

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

A. ROLL CALL

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

James B. Oliver, Jr., County Administrator
 Frank M. Morton, III, County Attorney
 John E. McDonald, Assistant to the County Administrator

B. MINUTES - June 28, 1982

Mr. Frink asked if there were any corrections or additions to the minutes. Mr. Mahone stated that on Page 8 Mr. Larry T. Waltrip's address should be changed to Neck-O-Land Road. He then made a motion to approve the minutes. On a roll call, the vote was AYE: Frink, DePue, Edwards, Mahone, Taylor (5). NAY: (0).

C. PRESENTATIONS

1. Resolution - Certificate of Appreciation - C. Hammond Branch

CERTIFICATE OF APPRECIATION

WHEREAS, C. Hammond Branch is a charter member of the James City County Anti-Littering and Beautification Committee; and

WHEREAS, he was primarily responsible for surveying and identifying the litter problems in James City County; and

WHEREAS, C. Hammond Branch has led the volunteer roadside cleanups in James City County since 1980, under the James City County Anti-Littering and Beautification Committee and under the James City Clean County Commission; and

WHEREAS, his efforts have been responsible for the cleaning of 283 miles of county roadside, the removal of 26 dumpsites, totalling 153,844 pounds of litter; and

WHEREAS, his example and his organization has led county citizens to volunteer 4,189 man hours for cleanup and beautification projects;

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County recognize the extraordinary contributions of his time and talents, and express its gratitude to

C. HAMMOND BRANCH

for organizing, leading and sustaining the volunteer cleanup and beautification program in James City County.

BE IT FURTHER RESOLVED that this resolution be spread on the minutes of this Board and a suitable copy be presented to C. Hammond Branch.

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2. Resolution - Certificate of Appreciation - James H. Robertson

Mr. Frink read the Resolution - Certificate of Appreciation and then presented Mr. Branch and Mr. Robertson with signed copies of the Resolution.

CERTIFICATE OF APPRECIATION

WHEREAS, James H. Robertson is a charter member of the James City County Anti-Littering and Beautification Committee; and

WHEREAS, he was primarily responsible for surveying and identifying the litter problems in James City County; and

WHEREAS, James H. Robertson has led the volunteer roadside cleanups in James City County since 1980, under the James City County Anti-Littering and Beautification Committee and under the James City Clean County Commission; and

WHEREAS, his efforts have been responsible for the cleaning of 283 miles of county roadside, the removal of 26 dumpsites, totalling 153,844 pounds of litter; and

WHEREAS, his example and his organization has led county citizens to volunteer 4,189 man hours for cleanup and beautification projects;

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County recognize the extraordinary contributions of his time and talents, and express its gratitude to

JAMES H. ROBERTSON

for organizing, leading and sustaining the volunteer cleanup and beautification program in James City County.

BE IT FURTHER RESOLVED that this resolution be spread on the minutes of this Board and a suitable copy be presented to James H. Robertson.

D. PUBLIC HEARINGS

1. Case No. Z-4-82. Sign Ordinance Amendment

Mr. Morton presented this matter to the Board stating that the amendments would provide for non-commercial speech signs both on and off-premise which would be in conformance with the Code. He recommended the adoption of the amendment to the Ordinance.

Mr. Frink opened the public hearing.

There being no speakers, Mr. Frink closed the public hearing.

Mr. DePue moved for the approval of the amendment to the Ordinance. On a roll call, the vote was AYE: Frink, DePue, Edwards, Mahone, Taylor (5). NAY: (0).

ORDINANCE NO. 31A-72

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 20, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, BY AMENDING THE FOLLOWING DIVISION OF ARTICLE VIII, SPECIAL REGULATIONS FOR EXTERIOR SIGNS: SECTION 20-130 CONTENTS OF SIGNS AND SECTION 20-132 EXEMPTIONS.

BE IT ORDAINED by the Board of Supervisors of James City County that Chapter 20, Zoning, of the Code of the County of James City be and the same is, hereby, amended and reordained by amending the following divisions of Article VIII, Special Regulations for Exterior Signs: Section 20-130, Contents of Signs, Section 20-132, Exemptions.

CHAPTER 20

ZONING

Article VIII Special Regulations for Exterior Signs

Section 20-130. Content of signs.

No exterior sign shall advertise a product, service, business activity or institution which occurs or is generally conducted, sold, manufactured, produced or offered elsewhere than on the premises where such sign is located. The content or advertising message carried by signs hereafter erected shall be limited to one or more of the following:

- (a) The identification of building or its owners or occupants of the premises;
- (b) Information concerning any lawful, non-business, non-service related activities or messages on or off the premises or information concerning any lawful business related activities on the premises and/or goods or services offered in connection therewith.
- (c) Information concerning the sale, rental or lease of the premises.
- (d) Information on directional signs as prescribed in section 20-131.

(Ord. No. 31A-72, 7-26-82)

Section 20-132. Exemptions.

The following signs are exempted from the provisions of these regulations and may be erected or constructed without a permit but in accordance with the structural and safety requirements of the Building Code:

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- (a) Official traffic signs, historical markers, provisional warning signs or sign structures when erected or required to be erected by a governmental agency and temporary signs indicating danger.
- (b) Signs authorized by the state highway department to be placed on a highway right-of-way.
- (c) Changing of the copy on a bulletin board, poster board, display encasement, reader board or bill board.
- (d) Temporary nonilluminated signs, not more than six feet square in area, advertising real estate for sale or lease and located on the premises one such sign for each street frontage.
- (e) Temporary nonilluminated signs, not more than ten square feet in area, erected in connection with new construction work and displayed on the premises during such time as the actual construction work is in progress, one such sign for each street frontage.
- (f) Nonilluminated signs warning trespassers or announcing property as posted, not to exceed four feet per sign.
- (g) Sign on a truck, bus or other vehicle, while in use in a normal course of business. This section should not be interpreted to permit parking for display purposes of a vehicle to which signs are attached in a district where such signs are not permitted.
- (h) Mailboxes and similarly located signs identifying a private residence.
- (i) Home occupation signs not to exceed four square feet. Such signs shall not be illuminated and shall be attached to the dwelling.
- (j) Signs within a business or manufacturing district which are not visible from a public road or abutting property line.
- (k) Signs not to exceed six square feet in area, within a business or manufacturing district, which state the name or number of a building, to be located on the rear or sides of a building on a parcel containing four or more buildings.
- (l) Signs placed upon the exterior of a structure indicating the location of restrooms, bathhouses, entrances or exist.
- (m) Signs not to exceed six square feet in area indicating the entrance or exit from a parking lot, potable water supply, sewage station for recreational vehicles or other notices related to public health or safety. Such signs shall be adjacent to the facility.
- (n) Temporary signs not to exceed twelve square feet per face, erected for a period of up to sixty days, advertising seasonal agricultural products for sale within an agricultural district.

- (o) Special notice placards, not to exceed four square feet in size, attached to a building or to a free-standing sign indicating credit cards which are accepted on the premises; group affiliations of which the business is a member or clubs or groups which utilize, recommend, inspect or approve the business for use by its members.
- (p) Signs conveying political ideological religious social or governmental messages unrelated to businesses, services or manufacturing activities or the goods connected therewith, provided such signs shall not exceed 32 square feet in size and provided that any such signs related to or connected with political campaigns shall not be maintained for longer than 90 days and shall be removed within 10 days after the election to which they pertain. (Ord. No. 31A-72, 7-26-82)

2. Case No. Z-5-82. Amendment to R-5 Ordinance Addition of Special Permitted Use.

Mr. Allen J. Murphy, Jr., Planner, presented this matter to the Board stating that the proposed additional permitted use was the request of the bond counsel for the McMiller Corporation for more specific language in the code to cover their proposed development.

Mr. Frink opened the public hearing.

There being no speakers, Mr. Frink closed the public hearing.

Mr. Edwards moved for the approval of the amendment to the Ordinance. On a roll call, the vote was AYE: Frink, DePue, Edwards, Mahone, Taylor (5). NAY: (0).

ORDINANCE NO. 31A-73

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 20, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, ARTICLE IV, DISTRICTS, DIVISION 7A, MULTI-FAMILY RESIDENTIAL DISTRICT R-5, SECTION 20-80.6A, USES PERMITTED BY SPECIAL USE PERMIT ONLY.

BE IT ORDAINED by the Board of Supervisors of the County of James City that Chapter 20, Zoning, of the Code of the County of James City, Article IV, Districts, Division 7A, Multi-family Residential District, Section 20-80.6A, Uses Permitted by Special Use Permit Only, be and the same is, hereby, amended to read as follows:

CHAPTER 20

ZONING

Article IV. Districts

DIVISION 7A. MULTI-FAMILY RESIDENTIAL DISTRICT R-5.

Section 20-80.6A. Uses Permitted by Special Use Permit Only.

In the R-5, Multi-Family Residential District, buildings to be erected or land to be used for one or more of the following or similar uses shall be permitted only after issuance of a Special Use Permit by the Board of Supervisors:

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General hospitals.

Nursing homes and facilities for the residence and/or care of the aged.

Professional, business and governmental offices.

Temporary offices.

Lodges, civic clubs, fraternal organizations and service clubs.

Cemeteries and memorial gardens.

Day care and child care centers.

An accessory apartment.

Water impoundments for public or private use of 50 acres or more and a dam height of 25 feet or more.

Rental of rooms to a maximum of three (3) rooms with off-street parking provided totaling one (1) more parking space than the total number of rooms to be rented.

Public or private water and sewer facilities, including but not limited to treatment plants, pumping stations, storage facilities and transmission mains; except private connections to existing mains which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development, are permitted generally and without a Special Use Permit.

Public or private transmission pipelines, including pumping stations and accessory storage, for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids; except extensions or private connections to existing pipelines, which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development, are permitted generally and without a Special Use Permit.

Public or private electrical generation facilities, electrical substations with a capacity of 5000 kilovolt amperes or more, and electrical transmission lines capable of transmitting 69 kilovolts or more.

Railroad facilities including tracks, bridges, switching yards and stations; except spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad rights-of-way and track and safety improvements in existing railroad rights-of-way, are permitted generally and without a Special Use Permit.

(Ord. No. 31A-63, 11-15-79)(Ord. No. 31A73, 7-26-82)

ORDINANCE

3. Cases No. Z-3-82 and SUP-5-82. McMiller Corporation

Mr. Orlando A. Riutort, Director of Planning, presented the staff report to the Board stating that since the rezoning and the special use permit are so clearly related to each other and since the special use permit cannot be granted until the property is rezoned, that they would be considered together in the staff report. He then made the following recommendations to the Board:

1. That the rezoning case Z-3-82 be approved in accord with the Planning Commission and staff recommendations;
2. That the County Attorney recommends the phrase "if available" be added to Condition 9 of Special Use Permit SUP-5-82. The Planning and Public Works Departments concur with this change;
3. That Special Use Permit SUP-5-82 with the twelve (12) conditions be approved in accord with the Planning Commission and staff recommendations; and
4. That the proffer received from the owner and developer be accepted.

Mr. Frink opened the public hearing.

Mr. Alvin Anderson of the law firm Anderson & Anderson, presented an extensive report to the Board outlining the history of the project of the McMiller Corporation and their plans for the development of the project.

Mr. Kelly Shaver and Ms. Jean Miller spoke in support of the project stating that their concerns for safety and traffic conditions had been satisfied by the McMiller Corporation.

There being no further speakers, Mr. Frink closed the public hearing.

Mr. DePue, speaking on behalf of the Planning Commission, felt that this project would be in the best interest of the County.

After further discussion on the issue, Mr. DePue moved for the approval of the Resolution. On a roll call, the vote was AYE: Frink, DePue, Edwards, Mahone, Taylor (5). NAY: (0).

R E S O L U T I O N

Resolution of Approval on Zoning Case No. Z-3-82
and Special Use Permit No. SUP-5-82

WHEREAS, in accord with Section 15.1-431 of the Code of Virginia, and Section 20-14 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled and conducted on July 26, 1982 for zoning case No. Z-3-82 and special use permit No. SUP-5-82 for 63.8± acres within parcels (1-2) and (1-3) on Real Estate Tax Map No. (48-2); and

WHEREAS, in accord with the Planning Department's recommendation, the Planning Commission following its public hearing on May 25, 1982, on June 22, 1982 unanimously recommended the approval of zoning case No. Z-3-82 and special use permit No. SUP-5-82 with twelve conditions; and

WHEREAS, zoning case no. Z-3-82 and special use permit No. SUP-5-82 with conditions are in accord with the adopted Comprehensive Plan of James City County,

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County does hereby approve zoning case No. Z-3-82 and accepts the voluntary proffer signed by Vernon M. Geddy, Jr., Caroline Geddy Frechette, and the McMiller Corporation; and,

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County does also approve special use permit No. SUP-5-82 for the construction of a nursing home, facilities for the residence and/or care of the aged, professional offices, business offices, and temporary offices with the following conditions:

- 1) The development and use of this property shall conform to all requirements of the R-5, Multi-family Residential District.
- 2) Uses shall be limited to all those uses in the R-5, Multi-family Residential District, plus the special permitted uses of a nursing home, facilities for the residence and/or care of the aged, professional offices, business offices and temporary offices.
- 3) Any accessory business uses developed in conjunction with the retirement center shall be limited to serving only the residents of this development.
- 4) Ingress and egress to this site shall be over an entrance built to the Virginia Department of Highways and Transportation's commercial standards, and all access roads shall be built to the construction standards as specified in the James City County Subdivision Ordinance.
- 5) A left turn lane shall be constructed by the developer on Lake Powell Road to serve this development. This turn lane shall be built to standards approved by the Virginia Department of Highways and Transportation. Any additional ditch work, drainage measures, piping, paving, and the provision of additional right-of-way to the Virginia Department of Highways and Transportation shall be accomplished by the developer. Additional right-of-way shall be reserved for the widening of Lake Powell Road to four (4) lanes.

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- 6) A stabilized construction entrance and construction access road shall be installed by the developer.
- 7) The special use permit is valid only on the 63.8 acres of parcels (1-2) and (1-3) on Real Estate Tax Map No. (48-2) to be rezoned to R-5.
- 8) The number and location of on-site fire hydrants shall be established by the Fire Marshal and installed by the developer.
- 9) The facility shall be connected to both public water and sewer from James City County or a political entity thereunder, if available.
- 10) A detailed site plan, including erosion and sedimentation controls, stormwater management, utility plans, entrance design details, landscaping, details of the access road design, and other construction details are to be approved by the Site Plan Review Committee. Bonds may be required to secure certain improvements.
- 11) If construction of these facilities has not begun with 24 months of the issuance of this permit, it shall become void. Construction shall be defined as clearing, grading, and the digging and pouring of all footings covered by this permit.
- 12) Right-of-way shall be reserved for a new four (4) lane access road and intersection with either Brookwood Drive or Route 199 at a location acceptable to James City County and the Virginia Department of Highways and Transportation.

4. Public Hearing - Secondary Road Construction Program

Mr. Henry H. Stephens, Planner, presented this matter to the Board. He recommended that the Board adopt the resolution adopting the six year construction program which priorities are re-evaluated annually giving the Board an opportunity to amend the priorities to reflect changing circumstances and opportunities. He also stated that the program is re-evaluated every other year to adjust it to changed priorities.

Mr. DePue made a motion to approve the resolution as submitted. On a roll call, the vote was AYE: Frink, DePue, Edwards, Mahone, Taylor (5). NAY: (0).

R E S O L U T I O N

Six Year Construction Program

WHEREAS, the James City County Board of Supervisors has established priorities for secondary road construction projects in James City County; and,

WHEREAS, a six year construction program has been developed from those priorities; and,

WHEREAS, the James City County Board of Supervisors, sitting jointly with the Virginia Department of Highways and Transportation Resident Engineer, has held a public hearing on the six year construction program,

NOW, THEREFORE, BE IT RESOLVED that the James City County Board of Supervisors adopts the six year construction program appended hereto.

E. CONSENT CALENDAR

Mr. Frink asked the Board members if they wished to have any items removed from the Consent Calendar. There being no special requests, Mr. Frink moved for the approval of the Consent Calendar. On a roll call, the vote was AYE: Frink, DePue, Edwards, Mahone, Taylor (5). NAY: (0).

1. Certification of Warrants - ResolutionRESOLUTIONCERTIFICATION OF WARRANTS

WHEREAS, the Board of Supervisors of James City County must certify warrants under the Code of Virginia;

THEREFORE, BE IT RESOLVED, that on a motion made by Mr. Frink and carried by a majority roll-call vote, the Board of Supervisors of James City County hereby certifies the following warrants for the month of June 1982:

GENERAL FUND	Checks	#104545-104826
	Totalling	\$1,565,548.50
GENERAL FUND PAYROLL	Checks	#207461-208069
	Totalling	\$241,878.72
SANITARY DISTRICT NO. 1	Checks	#500020
	Totalling	\$2,460.90
SANITARY DISTRICT NO. 2	Checks	#600107-600114
	Totalling	\$13,621.49
SUBDIVISION ESCROW		-0-
COMMUNITY DEVELOPMENT	Checks	#394-395
	Totalling	\$11,050.16
REVENUE SHARING	Checks	Memo Transfer
	Totalling	\$10,632.03
JCC BOND SINKING FUND		-0-

2. Case No. SP-21-82. Busch Properties, Inc. - Pelham's Ordinary, Phase IIRESOLUTIONSite Plan Application

Case No. SP-21-82. Pelham's Ordinary, Phase II

WHEREAS, it is understood that all conditions for consideration of this application have been met;

THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County that approval be granted for the proposed development of property owned by the applicant as described below and as detailed in the attached memorandum.

Applicant	Charles R. Orsborne on behalf of Busch Properties, Inc.
District	Roberts
Zoning	R-4, Residential Planned Community
Further Conditions	None

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3. Case No. CUP-31-82. Mr. Willie W. Jackson

R E S O L U T I O N

CONDITIONAL USE PERMIT

WHEREAS, it is understood that all conditions for the consideration of an application for a Conditional Use Permit have been met;

THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County that a Conditional Use Permit be granted for the placement of a mobile home on property owned and developed by the applicant as described below and on the attached site location map.

Applicant:	Mr. Willie W. Jackson
Tax Map I.D.:	(10-3) (1-8)
District:	Stonehouse
Zoning:	A-1, General Agriculture
Permit Term:	N/A
Further Conditions:	None

4. Case No. CUP-28-82. Mr. Raymond N. Minor

R E S O L U T I O N

CONDITIONAL USE PERMIT

WHEREAS, it is understood that all conditions for the consideration of an application for a Conditional Use Permit have been met;

THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County that a Conditional Use Permit be granted for the placement of a mobile home on property owned and developed by the applicant as described below and on the attached site location map.

Applicant:	Mr. Raymond N. Minor
Tax Map I. D.:	(15-3) (1-22)
District:	Stonehouse
Zoning:	A-1, General Agriculture
Permit Term:	N/A
Further Conditions:	None

5. Junior Tennis Instructional Program

R E S O L U T I O N

REVENUE APPROPRIATION

WHEREAS, the Board of Supervisors has previously acknowledged recreational facilities and activities for County residents,

WHEREAS, the United States Tennis Association, the Mid-Atlantic Tennis Association and the Virginia Tennis Association have provided the County with \$1000.00 in grants toward the operation of a Junior Tennis Program.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County hereby appropriate as revenue to the recreation fund \$1000.00.

6. Addendum to Pass Through Agreement Transit StudyR E S O L U T I O N

WHEREAS, James City County has contracted with JHK Associates to conduct two studies of the James City County Transit System; and,

WHEREAS, these studies are to be paid through a pass through arrangement with the Peninsula Planning District Commission; and,

WHEREAS, it is necessary to extend that agreement to provide for funds carried forward beyond June 30, 1982;

THEREFORE, BE IT RESOLVED the Chairman, Mr. Abram Frink, Jr., is authorized to execute "An Addendum to the Agreement for the Utilization of Pass Through Transit Funds in the Peninsula Area for Fiscal Year 1981-82 between the Peninsula Planning District Commission and James City County Dated July 20, 1981".

Mr. Edwards spoke in reference to item E-4 stating that the Board needs to do something about the County's mobile home regulations.

F. BOARD CONSIDERATIONS1. James Terrace Water Improvements - FmHA Loan

Mr. Wayland N. Bass, Director of Public Works, presented this matter to the Board. He stated that if the resolution is passed the County Administrator would be authorized to execute the Civil Rights Act Assurance, the Equal Opportunity Agreement, and the Loan Resolution. He recommended the adoption of the resolution.

Mr. Mahone discussed the obligation issues and then moved for the approval of the resolution. On a roll call, the vote was AYE: Frink, DePue, Edwards, Mahone, Taylor (5) NAY: (0).

RESOLUTION OF GOVERNING BODY OF James City County

The governing body of the James City County consisting of five members, in a duly called meeting held on the 26th day of July at which a quorum was present RESOLVED as follows:

BE IT HEREBY RESOLVED, that in order to facilitate obtaining financial assistance from the United States of America, acting through the Farmers Home Administration in the development of a water supply system to serve the community, the governing body does hereby adopt and abide by the covenants contained in the following agreements:

1. Form FmHA 400-4, Assurance Agreement
2. Form FHA 400-1, Equal Opportunity Agreement.
3. Form FHA 442-47, Loan Resolution
4. _____
5. _____

BE IT FURTHER RESOLVED that the County Administrator of James City County be authorized to execute on behalf of the Board of Supervisors the above agreements and to execute such other documents, including but not limited to debt instruments and security instruments as may be required in obtaining the said financial assistance.

This Resolution along with a copy of the above named documents is hereby entered into the permanent minutes of the meetings of this Board.

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2. Agreement with Peninsula Transportation District Commission

Mrs. Darlene L. Burcham, Assistant to the County Administrator, presented this matter to the Board stating that Pentran proposes to provide tourist-related transportation services from the Hampton/Newport News area to Busch Gardens and/or the Pottery and return. She stated that this was an experimental service and that the staff felt it would benefit the community and would encourage reciprocal arrangements between the two transit systems.

Mr. Edwards asked whether Pentran needed state approval for the program.

Mrs. Burcham replied that they did not need state approval.

Mr. Mahone moved for the approval of the resolution. On a roll call, the vote was AYE: Frink, DePue, Edwards, Mahone, Taylor (5). NAY: (0).

R E S O L U T I O N

Agreement with Peninsula Transportation District Commission

WHEREAS, the Board of Supervisors of James City County is interested in facilitating transportation services within and to James City County; and

WHEREAS, the Peninsula Transportation District Commission has requested permission to initiate a tourist-related service from the Hampton/Newport News area to James City County.

NOW, THEREFORE BE IT RESOLVED that the Board of Supervisors of James City County authorizes the execution of an agreement with PTC for the provision of this service.

THIS AGREEMENT, made this 26th day of July, 1982, by and between the PENINSULA TRANSPORTATION DISTRICT COMMISSION, party of the first part, and the COUNTY OF JAMES CITY, party of the second part.

WHEREAS, the party of the first part is a body corporate and politic created pursuant to the Transportation District Act of 1964, Va. Code Ann. § 15.1-1342, et. seq., as amended; and

WHEREAS, the cities of Hampton and Newport News, Virginia, are the component governments comprising the said transportation district, and

WHEREAS, the party of the second part is a county adjoining the component governments of the Peninsula Transportation District and is within the same planning district; and

WHEREAS, it is the desire of the Peninsula Transportation District Commission to enter into an agreement with the Board of Supervisors of James City County, pursuant to Section 15.1-1357(4) of the Code of Virginia, 1950 as amended, in order to permit it to provide specific transportation services to and from points of origin and points of destination within the boundaries of the County of James City.

NOW, THEREFORE, in consideration of the premises and of the covenants and conditions hereinafter stipulated, the parties hereto agree as follows:

1. The Peninsula Transportation District Commission is hereby granted the authority and power to provide specific transportation services to and from certain designated points of origin and/or destination within the boundaries of the County of James City.
2. The specific transportation services authorized pursuant to this agreement is transit bus service from points of origin in the cities of Newport News or Hampton to Busch Gardens and/or the Pottery Shop, located in James City County, including the return trip.
3. The purpose of this agreement is to permit the party of the first part to operate the specific transportation services to and from the designated points of origin and points of destination within the boundaries of the County of James City, and nothing herein shall be construed to permit the party of the first part to provide regularly scheduled mass transit service to the public, within said County.

The party of the second part shall have the absolute and unrestricted right to terminate this agreement, and the rights and privileges granted herein, by giving thirty (30) days written notice to the party of the first part, said thirty (30) day notice to commence upon the delivery or mailing of said notice to the executive director of the party of the first part at its principal office, 3400 Victoria Boulevard, Hampton, Virginia 23661.

3. State Aid to the Williamsburg Regional Library

Mr. John E. McDonald, Assistant to the County Administrator, presented this matter to the Board. He stated that the Williamsburg Regional Library was awarded a grant from the State Library Board of \$92,588.00. He said that as a condition of the award, the City Council of the City of Williamsburg and the Board of Supervisors of James City County must endorse the request to allow the acceptance of the grant. He then stated that by passing the resolution, the Board acknowledges receipt of the grant, directs the Regional Library Board to comply with the various provisions of the grant award and authorizes the County Administrator to execute the agreement with the State Library Board.

Mr. DePue asked whether this grant was part of the budget process.

Mr. McDonald replied that the staff estimates of the award was \$90,000 in the revised budget and the actual award was \$92,588 and that this is the normal annual state aid to the Regional Library.

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Glascock, Martin
& Grooms, P.C.
Attorneys at Law
P. O. Box 189
The Williams House
120 West 1st St.
Hampton, VA 23669

Mr. DePue moved for the approval of the resolution. On a roll call, the vote was AYE: Frink, DePue, Edwards, Mahone, Taylor (5). NAY: (0).

R E S O L U T I O N

WILLIAMSBURG REGIONAL LIBRARY GRANT AID

WHEREAS, the Board of Supervisors of James City County has been advised that \$92,588 has been approved in a Grant-in-Aid of the State Library Board for the Williamsburg Regional Library for FY 82-83, and

WHEREAS, the Board of Supervisors of James City County must submit written approval allowing expenditure against such Grant-in-Aid to be made.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County authorizes the acceptance of \$92,588 in Grant-in-Aid funds from the State Library Board for the FY 82-83, and

BE IT FURTHER RESOLVED that the Williamsburg Regional Library Board be authorized and directed to comply with requirements which must be met in order to receive Grants-in-Aid, and

BE IT FURTHER RESOLVED that the County Administrator be authorized and directed to execute the authorization of expenditures in State Aid Funds.

4. Proposed Solicitation Ordinance

Mr. Morton presented this matter to the Board stating that deleting Article I of the Ordinance would be permissible as requested by the Board at their last meeting. He stated that Mrs. Waltrip, the Commissioner of Revenue, recommended the provision that requires the applicant to list the make, model, and license plate of any vehicle used in conducting the solicitation.

Mr. DePue made a motion to defer any action on Article I of the Ordinance. On a roll call, the vote was AYE: Frink, DePue, Edwards, Mahone, Taylor (5). NAY: (0).

Mr. DePue made a motion to approve only Article II of the Ordinance.

Mr. Edwards stated that he would vote against the ordinance because he felt that it charged the County with the responsibility of providing a "guarantee" against fraudulent acts and that the County could not accept that responsibility.

Mr. Taylor also stated that he would not vote in favor of the ordinance.

On a roll call, the voted was AYE: Frink, DePue, Mahone (3). NAY: Edwards, Taylor (2). Motion carried for the approval of Article II of the Ordinance, which would become the original Article I.

ORDINANCE NO. 146

AN ORDINANCE TO AMEND THE CODE OF THE COUNTY OF JAMES CITY, BY
ADDING A NEW CHAPTER, CHAPTER 16-A, SOLICITATION.

BE IT ORDAINED, by the Board of Supervisors that the Code of the County of James
City be and the same is, hereby, amended by adding a new chapter, Solicitation.

ARTICLE I. SOLICITATION FOR NONCHARITABLE PURPOSES

Section 16A-1. Definitions.

For the purpose of this Article, the following words and phrases shall have the
meanings respectively ascribed to them by this Section.

Canvasser or solicitor. Any individual, whether a resident of the county or not,
traveling either by foot, wagon, automobile, motor truck, or any other type of
conveyance from house to house, or from street to street, taking or attempting to take
orders for sales of goods, wares or merchandise, subscriptions, personal property of
any nature whatsoever for future delivery, or for services to be furnished or performed
in the future whether such individual has, carries or exposes for sale, a sample of such
sale or whether he is collecting advance payments on such sales. This definition shall
include any person who, for himself or for any other person, corporation or organiza-
tion, hires, leases, uses or occupies any building, structure, lodging house, apartment,
shop or any other place within the County for the sole purpose of exhibiting samples
and taking orders for future delivery.

House. Any single or multi-family private dwelling.

Peddler. Any person, whether a county resident or not, traveling by foot, wagon,
automotive vehicle, motor truck, or any other type of conveyance, from house to
house, or from street to street, carrying, conveying or transporting goods, wares and
merchandise, offering and exposing the same for sale, or making sales or delivering
articles to purchasers, or who, by traveling from house to house, shall sell or offer the
same for sale from a wagon, automotive vehicle, motor truck, railroad car, or other
vehicle or conveyance; provided that one who solicits orders and as a separate
transaction, makes deliveries to purchasers as a part of the scheme or design to evade
the provisions of this article shall be deemed a peddler subject to the provisions of this
article. The word "peddler" shall also include the words "hawker" and "huckster".

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Peddler, solicitor or canvasser. The terms "peddler", "solicitor" or "canvasser" shall not be construed to include the following:

(1) Farmers or travel gardeners selling, offering for sale or soliciting orders for any products grown, raised or produced by them.

(2) Vendors of milk, butter, eggs, poultry, fish, oysters, game, meat, ice, wood, charcoal, or other family supplies of a perishable nature.

(3) Persons peddling, soliciting or canvassing where the proceeds derived therefrom are to be used for charitable purposes, provided they have filed a registration statement as required by section 16A-2 of this chapter; or on behalf of a qualified and filed candidate(s) for public office or a political party.

(4) Salesmen or agents for wholesale houses or firms who solicit orders from or sell to retail dealers in the county for resale or other commercial purposes, or to manufacturers for manufacturing or other commercial purposes.

(5) Children of or under sixteen years of age, except when they are acting as agents of adults covered by this article.

(6) Route salesmen for laundry, dry cleaning, rug cleaning, upholstery cleaning, garment storage, linen supply, towel supply, and diaper services operating from clearly identifiable vehicles, and newspaper delivery men on a regular route.

Section 16A-2. Certificate of registration required.

It shall be unlawful for any solicitor, canvasser or peddler as defined in section 16A-1 to engage in such activity within the meaning and application of this article within the county limits without first obtaining and possessing a valid registration certificate therefor in compliance with the provisions of this article.

Section 16A-3. Application generally.

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An application for a permit required by this article shall be made to the Administrator. Such application shall be sworn to and filed with the Administrator, or his designee, at least fifteen days prior to the time at which the permit applied for shall become effective. The application shall contain the following information, or in lieu thereof, a detailed statement of the reasons why such information cannot be furnished:

- (1) The name, address or headquarters of the person applying for the permit.
- (2) If the applicant is not an individual, the names and addresses of the applicant's principal officers and managers and a copy of the resolution, if any, authorizing such solicitation, certified to as a true and correct copy of the original by the office having charge of the applicant's records.
- (3) The make, model and license plate of any vehicle used in conducting the solicitation.
- (4) The kinds of goods, wares, merchandise offered for sale and whether such applicant, upon any such order obtained, will demand, accept or receive payment or deposit of money in advance of final delivery.
- (5) The period of time the applicant wishes to solicit to take orders in the county, giving the preferred dates for the beginning and ending of such solicitation.
- (6) The names and addresses of the person who will be in direct charge of conducting the solicitation and the names of all promoters connected or to be connected with the proposed solicitation.
- (7) An outline of the method or methods to be used in conducting the solicitation.
- (8) A statement to the effect that, if a permit is granted, it will not be used or represented in any way as an endorsement by the county, or by any department or officer thereof.

(9) A statement as to whether the applicant has ever been convicted of a felony or a misdemeanor involving moral turpitude and if so, under what circumstances.

(10) Such other information as may be reasonably required by the Administrator in order to determine the kind and character of the proposed solicitation and whether such solicitation is in the interest of and not inimical to the public welfare.

If, while any application is pending, or during the term of any permit granted thereon, there is any change in fact, policy, or method that would alter the information given in the application, the applicant shall notify the Administrator in writing thereof within twenty-four hours after such change.

Section 16A-4. Standards for granting permits.

The Administrator, or his designee, shall issue the permit provided for in Section 16A-23 hereof whenever he shall find, to the best of his abilities, the following facts to exist:

- (1) All of the statements made in the application are true:
- (2) The applicant has a good character and reputation for honesty and integrity, or if the applicant is not an individual person, that every member, managing officer or agent of the applicant has a good character or reputation for honesty and integrity;
- (3) The control and supervision of the solicitation will be under responsible and reliable persons;
- (4) The applicant, or if the applicant is not an individual person, the members, managing officer or agents of the applicant have not engaged in any fraudulent transaction or enterprise; and
- (5) The solicitation will not be a fraud on the public.

The Administrator shall file in his office for public inspection and shall serve upon the applicant, by registered mail, a written statement of facts and his decision upon each application.

Section 16A-5. Applicant's photograph, references and fingerprints.

(a) All applications for a permit under this article shall be accompanied by a photograph of the applicant, and two written references as to his, or their, good character; the photograph shall be attached to the application.

(b) All applicants for a permit under this article shall be fingerprinted by the James City County police department which department shall send the prints to the Federal Bureau of Investigation for checking.

Section 16A-6. Applicant's bond.

If the application filed pursuant to this article shows that the applicant filing the same will receive, demand or accept the payment or deposit of money in advance of final delivery of goods, wares, merchandise, magazines, photographs or other articles, such application shall be accompanied by a bond in the penal sum of five hundred dollars or by a certified check in the same amount. Such bond shall be executed by the applicant as principal, and a surety company licensed to do business as such in the state, and shall be approved as to form by the County Attorney. Such bond shall be conditioned upon making final delivery of such goods, wares, merchandise, magazines, photographs or other articles in accordance with the terms of any order(s) obtained. Such bonds shall be for the use and benefit of all persons who pay in advance or make an advance deposit on the purchase price of such order(s), and the terms of such bond shall so stipulate; any such bond or check shall be held to a period not to exceed 60 days after final delivery of all such goods, wares, merchandise, photographs or other articles.

Section 16A-7. Misrepresentation in application.

No person shall make any false or misleading statement or misrepresentation in any application filed under this article. Violations of this provision shall be a misdemeanor punishable in accordance with section 16A-14 of this chapter.

Section 16A-8. Permit fee.

The fee for a permit required by this article shall be ten dollars, which shall be paid at the time the permit application is filed. Such fee is non-refundable.

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Section 16A-9. Permit term.

No permit granted under this article shall be issued for a longer period than twelve months.

Section 16A-10. Permit as solicitation identification card.

In the event a permit is obtained under this article, such permit shall constitute an identification card and shall be carried by the person obtaining such permit at all times while engaged in soliciting or taking orders pursuant thereto. It shall be the duty of the permittee to have sufficient copies of the permit made in order to provide one to each employee soliciting under the permit and each employee shall carry such copy while soliciting. It shall be the duty of each person soliciting pursuant to such permit to exhibit the same when requested by any county resident, law enforcement officer or prospective customer.

Section 16A-11. Exhibition or use of another person's permit or altered permit.

No person shall exhibit or use any permit that has been issued to another person under this article. This prohibition does not apply to an employee using or exhibiting a copy of such a permit pursuant to section 16A-12. Nor shall any person exhibit or use a permit issued under this article that has been altered.

Section 16A-12. Denial. Application for relief.

(a) Upon denying a permit applied for under this article, the County Administrator shall promptly notify the permit applicant.

(b) Within five days after receiving notification that the application for a permit to solicit under this article has been denied, the applicant may file a written request for a hearing on the application before the Board of Supervisors, together with written exceptions to the findings of fact upon which the County Administrator based

the denial. Upon the filing of such a request, the Board of Supervisors shall fix a time and place for the hearing and shall notify the applicant thereof. The hearing shall be held within thirty days after the request is filed. At the hearing, the applicant may present evidence in support of the application. Any interested person may, in the discretion of the Board of Supervisors, be allowed to participate in the hearing and present evidence in opposition to or support of the application.

(c) Within twenty one days after the conclusion of the hearing provided for in subsection (b), the Board of Supervisors shall either grant or deny the application for a permit.

Section 16A-13. Supervision and revocation.

Whenever it shall be shown, or whenever the Administrator has knowledge, that any person to whom a permit has been issued under this article has engaged in any fraudulent practice or misrepresentation, has violated any of the provisions of this chapter, or that any person, employee or solicitor of a permit holder has misrepresented the purpose of the solicitation, the Administrator shall immediately suspend the permit and give the permit holder written notice, by registered or certified mail of a hearing to be held within five working days of such suspension to determine whether the permit should be revoked. The notice shall contain a statement of the facts upon which the Administrator based the suspension of the permit, and any other facts which may aid the Administrator in determining whether this article has been violated and whether the purpose of the solicitation has been misrepresented. If, after such hearing, the Administrator finds that this article has been violated or the purpose of the solicitation misrepresented, he shall, within five days after the hearing, file in his office for public inspection and serve upon the permit holder and all interested persons participating in the hearing, a full written statement of the facts upon which he based such finding and shall immediately revoke the permit. If, after such hearing, the Administrator finds the article has not been violated the Administrator shall, within two days after the hearing, give to the permit holder a written statement cancelling the permit suspension and stating that no violation or misrepresentation was found.

Section 16A-14. Penalty.

Any person who shall violate any of the provisions of this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be sentenced to pay a fine up to one thousand dollars or undergo imprisonment for not more than one year, or both.

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Section 16A-15. Severability.

If any provision of this chapter, or the application of such provision to any person or under any circumstances shall be invalid, the remainder of this chapter, or the application of such provisions to persons or under circumstances, other than those to which it shall have been held invalid shall not be affected thereby.

5. Personnel and Pay Plan Revisions

A. Amendment to County Disciplinary Policy

Mr. Mahone made a motion to approve the resolution. On a roll call, the vote was AYE: Frink, DePue, Edwards, Mahone, Taylor (5). NAY: (0).

R E S O L U T I O N

WHEREAS, the James City County Board of Supervisors desires to provide administrative flexibility without affecting employee safeguards when handling disciplinary actions.

THEREFORE, BE IT RESOLVED that page 31, Chapter VIII of the James City County Personnel Policies and Procedures Manual be rescinded.

BE IT FURTHER RESOLVED that amended Chapter VIII page 31, attached, replace the rescinded section.

A copy of the employee warning report shall be placed in the employee's personnel file in the Personnel Office and a copy shall be forwarded to the Office of the County Administrator.

The length of suspension shall not exceed 30 days.

- E. Discharge - in the event that a supervisor believes discharge is the appropriate action, the supervisor is to contact the department head. The department head shall arrange a meeting with the County Administrator and the Personnel Officer to discuss the offense(s) and the appropriate action to be taken under the circumstances. If it is determined that discharge may be in order, the County Administrator shall direct the Personnel Officer to meet with the employee and supervisor and discuss the circumstances involved. If termination is decided upon, the employee shall be advised of all termination rights including insurance options and grievance appeal.

IMPORTANT NOTE: Prior to suspension or discharge actions, an employee shall be informed by the County of the reasons for the suspension or discharge, and be given up to two working days to respond to those reasons. An employee may be immediately suspended or discharged, however, where the employee's continued presence may be a substantial threat to the welfare of the agency or fellow employees. In such cases, the employee shall be informed of the reasons for such suspension or discharge as soon as possible thereafter and shall then be given a reasonable opportunity to respond to those reasons. A written notice confirming the cause and nature of the suspension or discharge actions shall be provided to the employee either before or within 24 hours following such actions.

All written notices shall include a reference to the employee's right to file a grievance.

Section 6. Appropriate Disciplinary Actions List

Offenses may range from minor to major. Disciplinary action shall vary according to the seriousness of the offense. There are three categories of offenses. All offenses within each of the three categories shall carry the same penalty as set forth herein.

In unusual situations, mitigating circumstances may warrant a different disciplinary action than that specified below. Mitigating circumstances include those conditions related to a given offense that would otherwise support a reduction of corrective action in the interest of fairness and objectivity. Mitigating circumstances may also include consideration of an employee's long service with a history of otherwise satisfactory work performance.

Likewise, unusual circumstances may warrant a disciplinary action more severe than prescribed below. These mitigating circumstances include conditions related to the offense and the employee history of documented unsatisfactory conduct.

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B. Repayment of Employee Development Expenses

Mr. Mahone moved for the approval of this resolution. On a roll call, the vote was AYE: Frink, DePue, Edwards, Mahone, Taylor (5). NAY: (0).

R E S O L U T I O N

WHEREAS, the James City County Board of Supervisors desire to provide maximum employee development opportunities to its employees, and

WHEREAS, the James City County Board of Supervisors desired to minimize the cost of employee development programs and reduce employee turnover.

THEREFORE, BE IT RESOLVED by the James City County Board of Supervisors that the attached be adopted as Section 4 of Chapter VI of the James City County Personnel Policies and Procedures Manual.

CHAPTER VI

Section 4. Workshops and Other Training and Developmental Programs

With the approval of the County Administrator, and provided funds are available, employees may attend workshops and other training and developmental programs which are directly related to their current jobs. Based upon the cost of a training program, the type of training program, and the length of service of the employee, the County Administrator may execute an agreement that states if the employee voluntarily fails to remain in County employment for at least one year after program attendance, the cost of the program shall be reimbursed to the County by the employee. Repayment shall be deducted from the final payroll proceeds of the employee if repayment is not made prior to termination.

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C. Leave Accrual - Permanent Part-Time Employees

Mr. Mahone made a motion to amend the resolution to read "Non-probationary permanent part-time employees shall earn one shift of vacation and one-half ($\frac{1}{2}$) shift of sick leave per month..."

On a roll call, the vote was AYE: DePue, Mahone (2). NAY: Frink, Edwards, Taylor (3). Motion failed.

Mr. DePue moved for the approval of the resolution as submitted. On a roll call, the vote was AYE: Frink, DePue, Edwards, Taylor (4). NAY: Mahone (1). Motion carried by a 4-1 vote.

R E S O L U T I O N

WHEREAS, the James City County Board of Supervisors is desirous of attracting and retaining productive permanent part-time employees for appropriate positions.

THEREFORE, BE IT RESOLVED by the James City County Board of Supervisors that Chapter IV, Section 4, of the James City County Personnel Policies and Procedures Manual be changed as follows

Part-Time Employment

. . . on an hourly basis and are not eligible for ALL employee benefits. . . .

. . . part-time PERMANENT employees may receive merit increases based on the same conditions as exist for full-time PERMANENT employees.

BE IT FURTHER RESOLVED that Chapter V, Section 22, entitled "Part-Time Employee Benefits", be added to the James City County Personnel Policies and Procedures Manual as follows

Part-Time Employee Benefits

Non-probationary permanent part-time employees shall earn one shift of vacation and one shift of sick leave per month of permanent part-time employment (after completion of the six-month probationary period) with the County. A shift is defined as the number of regularly scheduled hours worked by a given employee per day.

Permanent part-time employees shall not accrue leave during their first six months of employment. Accrual rates shall be based on the average shift length for the preceeding six-month period.

Permanent part-time employees are not eligible for Blue Cross/Blue Shield health care benefits or benefits provided by the Virginia Supplemental Retirement System.

D. Changes in Personnel Policy - Personal Leave

Mr. Edwards moved for the approval of the resolution. On a roll call, the vote was AYE: Frink, DePue, Edwards, Mahone, Taylor (5). NAY: (0).

R E S O L U T I O N

WHEREAS, the James City County Board of Supervisors desires to clarify the intent and purpose of Chapter V, Section 5, of the Personnel Policies and Procedures Manual, entitled "Personal Leave".

THEREFORE, BE IT RESOLVED by the James City County Board of Supervisors that Section 5 of Chapter V of said Manual be rescinded.

BE IT FURTHER RESOLVED that amended Section 5 of Chapter V, attached, replace the rescinded section.

CHAPTER V

Section 5. Personal Leave

Up to 21 hours in any calendar year may be used in connection with a death in the employee's immediate family requiring the attendance of the employee. Immediate family shall include: spouse, mother, father, son, daughter, brother, sister, and grandparents.

Where special circumstances warrant, personal leave may be used, with the approval of the department head, for major illness in the employee's immediate family requiring the attendance of the employee.

Absence in excess of this allowance, unless authorized by the County Administrator, shall be deducted from annual leave, or be regarded as leave without pay. Any employee wishing it to be calculated as leave without pay, while having accrued leave, shall notify their supervisor upon return to work.

E. Revision to the County Grievance Procedure

Mr. Mahone made a motion to approve the resolution. On a roll call, the vote was AYE: Frink, DePue, Edwards, Mahone, Taylor (5). NAY: (0)

R E S O L U T I O N

WHEREAS, the James City County Board of Supervisors desires to have the Employee Grievance Procedure in compliance with State law.

THEREFORE, BE IT RESOLVED by the James City County Board of Supervisors that Chapter IX of the Personnel Policies and Procedures Manual be rescinded.

BE IT FURTHER RESOLVED that amended Chapter IX, attached, replace the rescinded section.

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CHAPTER IXGRIEVANCE PROCEDURESection 1. Objective

The most effective accomplishment of the work of the County requires prompt consideration and equitable adjustment of employee grievances. It is the desire of the County to adjust grievances informally, and both supervisors and employees are expected to make every effort to resolve problems as they arise. However, it is recognized that there will be grievances which will be resolved only after a formal appeal and panel review.

Section 2. Coverage of Personnel

All permanent County employees are eligible to file grievances including employees of constitutional officers if such officers have concurred in the use of the procedure.

Section 3. Definition of Grievance

A grievance shall be a complaint or dispute by an employee relating to his or her employment, including but not necessarily limited to, disciplinary actions involving dismissal, demotion, or suspension; concerns regarding the application of policies and regulations; acts of reprisal as result of utilization of the grievance procedure; *acts of reprisal as a result of participation in the grievance of another employee*; and complaints of discrimination on the basis of race, color, creed, or sex.

Complaints are non-grievable when they involve the content of ordinances, statutes, or established policies or regulations; establishment or revision of wages, salaries, position classifications, or general benefits; work activity accepted by the employee as a condition of employment or work activity which may be reasonably expected to be a part of the job content; the methods, means and personnel by which such work activities are to be carried on; failure to promote except where the employee can show that established policies were not followed or applied fairly; discharge, demotion, or lay off because of lack of work, reduction in work force, or job abolition.

Section 4. Management Rights

Nothing in this procedure is intended to circumscribe or modify the existing management right of any County office to do the following: (1) direct the work of its employees as well as establish and revise wages, salaries, position classifications and general employee benefits; (2) hire, promote, transfer, assign and retain employees within the County government; (3) maintain the efficiency of governmental operations; (4) relieve employees from duties of the County in emergencies; (5) determine the methods, means, and personnel by which operations are to be carried on.

Section 5. Grievability

The question of the grievability of a particular appeal shall be determined by the County Administrator within 10 working days of such request. The decision may be appealed by the grievant to the Circuit Court within 10 working days. *The decision of the Circuit Court is final; it cannot be appealed.* The issue of grievability may occur at any step of the procedure prior to the panel hearing; but once raised, the issue must be resolved before further processing of the grievance. In any event, the issue of grievability must be resolved prior to the panel hearing or it shall be deemed to have been waived.

The classification of a complaint as non-grievable shall not be construed to restrict any employee's right to seek or management's right to provide customary administrative review of complaints outside of the scope of the grievance procedure.

Section 6. Policy

All stages of the grievance beyond the first step shall be in writing on forms supplied by the County personnel office. The grievant must identify the nature of the grievance and the remedy expected.

Beyond the first step, the grievant may have a legal counsel or a fellow employee of his/her choice present; management may have legal counsel or a witness of its choice present.

Failure by the grievant to comply with all substantial procedural requirements of the grievance procedure, without just cause, will terminate the right to further appeal. Failure of the respondent to comply with all substantial procedural requirements of the grievance procedure without just cause will, at the option of the grievant, advance the grievance to the next step in the grievance resolution process. Failure of the respondent, without just cause, to comply with all substantial procedural requirements of the final step of the procedure shall result in a decision in favor of the grievant.

Section 7. Procedure

Step 1 - Within 14 calendar days after the occurrence giving rise to the grievance the employee shall first present his grievance verbally to his immediate supervisor who shall make careful inquiry into the facts and circumstances of the complaint. If the supervisor fails to reply within five working days the grievance automatically proceeds to the next step.

Step 2 - If a satisfactory resolution is not reached at the first step the grievant may submit the grievance in writing using the forms provided by the Personnel Office to his/her department head within five working days. The department head will investigate the grievance and meet with the grievant within five working days. A second step written reply will be furnished the employee within three working days after the second step meeting.

Step 3 - If the employee is still aggrieved he/she shall request in writing within five working days after receipt of the second step reply a review of the grievance by the County Administrator. The County Administrator shall convene a meeting within five working days after receipt of the request for review. Within seven working days after the date of the meeting the County Administrator shall render his decision in writing to the employee.

Step 4 - If the County Administrator's reply does not resolve the grievance, the grievant may request a panel hearing. Such request must be made in writing within five working days after receipt of the third step reply. If the grievant requests a panel hearing as prescribed, the panel is to be selected as follows:

- (a) One panel member selected by the grievant.
- (b) One panel member selected by the County Administrator.
- (c) One panel member selected by the other two appointees.

Panel members must be County employees and not previously involved in the matter being grieved.

Where agreement on the third panel member cannot be reached, the County shall request the Judge of the Circuit Court to select a third panel member.

The panel has the responsibility to interpret the application of appropriate government procedures and policies in the case. It does not have the prerogative to formulate or to change policies or procedures.

The majority decision of the panel shall be final and binding in all its determinations. The conduct of the hearing shall be as follows:

- (a) The panel shall limit attendance at the hearing to those who have a direct interest in the hearing.
- (b) Exhibits when offered may be received in evidence by the panel and, when so received, shall be marked and made a part of the record.
- (c) The grievant and supervisor or their representative shall then present their claim and proofs and witnesses who shall submit the questions to the panel for their examination.
- (d) The parties may offer evidence, and shall produce such additional evidence as the panel may deem necessary for an understanding and determination of the dispute. The panel shall be the judge of the relevancy and materiality of the evidence offered. All evidence shall be taken in the presence of the panel and of the parties.

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- (e) The panel may, at its discretion, vary this procedure, but shall afford full and equal opportunity to all parties and witnesses for presentation of any material or relevant proofs.
- (f) The hearings may be reopened by the panel on its own motion or upon application of a party for good cause shown at any time before the award is made.

The panel decision shall be filed in writing by the panel chairman with the County Administrator within ten working days after the completion of the hearing. Copies of the decision shall be transmitted to the employee, the employee's supervisor and the Personnel Officer.

Failure to comply with the panel decision or reprisals taken as a result of the panel decision shall be grievable.

The parties to the grievance, by mutual agreement, or the panel may extend any or all of the time periods established in this procedure.

The grievant must bear any cost involved in employing representation or in preparing or presenting his/her case.

A grievant may request the Circuit Court to order that the decision of a grievance panel be implemented.

G. MATTERS OF SPECIAL PRIVILEGE

Mr. DePue commented on the authority the Board has delegated to the County Administrator to award contracts. He felt that the purchasing manual gives power to the County Administrator that should be retained by the Board. His main concern was the bids for water projects that were recently received and he suggested that the Board request the County Administrator to defer the award of contract number four, subject to review by the Board.

Mr. Edwards asked whether Mr. DePue was asking for a policy change.

Mr. Taylor stated that the Board should not make a policy change for a case which is already in process, and that the Board should wait to make any changes later.

Mr. Oliver stated that the Board is informed of bids and the results of bid awards. He stated that when the Board expresses interest in a particular project, such as the Lake Powell Road waterline, then the staff brings the contracts' bids to the Board prior to the contract awards.

Mr. DePue stated that he felt that the Board should reserve the right to award bids, particularly for large-dollar contracts.

After continued discussion on the matter, Mr. Morton suggested, at the appropriate time, that the Board go into an Executive Session to discuss potential legal issues relating to Mr. DePue's suggestion.

H. REPORTS OF THE COUNTY ADMINISTRATOR

Boarding Up of Unsafe Structure - Mr. Robert James - Review of Current Unsafe Structure Procedures

Mr. Daniel R. Lynn, Jr., Assistant to the County Administrator, presented this matter to the Board explaining the procedures that the Building Inspections Office follows concerning boarding up unsafe structures and the specific issues relating to the proposed lien on the property of Mr. Robert James.

Mr. Morton stated that the Building Official has no choice but to take the appropriate action that the Code requires.

Mr. Taylor stated that he would not support this resolution.

Mr. Edwards moved for approval of the resolution. On a roll call, the vote was AYE: Frink, DePue, Edwards, Mahone (4). NAY: Taylor (1). Motion carried.

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 service 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 service was 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 service rendered, to wit:

Boarding up windows and doors.

Account No.	Robert James 2070 Third Avenue New York, New York 10029								
Description of property:	Neighbors Lane Tax Map # (32-2) Parcel # (5-9) Deed Book # 66, Page # 181								
Amount Due:	<table> <tbody> <tr> <td>Labor</td> <td>\$32.28</td> </tr> <tr> <td>Equipment</td> <td>12.00</td> </tr> <tr> <td>Material</td> <td><u>54.80</u></td> </tr> <tr> <td></td> <td>\$99.08</td> </tr> </tbody> </table>	Labor	\$32.28	Equipment	12.00	Material	<u>54.80</u>		\$99.08
Labor	\$32.28								
Equipment	12.00								
Material	<u>54.80</u>								
	\$99.08								

Mr. Oliver reported that on August 11, 1982 there would be a meeting concerning the State Room and Meals Tax and that members of the Board would be requested to attend.

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Mr. DePue and Mr. Edwards stated that they would attend.

Mr. Oliver presented a resolution to the Board suggesting the replacement for Calvin Cross on the Community Center Feasibility Study Committee by Darlene L. Burcham.

Mr. DePue moved for the approval of that resolution. On a roll call, the vote was AYE: Frink, DePue, Edwards, Mahone, Taylor (5). NAY: (0).

R E S O L U T I O N

REPRESENTATIVES TO THE JOINT COMMUNITY CENTER FEASIBILITY STUDY

WHEREAS, the Board of Supervisors of James City County has previously appointed Calvin Cross as one of three representatives to the Joint Community Center Feasibility Study, and

WHEREAS, Mr. Cross has resigned his position as Recreation Coordinator and continuity on said study committee is desirable,

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County appoints Darlene L. Burcham as its representative to replace Calvin Cross on the study committee.


Mr. Oliver stated that the Board members, along with the Planning Commission and Industrial Development Authority, were invited to attend a presentation by the Virginia Peninsula Economic Development Council at a worksession on August 9, 1982 at 5:00 P.M.

Mr. Edwards moved that the Board convene into Executive Session pursuant to Section 2.1-344(6) of the Code of Virginia 1950, as amended. On a roll call, the vote was AYE: Frink, DePue, Edwards, Mahone, Taylor (5). NAY: (0).

The Board convened into Executive Session at 9:40 P.M. and reconvened into Public Session at 10:05 P.M. at which time Mr. DePue withdrew his suggestion that the Board defer the water contract award.

Mr. Edwards made a motion that the Board recess until August 9, 1982 at 5:00 P.M. On a roll call, the vote was AYE: Frink, DePue, Edwards, Mahone, Taylor (5). NAY: (0).

The meeting RECESSED at 10:10 P.M. until August 9, 1982 at 5:00 P.M. for a presentation of the VPEDC.


James B. Oliver, Jr.
Clerk to the Board