

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 5TH DAY OF MAY NINETEEN HUNDRED EIGHTY-SIX AT 7:30 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

William F. Brown, Chairman, Roberts District
 Stewart U. Taylor, Vice-Chairman, Stonehouse District
 Jack D. Edwards, Berkeley District
 Thomas D. Mahone, Jamestown District
 Perry M. DePue, Powhatan District

James B. Oliver, Jr., County Administrator
 Darlene L. Burcham, Assistant County Administrator
 Frank M. Morton, III, County Attorney

**B. MINUTES - April 16, 1986 - Budget Work Session
 April 21, 1986 - Work Session
 April 21, 1986 - Regular Meeting**

Mr. Brown made a motion to amend the April 21, 1986 minutes, page 11, the Chickahominy Road Community Development Block Grant Application resolution by inserting a fourth clause, "WHEREAS, \$248,800 in local funds are allocated to the project and approximately \$1.4 million in private funds and \$1 million in other public funds will also be expended on this project."

On a roll call, the vote was AYE: Brown, Edwards, DePue, Mahone, Taylor (5). NAY: (0).

Mr. Mahone made a motion to amend the April 16, 1986 minutes, page 3, paragraph 6, electronic motors to "electric" motors, and to approve all minutes as corrected.

On a roll call, the vote was AYE: Brown, Edwards, DePue, Mahone, Taylor (5). NAY: (0).

C. PUBLIC HEARINGS

Due to a conflict of interest, Mr. Brown withdrew himself from the Board and Mr. Taylor, Vice-Chairman, opened the public hearing portion of the meeting.

1. Case No. MP-1-86. Kingsmill Master Plan Amendment

The Planning Commission recommends approval of the amendments.

Mr. Taylor opened the public hearing.

1. Mr. Harry Knight, the applicant, spoke in favor of the amendments. Mr. Knight stated that part of Fairfax Woods and Burwell Glen was removed from multi-family zoning when the second golf course was built in Area 2, thus reducing density. Mr. Knight stated that the Area 1 amendments will create a more attractive appearance than the original master plan and will permit rental condominiums. Mr. Knight further stated that original plans for widening Mounts Bay Road and Kingsmill Road will not be necessary due to the changes proposed.

2. Mr. John Digges, 16 Bray Wood, stated he favors the Area 2 amendments, but not the Area 1 amendments. Mr. Digges stated the restrictions and covenants recorded in the plat book require 75% of the landowners to agree to a master plan amendment, but the landowners were not notified of the proposed changes.

3. Mr. Luis Lazo, 25 Whitakers Mill, stated he agrees substantially with Mr. Digges. Mr. Lazo further stated that the Kingsmill Homeowners Association did not have a chance to review the master plan amendments and questioned if the amendments were in accordance with the recorded master plan and covenants. Mr. Lazo stated his main concern is opposition to mixing commercial uses with residential uses. Mr. Lazo requested the Board delay action on this matter.

Mr. Taylor closed the public hearing.

In response to a question from Mr. DePue, Mrs. Victoria Gussman stated this is the first amendment to Area 1. Mr. Norman Mason, Langley and McDonald, stated there has been one change which consisted of a downward reclassification to residential use.

Mr. Mahone stated he has no problems with the amendments in Area 2, but is concerned with the density in Area 1. Mr. Mahone suggested deferring this issue until the Kingsmill Homeowners Association has a chance to review the amendments and to get answers to their questions.

Mr. Mahone made a motion to defer the matter.

Mr. Edwards stated the issue should not be deferred because of private issues between the homeowners and the developer.

Mr. Frank Morton noted that the Board could vote on the issue tonight and that the issues raised by the speakers should be discussed between the developer's legal counsel and the residents.

Mr. David Otey, attorney representing the applicant, stated the restrictions and covenants recorded in the master plan stated the developer could only add land to the existing plan with landowners' approval, but when additional sections within the plan are developed, the developer has the right to make that decision.

Mr. Mahone withdrew his motion to defer.

Mr. Edwards made a motion to approve the amendments.

On a roll call, the vote was AYE: DePue, Edwards, Mahone, Taylor
(4). NAY: (0).

RESOLUTION

Of Approval

Case No. MP-1-86. Kingsmill Master Plan Amendment

WHEREAS, Busch Properties, Incorporated, has applied for amendments to the approved master plan for Kingsmill on the James in two separate areas herein referred to areas 1 and 2; and

WHEREAS, area 1 consists of 14 acres located south and west of the existing clubhouse and area 2 consists of 10 acres located in the eastern portion of the Plantation Golf Course, being bounded by holes 13, 14 and 15 of the golf course; and

WHEREAS, Section 20-15 of the James City County Zoning Ordinance reserves to the Board of Supervisors the authority to amend a master plan; and

WHEREAS, the proposed amendments request the master plan designation for area 1 to be changed from Commercial to Residential "D" multi-family and for area 2 from Residential "A" single-family to "Residential "B", townhouse; and

WHEREAS, the James City County Planning Commission has considered the application and recommended, by a 10-1 vote, that it be approved.

THEREFORE, BE IT RESOLVED that the master plan of Kingsmill on the James be amended as described herein and in the attached memorandum.

Mr. Brown rejoined the Board and reassumed his role as Chairman.

2. Case No. SUP-8-86. Crossroads

The Planning Commission recommends approval of the permit subject to three conditions. Staff recommends approval with an additional condition.

Mr. Brown opened the public hearing.

1. Mr. Don Willis, Executive Director, Crossroads Community Youth Home, spoke in favor of the permit. Mr. Willis stated several locations were considered and the one under consideration for the SUP was the most suitable. Mr. Willis stated there has been no major incident at Crossroads in 14 years and the number of residents will not exceed 12. Mr. Willis thanked the Board for their continued support.

Mr. DePue asked Mr. Willis to give a breakdown of the Colonial Group Home Commission members.

Mr. Willis responded that the Commission consists of nine members, two from each district (Gloucester County, York County, James City County and the City of Williamsburg) and one judge. Mr. Willis stated there are currently four members from James City County serving on the Commission.

2. Mrs. Patricia Newman, 107 Hempstead Road, spoke in opposition to the permit and stated she is concerned with the impact Crossroads might have on property values in Windsor Forest. Mrs. Newman presented the Board with a petition opposing the permit.

3. Mr. Edward Gross, 155 Devon Road, spoke in opposition to the permit. Mr. Gross stated there are too many questions not answered and requested the Board defer action on the matter until they are answered. Mr. Gross stated the drive was too narrow and a great deal of money would be required for renovation. Mr. Gross asked why Eastern State Hospital property couldn't be used. Mr. Gross stated that he felt the number of youth permitted would be forced to increase over time.

Mr. Mahone stated a location on Eastern State Hospital would have a negative impact on youth being picked up by school bus near the hospital.

Mr. Brown stated Crossroads is not a reformatory or prison, and that in order to increase the number of residents permitted, the applicant would have to go through the same legal process as was used in this request.

Mr. Mahone noted that the State Department of Corrections indicated that if Crossroads is to receive State funds, they would need to increase the number of residents to twelve. Mr. Mahone stated he would like the Colonial Group Home Commission to schedule a meeting with residents to explain the program.

4. Dr. William M. Lee, 4560 Longhill Road and representative for the Wellspring Methodist Church, spoke in favor of the permit and encouraged citizens to learn about the program.

5. Mr. William Maruca, 101 Lexington Avenue, stated he has four concerns: 1) a premium price is being paid; 2) he feels the purchase of the land has as its real goal additional agencies being added in that location; 3) was a study conducted to see how feasible the program is; and 4) is this the best use of funds.

6. Mr. Bob Moore, 116 Country Club Drive, spoke in opposition to the permit. Mr. Moore stated the expense to taxpayers is exorbitant; recreation facilities are not available and a high privacy fence will need to be erected. Mr. Moore stated he feels the property on Longhill Road and Olde Towne Road would be more suitable locations.

7. Judge Sam Powell, spoke as the Juvenile Judge, a resident of Windsor Forest, and as a member on the Colonial Group Home Commission. Judge Powell stated the purpose of Crossroads is to separate youth from their family to receive positive results. Judge Powell stated the youth must pass

certain criteria developed by the Admissions and Release Committee before being accepted into Crossroads and that Crossroads maintains close supervision on all its residents. Judge Powell stated that he feels the proposed location is acceptable in all three of his capacities.

8. Mr. Robert Hornsby, 311 Indian Springs Road, stated Crossroads should be placed near public facilities but away from residential communities. Mr. Hornsby stated there is a lot of public land available on Longhill Road near Eastern State for Crossroads, and further stated that Eastern State may have land for sale. Mr. Hornsby stated he is concerned residents may go elsewhere to live, which will affect his company, and that he feels Crossroads is too close to proposed houses in his development.

9. Mrs. Newman, in the audience, stated that she feels Mr. Mahone should not vote on this issue because he is a member on the Colonial Group Home Commission.

10. Mr. Sandy Fagan, 707 Maupin Place, member of the Crossroads Admissions and Release Committee, spoke in support of the permit. Mr. Fagan stated that if the application is approved, he hopes citizens will become involved and familiarize themselves with the program.

In response to a question from Mr. DePue regarding offenses committed, Mr. Don Willis responded that in his five years as Crossroads Director, the most serious offense committed involved violation of a Crossroads rule.

In response to a question from Mr. Brown regarding types of offenders sent to Crossroads, Judge Powell responded the offenses are primarily delinquent acts involving youths 14-17 years of age. Mr. Willis noted that teenagers with drug, alcohol and/or mental health problems are not accepted at Crossroads.

Mr. Robert Hornsby inquired if this permit is in complete violation of the spirit of the zoning ordinance in that the County specifies the number of non-related members who can live in the same house.

Mr. Morton responded the ordinance did not pertain to this facility because it is an institution, not a single family residence.

11. Mrs. Sandra Stein, 302 Hempstead Court, spoke in favor of the permit and stated the public needs to be educated on the program and that she as a parent is grateful to have this program available to the community.

12. Dr. James Rilley, Psychiatrist, spoke in favor of the permit and stated the community is fortunate to have such a facility available to them, and particularly one that has such impressive results.

13. Mr. Ed Oyer, 139 Indian Circle and a member on the Colonial Group Home Commission, spoke in favor of the permit. Mr. Oyer addressed questions and concerns brought up by previous speakers and re-emphasized that he personally looked for a location for Crossroads and feels this is the best location available. Mr. Oyer further stated that the State Department of Corrections will not provide funds until after the property is acquired.

14. Mrs. Moore, a member of the audience, stated that she read in the newspaper that 60% of the youth at Crossroads are from York County, and inquired as to why York County was not asked to locate the facility in their community.

Mr. Don Willis responded that the article was incorrect and that while the proportions vary from year to year, James City County and York County have approximately one-third of the participants.

Mr. Brown closed the public hearing.

Mr. DePue stated this is a "locally unwanted land use" case; it meets an important need, but no one wants it near them. Mr. DePue stated he does not feel the buy land and build option had been explored fully, but realized the destruction of the current facility last December limited the time available for such an option.

Mr. Don Willis stated that it is estimated that \$45,000 will be required for renovations and that he had talked with the State Department of Corrections today and they indicated (verbally) that the State will not provide funds for property at Eastern State.

Mr. DePue stated he feels there has been a "good faith" effort in finding a suitable location and that if the County has to have a "locally unwanted land use," this place was as good as any. Mr. DePue stated he is concerned while there are four members on the Colonial Group Home Commission from James City County now, he does not want the County to be taken advantage of in the future. Mr. DePue suggested placing a 5-7 year time limit on the permit in order to review the situation at that time as to the impact it has had on surrounding communities.

Mr. DePue made a motion to amend the resolution by placing a five-year time limit on the permit.

Mr. Mahone stated he felt a time limit would be acceptable if Crossroads were renting, but since it is buying, this is not appropriate.

Mr. Edwards stated there are three issues involved in this matter: 1) good reason for program, 2) legitimate objection from residents, and 3) a practical proposal given we don't have a facility now. Mr. Edwards stated the best thing to do is to accept the best possible location available. Mr. Edwards stated a time limit should not be placed on the permit because at the end of the permit period, the process would start all over again.

Mr. Taylor agreed with Mr. Edwards.

Mr. Mahone asked Mr. Frank Morton if it would be appropriate for him to vote on this matter.

Mr. Morton responded that while the Commonwealth Attorney was charged by law with rendering conflict of interest opinions, he personally did not see one.

Mr. Mahone stated that he has prepared himself to vote on this issue for a long time and felt it would be ludicrous of him not to vote.

Mr. Brown stated the program is past the experimental stage and he feels it is not a threat or danger to the communities. Mr. Brown stated he would like to have more citizens involved with the program.

Mr. Mahone inquired as to the staff condition regarding a site plan.

Mrs. Victoria Gussman responded that it is required for minor considerations and staff would be more comfortable in seeing a site plan.

Mr. Mahone made a motion to approve the permit.

Mr. DePue made a motion to amend the resolution by placing a ten-year time limit on the permit.

On a roll call, the vote was AYE: DePue (1). NAY: Brown, Edwards, Mahone, Taylor (4). The motion failed by a 1-4 vote.

On a roll call on the main motion, the vote was AYE: Brown, Edwards, DePue, Mahone, Taylor (5). NAY: (0).

RESOLUTION

Of Approval on Special Use Permit No. SUP-8-86. Crossroads

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

WHEREAS, the Planning Commission of James City County has recommended approval of Case No. SUP-8-86 for a special use permit authorizing

the establishment and operation of a group home in the R-2, Limited Residential zoning district on property located on the west side of Longhill Road and identified as parcel (1-32) on James City County Real Estate Tax Map No. (32-4); and

THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County does hereby approve the issuance of Special Use Permit No. SUP-8-86 as described herein with the following conditions.

1. The facility shall be licensed in accordance with Chapter 11 of Title 16.1, Chapter 14 of Title 53.1, Chapters 1, 13, and 16 of Title 22.1, Chapters 8 and 10 of Title 37.1, and Chapters 3 and 10 of Chapter 63.1 of the Code of Virginia (1950, as amended).
2. A site plan, prepared in accordance with the requirements of Article II of the Zoning Ordinance, shall be submitted to and approved by the County prior to operation of the facility.
3. The number of residents (excluding staff) of the group home shall not exceed twelve.
4. If a Certificate of Occupancy for the group home has not been secured within two years from the date of issuance of this special use permit, this permit shall become void.

The Board recessed at 10:00 p.m. and reconvened at 10:10 p.m.

3. Case No. Z-28-85. Olde Bush Mill

The Planning Commission recommends denial of the application.

Mr. Brown opened the public hearing.

1. Mr. Steven Graber, attorney representing the applicant, spoke in favor of the application noting that the property was initially purchased in 1982 to develop duplexes, and that was still the intent today. Mr. Graber stated that the applicant was issued two building permits and should have had vested rights under the old zoning ordinance. Mr. Graber further stated that the County delayed the applicant for four months in deciding on Service Authority issues, in which the applicant should not be penalized for.

Mr. Brown asked Mr. Graber if he was requesting a rezoning or claiming vested rights.

Mr. Morton stated that if Mr. Graber is claiming vested rights, the matter should be discussed in court, not at the Board meeting.

Mr. Graber stated that under the law, the applicant has to seek all possible remedies before taking court action.

2. Reverend Bassett, Bush Springs Road and representative of residents on Bush Springs Road, presented the Board with a petition which was also presented to the Planning Commission opposing the application. Reverend Bassett stated the petition notes that the residents continue to oppose any type of construction that is not consistent with the present neighborhoods. Reverend Bassett stated that if any rezoning is to be considered, he would encourage R-1 zoning.

Mr. Brown closed the public hearing.

Mr. DePue made a motion to deny the application.

On a roll call, the vote was AYE: Brown, Edwards, DePue, Mahone, Taylor (5). NAY: (0).

4. Case No. SUP-39-85. Little Creek Reservoir

The Planning Commission recommends approval of changes to the existing Conditional Use Permit. Mrs. Victoria Gussman stated that since the Planning Commission took this action in March, staff has initiated three

additional changes to the Planning Commission's recommendation. Mrs. Gussman stated these changes are a result of negotiations with the City of Newport News.

Mr. Brown opened the public hearing.

1. Mr. John Joyce, 101 Warrens Pond Road, Toano, stated he feels opening the reservoir for use by residents is long overdue and inquired as to how much money would be needed to operate the park that is not included in the budget. Mr. Joyce requested the Board consider the impact on James City County residents.

In response to questions by the Board, Ms. Sandi McPherson, Director of Parks and Recreation, stated a study of operational issues has not been conducted to date; therefore, budgetary impact could not be determined at this time. However, the Newport News' Park operates solely on its revenues. Ms. McPherson further stated that a site plan has not been prepared because the County does not yet own the land.

2. Mr. Dale Skinner, 7136 Church Lane, Toano, stated he feels Newport News should assume financial responsibility for the park's operation and not burden James City County taxpayers.

3. Mr. Archie Hazelwood, 237 Lake View Drive, stated he was not contacted regarding this proposal and should have been notified. Mr. Hazelwood stated he is concerned with security and asked for clarification regarding landowners use of the lake year-round.

In response to a question from the Board as to whether property owners were notified, Mrs. Victoria Gussman responded that adjacent property owners were sent letters.

Mr. Oliver noted that the Board is only considering modification of the permit and whether the County should assume responsibility for the proposal from Newport News. Mr. Oliver stated that if the Board does approve the SUP, operational issues would be addressed at a later date by the Parks and Recreation Commission. The Commission's ideas would then be forwarded to the Board for its consideration. Mr. Oliver stated citizens would be involved in this process.

4. Mr. Douglas L. Johnson, Parks and Recreation Commission, spoke in favor of the proposal.

5. Mr. Doug Haulsee, 233 Lake View Drive, stated he was not informed of the proposal until last Saturday. Mr. Haulsee stated he should be able to fish whenever he desires and the lake should not be closed to landowners at any time.

6. Mr. John Linden, Chickahominy Road, stated that when he bought his land he was informed of the two planned recreation areas and was promised water rights. Mr. Linden stated it was unfair to change the proposal now.

7. Mr. Wayne Carlin, Church Lane, stated James City County's recreation areas are not fully developed or maintained, and stated he feels Newport News should keep the responsibility of the new recreation site.

8. Mr. Larry Hart and Mr. Charlie Sledd, engineers with the Richmond Game Commission, stated their main concern is to have a public boat ramp at the reservoir. Mr. Sledd stated the Game Commission will enforce water regulations.

Mr. Brown closed the public hearing.

Mr. Taylor stated Newport News had agreed to develop the parks and they should do so.

Mr. Oliver informed the Board that the proposal was James City County's idea and Newport News has agreed to donate the land.

Mr. Brown made a motion to approve the proposal.

Mr. DePue and Mr. Taylor stated residents should have been contacted regarding the proposal.

Mr. Brown stated that when the specifics of operation are being discussed, a member representing the community could be added to the Parks and Recreation Commission.

On a roll call, the vote was AYE: Brown, Edwards, DePue, Taylor
(4). NAY: Mahone (1). The motion passed by a 4-1 vote.

RESOLUTION

Of Approval on Special Use Permit No. SUP-39-85. Little Creek Reservoir

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

WHEREAS, on March 25, 1986 the Planning Commission of James City County recommended approval of Case No. SUP-39-85.

NOW, THEREFORE BE IT RESOLVED, that the Board of Supervisors of James City County does hereby approve the issuance of Special Use Permit No. SUP-39-85 as described herein with the following conditions.

1. The City of Newport News shall reserve for Parks and Recreation use by James City County the area known as Recreation Area "B" and 9.0 acres (approximately) immediately north of and adjoining Recreation Area "B". In addition, the City of Newport News will provide \$200,000 to be used at the County's discretion for park construction at the areas so reserved. The land shall become the County's for Parks and Recreation use in perpetuity. The City of Newport News shall, within 120 days of approval of this special use permit, subdivide the land described above and convey it to the County. Should the County discontinue use of the land as a park, then the County will return the land to the City at no cost to the City.

The City of Newport News shall provide, at no cost, labor and equipment to the County for clearing, grading, and hauling, as required for site development.

The City of Newport News may impose the following conditions on the use of Little Creek Reservoir for recreational purposes:

- a. Prohibit swimming or wading;
- b. Fishing shall be permitted either from the shoreline, in areas designated by the City, or from boats. Fishing from the dam shall be prohibited, and fishing within 500 feet of the pumping station may be prohibited;
- c. Use of the reservoir for recreation shall be open to the general public during daylight hours;
- d. Except for official use, no internal combustion engines may be operated on the reservoir;
- e. James City County is responsible for patrolling and policing the recreational use of the reservoir;
- f. James City County agrees to cooperate with the City of Newport News in the design and construction of all recreational improvements so that adverse impacts on the water supply may be minimized;
- g. Additional restrictions may be imposed by the Director of Public Utilities (Newport News) after official notice to the County, if the quality of water in the reservoir is threatened.

2. The City of Newport News shall obtain from James City County all necessary approvals and permits for present and future construction and development.
3. The City of Newport News shall provide James City County with a copy of all dam inspection reports and all emergency action plans received or conducted by the City of Newport News within five days after receipt or completion of such reports or plans.
4. The City of Newport News shall provide James City County a copy of all water quality monitoring data for the reservoir, its upstream tributaries and downstream watercourses, within five days after receipt of such data.
5. The City of Newport News shall assume responsibility for providing mosquito control in the area owned and operated by Newport News Waterworks, consistent with standards of State and Federal regulatory agencies and James City County's mosquito control program, as mutually agreed upon by James City County and the City of Newport News.
6. The City of Newport News shall maintain Little Creek Reservoir at Elevation +60 except in seasons of drought, when required by malfunction in other parts of the waterworks system, for routine operational requirements such as balancing of the entire system and for other emergency needs. In the event it becomes necessary to draw upon the reservoir for more than 10 days continuous pumping, the City of Newport News shall notify the County. When the water level reaches Elevation +55, and each subsequent five foot increment (it is estimated that it will take about 30 days of pumping at maximum rates to lower the water level to Elevation +55) the County shall also be notified. When the water surface is drawn down to Elevation +40, signs shall be posted on the boundaries of the reservoir property warning of hazardous conditions. When the water surface is drawn down to Elevation +35, shoreline fishing shall be discontinued.

5. Case No. SUP-7-86. Warhill Tract

The Planning Commission recommends approval of the application subject to five conditions. Mrs. Victoria Gussman noted the Board has a substitute resolution to consider.

Mr. Brown opened the public hearing, and as no one wished to speak, he closed the public hearing.

Mr. Taylor made a motion to approve the substitute resolution.

Mr. Brown inquired about the eight acres that crossed Longhill Swamp, which he thought was to be deeded to the College of William and Mary.

Mr. Jack Scruggs, the applicant, stated there is a verbal agreement for the dedication of two parcels to the College of William and Mary; one parcel is 4-6½ acres and the other is 3-3¼ acres. Mr. Scruggs stated that before final plans can be made, the sewer easement has to be determined.

On a roll call, the vote was AYE: Brown, Edwards, DePue, Mahone, Taylor (5). NAY: (0).

RESOLUTION

Of Approval on Special Use Permit
No. SUP-7-86. Warhill Tract Sewer Main Extension

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

WHEREAS, the Planning Commission of James City County, in accordance with the staff recommendation, has recommended approval of Case No. SUP-7-86, a special use permit for the construction of a 12-inch gravity sewer main from an existing 12-inch sewer line located adjacent to Section 8 of Windsor Forest extending in a northerly direction into the Warhill Tract for a total distance of approximately 3,750 feet.

THEREFORE, BE IT RESOLVED, that the Board of Supervisors of James City County does hereby approve the issuance of Special Use Permit No. SUP-7-86 as described herein with the following conditions.

1. The developer shall comply with James City Service Authority construction and inspection standards insuring that construction of the sanitary sewer main does not substantially harm the Longhill Swamp. The plan must be reviewed and approved by the State Health Department.
2. All permits and easements shall be acquired prior to commencement of construction.
3. Adequate dust and mud control measures shall be taken to prevent adverse effects on adjacent residential property and Longhill Road.
4. The James City Service Authority shall be notified in advance of the proposed sewer main tying into the existing Authority sewer main.
5. If construction has not commenced on this project within a period of 24 months from the date of issuance of this permit, it shall become void. Construction shall be defined as the clearing, grubbing, and excavation of trenches necessary for the construction of the sewer main.

6. Case No. Z-2-86. Warhill Tract

The Planning Commission recommends approval of the rezoning with the submitted proffers and the oral proffers given at their March meeting. Staff recommends denial of the application. Mrs. Victoria Gussman stated revised proffers were received over the weekend, but staff has not reviewed them and could not comment on them at this time.

Mr. DePue inquired if the oral proffers have been followed up in writing.

Mrs. Gussman responded the proffers had not been received at the time the staff report was prepared.

Mr. Brown opened the public hearing.

1. Mr. J. F. Phillips, attorney representing the applicant, apologized to the Board for the proffers being delivered late, and stated the reason they were late was because the applicant tried to address all of staff's concerns. Mr. Phillips stated he hoped that the applicant, the County, and the Highway Department could work together to find a sensible solution for an access road to the project. Mr. Phillips further stated that this would be a long range development such as the Busch project.

2. Mrs. Carolyn Lowe, representative for the Williamsburg Area League of Women Voters, spoke in opposition to the application stating that because of the extreme environmental sensitivity of the Warhill Tract and adjoining areas, and the potential for adverse impact on the Longhill Swamp-Powhatan Creek watershed and wetlands, it would be a mistake to consider any development until all of the environmentally related questions have been fully answered. Mrs. Lowe further stated that the County's approved drainage study of the Longhill-Powhatan area should be made an integral part of the review process for any development proposal in the Warhill area.

3. Mr. Jack Scruggs, the applicant, stated a proposed 90,000-sq ft shopping center with a controlled drainage pond would address drainage concerns.

Mr. Brown closed the public hearing.

Mr. Taylor made a motion to approve the application with the latest proffers.

Mr. Morton informed the Board that he had not read the revised proffers and the latest proffers were unsigned.

Mr. Brown stated he could not support the application. Mr. Brown stated receiving new proffers at the last minute is unacceptable and that after the first public hearing at the Planning Commission, proffers should not be allowed to change. Mr. Brown noted that the Planning Commission did not know what proffers or conditions the Board was considering at this time. Mr. Brown further stated that he could not support the application because he feels it is a piece-meal treatment of a 900 acre tract and is unacceptable to the Highway Department. Mr. Brown stated he agrees with Mrs. Lowe on the unanswered environmental questions. Mr. Brown further stated that all proffers must be submitted in an appropriate and acceptable format in order for the Board to consider them.

On a roll call, the vote was AYE: Taylor (1). NAY: Brown, Edwards, DePue, Mahone (4). The motion failed by a 1-4 vote.

It was the consensus of the Board to move agenda item E-1 forward on the agenda.

E. BOARD CONSIDERATIONS

1. Case No. SUP-14-86. Colethea Simpson

The Planning Department recommends denial of the permit. Mrs. Victoria Gussman stated that if the Board did decide to approve the permit, staff would want to add conditions.

Mr. Taylor made a motion to approve the permit with conditions.

Mr. Edwards stated he was concerned as to whether a single family dwelling would be treated in the same manner. Mr. DePue agreed with Mr. Edwards.

In response to questions, Ms. Colethea Simpson stated the neighbors do not object to the permit.

On a roll call, the vote was AYE: Brown, Edwards, DePue, Mahone, Taylor (5). NAY: (0).

RESOLUTION

Of Approval **Case No. SUP-14-86. Colethea Simpson**

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

THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County that a Special 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:	Colethea Simpson
Real Estate Tax Map ID:	(22-1)
Parcel No.	(1-70)
Address:	3158 Chickahominy Road
District:	Stonehouse
Zoning:	A-1, General Agricultural

Permit Term:

This permit is valid only for the mobile home applied for. If the mobile home is removed, then this permit becomes void. Any replacement will require a new permit from the Board of Supervisors. If the permit is not exercised it shall become void one year from the date of approval.

Further Conditions:

The mobile home shall be skirted and meet the requirements of the Department of Housing and Urban Development Manufactured Home Construction and Safety Standards.

The number of bedrooms shall not exceed three.

Landscaping shall be provided in accordance with an approved landscape plan to be provided to the Planning Department within 30 days of approval of the special use permit. All plant materials shall be installed by the end of the first available growing season following placement of the mobile home, shall be maintained in a healthy growing condition, and replaced when necessary.

The septic drainfield must be located a minimum of five feet from the future right-of-way line for Chickahominy Road and a minimum of 150 feet from the normal pool elevation of Little Creek Reservoir.

D. CONSENT CALENDAR

Mr. Brown asked Board members if they wished to remove any items from the Consent Calendar.

Mr. Brown removed item D-5. Mr. Mahone removed item D-3.

Mr. Brown made a motion to approve all remaining items on the Consent Calendar.

On a roll call, the vote was AYE: Brown, Edwards, DePue, Mahone, Taylor (5). NAY: (0).

1. Installation of Streetlights - Magruder Avenue

RESOLUTION**Installation of Streetlights**

WHEREAS, a petition has been filed for the installation of additional streetlights along Magruder Lane; and

WHEREAS, streetlighting plans and cost estimates have been prepared by the Virginia Power Company and reviewed by the County Department of Public Works; and

WHEREAS, funds are available in the FY85-86 budget for the installation and annual rental charges.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, approves the installation of three streetlights along Magruder Lane as shown on the attached plans.

2. Installation of Streetlights - Sand Drive

RESOLUTION

Installation of Streetlights

WHEREAS, a petition has been filed for the installation of a streetlight along Sand Drive; and

WHEREAS, streetlighting plans and cost estimates have been prepared by the Virginia Power Company and reviewed by the County Department of Public Works; and

WHEREAS, funds are available in the FY85-86 budget for the installation and annual rental charges.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, approves the installation of one streetlight along Sand Drive as shown on the attached plans.

4. Litter Control Program Grant

RESOLUTION

1986-87 Litter Control Grant Application

WHEREAS, the James City County Board of Supervisors recognizes the existence of a litter problem within the boundaries of James City County; and

WHEREAS, the Virginia Litter Control Act of 1976 provides, through the Department of Conservation and Economic Development Division of Litter Control, for the allocation of public funds in the form of grants for the purpose of enhancing local litter control programs,

WHEREAS, having reviewed and considered the Regulations and the Application covering administration and use of said funds;

NOW, THEREFORE, BE IT RESOLVED that the James City County Board of Supervisors of James City County, Virginia hereby endorses and supports such a program for James City County as is indicated in the attached application Form LC-G-1; authorizes the County Administrator to plan, budget and apply for a Grant, which if approved, will be used to fund said Program; and requests the Department of Conservation and Economic Development, Division of Litter Control, to consider and approve said Application and Program, said Program being in accord with the Regulations governing use and expenditure of said funds.

3. Signature Authorization - Quarterly Revenue Control Account

Mr. Mahone stated that he thought the Board was trying to give Ms. Whitaker more authority with bank accounts and felt the resolution did not support that effort.

Mr. John McDonald, Director of Financial and Management Services, responded that this was the standard format used and does give Ms. Whitaker more authority with bank accounts.

Mr. Brown made a motion to approve the resolution.

On a roll call, the vote was AYE: Brown, Edwards, DePue, Mahone, Taylor (5). NAY: (0).

RESOLUTIONSOVRAN BANK OF WILLIAMSBURG

BE IT RESOLVED that the Sovran Bank of Williamsburg, Williamsburg, Virginia, be and it is hereby designated a depository for the James City County account designated below:

202-0196-9

and that funds so deposited may be withdrawn upon a check, draft, note or order of the Board of Supervisors.

BE IT FURTHER RESOLVED that all checks, drafts, notes or orders drawn against said accounts be signed by one of the following:

Frances B. Whitaker Treasurer

OR

Betty S. Pettengill Deputy Treasurer

whose signatures shall be duly certified to said Bank, and that no checks, drafts, notes or orders drawn against said Bank shall be valid unless so signed.

BE IT FURTHER RESOLVED, that said Bank is hereby authorized and directed to honor and pay any checks, drafts, notes or offers so drawn, whether such checks, drafts, notes or orders be payable to the order of any such persons signing and/or countersigning said checks, drafts, notes or orders, or any of such persons in their individual capacities or not, and whether such checks, drafts, notes or orders are deposited to the individual credit of the person so signing and/or countersigning said checks, drafts, notes or orders, or the individual credit of any of the other officers or not. This resolution shall continue in force and said Bank may consider the facts concerning the holders of said offices, respectively, and their signature to be and continue as set forth in the Certificate of the Clerk or Assistant Clerk, accompanying a copy of this resolution when delivered to said Bank or in any similar subsequent certificate, until written notice to the contrary is duly served on said Bank.

5. Moses Lane - Conveyance of Right-of-Way to Commonwealth of Virginia

Mr. Brown made a motion to approve the withdrawal of Case No. SUP-11-86. Moses Lane Container Site.

On a roll call, the vote was AYE: Brown, Edwards, DePue, Mahone, Taylor (5). NAY: (0).

RESOLUTIONWithdrawal of Moses Lane Container Site SUP-11-86

WHEREAS, the Board of Supervisors no longer desires to install a public refuse container site on Moses Lane.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia hereby withdraws the SUP-11-86 application for a proposed refuse container site on Moses Lane.

Mr. Brown stated that he has talked with residents on Moses Lane and they are opposed to paving the road and granting right-of-way.

It was the consensus of the Board not to take action on the right-of-way and to pass over the item.

E. BOARD CONSIDERATIONS**2. Case No. Z-3-86. E. M. Hooker**

The Planning Commission recommends denial of the application.

Mr. Edwards made a motion to deny the application.

On a roll call, the vote was AYE: Brown, Edwards, DePue, Mahone
(4). NAY: Taylor (1). The motion passed by a 4-1 vote.

F. PUBLIC AUDIENCE - None**G. REPORTS OF THE COUNTY ADMINISTRATOR**

Mr. Frank Morton requested the Board consider adopting an ordinance authorizing acquisition of land for the County reservoir.

Mr. Edwards made a motion to approve the ordinance.

On a roll call, the vote was AYE: Brown, Edwards, DePue, Mahone,
Taylor (5). NAY: (0).

Mr. Oliver noted that the ordinance just adopted by the Board was to authorize acquisition of land for the eventual construction of a reservoir to expand the County water system.

H. BOARD REQUESTS AND DIRECTIVES

Mr. Taylor stated he had contacted the Highway Department regarding a letter and petition he had received requesting the posting of a 35mph speed zone in Woodland Farms. Mr. Taylor also requested replacement of a street sign for Stonehouse Road at the intersection with Woodland Road.

Mr. Edwards made a motion to contribute \$1,000 to the Williamsburg Symphonia from Contingency.

On a roll call, the vote was AYE: Brown, Edwards, DePue, Mahone,
Taylor (5). NAY: (0).

Mr. Mahone requested staff prepare a resolution for Board consideration requesting the U.S. Coast Guard to remark the channel entrance to Powhatan Creek which would then be forwarded to Congressman Bateman and Senator Tribble.

Mr. Taylor made a motion to go into Executive Session to discuss a legal matter pursuant to Section 2.1-344(a)(6) of the Code of Virginia, 1950 as amended.


On a roll call, the vote was AYE: Brown, Edwards, DePue, Mahone,
Taylor (5). NAY: (0).

The meeting convened into Executive Session at 12:20 a.m. and reconvened into public session at 12:28 a.m.

Mr. Taylor made a motion to recess until 1:00 p.m. on May 19, 1986.

On a roll call, the vote was AYE: Brown, Edwards, DePue, Mahone,
Taylor (5). NAY: (0).

The Board recessed at 12:29 a.m.


James B. Oliver, Jr.
Clerk to the Board

ORDINANCE NO. 159

AN ORDINANCE TO AUTHORIZE THE ACQUISITION OF CERTAIN REAL PROPERTY IN JAMES CITY COUNTY, VIRGINIA, ALL AS SHOWN ON A PLAT ATTACHED HERETO FOR PUBLIC PURPOSES AND FOR CONSTRUCTING AND EXPANDING THE WATER SUPPLY SYSTEM OWNED BY JAMES CITY COUNTY, VIRGINIA.

WHEREAS, in the opinion of the Board of Supervisors of James City County, Virginia, a public necessity exists for the acquisition of certain real property hereafter more particularly described, in James City County, Virginia, as shown on a plat attached hereto, for construction and expansion of the water supply system owned by James City County, Virginia, for public purposes, and the preservation of the health, safety, peace, good order, comfort, convenience, morals and welfare of James City County, Virginia.

NOW, THEREFORE, James City County, Virginia hereby ordains:

Section 1. That the County Attorney and/or the law firm of Anderson, Emmett & Franck, P.C., be, and they are hereby authorized and directed to acquire in the manner provided by Title 15.1, Chapter 7, Article 1 of the Code of Virginia, 1950, as amended, and by Title 33.1, Chapter 1, Article 7 of the Code of Virginia, 1950, as amended, certain real property in James City County, Virginia, and shown on a plat attached hereto, together with all rights appurtenant thereto, for public purposes and for constructing and expanding the water supply system owned by the County of James City, the said property and ownership being more particularly described in Section 3 of this Ordinance.

Section 2. That the County Administrator is authorized and directed to act for and on behalf of the County in agreeing or disagreeing with the owner of the property upon the compensation and damages, if any, to be paid within the limit of the funds provided as set out in Section 4 of this Ordinance, which has been authorized and appropriated.

Section 3. That the name of the present owner of the land to be acquired as provided in Section 1 of this Ordinance together with a substantial description of the parcel is as follows:

Alabama Company, a Virginia Limited Partnership

33.37 acres of land, more or less, in James City County, Virginia, shown as "PARCEL A - AREA WITHIN 50 FT. CONTOUR LINE: 33.37 ACRES" on a plat entitled "PLAT OF SURVEY, SHOWING PROPERTY OWNED BY ALABAMA COMPANY TO BE CONVEYED TO JAMES CITY COUNTY, STONEHOUSE DISTRICT, JAMES CITY COUNTY, VIRGINIA" prepared by G. T. Wilson, Jr., Certified Land Surveyor of Buchart-Horn, Inc. dated 1/10/86, revised 3/27/86.

Together with a perpetual easement for the protection of a public water supply reservoir, over and upon the following described property:

79.72 acres of land, more or less, in James City County, Virginia, shown as "PARCEL B - AREA WITHIN 200' SETBACK LINE: 60.99 ACRES" and "PARCELS C, D, E, F, G & H - AREA WITHIN 100' SETBACK LINE: 18.73 ACRES" on a plat entitled "PLAT OF SURVEY, SHOWING PROPERTY OWNED BY ALABAMA COMPANY TO BE CONVEYED TO JAMES CITY COUNTY, STONEHOUSE DISTRICT, JAMES CITY COUNTY, VIRGINIA" prepared by G. T. Wilson, Jr., Certified Land Surveyor of Buchart-Horm, Inc. dated 1/10/86, revised 3/27/86.

This easement shall include (a) the right to inundate the land within the easement to an elevation of FORTY FEET above Mean Sea Level with backwaters caused by the construction of any future dam or other improvements on Ware Creek or any of its tributaries, (b) the right to clear, destroy, remove and dispose of any timber, undergrowth, brush, stumps, debris, trash, filth, or any other matter lying at or below the forty foot elevation contour, provided that the Landowners shall be given a reasonable opportunity to remove any merchantable timber prior to such clearing, (c) the right to clear, destroy, remove and dispose of any timber, undergrowth, brush, stumps, debris, trash, filth, or other matter lying within the easement which would adversely affect the quality of any public water supply reservoir, provided that the Landowners shall be given a reasonable opportunity to remove any merchantable timber prior to such clearing, (d) the right to construct within the easement sediment and/or erosion control basins, structures or other devices as necessary to control run-off into any public water supply reservoir, (e) a right of access over the lands within the easement for access to any public water supply reservoir and run-off control devices for the purpose of inspecting, operating, maintaining and protecting the same.

Within the easement the Landowners, their successors, heirs and assigns, shall be prohibited from (a) storing or producing any hazardous wastes as defined in Section 32.1-177 of the Code of Virginia, 1950, as amended, (b) storing any hazardous substances in reportable quantities as listed in 44 Federal Register 50777, et seq., (1979), (c) storing bulk quantities of petroleum or asphalt products or compounds, (d) conducting commercial livestock feeding operations, (e) applying any industrial wastes to the land, (f) constructing any permanent structure other than those expressly permitted by the terms of this document, (g) constructing or locating any temporary structure to be used for the housing of humans, animals, fowl, fish or reptiles, (h) constructing any septic tanks, drainfields, sewer lines or sewage treatment devices, (i) applying fertilizers, herbicides or pesticides except in accordance with plans approved by the County, (j) temporarily or permanently removing the vegetation cover or timber by cultivation, burning, clearing, cutting or any other means except in accordance with plans approved by the County which shall not be unreasonably withheld provided the plan provides for the prompt revegetation of the land in a manner that will not increase sediment runoff into any public water supply reservoir, (l) permitting public or commercial access to the reservoir, (m) using the land in any manner or for any purpose which would pollute any public water supply reservoir.

There is expressly reserved by the Landowners, their successors and assigns, the rights to (a) construct drainage, sediment and erosion control devices or structures within the easement in accordance with plans approved by the County, (b) fence their lands within the easement subject to the rights of access and rights to clear and inundate to the forty foot elevation contour granted above, (c) construct and maintain all weather surface driveways over the easement from the public highway to each lot which may be subdivided from the Landowners' property, and (d) enjoy the use and possession of the lands within the easement for all purposes not inconsistent with nor in conflict with other provisions of this document.

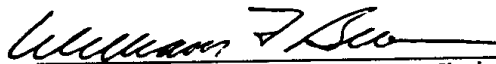
Section 4. The funds estimated as necessary to compensate the owner of the above-described parcel for land and damages, if any, within the limits of which the County Administrator is authorized to agree with them is Seventy Four Thousand Nine Hundred and no/100 Dollars (\$74,900.00).

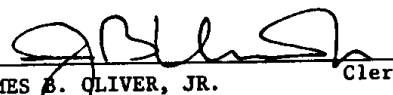
Section 5. The County Attorney and/or the law firm of Anderson, Emmett & Franck, P.C. shall notify the property owner of the compensation and damages offered by the County forthwith on or before May 15, 1986.

Section 6. That in the event any of the property described in Section 3 of this Ordinance has been conveyed, the County Attorney and/or the law firm of Anderson, Emmett & Franck, P.C. are authorized and directed to institute proceedings against successors in title.

An emergency is hereby declared to exist and this Ordinance shall be effective from the date of its passage.

PASSED BY THE BOARD OF SUPERVISORS OF JAMES CITY COUNTY, VIRGINIA,
MAY 5, 1986.


WILLIAM F. BROWN, Chairman


JAMES B. OLIVER, JR. Clerk