog in violation of Section 3-7. Such dogs shall be impounded in a dog pound designated by the Board of Supervisors for a period of five days, such period to commence on the day immediately following the day the dog is initially confined in the facility, unless sooner claimed by the owner thereof. During this five day period, the dog may be returned to its owner or custodian, upon proof of

ownership, purchase of dog tag and display of certificate of vaccination. A charge of four dollars per day for boarding the dog shall be paid by the owner to the Treasurer before the dog may be released. (8-10-64, Section 5)

**Section 3-11, Disposition of Impounded Dogs Not Redeemed by Owners.**

If an impounded dog has not been claimed by its owner or custodian after five days, the dog may be given to any person who pays the costs of impoundment vaccination, and license tag; provided, however, in the event the rightful owner shall claim such dog at any time, the adopting person shall relinquish possession of such dog to the rightful owner upon being reimbursed any expenses incurred pursuant to such adoption, plus a reasonable fee for the keep of the dog while in his possession. If the animal has not been claimed, it may be humanely destroyed or disposed of by sale or gift to a federal agency, or state-supported institution, agency of the Commonwealth, agency of another state, or a licensed federal dealer, or by delivery to any local humane society or shelter.

No provision set forth in this article shall prohibit the destruction of a critically injured or critically ill animal for humane purposes.

**Section 3-12, Stray Dogs.**

Any dog not wearing means to identify its owner or custodian shall be considered a stray. It shall be the duty of the Dog Warden, after reasonable investigation, to capture or kill any dog roaming at large of which ownership cannot be determined. (8-10-64, Section 5)

**Section 3-13, Dogs Killing or Injuring Livestock or Poultry.**

It shall be the duty of any animal warden or other officer who may find a dog in the act of killing or injuring livestock or poultry to kill such dog forthwith whether such dog bears a tag or not, and any person finding a dog committing any of the depredations mentioned in this section shall have the right to kill such dog on sight. Any animal warden who has reason to believe that any dog is killing livestock or poultry shall be empowered to seize such dog solely for the purpose of examining such dog in order to determine whether it committed any of the depredations mentioned in this section. Any animal warden or other person who has reason to believe that any dog is killing livestock, or committing any of the depredations mentioned in this section, shall apply to a magistrate of the county wherein such dog may be, who shall issue a warrant requiring the owner or custodian, if known to appear before a district court at a time and place named therein, at which time evidence shall be heard, and if it shall appear that such a dog is a livestock killer, or has committed any of the depredations mentioned herein, the dog may be ordered killed immediately, which the animal warden or other officer designated by the judge of the district court to act, shall do.

**Section 3-13.1, Compensation for Livestock and Poultry Killed by Dogs.**

Any person who has any livestock or poultry killed or injured by any dog not his own shall be entitled to receive as compensation the fair market value of such livestock or poultry provided that: (i) the claimant has furnished evidence within sixty (60) days of discovery of the quantity and value of the dead or injured livestock and the reasons the claimant believes that death or injury was caused by a dog; (ii) the animal warden or other officer shall have been notified of the incident within seventy-two (72) hours of its discovery; and (iii) the claimant first has exhausted his legal remedies against the owner, if known, of the dog doing the damage for which compensation under this section is sought. Exhaustion shall mean a judgment against the owner of the dog upon which an execution has been returned unsatisfied.

If there are not sufficient monies in the dog pound to pay these claims, they shall be paid in the order they are received when monies become available. Upon payment under this section, James City County shall be subrogated to the extent of compensation paid to the right of action to the owner of the livestock or poultry against the owner of the dog and may enforce the same in an appropriate action at law.

**Section 3-14, Female Dogs in Season.**

It shall be unlawful for the owner or custodian of any unsprayed female dog to permit such dog to be outside the confined premises of the owner's or custodian's yard or lot while such dog is "in season", unless such dog is on a leash and under the control of a responsible person capable of physically restraining the dog.

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**Section 3-15, Abandonment of Dogs Prohibited.**

It shall be unlawful for any person to abandon any dog within the County. (8-10-64, Section 8.)

**Section 3-16, Displaying Receipts; Door-to-door Verification of; (See Code of Virginia, Section 29-213.16.)**

(a) Dog license receipts shall be carefully preserved by licensees and exhibited promptly upon request for inspection by any Dog Warden or other officer of the County.

(b) Dog Wardens or other duly appointed officers may check such receipts door-to-door at any time during the license year. However, a check of all residences in the County, where it is known or reasonably suspected that a dog is being kept on the property, shall be made not less than once each calendar year on or after February first of such year.

**Section 3-17, Vicious Dogs.**

Vicious or dangerous dogs shall not be allowed in the County. Upon proof, satisfactory to the court, that a dog is vicious or dangerous, such dog may be ordered impounded and destroyed or, in the discretion of the court, may be ordered out of the County.

**Section 3-18. Unlawful Acts; Penalties.**

The following shall be unlawful and be punishable by fines of up to one hundred (\$100) dollars:

1. License application - For any person to make a false statement in order to secure a dog license to which he is not entitled.
2. License tax - For any dog owner to fail to pay the license tax required by this chapter before February first for the year in which it is due. In addition, the court may order confiscation and the proper disposition of the dog.
3. Dead animals or fowl - For any owner to fail to dispose of the body of his animal or fowl in violation of Section 3-2.
4. Diseased dogs - For the owner of any dog with a contagious or infectious disease to permit such dog to stray from his premises if such disease is known to the owner.
5. Removing collar and tag - For any person, except the owner or custodian, to remove the legally acquired license tag from a dog.
6. Concealing a dog - For any person to conceal or harbor any dog on which the license tax has not been paid, or to conceal a mad or vicious dog to keep the same from being killed.
7. Roaming at large - For the owner or custodian of any dog to permit such animal to roam at large in violation of Section 3-8.
8. Rabies Vaccination - For any dog owner to fail to have a current rabies vaccination certificate.

Adopted by the Board of Supervisors, James City County, Virginia, this 10th day of August, 1981

3. Case No. Z-5-81 - An ordinance to amend Chapter 20, Zoning, Article I, to add a new section, Conditional Zoning which will provide for the voluntary proffering in writing by the owner, of reasonable conditions, prior to a public hearing before the governing body, in addition to the regulations provided for the zoning district in the ordinance, as part of a rezoning.

Mr. William C. Porter, Jr., Director of Planning, presented this matter to the Board stating that the intent of the ordinance is to establish conditional zoning in James City County and was prepared by the County Attorney in response to both the public and the Board's request. Mr. Porter stated that the proposed ordinance is composed of six sections that describe the procedures, obligations and restrictions upon all parties concerned with the Conditional Zoning process. He said that the first section outlines the purpose of the ordinance and is designed to provide the governing body with a tool for controlling the character of land use development in those instances where applying traditional zoning and special use permitting classifications and procedures deemed inappropriately inflexible. He continued that in addition, the first section provides a supplementary procedure which is necessary to provide the flexibility without violating the purposes and objectives the Zoning Ordinance seeks to establish.

Mr. Porter noted that the other sections outline the following: (1) limitations on the types of conditions which can be offered so that bribery and other abuses can be avoided such as contributions of cash, dedication of parcels for public uses outside of access or utility easement purposes, payments for off site improvements unrelated to utility and drainage improvements and other conditions unrelated to the physical development or operation of the property; (2) methods of enforcement for the preferred conditions; (3) methods for recording Conditional Zoning cases (Conditional Zoning Index); (4) procedures for petitioning the review of the Zoning Administrator's decision; (5) procedures for amending the conditions and (6) a statement that no provision in the ordinance shall be construed to excuse compliance with other applicable provisions of the Zoning Code or other ordinances.

Mr. DePue asked if the legality of conditional zoning has been tested.

Mr. Morton answered that it has.

A discussion ensued. Mr. Oliver stated that the ordinance offers both the County and developers options and each application would come before the Board. He said that the ordinance allows additional flexibility and is an attempt to meet some of the criticisms that some traditional ordinances can be expensive. However, there is the "proffering approach" in which the initiative rests with the developer.

Mr. Edwards opened the public hearing.

A citizen commented that it seems like residents don't have any rights at all concerning what type of structures come into R-2 areas particularly when doctors offices begin to appear at which time the area becomes a commercial district and not a residential district. She expressed concern about the amount of taxes residents would have to pay in such instances.

Mr. Porter answered that the reason the new ordinance is set up is to allow development where strict zoning enforcement won't work but the use would not have a detrimental effect on adjacent properties if properly controlled. The property is rezoned for that use only. He added that there are two public hearings, one before the Planning Commission and one before the Board of Supervisors who make the final decision.

Mr. Oliver commented that the tax assessment will always be based on the fair market value of houses in that particular zone. He said if through the sale of houses in that neighborhood the values fell then the assessments would fall and vice versa, but that would be a market interpretation and not a zoning one.

The lady asked if there is any guarantee that districts would remain the same.

Mr. Oliver said that Conditional Zoning should only be viewed from the standpoint that it will give a community, the Board of Supervisors and a developer an opportunity to consider something. He said that any zoning would be a public process to be heard before the Planning Commission and the Board of Supervisors.

A citizen commented that it seems like every matter comes before the Planning Commission and the Board of Supervisors with no real concern for the residents' feelings. She said that she felt it to be a shame for citizens to work hard and pay high taxes with no regard noticed.

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Mr. Edwards closed the public hearing.

Mr. DePue commented that a case came up in his area recently where there was reluctance of people living in the surrounding area to agree to a rezoning, however, there were some folks who said they were not necessarily against a rezoning but would like to know what they will end up with once they get it and they would also like some assurances that they won't get anything else other than what the application entails. He said this type of conditional zoning would allow the developer to structure contracts such that those assurances could be given, i.e., buffers, etc.

Mr. Porter answered that such assurances could be given.

Mr. Oliver commented that it is the developer's prerogative to give specific assurances. He said that the County will not say that a developer should do this. It is an option for the developer to present a set of conditions appealing to the residents and to the Board of Supervisors.

Mr. Bartlett spoke as the Board's representative on the concerns of the Planning Commission pertaining to this case. He said that it was not a unanimous decision - there were concerns that the conditional zoning, in practical application, could lend itself to a degradation of the County's present zoning ordinance, primarily through poor record keeping as to what the conditions were and what the negotiations established that, and over the long run the zoning map would present problems of understanding. Mr. Bartlett further commented that there was some concern that eventually the zoning ordinance and its enforcement would become dependent upon who the Zoning Administrator was at the time. He said that this led to a tabling of the motion and Mr. Porter presented more information that was convincing to most members of the Planning Commission. He said that the vote of the Commission the view was that this was a flexible approach to zoning that retained the integrity of the zoning process in the County and that it would work to the best interests of the development of the County.

Mr. Taylor moved to approve the ordinance.

Mr. Frink asked what happens if a developer does not complete development in case his business situation changes.

Mr. Morton said that the developer would have to apply for another rezoning.

The motion carried by a 5-0 roll call vote.

#### ORDINANCE NO. 31A-70

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 20, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY ADDING A NEW ARTICLE, ARTICLE V, CONDITIONAL ZONING.

BE IT ORDAINED by the Board of Supervisors of James City County, Virginia that the Code of the County of James City be and the same is, hereby, amended to add a new article, Article I, Conditional Zoning of Chapter 20, Zoning.

#### Article Conditional Zoning

##### Section 20-14.2, Purpose of Article.

It is the general policy of the County, in accordance with the laws of the Commonwealth of Virginia, to provide for the orderly development of land, for all purposes, through zoning and other land development legislation. Frequently where competing and incompatible uses conflict, traditional zoning methods and procedures are inadequate. In these cases, more flexible and adaptable zoning methods are needed to permit land uses and at the same time to recognize effects of change. It is the purpose of this article to provide a more flexible and adaptable zoning method to cope with situations found in such zoning through conditional zoning, whereby a zoning reclassification may be allowed subject to certain conditions proffered by the zoning applicant for the protection of the community that is not applicable to land similarly zoned. The provisions of this article shall not be used for the purpose of discrimination in housing.

#### Section 20-14.3, Proffer of Conditions.

The owner or owners of property making application for a change in zoning or amendment to a zoning map, as part of their application, may voluntarily proffer in writing reasonable conditions which shall be in addition to the regulations provided for in the zoning district or zone sought in the rezoning petition. The conditions shall be proffered as a part of the requested rezoning or amendment to the County's zoning map. It is expressly provided, however, that the conditions so proffered are subject to the following limitations:

1. The rezoning itself must give rise to the need for the conditions;
2. Such conditions shall have a reasonable relation to the rezoning;
3. Such conditions shall not include a cash contribution to the County;
4. Such conditions shall not include mandatory dedication of real or personal property for open space, parks, schools, fire departments or other public facilities except for dedication of any street, curb, gutter, sidewalk, bicycle trail, drainage, water or sewer system;
5. Such conditions shall not include payment for or construction of off-site improvements except a pro rata share of sewerage and drainage facilities;
6. No condition shall be proffered that is not related to the physical development or physical operation of the property; and
7. All such conditions shall be in conformity with the comprehensive plan of the County.

#### Section 20-14.4, Enforcement and guarantees as to conditions.

The Zoning Administrator shall be vested with all necessary authority on behalf of the County to administer and enforce conditions attached to a rezoning or amendment to a zoning map, including:

1. The ordering in writing of the remedy of any noncompliance with such conditions;
2. The bringing of legal action to ensure compliance with such conditions, including injunction, abatement or other appropriate action or proceeding; and
3. Requiring a guarantee, in an amount sufficient for or conditioned upon the construction of any physical improvements required by the conditions, or a contract for the construction of such improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee may be reduced or released by the Zoning Administrator upon the submission of satisfactory evidence that construction of such improvements has been completed in whole or in part. Provided, further, that failure to meet all conditions shall constitute cause to deny the issuance of any required use, occupancy or building permits as may be appropriate.

#### Section 20-14.5, Records.

The zoning map of the County shall show by an appropriate symbol on the map the existence of conditions attaching to the zoning on the map. The Zoning Administrator shall keep in his office and make available for public inspection a conditional zoning index. The index shall provide ready access to the ordinance creating conditions in addition to the regulations provided for in a particular zone.

#### Section 20-14.6, Petition for review of decision.

Any zoning applicant who is aggrieved by the decision of the Zoning Administrator, pursuant to the provisions of Section 20-14.4, may petition the Board of Supervisors for the review of such decision. Said appeal shall be taken within thirty (30) days from the date of the action complained of and shall be instituted by filing with the Zoning Administrator and with the County Administrator a notice of appeal, specifying the grounds thereof.

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The Zoning Administrator shall forthwith transmit to the Board of Supervisors all of the papers constituting the record upon which the action appealed from was taken, and the Board of Supervisors shall proceed to hear the appeal at its next regular scheduled meeting.

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board of Supervisors after the notice of appeal has been filed with him that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, the proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Supervisors or by a court of record on application or notice to the Zoning Administrator and on due cause shown.

Section 20-14.7, Amendments and variations of conditions.

There shall be no amendment or variation of conditions created pursuant to the provisions of this article until after a public hearing before the Board of Supervisors which shall be advertised pursuant to Section 20-14 of this chapter.

Section 20-14.8, Relation of section to other laws.

The provisions contained in this section shall be considered separate from, supplemental to and additional to the provisions contained elsewhere in this Code or other County ordinances. Nothing contained in this section shall be construed as excusing compliance with all other applicable provisions of this Code or other County ordinances.

4. Special Use Permit - Case No. SUP-4-81 - Consideration of an application of Mr. Robert Magoon, on behalf of Mr. Oliver S. Tabb, for a Special Use Permit to allow the construction of three multi-family structures in the R-3, General Residential District.

Mr. Oliver explained that Mr. Bob Magoon was present and wished to withdraw his application. The Board accepted Mr. Magoon's withdrawal.

F. 1. Alleged Zoning Violation/Reverend H. Morton Whitman

Mr. Edwards requested this item to be moved up on the agenda for discussion since there were some people in the audience who wished to address the matter.

Mr. Oliver explained that this matter was presented to the Board at their July 27, 1981 meeting and is being presented to the Board again for public information purposes, however, no action is required.

Mr. Bartlett said that he was the one who requested an opinion from Mr. Morton and the staff and would like to respond before the citizens spoke. He said that he thinks this is a situation that is here as the result of a legislative decision by the Board of Supervisors and the interpretation of a particular term in the zoning ordinance. He said that it is stated in our ordinance what a family is deemed to be, and whether the facts of the particular situation fall within the parameters of the interpretation is not for the Board of Supervisors to decide - that becomes a judicial function, since the Board is a legislative body and keeping the powers separate, the Board defers such matters to the County Attorney. He further stated that based on the County Attorney's decision the Board either acts or does not act and in the case in question the Board is not acting due to the option of the County Attorney.

Mr. Bartlett further stated that what the Board can do and what he would propose to do after citizens have had an opportunity to speak is to take a second look at the definition of what "family" is under that ordinance. He said he believes the statement is there for a post scriptive purpose and he believes the County's purpose is to limit the occupants of homes between those that fall within a standard that is recognizable and is reasonable and furthers the aims of the zoning ordinance. Mr. Bartlett said that later on in the meeting he would propose to have this done. He went on to say that Mr. Porter has dealt with the matter and the opinion of Mr. Morton, just as the opinion of the Attorney General of the United States is just that - an opinion. He said that the proper course is to appeal that decision by taking the matter to the Board of Zoning Appeals which is composed of local citizens who will hear the case and render a second opinion. He said that if that opinion is unsatisfactory to either of the parties involved there is a second course of appeal and that is through the Circuit Court City of Williamsburg/James City. Mr. Bartlett concluded that he has great sympathy to the cause that brings the citizens here tonight.

Mr. Edwards commented that this is not a public hearing and asked citizens to make their comments brief.

Mrs. Irene Douglas thanked Mr. Morton for his courtesy in notifying her of his decision, however, needless to say, she remarked that by the number of citizens present indicated that they are not pleased by the decision. She said that citizens were present from First Colony and Windsor Forest Subdivisions to show that they are equally concerned about the "watering down" of the Zoning Ordinance. Mrs. Douglas commented that the Zoning Ordinance should not protect those who come in to broaden the tax base but those who live here in the County and make their living here. She said that when something comes up, there is always some way found to water it down. She suggested that the Board and staff sit down and review the Zoning Ordinance, look it over, tighten it up, and work at making it work. Mrs. Douglass concluded that it is getting to be that County citizens cannot be proud of the neighborhoods they live in.

Mr. Edward L. Folger commented that Mr. Bartlett mentioned that the Board received an opinion and elected not to take action. He said that perhaps it should have been the other way around; even though the Board had the opinion, they could have taken action and put the requirement for legal action on Mr. Whitman. Mr. Folger said that he is very upset and disappointed.

Mr. George Douglas said that he and his wife greeted Mr. Whitman when he moved into the neighborhood, and in conversation found out that he had renters. He said that his wife asked him if he had a special use permit to which Mr. Whitman replied he did not. He commented on the arguing and comments in the newspaper concerning Mr. Whitman. Mr. Douglas concluded that the R-1 District should be reviewed and the meaning of the word "family" should be taken out of the gray area and put in black and white.

Mrs. Betsy Corner from Whiteoaks commented that it seems to her the meaning of family is being viewed very strictly by saying that a mother and father constitutes of the meaning of the word family. She said that things are changing, children grow up, there are more single-parent families now and by restricting this R-1 District we would be limiting the abilities of the person or the owner to continue to live in his house and unless a person is very wealthy, they will not be able to continue living in the house and properly maintain the house. Mrs. Corner said that when the children grow up and the house is very large, parents will be faced with whether or not to have renters or move into a smaller place. She said that she believes that flexibility is needed and it is ridiculous to say that it is hurting the neighborhood.

Mrs. Evelyn Becker said that she thinks the definition of "family" is not exactly what is represented on the books as family. She said that she has a large family and since they moved out her bills were cut in half and she has been able to travel as a result of it. Mrs. Becker went on to say that the point is that if an owner has a large home, and in order to cut the mortgage payments at that particular time he wants to rent the rooms in his home - that is not family, but that is what is happening in First Colony to the point of putting ads in the paper. She said that she considers family to be her own flesh and blood, and if this continues, those persons guilty of renting should move into a multi-family zone.

Mr. Harry Smethells said that many years ago he used to be in Municipal Engineering and as such served as an engineering advisor to a Planning Board and all of them were members of the International Association of City Managers. He said that they had a definition for the word "family" and the word "guests."

Mrs. Betty Hames asked Mr. Bartlett what he has in mind when he said that he would "look again at the meaning of the word family."

Mr. Bartlett replied that he proposes to ask the staff to bring back to the Board at its September 14, 1981 or September 28, 1981 meeting options as to different definitions of "family". He said that a definition of family is in the zoning ordinance which is defined as the nuclear family that everyone knows, but there is the controversial definition which has brought the citizens to the meeting. Mr. Bartlett said that he would like to preserve the first definition would like to have options as to how the second definition could be amended, or added to, that would preserve what a consensus of this Board is as to the values and importance of R-1 zoning and that would limit the uses to which residential single family units could be put. He said that he is making it very broad so as not to preclude a young couple from having a mother-in-law stay with that couple or a non-relative from living with that couple out of convenience; what he wants to do is preserve the flavor of the R-1 zone that we have come to traditionally accept as R-1 and give us some leeway in our interpretation of the

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ordinance. Mr. Bartlett said that what the County ordinance has now is leading in a direction that he thinks is taken to the most extreme and he thinks this should be reviewed.

Mr. T. J. Guntherberg stated that he lives behind Mr. Whitman and would like to go on record that he opposes the way this matter was carried out. He commented to citizens that he encourages them to band together to defend the R-1 district, and he is available. He said that as far as he is concerned family means a blood relative or an in-law or a guest who stays in your home at your convenience.

There being no other comments, the Board recessed at 8:20 and reconvened to public session at 8:30.

Mr. DePue requested that agenda item D-2 be discussed because he had some constituents present who might like to address the matter.

**D. BOARD CONSIDERATION**

**2. Center Turn Lane/Route 60 West in Norge**

Mr. Oliver stated that this item came before the Board at their last meeting and was referred to the staff for a recommendation. Mr. Oliver said that the staff concurs with the citizens request and would recommend that the Board approve the resolution establishing a center turn lane on Route 60 West.

Mr. DePue moved to approve the resolution. The motion carried by a unanimous roll call vote.

**R E S O L U T I O N**

WHEREAS, traffic conditions on Route 60 West through Norge warrant the establishment of a center turn lane, and

WHEREAS, the residents and businesses of Norge have petitioned the Board of Supervisors to install a center turn lane;

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the Department of Highways and Transportation be, and it is hereby respectfully requested to install a center turn lane on Route 60 West through Norge.

BE IT FURTHER RESOLVED that copies of this resolution be forwarded to the Resident Engineer of the Virginia Department of Highways and Transportation.

**C. CONSENT CALENDAR**

Mr. Edwards asked if any Board member wished to delete any item from the Consent Calendar.

Mr. Taylor moved to delete item no. 5 - Lien for Boarding-up Unsafe Structures from the Consent Calendar.

There being no objections to Mr. Taylor's request, Mr. Edwards moved to approve the remaining four items. His motion carried by a unanimous roll call vote and the following items were approved:

**1. Sanitary District No. 2 - Liens**

**R E S O L U T I O N**

**Sanitary District No. 2 - Liens**

WHEREAS, the Department of Finance has certified to the Board of Supervisors of the County of James City that the following sewer and water accounts in James City County Sanitary District No. 2 are delinquent and unpaid; and

WHEREAS, such unpaid or delinquent charges are a lien against the real property on which the use of such systems are made and for which the charges are imposed. 9

NOW, THEREFORE, BE IT RESOLVED, that in accordance with Section 21-118.4, paragraph E, of the Code of Virginia, 1950, as amended, the Board of Supervisors directs that the following delinquent charges for use of the Sanitary District No. 2 system be entered in the Judgment Lien Docket of the Clerk's Office of James City County, Virginia:

Account No. 011-01-2517200 Joan E. Brown  
(Paid by Amanda Roberts,  
Sister-in-law)  
40 Garfield Road  
Newport News, Virginia 23602

Description of Property: 2517 B Pocahontas Trail  
Williamsburg, VA

Amount Due: Water: \$108.97  
Sewer: 109.00  
Penalty: 31.08

Total: \$330.05

Period Covered: January, 1978 - March, 1981

Account No. 011-01-2524002 Herman Goodrich  
(Paid by Rosa Davis)  
2499 C Pocahontas Trail  
Williamsburg, Virginia

Description of Property: 2524 Pocahontas Trail  
Williamsburg, VA

Amount Due: Water: \$ 40.00  
Sewer: 90.00  
Penalty: 11.20

Total: \$141.20

Period Covered: January, 1980 - March, 1981

Account No. 011-08-0160100 John & Lillian Hundley  
160 Whiting Avenue  
Williamsburg, Virginia

Description of Property: 160 Whiting Avenue  
(52-3) (2-24B)

Amount Due: Water: \$ 40.00  
Sewer: 90.00  
Penalty: 13.00

Total: \$143.00

Period Covered: January, 1980 - March, 1981

Account No. 011-53-0206000 Patricia Williams  
104 National Lane  
Williamsburg, Virginia

Description of Property: 206 Tarleton Bivouac  
(59-2) (2-121)

Amount Due: Water: \$ 40.00  
Sewer: 90.00  
Penalty: 13.00

Total: \$143.00

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2. Proposed Amendments to Chapter 8, Article II, James City County Code, Health and Sanitation (Landfill Ordinance).

This item was scheduled for a public hearing at the Board's September 14, 1981 meeting.

3. Case No. SUP-5-81 - City of Newport News

This item was scheduled for a public hearing at the Board's September 14, 1981 meeting.

4. Regarding Issuance of Revenue Bonds for the Ironbound-Carriage Rehabilitation Program.

This item was scheduled for public hearing at the Board's September 14, 1981 meeting.

Discussion of item no. 5 - Lien for Boarding-up Unsafe Structures

Mr. Taylor said that he does not approve of this practice and will not support a motion.

Mr. Edwards moved to approve the resolution. The motion carried by a 4-1 roll call vote with Mr. Taylor voting no.

R E S O L U T I O N

CODE VIOLATION LIEN

WHEREAS, the Department of Public Works has certified to the Board of Supervisors of the County of James City that the following bill for services rendered is delinquent and remains unpaid; and

WHEREAS, such unpaid and delinquent charges are and constitute a lien against the real property on which the services were performed and for which charges were imposed;

THEREFORE, BE IT RESOLVED, that in accordance with Section 21, 118.4, paragraph E, of the Code of Virginia, 1950, as amended, the Board of Supervisors directs that the following delinquent charges for services rendered, to wit:

Boarding up windows and doors, grass cutting, and cleanup.

Account No:	Virginia Mullens C/O Mr. James T. Wood 1304 Jamestown Road Williamsburg, Virginia 23185
Description of property:	Route 1, Box 245, Lanexa, Virginia Tax Map # (9-2) (2-12) Deed Book # 196, Page #148
Amount Due:	Labor \$ 44.60 Equipment 45.00 Material <u>167.44</u> \$ 257.04

D. BOARD CONSIDERATIONS

1. Amendment to the FY 1982 Real Property Tax Rate

Mr. Oliver addressed the Board on this matter. He said that it is a continuation of a two-phase budget item and a contingency was allowed for annexation. He said that in light of the County's fund balance and the annexation negotiations that it would be appropriate to recommend to the Board at this time the second alternative in the budget. Mr. Oliver presented the Board with a resolution.

Mr. Bartlett moved to amend a portion of the resolution that reads "that the previously adopted tax rates be amended as follows: Real Property 78 cents per \$100 assessed value" should be changed to read 74 cents per \$100 assessed value.

Mr. DePue asked if the figures in part II of the recommendation would change.

Mr. Oliver presented the Board with some changes for item two of the resolution. Mr. Oliver suggested that the portion of the resolution concerning Real Property Taxes be changed from -\$240,000 to -\$480,000, and the Carry Forward Funds remain the same and add -\$240,000 in Legal Services.

Mr. Bartlett moved to amend the motion as presented by Mr. Oliver.

A brief discussion ensued between Board members clarifying the amendments to the resolution.

Mr. Frink stated that he had some problems with approving the resolution as amended because he feels the Board may be setting the stage for some problems with this fiscal year's budget. He said that he wants the Board to look at a couple of things, namely the James Terrace water situation. He said that he feels the Board owes the citizens in that area something, although he would like to see a tax decrease, he feels the Board should exercise some caution in decreasing the tax rate to 74 cents.

Mr. Taylor commented that he feels that if the County has a surplus of one million dollars, taxpayers should have a portion of it.

Mr. Edwards remarked that his concern about lowering the tax rate to 74 cents is that the County may be inadequately covering itself and may not be looking carefully enough at what has been done in the past. He said that the tax rate in the County in the past five years has been 92, 88, 84 and 82 cents and now the proposal of 74 cents. Mr. Edwards stated that the steady decrease has been because of careful money management and the desire on the part of the Board to decrease taxes at a steady rate. He further commented that the concern about dropping from 82 to 74 cents in a single year (which is about 10 percent) is whether or not revenues in this coming year will be sufficient to sustain the needs of the County at that rapidly reduced rate. Mr. Edwards said that he is concerned about such a rapid reduction of the tax rate because a departure from the way it was done in the past, may result in no decrease next year, or then again, it may have to be increased. He said that he would prefer to cut the tax rate at a steady rate rather than so rapidly and run the risk of not having enough money for County needs.

Mr. DePue spoke in support of the motion. He said that he feels the County has an obligation to the taxpayers to manage their money in a prudent way. He said that he believes the County is also obligated to take only the monies needed from taxpayers at the particular time that it is needed. Mr. DePue said that in the last three or four years surpluses have become almost predictable and while not necessarily predictable next year, he said that he feels that problem should be faced if it occurs and return this year's monies to the taxpayers.

Mr. Edwards said that having expressed his reservations, he will reluctantly support the tax decrease as amended. The motion carried by a unanimous roll call vote.

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RESOLUTIONAMENDMENT TO 1982 FISCAL YEAR TAX RATE

WHEREAS, the Board of Supervisors of James City County has determined that an adjustment to the previously adopted Appropriation Resolution is both necessary and appropriate:

NOW, THEREFORE BE IT RESOLVED that the Board of Supervisors of James City County does hereby amend the adopted appropriation resolution for the fiscal year ending June 30, 1982:

- (1) That the previously adopted tax rates be amended as follows:

Real Property	\$ .74 per \$100 assessed value
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- (2) That previously adopted appropriations to the General Operating Fund be amended as follows:

Real Property Taxes	- \$480,000
Carry forward Funds	+ \$240,000
Legal Services	- \$240,000

3. Request to Vacate Sewer Easement Acquired from John H. and Alvis H. Jensen

Mr. Frank M. Morton, County Attorney, addressed the Board on this matter stating that at the Board's July 27, 1981 meeting they had adopted a resolution to convey an easement from the County to the Jensen's that was not needed in the construction of Sanitary District No. 2. Mr. Morton further explained that he later discovered that the Jensen's had conveyed the property to another party. He asked the Board to reconsider their prior actions and adopt a resolution voiding the previous action of the Board and authorizing the execution of a deed conveying the easement to the present owners, Mr. & Mrs. Beril Smith, after a motion to reconsider the matter.

Mr. Bartlett moved to reconsider the matter. The motion carried by a unanimous roll call vote.

Mr. Taylor moved to approve the resolution. The motion carried by a unanimous roll call vote.

RESOLUTIONExecution of a Deed

WHEREAS, the Board of Supervisors of James City County, by resolution dated July 27, 1981, authorized the execution of a deed conveying certain property from James City County Sanitary District No. 2 to John H. and Alvis H. Jensen, and

WHEREAS, the said Jensen's no longer hold title to the property upon which the easement is located.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County as follows:

1. That that certain resolution dated July 27, 1981 authorizing execution of the deed from the James City County Sanitary District No. 2 to John H. and Alvis H. Jensen is hereby revoked.
2. That the Chairman and Clerk of the Board of Supervisors are authorized and directed to execute a deed dated August 10, 1981, conveying a certain easement from James City County Sanitary District No. 2 to Beril W. and Betty L. Smith, Jr.

THIS DEED, made this 10th day of August, 1981, by and between JAMES CITY COUNTY SANITARY DISTRICT NO. TWO, organized and existing under the laws of the Commonwealth of Virginia, hereinafter referred to as GRANTOR, and BERIL W. and BETTY L. SMITH, JR., husband and wife, hereinafter referred to as GRANTEES.

WHEREAS, by Deed dated August 24, 1974, recorded September 24, 1974 in Deed Book 155, page 645, John H. and Alvis H. Jensen conveyed certain real property to the James City County Sanitary District No. Two for construction and permanent easement strips hereinafter described; and

WHEREAS, John H. and Alvis H. Jensen have conveyed the property to Beril W. and Betty L. Smith, Jr. on July 16, 1981, and

WHEREAS, the said easements have been determined not to be necessary for the sanitary sewer system; and

WHEREAS, the Board of Supervisors are desirous of conveying all its rights, title and interest in the following described property to the Grantees.

WITNESSETH: That for and in consideration of the sum of TEN DOLLARS (\$10.00), case in hand paid, and for good and valuable consideration, the receipt whereof is hereby acknowledged at and before the signing, sealing, and delivery of this Deed, the said Grantor does hereby GRANT, REMISE, RELEASE, QUITCLAIM, and CONVEY unto the said Grantees, the following described property, to wit:

A certain 10' easement for 8" sewer line as shown on a plat entitled "A Plat for Sewer Easement, FROM: John H. Jensen and Alvis H. Jensen, TO: James City County Sanitary District No. Two", Drawing No. 7201-10-1E-3 revised, dated August 7, 1974, made by Deward M. Martin and Associates, Inc. and recorded in Deed Book 155, page 648 in the Circuit Court Clerk's Office for the City of Williamsburg and County of James City.

**E. MATTERS OF SPECIAL PRIVILEGE**

Mr. Edwards asked if there were any persons in the audience who wished to address the Board and no one wished to speak.

Mr. Oliver presented the Board with a resolution that would cancel their August 24, 1981 meeting and asked their approval. Mr. Edwards commented that this was a matter discussed at their July 27, 1981 meeting.

Mr. Bartlett moved to approve the resolution. The motion carried by a unanimous roll call vote.

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RESOLUTIONCancellation of August 24, 1981 Board of Supervisors Meeting

WHEREAS, the Board of Supervisors regularly scheduled second meeting for the month of August falls on August 24, 1981, and

WHEREAS, it is the desire of the Board to cancel such meeting.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the Board meeting set for August 24, 1981 is hereby cancelled.

H. BOARD REQUESTS AND DIRECTIVES

Mr. Frink asked the staff to review a traffic situation that occurred last week on Route 60 at Busch Gardens. He said that apparently cars that were unable to get to the concert being held at Busch Gardens parked along the roadside and on private property. Mr. Frink said that he was particularly concerned because there were only two policemen, one from York County and the State Police, but none from James City County directing traffic at such a congested time.

Mr. Oliver stated that the staff would review the situation.

Mr. Bartlett directed the staff to review the definition of the word "family" as defined in the zoning ordinance and comp up with alternatives to the present definition and perhaps some background information on what was intended by the present definition.

Mr. Bartlett remarked that it is a good idea since the Planning Commission is currently reviewing the Comprehensive Plan.

Mr. Edwards moved to go into executive session to discuss a personnel and legal matter pursuant to Section 2.1-344 (a) (1)(6) of the Code of Virginia, 1950 as amended. The motion carried unanimously.

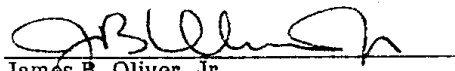
The Board convened into executive session at 9:35 P.M. and returned to public session at 10:10 P.M.

Mr. Bartlett moved to reappoint Mr. Jack Edwards and Mr. Perry DePue to the James City Service Authority for a three-year term. The motion carried unanimously.

Mr. Edwards moved to appoint Mr. Joseph V. Grebb, Educator; Mr. Ronald W. Roe, Cable Operator; and Mr. Thomas Collins, Law Professor, to the Cable Communications Advisory Committee. The motion carried unanimously.

Mr. Taylor moved to adjourn. The motion carried by a unanimous roll call vote.

The meeting ADJOURNED at 10:20 P.M.

  
James B. Oliver, Jr.  
Clerk to the Board