

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 20TH DAY OF NOVEMBER, NINETEEN HUNDRED EIGHTY-NINE, AT 1:02 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

Thomas D. Mahone, Chairman, Jamestown District
Stewart U. Taylor, Vice-Chairman, Stonehouse District

Jack D. Edwards, Berkeley District
Perry M. DePue, Powhatan District
Thomas K. Norment, Jr., Roberts District
David B. Norman, County Administrator
Frank M. Morton, III, County Attorney

B. MINUTES - November 6, 1989

Mr. Mahone asked if there were corrections or additions to the minutes.

Mr. Mahone made a motion to approve the minutes as presented.

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

C. PRESENTATIONS

1. Certificate of Appreciation - Bud Shime1

Mr. Mahone read the resolution and presented it to Bud Shime1.

Mr. Shime1 thanked the Board.

R E S O L U T I O N

CERTIFICATE OF APPRECIATION

WHEREAS, Bud Shime1 has served James City County as a Video Volunteer for four years, donating more than 500 hours of time; and

-2-

WHEREAS, in this capacity he has produced and edited video programs, provided technical expertise on equipment, purchased materials and labored to improve the Berkeley Studio, all at no cost to the taxpayer; and

WHEREAS, he has motivated other volunteers through his willingness to share his knowledge and his time; and

WHEREAS, James City County citizens have received the benefits of public information cable programs through Bud's service to his community.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby recognize the extraordinary contributions of a master volunteer and expresses its gratitude to

BUD SHIMEL

BE IT FURTHER RESOLVED that this Resolution be spread on the minutes of this Board and a suitable copy be presented to Bud Shimmel.

2. Williamsburg Area Chamber of Commerce - Gilbert Bartlett, President

Mr. Gilbert Bartlett, President, expressed appreciation to the Board for past contributions, reviewed ongoing projects that generate revenues for the County, and asked for future support for the Chamber of Commerce and the Tourism Bureau.

D. HIGHWAY MATTERS

Mr. Jim Kelly, Assistant Resident Engineer for Virginia Department of Transportation, briefly described current highway projects in the County.

Mr. Mahone reiterated two previous requests: reflective markers on the westbound ramp to Route 199 from Route 143 and investigation of 3 street corners in Kingspoint where school buses miss the pavement when turning.

Mr. Taylor restated the need for a topping on the gravel in the area on Chickahominy Road near the repair work.

With Board consensus, Mr. DePue commended the Virginia Department of Transportation for its action on the Hicks Island Road project.

E. CONSENT CALENDAR

Mr. Mahone asked if any Board member wished to remove any item from the Consent Calendar.

Mr. Mahone made a motion to approve the Consent Calendar.

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

1. Amendment to the School BudgetR E S O L U T I O NSCHOOL BOARD APPROPRIATION - FY 1990

WHEREAS, the Board of Supervisors has appropriated funds necessary to fund the adopted budget of the Williamsburg-James City County School Board for the fiscal year ending June 30, 1990; and

WHEREAS, the School Board has requested an increase in that appropriation due to a Federal grant.

NOW, THEREFORE, BE IT RESOLVED the Board of Supervisors of James City County, Virginia, hereby appropriates the following funds in support of the operations of the Williamsburg-James City County School Board for the FY 1990 fiscal year:

Revenues:

Total Revenue, as previously appropriated	\$28,255,877
Revenue from the Federal Government - Drug-Free School Act Grant	<u>23,551</u>
Total Revenue	<u>\$28,279,428</u>

Expenditures:

Total Expenditures, as previously appropriated	\$28,255,877
Drug-Free Schools Grant Expenditures	<u>23,551</u>
	<u>\$28,279,428</u>

2. Additional Funding - Social ServicesR E S O L U T I O NAPPROPRIATION TO THE SOCIAL SERVICES DEPARTMENT

WHEREAS, the State Department of Social Services has provided supplemental funding to render additional services through the Independent Living Initiatives Program, the Social Services Block Grant (SSBG), Home Based Program, Adult Day Care Program, Eligibility Administration, Services Administration, Employment Services Administration and the Energy Assistance Administration; and

WHEREAS, sufficient local matching funds are available in Account No. 007-081-7005, 007-081-1001 and 007-083-5719.

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

Revenues:

Revenue from the Commonwealth	\$14,170.00
-------------------------------	-------------

Expenditures:

Independent Living Initiatives	\$ 780.00
SSBG (Purchased Services)	64.00
Home Based Services	1,190.00
Adult Day Care	63.00
Eligibility Administration	7,940.00
Services Administration	1,697.00
Employment Services Administration	160.00
Energy Assistance Administration (Fuel)	<u>2,276.00</u>
	\$14,170.00

3. Transit Department FY 90 - State Experimental Grant

R E S O L U T I O N

RESOLUTION OF APPROPRIATION

WHEREAS, the Transit Administrator has prepared a proposed budget for a State Experimental Grant beginning October 1, 1989, and ending September 30, 1990; and

WHEREAS, the Board of Supervisors has considered said budget and does now propose to adopt the budget as presented.

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

1. The following amounts are hereby adopted and appropriated for activities in the amount shown below:

Revenues:

State Grant	\$40,850
Transit Fund Balance	<u>2,150</u>
	<u>\$43,000</u>

Expenditures:

Operating Expenses	<u>\$43,000</u>
--------------------	-----------------

2. The Board of Supervisors of James City County, Virginia certifies that the funds shall be used in accordance with the requirements of the UMTA Section 18 Program and the State Appropriations Act of 1982, and that James City County may be subject to audit by the Virginia Department of Transportation and by the State Auditor for Public Accounts.

F. PUBLIC HEARINGS

1. Case No. Z-12-89. L.A. & G. Corporation

Mr. Marvin Sowers, Director of Planning, stated that Mr. Louie A. Galanos had submitted an application to rezone approximately 39 acres from A-1, General Agricultural, to B-1, General Business, located approximately 2,200 feet northwest of the intersection of Route 60 and Route 614, and part of the 53.6 acre Wythe Green tract, further identified as part of Parcel (1-35) on James City County Real Estate Tax Map No. (24-3).

The Planning Commission recommended denial by a vote of 7-3, and staff recommended approval with proffers.

Mr. Mahone opened the public hearing.

1. Mr. Vernon Geddy, III, representing the applicant, stated that the applicant had no proposed plan for the site and none was required by zoning ordinance, and proffers address concerns of frontage and one entrance. He requested Board approval of the case.

Mr. Mahone closed the public hearing.

The Board discussed rezoning land without a specific designated use, B-1 zoning was appropriate for the parcel, and assurance that support given by Reverend Jesse Bowman, whose church adjoins the parcel, would be upheld.

Mr. Sowers stated that the resolution should be amended to add the language "with proffers."

Mr. Norment made a motion to approve the amended resolution.

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

R E S O L U T I O N

CASE NO. Z-12-89. L. A. & G. CORPORATION

WHEREAS, in accordance with Section 15.1-431 of the Code of Virginia, and Section 20-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified and a hearing scheduled on Zoning Case No. Z-12-89 for rezoning

-6-

approximately 39 acres from A-1, General Agricultural to B-1, General Business on property identified as Parcel (1-35) on James City County Real Estate Tax Map No. (24-3); and

WHEREAS, the Planning Commission following its public hearing on July 11, 1989, voted 7-3 to recommend denial of Case No. Z-12-89.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Zoning Case No. Z-12-89 and accepts the voluntary proffers.

2. Case No. SUP-21-89. McEwen Development, Inc.

Mr. Bernard Farmer, Jr., Director of Code Compliance, stated that Mr. Ralph Simmons had applied on behalf of McEwen Development, Inc., for a special use permit for impervious drainage area created by construction of a 7,500-square foot warehouse and storage building, and associated gravel parking areas on gently sloping grassed lot, located within the Hankins Industrial Park approximately 625 feet off Route 754, further identified as Parcel (1-160) on James City County Real Estate Tax Map No. (12-4).

Mr. Farmer further stated a runoff analysis had been submitted and that several topics: 1) impact of proposed project on the Water Supply Reservoir; 2) adequacy of performance criteria specified in the study, including ability to monitor; 3) recommendations for additional control measures, if required, including monitoring; and, 4) final recommendations must be addressed in review of projects located in the Reservoir Protection Overlay District.

Staff recommended approval of the application with conditions listed in the resolution.

Following a brief discussion of the runoff analysis requirements, Mr. Mahone opened the public hearing.

1. Mr. Ralph Simmons, applicant, requested approval of the case.

Mr. Mahone closed the public hearing.

Mr. Taylor made a motion to approve the resolution.

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

R E S O L U T I O N

CASE NO. SUP-21-89. MCEWEN DEVELOPMENT, INC.

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

WHEREAS, the applicant has applied for a special use permit to allow the construction of an industrial site in the RP, Reservoir Protection Overlay District on property identified as Parcel (1-16D) on James City County Real Estate Tax Map No. (12-4).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-21-89 as described herein with the following conditions:

1. The final designs for the on-site detention basin shall be submitted along with the final site plan for the project. These structures shall be designed in accordance with the James City County Design Manual for Runoff Analysis.
2. An Inspection/Maintenance Agreement as approved by the County Attorney shall be executed prior to final site plan approval.
3. If construction of this facility has not begun within an 18-month period from the date of issuance of this permit, it shall become void. Construction shall be defined as the clearing, grading and pouring of footings recorded by this permit.

3. Case No. SUP-23-89. Engineered Building Structures of Virginia

Mr. Farmer stated that Mr. Ralph Simmons had applied on behalf of Engineered Building Structures of Virginia for a special use permit for the construction of a 4,500-square foot warehouse and storage building and associated gravel parking areas on a gently sloping grassed lot, located within the Hankins Industrial Park approximately 365 feet from Route 754, further identified as Parcel (1-16E) on James City County Real Estate Tax Map No. (12-6).

Mr. Farmer further stated a runoff analysis had been submitted and that several topics: 1) impact of proposed project on the Water Supply Reservoir; 2) adequacy of performance criteria specified in the study, including ability to monitor; 3) recommendations for additional control measures: if required, including monitoring: and, 4) final recommendations must be addressed in review of projects located in the Reservoir Protection Overlay District.

Staff recommended approval of the case with conditions listed in the resolution.

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

Mr. Taylor made a motion to approve the resolution.

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

R E S O L U T I O NCASE NO. SUP-23-89. ENGINEERED BUILDING STRUCTURES OF VIRGINIA

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

WHEREAS, the applicant has applied for a special use permit to allow the construction of an industrial site in the RP, Reservoir Protection Overlay District on property identified as Parcel (1-16E) on James City County Real Estate Tax Map No. (12-4).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-23-89 as described herein with the following conditions:

1. The final designs for the on-site detention basin shall be submitted along with the final site plan for the project. These structures shall be designed in accordance with the James City County Design Manual for Runoff Analysis.
2. An Inspection/Maintenance Agreement as approved by the County Attorney shall be executed prior to final site plan approval.
3. If construction of this facility has not begun within an 18-month period from the date of issuance of this permit, it shall become void. Construction shall be defined as the clearing, grading and pouring of footings recorded by this permit.

4. Case No. SUP-33-89. Daniel N. Greenleaf

Mr. Allen Murphy, Jr., Principal Planner, stated that Mr. Daniel N. Greenleaf had submitted an application for a special use permit to allow the continued use of a temporary manufactured home as a residence while constructing a permanent residence on 2.31 acres, zoned A-1, located at 4000 Mt. Laurel Road, further identified as Parcel (1-1A) on James City County Real Estate Tax Map No. (13-1).

Staff recommended denial of the case for the reasons that there was a history of noncompliance with the conditions approved by the Board on May 20, 1985, and January 25, 1988, with building regulations, and the application did not meet all administrative guidelines for manufactured home placement.

Mr. Mahone opened the public hearing.

1. Mr. Daniel Greenleaf, applicant, requested approval of the time extension.

Mr. Mahone closed the public hearing.

Board discussion followed regarding the applicant's failure to renew permits before expiration and the County's need to enforce the ordinance.

Mr. DePue made a motion to deny the application.

On a roll call, the vote was: AYE: Norment, Edwards, DePue, Mahone (4). NAY: Taylor (1).

5. Case No. SUP-34-89. Eugene B. Samuel

Mr. Murphy stated that Mr. Eugene B. Samuel had submitted an application for a special use permit to allow the replacement of a manufactured home on approximately 2.0 acres located at 2944 Chickahominy Road, zoned A-1, General Agricultural, further identified as Parcel (2-1) on James City Real Estate Tax Map No. (22-3).

Mr. Mahone opened the public hearing.

1. Mr. Eugene Samuel expressed a need for a larger manufactured home, which would be a 1990 model.

Mr. Mahone informed Mr. Samuel that a description of the manufactured home was required for the special use permit, and he closed the public hearing.

Mr. Taylor made a motion to approve an amended resolution, adding the condition that the description of the manufactured home be given prior to placement of that home on the property.

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

R E S O L U T I O N

CASE NO. SUP-34-89. EUGENE B. SAMUEL

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

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

-10-

Applicant: Eugene B. Samuel

Real Estate
Tax Map ID: (22-3)

Parcel No.: (2-1)

Address: 2944 Chickahominy Road

District: Stonehouse

Zoning: A-1

- Conditions:
1. This permit shall be valid only for the manufactured home applied for. If the manufactured home is removed, this permit shall become void. Any replacement shall 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.
 2. The manufactured home shall be skirted and meet the requirements of the Department of Housing and Urban Development Manufactured Home Construction and Safety Standards.
 3. The number of bedrooms shall not exceed 3.
 4. Existing vegetation shall be maintained within 20 feet of all property lines except where clearing is required for utilities and necessary entrances.
 5. The existing manufactured home shall be removed from the site within 30 days of the placement of the new manufactured home on the property.
 6. A complete description of the manufactured home applied for shall be given to the Planning Division prior to placement of the manufactured home on the property.

6. Case No. SUP-35-89. Clyde Hughes

Mr. Murphy stated that Mr. Clyde Hughes had submitted an application for a special use permit to allow the replacement of a manufactured home on 2.19 acres, zoned A-1, General Agricultural, located at 129 Leisure Road, further identified as Parcel (1-5) on the James City Real Estate Tax Map No. (11-2).

Staff recommended approval of the application with conditions listed in the resolution.

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

Mr. Taylor made a motion to approve the resolution.

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

R E S O L U T I O N

CASE NO. SUP-35-89. CLYDE HUGHES

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

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

Applicant: Clyde Hughes

Real Estate Tax Map ID: 11-2

Parcel No.: 1-5

Address: 129 Leisure Road

District: Stonehouse

Zoning: A-1

- Conditions:
1. This permit shall be valid only for the manufactured home applied for. If the manufactured home is removed, this permit shall become void. Any replacement shall 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.
 2. The manufactured home shall be skirted and meet the requirements of the Department of Housing and Urban Development Manufactured Home Construction and Safety Standards.
 3. The number of bedrooms shall not exceed three.

-12-

4. Existing vegetation shall be maintained within 20-feet of all property lines except where clearing is required for utilities and necessary entrances.

5. The existing manufactured home shall be removed from the site within 30 days of the placement of the new manufactured home on the property.

7. Case No. AFD-8-86. The Casey Agricultural and Forestal District

Mr. Sowers stated that the request for withdrawal of 2.88 acres from Agricultural and Forestal District 8-86 had been withdrawn by the applicant.

The Board agreed consensus to the withdrawal.

8. Case No. SUP-37-89. Greenmount Associates

Mr. Sowers stated that Mr. Larry Cooke had applied on behalf of Greenmount Associates for a special use permit to allow the construction of a test well and an observation well on approximately 10 acres, within the Primary Service Area, zoned M-2, General Industrial, located approximately 1/2 mile south of Pocahontas Trail in the vicinity of the Skiffe's Creek Reservoir, further identified as Parcel (1-4) on James City County real Estate Tax Map No. (60-3).

Mr. Sowers further stated that granting of this special use permit in no way negated the requirement for development on this site to connect to public water and sewer. He noted the Zoning Ordinance required the connection to public water and sewer for all development in this zoning district.

In accordance with staff, the Planning Commission unanimously recommended approval of the case with conditions listed in the resolution.

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

Mr. Norment made a motion to approve the case to permit and construct a test well and an observation well.

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

R E S O L U T I O N

CASE NO. SUP-37-89. GREENMOUNT ASSOCIATES

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, following their public hearing unanimously recommended approval of Case No. SUP-37-89 to permit a test well and an observation well in the M-2, General Industrial District on property identified as Parcel (1-4) on James City County Real Estate Tax Map No. (60-3).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-37-89 as described herein with the following conditions.

1. The James City Service Authority shall be notified 24 hours prior to the commencement of well drilling operations.
2. The driller shall notify both the James City Service Authority and the State Health Department 24 hours prior to grouting the wells.
3. Pumping of the well shall be limited to test purposes only and the well shall be capped and abandoned within 12 months from the date of issuance of the special use permit.
4. Both test and observation wells shall comply with all Local, State and Federal requirements for the construction, operation, maintenance and abandonment of Class II-B water wells. All work shall be inspected by JCSA well inspectors. Capping and abandonment shall be completed within 30 days of the completion of testing.
5. Copies of all drill records, logs and test results shall be provided to the JCSA within 24 hours of a request of such information by the JCSA.
6. Proposed screen settings and lithologic log will be provided for information to the James City County engineer no less than 24 hours before screens are to be set. Both wells shall be screened in the upper Potomac Aquifer.
7. James City Service Authority and James City County personnel shall have access to the test and observation well sites at all times.

F. BOARD CONSIDERATIONS

1. Amendment to Chapter 18, Taxation

Mr. Larry Davis, Assistant County Attorney, stated that the amended Ordinance proposed an increase to the real estate tax exemption for qualifying elderly citizens from \$350 to \$400; makes it unlawful for a person to fail to pay personal property tax; makes the penalty provision for failing to comply with the transient lodging tax consistent with the penalty for other tax

-14-

violations and to comply with State guidelines; increases the number of members sitting on the Board of Equalization from 3 to 5; and levies a one percent tax on daily rental property, becoming effective January 1, 1990.

Staff recommended approval of the ordinance.

Discussion clarified that the one percent additional tax on daily rental property offsets revenue losses created when the General Assembly change eliminated authority to tax rental property as personal property.

Mr. DePue made a motion to approve the ordinance.

Mr. Mahone made a motion to delete Article VIII, Short Term Rental Tax as proposed.

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

On Mr. DePue's motion, the roll call vote was: AYE: Norment, Taylor, Edwards, DePue (4). NAY: Mahone (1).

2. Case No. Z-15-89. Williamsburg Congregation of Jehovah's Witness

Mr. Sowers stated that the case, an application submitted by Alvin P. Anderson, Esq., on behalf of the Williamsburg Congregation of Jehovah's Witness to rezone approximately 1.26 acres from R-3, General Residential, to B-1, General Business, located at 5737 Richmond Road, further identified as Parcel (1-29) on James City County Real Estate Tax Map No. (33-1), was postponed at the Board of Supervisors October 2, 1989, meeting.

Staff concerns were traffic, inconsistency with Comprehensive Plan, the 25-foot evergreen strip with 50-foot parking area might provide inadequate screening for the adjacent residential area.

The Planning Commission recommended approval by a 9-1 vote, and staff recommended denial.

The Board discussed the comprehensive traffic study done in 1986, and one entrance only on the McCormick property.

Mr. John Mathews, representative for the FCR group, described the 100-foot building line setback and the 50-foot setback with a single access to Route 60.

Mr. DePue made a motion to approve the case with proffers.

On a roll call, the vote was: Norment, Taylor, DePue (3). NAY: Edwards, Mahone (2).

R E S O L U T I O NCASE NO. Z-15-89. WILLIAMSBURG CONGREGATION OFJEHOVAH'S WITNESS

WHEREAS, in accordance with Section 15.1-431 of the Code of Virginia, and Section 20-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified and a hearing scheduled on Zoning Case No. Z-15-89 for rezoning approximately 1.26 acres from R-3, General Business, to B-1, General Business, on property identified as Parcel (1-29) on James City County Real Estate Tax Map No. (33-1); and

WHEREAS, the Planning Commission following its public hearing on September 12, 1989, voted 9-1 to recommend approval of Case No. Z-15-89.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Zoning Case No. Z-15-89 and accepts the voluntary proffers.

3. Proposed 1990 Legislative Package

Mr. Frank Morton, III, County Attorney, stated the first six items of the proposed 1990 legislative package were recommended as proposals on behalf of the County, and the remaining fourteen items are Virginia Municipal League proposals.

Mr. Morton explained each item and the Board accepted with no changes the following items:

1. Registrars' Salaries
2. Meals Tax
4. Mandated Programs
6. Insurance for School Board Selection Committee
7. Asbestos, Limitation on Liability
8. Comprehensive Land Use Plans, State Compliance With
9. Corrections, Juvenile Justice Reform
11. Education, Full Funding of Standards of Quality
12. Housing
13. Landfills, Requirement of Double Liners/Leachate Collection
14. Lottery Revenue
15. Mental Health/Mental Retardation, State Funding
16. Shell Building Program
17. Transportation, Impact Fees
18. Transportation, Shared Cost by Subdivision Developers
19. Water Resources Allocation
20. Zoning Changes

The Board considered changes on the following items, with the actions indicated.

3. Grass, Weeds, and Foreign Growth on Occupied Property

On a roll call, the vote was: AYE: Norment, Edwards, DePue, Mahone (4). NAY: Taylor (1).

5. Testing of Potable Well Water

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

10. Education, Election Versus Appointment of School Board Members

Mr. Mahone made a motion to remove item 10 from the legislative package.

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

Mr. Mahone made a motion to approve the 1990 Legislative Program resolution.

Mr. Edwards asked whether a statement should be included objecting to possible State restrictions on the ability of localities to impose increases in assessments of real property.

Mr. Morton replied in the affirmative.

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

R E S O L U T I O N

1990 LEGISLATIVE PROGRAM

WHEREAS, it is appropriate for the Board of Supervisors to consider a legislative program to present to the 1990 session of the General Assembly.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that they hereby endorse the attached 1990 Legislative Program and urge its consideration and passage as appropriate.

G. PUBLIC COMMENT

1. Mr. Joann M. Bierenbaum, 109 The Colony, stated that the PTA Council would be presenting a list of recommendations and suggestions to the School Board regarding the upcoming school year budget for 1990-91. On behalf of the Council, she asked for Board of Supervisors' cooperation and support.

H. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. David Norman, County Administrator, stated two work sessions would follow the Board meeting: (1) Regional Transportation Strategy and (2) Route 199.

I. BOARD REQUESTS AND DIRECTIVES

Mr. Taylor requested staff contact a constituent in Mirror Lakes about a cable dish.

Mr. Taylor asked that Board salary increase information be provided at the next meeting.

Mr. Taylor indicated his support of a bridge for the James River Crossing, and asked that a letter be sent to the Virginia Department of Transportation requesting a meeting without delay and opposing a tax to operate the ferries.

Mr. Norman responded that staff was presently contacting VDOT representatives to schedule a meeting to discuss issues of costs, raising fares, etc.

Mr. Horne advised that Ray Pethtel, Commissioner of VDOT, had stated that the decision was postponed for a period of 90-120 days for reevaluation, with intention of meeting with the jurisdictions prior to taking the issue back to the Transportation Board in Richmond.

By consensus, the Board agreed that staff contact VDOT representatives arranging a meeting at the earliest possible time to discuss the James River Crossing issue.

Mr. Mahone noted that quarterly meetings with Planning District No. 21 were being held to discuss areas of common interest. A report will be brought to the Board when prepared.

Mr. DePue referred to Ms. Bierenbaum's statement and stated that the School Board and Board of Supervisors share responsibility to the community on school goals.

Mr. DePue read a thank you letter, which was sent to the Editor of the Virginia Gazette, but not published, to supporters for their assistance during his successful election campaign.

Mr. Morton thanked Larry Davis for 5-1/2 years of friendship and support, and wished him well in his new position of County Attorney in Spotsylvania County.

Mr. Mahone expressed the Board's appreciation of working with Larry Davis and for his service to the County.

Mr. Mahone convened the Board into a work session for Route 199 Design at 4:05 p.m.

-18-

Mr. John Horne, Manager, Development Management reviewed a staff memorandum which introduced the issues related to the Route 199 design. The areas discussed were: Olde Towne Road, Ironbound Road, and Route 5. Representatives of the Virginia Department of Transportation also reviewed the design materials.

After discussion, the Board appointed two subcommittees to review design options and report to the Board. Mr. Edwards, Mr. Mahone and Mrs. Knudson would review Route 5. Mr. Taylor and Mr. DePue would review Olde Towne Road.

Mr. Mahone convened the Board into a work session on Regional Transportation Funding Strategy at 5:00 p.m.

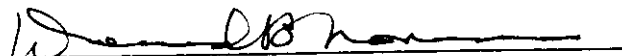
Mr. Henry Cochran, Executive Director of the Peninsula Planning District Commission, made a presentation on a proposed Transportation Financing Strategy to serve Hampton Roads. The strategy envisioned the establishment of an Authority that would have the powers to raise funds to be applied toward the construction of Regional Transportation projects.

After discussion, the Board asked that staff prepare a summary and recommendation on the proposal for discussion at the December 18, 1989, Board of Supervisors meeting.

Mr. Mahone made a motion to adjourn.

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

The Board adjourned at 6:00 p.m.


David B. Norman
Clerk to the Board

1191w

180-
12915

BOOK 458 PAGE 126



PROFFERS

THESE PROFFERS, made as of this 15 day of November, 1989,
by L. A. & G. Corporation, a Virginia corporation ("Owner").

RECITALS:

A. Owner is the owner of certain real property located in James City County, Virginia containing approximately 53.6 acres and commonly known as the Wythe Green Tract (hereinafter referred to as the "Property") and more particularly described as Parcel (1-35) on James City County Real Estate Tax Map No. (24-3).

B. Approximately 14.6 acres of the Property is currently zoned B-1, General Business. The remaining 39 acres of the Property is zoned A-1, General Agricultural. Owner has applied to rezone the portion of the Property now zoned A-1 to B-1, with proffers.

C. James City County (the "County") may be unwilling to rezone because of possible impacts on the surrounding area.

D. Owner, for itself and its successors and assigns, desires to offer to the County certain conditions on the development of the Property that are not generally applicable to land zoned B-1 for the protection of the community that are intended to mitigate possible impacts from the development on the surrounding area.

NOW, THEREFORE, for and in consideration of the approval by the Board of Supervisors of the County of the requested rezoning, and pursuant to Section 15.1-491.2:1 of the Code of Virginia,

1950, as amended, Owner agrees that it will meet and comply with all the following conditions for the development of the Property.

CONDITIONS

1. There shall be no more than one entrance, in addition to the two existing entrances, into the Property from U. S. Route 60.

2. There shall be maintained along the entire frontage of the Property along Route 60 that is not currently developed, except for the one new entrance permitted by Condition 1, a twenty-five (25) foot landscaped open strip, as defined in Section 20-2 of the County Zoning Ordinance.

3. Prior to submittal of a site plan for the development of the Property, or any portion thereof, the Owner, at its expense, shall cause to be prepared a comprehensive drainage study of the entire Property for review and approval by the Director of Code Compliance or his duly designated representative.

4. Upon approval of the aforesaid drainage study, the Owner, at its expense, shall be obligated to incorporate the recommendations of that study in any site plan for the development of the Property.

5. Prior to the submittal of a site plan for the development of the Property, or any portion thereof, the Owner, at its expense, shall cause to be prepared for review and approval by James City County, Virginia, a Phase I archaeological study for the Property. A Phase I study shall include

reconnaissance, systematic surface collection and shovel test pits every 90 to 150 feet.

IN WITNESS WHEREOF, Owner, intending to be legally bound, has duly executed these Proffers.

L. A. & G. CORPORATION

By: Louie A. Galanos
Louie A. Galanos, President

STATE OF VIRGINIA AT LARGE
CITY OF WILLIAMSBURG, to-wit:

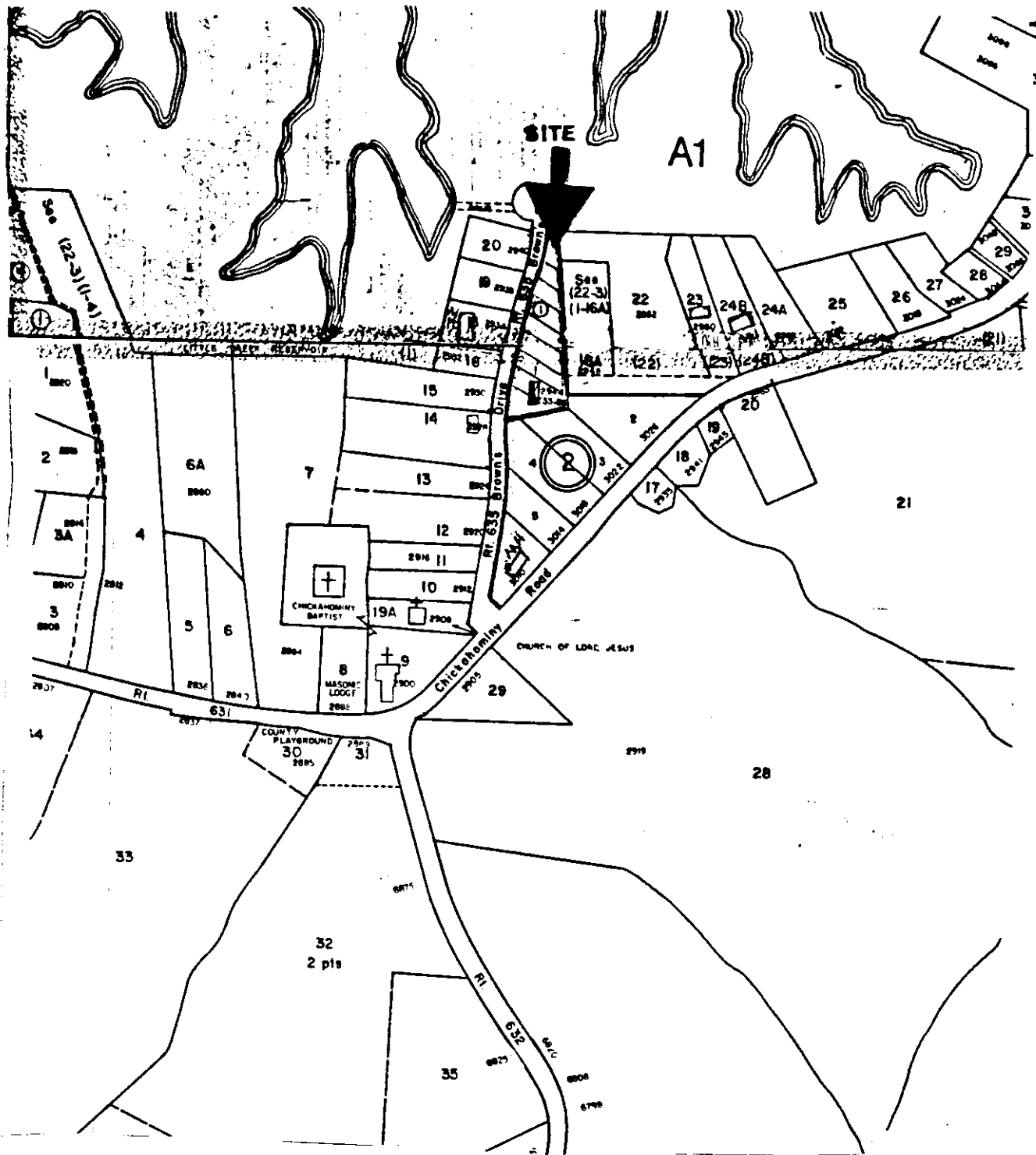
The foregoing instrument was acknowledged before me this 15th day of November, 1989, by LOUIE A. GALANOS, President of L. A. & G. Corporation on behalf of the Corporation.

Sue G. Clayton
NOTARY PUBLIC

My commission expires:

March 19, 1993

VIRGINIA: City of Williamsburg, County of James City, to W
In the Clerk's Office of the Circuit Court of the City of Williamsburg and County of James City the 30 day of Nov, 1989 This Proffers was presented with certificate annexed and admitted to file at 1:34 o'clock
Teste: Hon. Ward, Clerk
by Deputy Clerk



-  EXISTING MANUFACTURED HOME
-  PROPOSED MANUFACTURED HOME



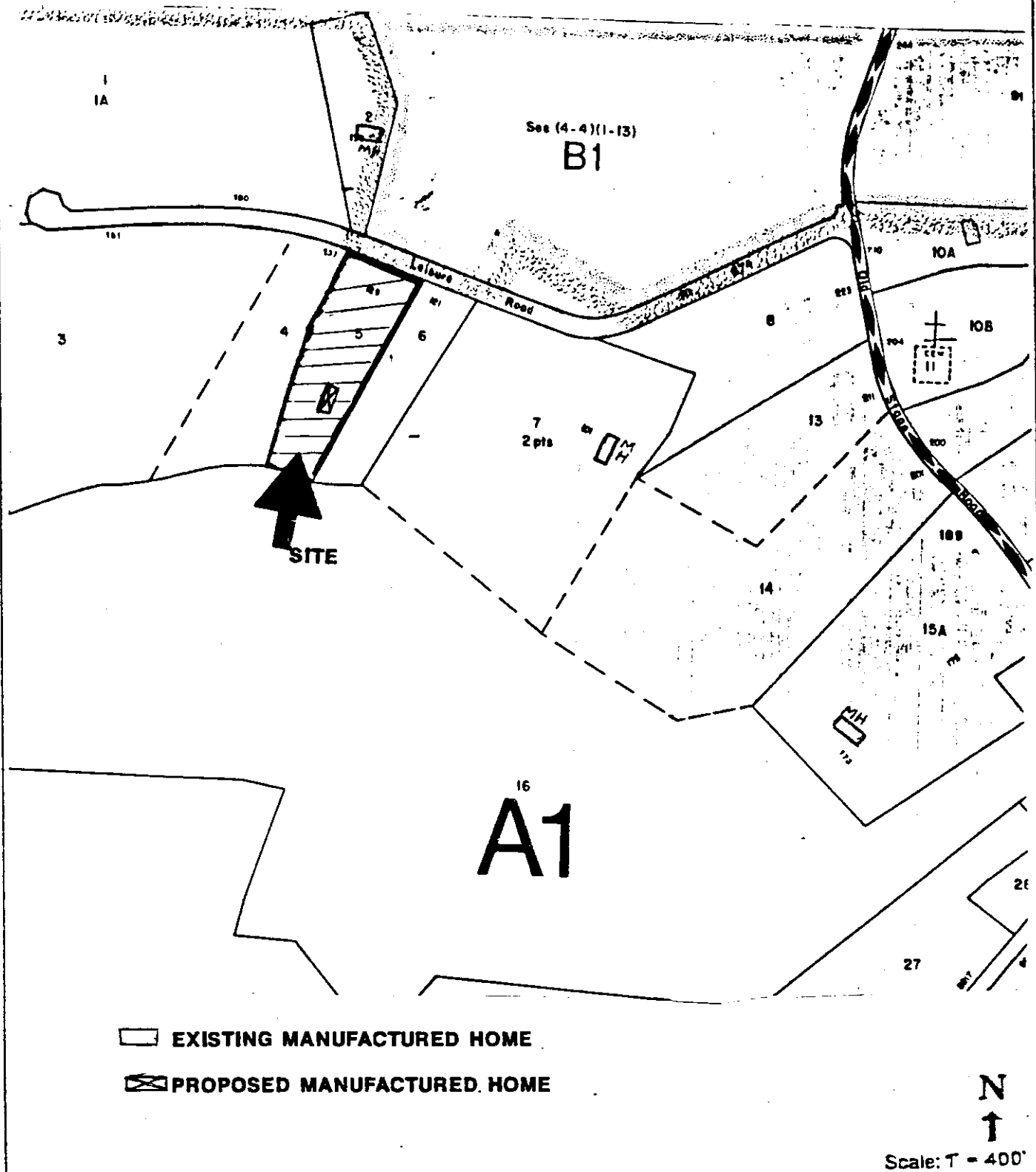
Scale: 1" = 400'



Case #: **SUP-34-89**

Name: **EUGENE B. SAMUEL**

JAMES CITY COUNTY/DEPARTMENT OF PLANNING & DEVELOPMENT



Case #: **SUP-35-89**

Name: **CLYDE HUGHES**

JAMES CITY COUNTY/DEPARTMENT OF PLANNING & DEVELOPMENT

NOV 20 1989

ORDINANCE NO. 107A-10

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 18, TAXATION, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE II, EXEMPTION OF CERTAIN PERSONS FROM REAL ESTATE TAXES, SECTION 18-11. AMOUNT OF EXEMPTION; ARTICLE III. PERSONAL PROPERTY TAX, BY ADDING SECTION 18-13.4. PENALTY FOR VIOLATION OF ARTICLE; BY AMENDING ARTICLE IV. TRANSIENT LODGING TAX, SECTION 18-23. PENALTY FOR VIOLATION OF ARTICLE; ARTICLE VI. REAL ESTATE ASSESSMENT, SECTION 18-29. BOARD OF EQUALIZATION—ESTABLISHED; SECTION 18-30. SAME—QUALIFICATION; APPOINTMENT; BY ADDING ARTICLE VIII. SHORT-TERM RENTAL TAX, SECTION 18-49. DEFINITIONS; SECTION 18-50. LEVY OF TAX; AMOUNT; SECTION 18-51. TREASURER—TAXATION OF RENTAL PROPERTY THAT IS NOT DAILY RENTAL PROPERTY; SECTION 18-52. PAYMENT AND COLLECTION; SECTION 18-53. PROCEDURE UPON FAILURE TO COLLECT, REPORT, ETC.; SECTION 18-54. PENALTY AND INTEREST; SECTION 18-55. EXEMPTIONS; SECTION 18-56. RENTERS'S CERTIFICATE OF REGISTRATION; AND SECTION 18-57. VIOLATION OF ARTICLE.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 18, Taxation, is hereby amended and reordained by amending Section 18-11. Amount of exemption; by adding Section 18-13.4. Penalty for violation of article; by amending Section 18-23. Penalty for violation of article; by amending Section 18-29. Board of Equalization—established; by amending Section 18-30. Same—Qualification; appointment; and by adding Article VIII, Short-Term Rental Tax, Section 18-49.

Definitions; Section 18-50. Levy of tax; amount; Section 18-51. Treasurer—Taxation of rental property that is not daily rental property; Section 18-52. Payment and collection; Section 18-53. Procedure upon failure to collect, report, etc.; Section 18-54. Penalty and interest; Section 18-55. Exemptions; Section 18-56. Renter's certificate of registration; and Section 18-57. Violation of article.

Chapter 18. Taxation

Article II. Exemption of certain persons from real estate taxes

Section 18-11. Amount of exemption.

Any person or persons qualifying under Section 18-10 shall be exempt from real estate taxes; provided, however, that no such exemption shall exceed four hundred dollars \$400.00 (3-12-73, Section 3-1; Ord. No. 70A-1, 8-8-77; Ord. No. 70A-2, 4-27-81; Ord. No. 70A-3, 11-15-82)

Article III. Personal Property Tax

Section 18-13.4. Penalty for violation of article.

Any person violating or failing to comply with any provision of this article shall be guilty of a Class 3 misdemeanor; provided, however, if the amount of tax due and unpaid for any installment exceeds \$1,000 any person failing to remit payment when due shall be guilty of a Class 1 misdemeanor. Each violation or failure shall constitute a separate offense. Such conviction shall not relieve any such person from the payment, collection or remittance of the tax as provided in this article. (Ord. No. 136A-2, 7-1-83)

Article IV. Transient Lodging Tax

Section 18-23. Penalty for violation of article.

Any person violating or failing to comply with any provisions of this article shall be guilty of a Class 3 misdemeanor; provided, however, if the amount of tax due and unpaid for any installment exceeds \$1,000 any person failing to remit payment when due shall be guilty of a Class 1 misdemeanor. Each violation or failure shall constitute separate offense. Such conviction shall not relieve any such person from the payment, collection or remittance of the tax as provided in this article. (Ord. No. 136A-2, 7-1-83)

Article VI. Real Estate Assessment

Section 18-29. Board of Equalization - Established.

Pursuant to Section 58.1-3373 of the Code of Virginia, 1950, as amended, there is created in the County of James City a permanent board of equalization which shall be called the James City County Board of Equalization. Such board shall consist of five members appointed by the circuit court for the City of Williamsburg and County of James City, as follows: one for a term of one year, one for a term of two years, and three for a term of three years. As the terms of the initial appointees expire, their successors shall be appointed for terms of three years. (Ord. No. 107A-6, 1-4-88)

Section 18-30. Same - Qualification; appointment.

Members of the board of equalization shall meet the requirements set forth in Section 58.1-3374 of the Code of Virginia, 1950, as amended. Not later than January 15 of each year the Board of Supervisors shall, by resolution, submit the name of at least one qualified freeholder in the County to the circuit court for the City of Williamsburg and County of James City for each appointment to the board of equalization pursuant to Section 58.1-3373 of the Code of Virginia, 1950, as amended. The board shall elect a chairman and a secretary from among its members. (Ord. No. 107A-6, 1-4-88)

Article VIII. Short-Term Rental Tax

Section 18-49. Definitions

The following words and phrases, when used in this article, shall have, for the purposes of this article, the following respective meanings except where the context indicates a different meaning:

Commissioner of the revenue: The commissioner of the revenue of the county and any of his duly authorized deputies, assistants, employees or agents.

Daily rental property: All tangible personal property held for rental and owned by a person engaged in the short-term rental business, except trailers, as defined in Section 46.1-1(33) of the Code of Virginia and other tangible personal property required to be licensed or registered with the Department of Motor Vehicles, Department of Game and Inland Fisheries, or the Department of Aviation.

Person: Any individual, corporation, company, association, firm, partnership or any group of individuals acting as a unit.

Short-term rental business: A person is engaged in the short-term rental business if not less than eighty percent (80%) of the gross rental receipts of such business in any year are from transactions involving rental periods of

ninety-two (92) consecutive days or less, including all extensions and renewals to the same person or a person affiliated with the lessor. "Affiliated" shall mean any common ownership interest in excess of five percent (5%) of any officers or partners in common with the lessor and lessee. For purposes of this test, (i) any rental to a person affiliated with the lessor shall be treated as rental receipts but shall not qualify for purposes of the eighty percent (80%) requirement, and (ii) any rental of personal property which also involves the provision of personal services for the operation of the personal property rented shall not be treated as gross receipts from rental. The delivery and installation of tangible personal property shall not mean operation.

Treasurer: The treasurer of the county and any of his duly authorized deputies, assistants, employees or agents.

Section 18-50. Levy of tax; amount.

Pursuant to Section 58.1-3510 of the Code of Virginia, there is hereby assessed and imposed on every person engaged in the short-term rental business a tax of one (1) percent on the gross proceeds of such business. Such tax shall be in addition to the tax levied pursuant to Section 58.1-605 of the Code of Virginia. "Gross proceeds" means the total amount charged to each person for the rental of daily rental property, excluding any state and local sales tax paid pursuant to the Virginia Retail Sales and Use Tax Act.

Section 18-51. Treasurer -- Taxation of rental property that is not daily rental property.

Except for daily rental passenger cars, rental property that is not daily rental property shall be classified for taxation pursuant to Section 58.1-3503 of the Code of Virginia.

Section 18-52. Payment and Collection of tax.

Every person engaged in the short-term rental rental business shall collect the rental tax from the lessee of the daily rental property at the time of the rental. The lessor of the daily rental property shall transmit a quarterly return to the commissioner of the revenue, indicating the gross proceeds derived from the short-term rental business and shall remit therewith the payment of such tax as is due for the quarter. The quarterly returns and payment of tax shall be filed with the commissioner of the revenue on or before the 20th day of each of the months of April, July, October and January, representing, respectively, the gross proceeds and taxes collected during the preceding quarters ending March 31, June 30, September 30 and December 31. The return shall be upon such forms and setting forth such information as the commissioner of the revenue may require, showing the amount of gross receipts and the tax required to be collected. The taxes required to be collected under this article shall be deemed to be held in trust by the person required to collect such taxes until remitted as required in this article.

Section 18-53. Procedure upon failure to collect, report, etc.

If any person, whose duty it is so to do, shall fail or refuse to collect the tax imposed under this article and to make, within the time provided in this article, the returns and remittances required in this article, the commissioner of the revenue shall proceed in such manner as he may deem best to obtain facts and information on which to base his estimate of the tax due. As soon as the commissioner of the revenue shall procure such facts and information as he is able to obtain upon which to base the assessment of any tax payable by any person who has failed or refused to collect such tax and to make such return and remittance, he shall proceed to determine and assess against such person the tax, penalty and interest provided for by this article and shall notify such person, by registered mail, sent to his last known place of address, of the total amount of such tax, penalty and interest and the total amount thereof shall be payable within ten (10) days from the date of such notice. In the event such tax is not paid within ten (10) days from the date of the notice, the treasurer shall proceed to collect same in accordance with Chapter 9 of Title 58.1 of the Code of Virginia.

Section 18-54. Penalty and interest.

If any person, whose duty it is so to do, shall fail or refuse to remit to the commissioner of the revenue the tax required to be collected and paid under this article within the time specified in the article, there shall be added to such tax a penalty in the amount of ten (10) percent of the tax past due or the sum of ten (10) dollars, whichever is the greater. The assessment of such penalty shall not be deemed a defense to any criminal prosecution for failing to make any return or remittance as required in this article. Additionally, interest on late payments of all taxes due shall be added at the rate of eight (8) percent per year. Penalty and interest for failure to pay the tax assessed pursuant to this article shall be assessed on the first day following the day such quarterly installment payment is due.

Section 18-55. Exemptions.

No tax shall be collected or assessed on (i) rentals by the commonwealth, any political subdivision of the commonwealth or the United States or (ii) any rental of durable medical equipment as defined in subdivision 22 of Section 58.1-608 of the Code of Virginia. Additionally, all exemptions applicable in Chapter 6 of Title 58.1 of the Code of Virginia (Section 58.1-600, et. seq.) shall apply mutatis mutandis to the daily rental property tax.

Section 18-56. Renter's certificate of registration.

Every person engaging in the business of short-term rental of tangible personal property shall file an application for a certificate of registration with the commissioner of the revenue. The application shall be on a form prescribed by the commissioner of the revenue and shall set forth the name under which the applicant intends to operate the rental business, the location and such other information as the commissioner may require.

Each applicant shall sign the application as owner of the rental business. If the rental business is owned by an association, partnership or corporation, the application shall be signed by a member, partner, executive officer or other person specifically authorized by the association, partnership or corporation to sign.

Upon approval of the application by the commissioner of the revenue, a certificate of registration shall be issued. The certificate shall be conspicuously displayed at all times at the place of business for which it is issued.

The certificate is not assignable and shall be valid only for the person in whose name it is issued and the place of business designated.

Section 18-57. Violation of article.

Any person violating or failing to comply with any provision of this article shall be guilty of a Class 3 misdemeanor; provided, however, if the amount of tax due and unpaid for any quarterly installment exceeds \$1,000, any person failing to remit payment when due shall be guilty of a Class 1 misdemeanor. Each violation or failure shall constitute a separate offense. Such conviction shall not relieve any such person from the payment, collection, or remittance of the tax as provided in this article.

This ordinance shall be effective on and after January 1, 1990.

Thomas D. Mahone
Thomas D. Mahone, Chairman
Board of Supervisors

ATTEST:

David B. Norman
David B. Norman
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
NORMENT	AYE
TAYLOR	AYE
EDWARDS	AYE
DEPUE	AYE
MAHONE	NAY

Adopted by the Board of Supervisors of James City County, Virginia,
this 20th day of November, 1989.

BOOK 458 PAGE 120

AGREEMENT



Whereas, the Williamsburg Congregation of Jehovah's Witness (hereinafter called "the Owner") owns certain real property in James City County, Virginia, (hereinafter called "the Property") and more particularly described as follows:

All that certain tract, piece or parcel of land, together with the improvements thereon and the appurtenances thereunto belonging, lying, situate and being in James City County, Virginia, and being known, designated and described as 54,880 square feet, 1.26 acres, tax parcel (33-1)(1-29) owned by the Williamsburg Congregation of Jehovah's Witness, and is bounded and described as follows:

Begin at a found pipe on the west right-of-way line of U.S. Route 60, and being a corner with James E. McCormick, said pipe being 60.94 feet northwest of a found VDOT monument; thence S 78 10'52"W 332.90 feet to a found pipe, corner to McCormick, thence N16 33'02"W 223.26 feet to a found pipe, corner McCormick and Minor Christian, thence S83 32'48"E 352.66 feet to a found pipe, corner Christian and on the right-of-way of U.S. Route 60, thence along U.S. Route 60 on a curve to the right having a length of 113.13 feet and a radius of 5,321.72 feet to the point of beginning.

Whereas, the Owner has applied for rezoning of the Property from the General Residential District, R-3 ("the Existing Zoning") to the General Business District, B-1 ("the Proposed Zoning") and;

WHEREAS, James City County, Virginia, may be unwilling to rezone the Property because the Proposed Zoning may be deemed inadequate for the orderly development of the Property because competing and incompatible uses may conflict; and

WHEREAS, more flexible and adaptable zoning methods are deemed advisable to permit the use of the Property; and

WHEREAS, the Owner is desirous of offering certain conditions for the protection of the community that are not applicable to land similarly zoned in addition to the regulations provided for in the

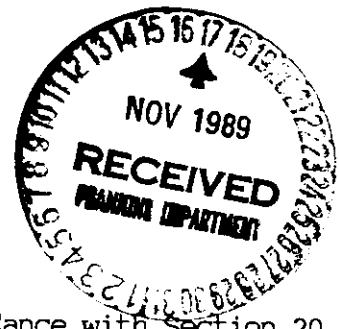
Proposed Zoning.

NOW, THEREFORE, this Agreement witnesseth that for and in consideration of James City County, Virginia, rezoning the Property from the Existing Zoning to the Proposed Zoning and pursuant to Section 15.1-491.1, et seq. of the Code of Virginia, 1950, as amended, and Section 20-18 of the Zoning Ordinance of James City County, Virginia, the Owner agrees that in addition to the regulations provided for in the Proposed Zoning, it will meet and comply with all of the following conditions for the development of the Property.

CONDITIONS

1. Prior to submittal of a site plan for the development of the Property, the Owner, at its expense, shall cause to be prepared a comprehensive drainage study of the Property for review and approval by the Director of Code Compliance or his duly designated representative.
2. Upon approval of the aforesaid drainage study, the Owner, at its expense, shall be obligated to incorporate the recommendations of that study in the site plan for the development of the Property.
3. Prior to the submittal of a site plan for the development of the Property, the Owner, at its expense, shall cause to be prepared for review and approval by James City County, Virginia, a Phase I archaeological study for the Property. A Phase I study shall include reconnaissance, systematic surface collection and shovel test pits every 90 to 150 feet.
4. No building shall be erected closer than one hundred (100) feet to the edge of the right of way of Richmond Road (U.S. Route 60).
5. No parking lot shall be erected closer than fifty (50) feet to the edge of the right of way of Richmond Road (U.S. Route 60).

BOOK 458 PAGE 122



6. Open space regulations shall be in accordance with Section 20-313 of the Limited Business District, LB of the Zoning Ordinance of James City County, Virginia.

7. After the approval of building plans but before the issuance of a building permit for the development of the Property and the adjacent parcel now or formerly owned by James E. McCormick, et ux, the southerly and westerly property lines of the Property shall be extinguished and no further subdivision of the Property shall be permitted except as may be necessary for the widening of Richmond Road (U.S. Route 60). Upon the extinguishment of said property lines, no entrance to and from the Property to Richmond Road (U.S. Route 60) shall be permitted; however, the entrance to and from Richmond Road (U.S. Route 60) on the adjacent parcel now or formerly owned by James E. McCormick may be used in conjunction with the development of the Property.

8. The Owner shall design and construct within the Right of Way of Richmond Road (U.S. Route 60) a deceleration/left-turn lane on both the westbound lane at the existing crossover West of the proposed entrance to the Property, and on the Eastbound lane at the existing crossover East of the proposed entrance to the property. Such lanes shall be designed and constructed in accordance with plans and specifications prepared and based upon the design criteria of VDOT, its reasonable recommendations, and sound engineering practices. Such improvements shall also include construction of the taper and turn lane for

eastbound vehicles utilizing the proposed entrance to the Property and the adjacent parcel. The final design specifications for all turn lane improvements specified in this paragraph shall be approved by VDOT and the Development Review Committee of the James City County Planning Commission. All improvements referenced in this paragraph shall be completed, or an appropriate bond posted, prior to the issuance of a final certificate of occupancy for occupation and use of the improvements constructed on the Property.

9. The Owner shall incorporate in its site plan for the development of the Property, a seventy five (75) foot "Restricted Area" along a portion of the northerly property line adjacent to the property now or formerly owned by Minor Christian, but exclusive of any portion of the Property within one hundred (100) feet of the right of way of Richmond Road (U.S. Route 60).

10. Except as herein provided, the Owner shall not construct any structures within the "Restricted Area" but shall provide and maintain, at its expense, within the "Restricted Area", and adjacent to the northerly property line, a permanent evergreen screen twenty five (25) feet in width, utilizing existing, transplanted or new evergreen trees. Such evergreen screen, if new, shall, at a minimum, include a double row of evergreen trees such as leyland cypress, white pine, red cypress, or other screening trees, supplemented as required with flowering shrubs to provide aesthetic variety and interest to the Restricted Area. Such landscaping shall be reviewed and approved by the Development Review Committee of the James City County Planning Commission to insure consistency with the objectives and intent of these proffers; however, notwithstanding anything else to the contrary,

the Owner shall be allowed to construct curbs, gutters, paved parking lots and access roads, sidewalks and lighting within the remaining fifty (50) feet of the "Restricted Area".

11. The following uses, generally permitted in the General Business, B-1 District shall not be allowed:

- a) Fish Markets
- b) Lumber and building supply (with storage and repair limited to a fully enclosed building).
- c) Plumbing and electrical supply (with storage limited to a fully enclosed building).
- d) Automobile service stations.
- e) Machinery sales and service (with storage and repair limited to a fully enclosed building).
- f) Lodges, civic clubs, fraternal organizations and service clubs.
- g) Funeral homes.
- h) Cemeteries
- i) Gunsmith (excluding shooting ranges).
- j) Feed, seed and farm supply stores.
- k) Wholesale and warehousing (with storage limited to a fully enclosed building).
- l) Marinas, docks, piers, yacht clubs, boat basins and servicing, repair and sale facilities for the same with sale of fuel in accordance with Section 20-89.
- m) Wholesale and retail marine or waterfront businesses to include the receipt, storage and transshipment of waterborne commerce, or seafood receiving, packing or distribution.
- n) Radio and television stations and accessory antenna or towers.
- o) Telephone exchanges and telephone switching stations.
- p) Convenience stores with sale of fuel.
- q) Veterinary offices

- r) New and/or rebuilt automotive parts sales (with storage limited to a fully enclosed building).
- s) Contractor's offices with storage of materials and equipment limited to a fully enclosed building.

WILLIAMSBURG CONGREGATION OF
JEHOVAH'S WITNESS

By: Ralph M. Brown

STATE OF VIRGINIA

County OF James City, to-wit:

The foregoing instrument was acknowledged before me this 16th
day of November, 1989, by Ralph M. Brown on
behalf of the Williamsburg Congregation of Jehovah's Witness.

Quinn H. Oley
NOTARY PUBLIC

My commission expires: 12/7/92

VIRGINIA: City of Williamsburg, County of
James City, to

In the Clerk's office of the City of Williamsburg and County of James City the
30 day of Nov, 1989. This agreement

was presented with certificate annexed and
admitted to record at 1:25 o'clock

Teste: Helene S. Ward, Clerk

by Deborah S. Ward
Deputy Clerk

1104

**CERTIFICATE OF DEPOSIT
JAMES CITY COUNTY, VIRGINIA**

\$9,750.00

THIS IS TO CERTIFY THAT NINE THOUSAND SEVEN HUNDRED FIFTY AND NO/100 DOLLARS (\$9,750.00) is estimated by the Board of Supervisors of James City County, Virginia, a political subdivision of the Commonwealth of Virginia, to be the fair market value of the fee simple title to the land and easements to be taken, and damages to the remainder, if any, hereinafter described, owned in whole or in part by the WILLIAM HENRY JONES ESTATE and/or the R. L. HENLEY ESTATE, which the Board of Supervisors of James City County, Virginia, has directed to be taken for public purposes, and for developing and expanding the sanitary landfill to be utilized in solid and hazardous waste management. This Certificate of Deposit is filed pursuant to a Resolution adopted by the Board of Supervisors on February 6, 1989, under the authority granted to the Board by Section 15.1-238 (a) and 15.1-236 of the Code of Virginia, as amended.

The amount specified, or as much thereof as may be determined by the Court, will be paid by the Treasurer of James City County, Virginia, pursuant to the Order of the Circuit Court of the City of Williamsburg and County of James City, Virginia, as provided by Title 33.1, Chapter 1, Article 7, of the 1950 Code of Virginia, as amended. The land or interest therein, lies in the County of James City, Virginia, and is described as follows:

5/176a
All that certain lot, piece or parcel of land, situate in James City County, Virginia, shown and described as a parcel labeled the "Martha Sheppard Est." on that certain plat entitled, "R. L. Henley's Estate on State Roads Nos. 603 and 626 and Colbys Swamp, Powhatan Dist., James City Co., VA," dated July 6, 1938, made by G. L. Evans, Certified Surveyor, of record at Plat Book 7, page 44. Being further described as that parcel labeled "Now or Formerly Sheppard" on that certain plat of record in Plat Book 33, page 47 and page 53. The parcel also being described on the landbooks of James City County as parcel (30-2)(01-0-0010) 13.0 acres.

Dated this 20th day of November, 1989, in the County of James City, Virginia.

Thomas D. Mahone
CHAIRMAN OF THE BOARD OF SUPERVISORS

ATTEST:

David B. Norman
CLERK OF THE BOARD OF SUPERVISORS

William R. Bland
WILLIAM R. BLAND, Attorney for
The Board of Supervisors
PHILLIPS, BARTLETT, SKINNER & BLAND, P.C.
Post Office Box 440
Williamsburg, Virginia 23187

COMMONWEALTH OF VIRGINIA

COUNTY OF JAMES CITY, to-wit:

I, the undersigned Notary Public in and for the jurisdiction aforesaid, do hereby certify that Thomas D. Mahone and David B. Norman, Chairman and Clerk of the Board of Supervisors of James City County, Virginia, respectively, whose names are signed to the foregoing writing bearing date on the 20th day of November, 1989, have acknowledged the same before me in my jurisdiction aforesaid.

GIVEN under my hand this 21st day of November, 1989.

Mari Lou Smith
NOTARY PUBLIC

My commission expires on: February 8, 1993.

JAMES CITY COUNTY

1990 LEGISLATIVE PROGRAM

1. Registrars' Salaries

The County requests a study be made to determine whether registrars are being fairly compensated. The James City County Electoral Board feels the state should upgrade the registrars' salaries. The County supports this position but feels a study is necessary to structure such a salary upgrade.

2. Meals Tax

James City County pursuant to Virginia Code Section 58.1-3833 levied a food and beverage tax for foods sold and consumed on the premises. Under that authority counties cannot levy a tax on take-out food consumed off the premises. This prohibition causes confusion and administrative problems for purchasers, restaurants and the Commissioner of the Revenue. The County requests that Virginia Code Section 58.1-3833 be amended to permit taxation on prepared food and beverages, including take-out items and items sold at drive-through facilities.

3. Grass, Weeds, and Foreign Growth on Occupied Property

Virginia Code Section 15.1-11 permits counties to require owners of vacant developed or undeveloped property to cut overgrown grass, weeds, or other foreign growth. The section does not apply to occupied property. The County requests that Section 15.1-11 be amended to apply to both vacant and occupied property. Similar authority is already given to certain delineated counties. (BOS vote: 4-1)

4. Testing of Potable Well Water

Section 32.1-176.5 of the State Code authorizes certain counties to require by ordinance, as a condition to receiving a building permit, that any person proposing to utilize private groundwater wells as his primary potable water source have the water tested to determine compliance with existing federal and state drinking water quality standards. The County should be added to those counties authorized to require such testing. (BOS vote: 3-2)

5. Insurance for School Board Selection Commission

In an opinion dated July 27, 1989, the Attorney General opined that school board selection commissions such as the County's are "autonomous bodies" and are therefore not automatically insured through the state's insurance plan for public liability. These commissions, which are not local government entities, will thus be uninsured unless local governments provide specific insurance for them, or other provisions are made. Section 2.1-526.8 of the Code of Virginia should be amended to include school board selection

commissions among those entities covered by the state's plan, such as has been done for local electoral boards.

6. Mandated Programs

The state has enacted many programs mandating the provision by local governments of services which are either unfunded or underfunded by the Commonwealth. It is unrealistic to expect local governments to continue to assume new mandates, either through law or regulations, which require expenditure of additional local funds. Active measures need to be taken to reduce excessive regulatory and statutory mandates and to increase state funding for mandated programs. As noted in the 1984 Joint Legislative Audit and Review Commission (JLARC) study of Local Mandates and Fiscal Resources, state mandates, particularly in the areas of education and social services, are of serious financial concern to localities. James City County continues to support full funding by the state of any additional mandates.

7. Real Property Assessments

James City County opposes any legislation restricting localities' ability to impose increases in assessments of real property.

The Virginia Municipal League Legislative Program for 1990 sets forth many specific legislative proposals. The County actively supports and places high priority on the following specific VML proposals:

8. Asbestos, Limitation on Liability

The VML requests that local governments and school boards and their officials be given comparable immunity to that provided at the state level for asbestos inspections.

9. Comprehensive Land Use Plans, State Compliance With

The VML supports legislation to require state agencies to comply with local government comprehensive plans and local land use regulations and policies subject to override authority by the Governor.

10. Corrections, Juvenile Justice Reform

The VML strongly urges the General Assembly to establish a study commission

to examine the increasing problem of handling juvenile offenders. The VML suggests that this commission consider the wide range of possible alternatives including lowering the age for trial as an adult, and enhancing community-based programs so as to provide a positive rehabilitative environment and serve as a diversion to institutionalization.

11. Education, Election Versus Appointment of School Board Members

Before the General Assembly makes a decision on the local option of elected school boards, it shall examine and make equitable decisions about the current financing mechanisms for education, the question of bonding authority, the ability of local governments to raise revenues, the revenue mechanism which would be given to elected school boards, and the issue of minority representation on boards. (BOS vote: 3-2)

12. Education, Full Funding of Standards of Quality

A top priority of the VML is increased funding for education, including full funding of the state's share of the actual costs of the Standards of Quality and full funding of categorical educational mandates. Increased state funding should be achieved without reduction to other funding components of the state's public education budget or to other state funding items affecting local governments.

The state should factor public school capital improvement costs into the Standards of Quality and should begin to share in funding such costs.

The VML urges the General Assembly to recognize local governments' long-standing support of public education. For many years local governments have funded educational costs beyond their required share in efforts to provide quality education.

All mandates should be accompanied by sufficient state funding.

13. Housing

The VML commends the General Assembly for establishing the Virginia Housing Partnership Fund to provide low cost mortgage loans to low income persons, particularly for the homeless, disabled and handicapped and encourages continued appropriations to the fund.

In view of the critical housing needs in the state, the VML urges the General Assembly to maintain a strong state role in the provision and funding of housing, including construction and rent subsidies, for the needy.

The VML also encourages the General Assembly to increase the opportunity of local governments to address housing needs. Among the housing revenue tools that could be made available to local governments on a local option basis are revolving loan funds, tax increment financing, and real estate transfer taxes.

14. Landfills, Requirement of Double Liners/Leachate Collection

The Waste Management Board or the General Assembly should only require single liners in sanitary landfills unless a single liner is shown not to be sufficient to protect groundwater and other drinking water supplies in which case a double liner should be required.

Conflicting regulations of the State Water Control Board and the Waste Management Board make proper disposal of the required leachate collection systems for landfills difficult or impossible. VML requests better coordination among Virginia's environmental agencies in addressing such leachate collection.

15. Lottery Revenue

The VML recommends that revenue from Virginia's lottery be distributed to each city, town, and county and should not reduce or be in lieu of any other state funding affecting local governments. Such funds could help address fiscal stress experienced by local governments.

16. Mental Health/Mental Retardation, State Funding

The VML commends the Governor and the General Assembly for increasing funding in the last biennium, thus taking a first step towards fulfilling the financial commitments the state made when it began the process of deinstitutionalization. We feel that increases in funding must continue and that this funding must follow the patients to the community.

The VML recognizes the need for increased funds for community services but we urge the state to also recognize the acute needs in health and social services that also have to be met.

17. Shell Building Program

The VML commends the General Assembly for its grant program to local governments for the construction of shell buildings to aid economic development. VML, however, requests that the General Assembly and the Department of Economic Development review the requirements of the initial

application process. Some localities feel that the extensive upfront application requirements (prior to the state making its initial review of applications) places an undue burden on the localities and thus effectively bars them from participation.

18. Transportation, Impact Fees

The VML urges the General Assembly to grant all local governments the ability to assess impact fees on new development as granted to Northern Virginia in the 1989 Session of the General Assembly.

19. Transportation, Shared Cost by Subdivision Developers

The VML urges the General Assembly to provide localities with the authority to require a developer of land to pay his pro rata share of the cost of providing reasonable and necessary roads adjacent to the property he is developing.

20. Water Resources Allocation

The VML supports a comprehensive assessment of existing and potential surface and ground water resources and development of a comprehensive water conservation and supply plan. If justified by these, the state should be encouraged to pass legislation to authorize the interbasin transfer of surface water and interjurisdictional transfers of ground water when cooperative intergovernmental agreements are unattainable. The state's role should be to protect the current and future interests of other water users in the source basin or source aquifer and to provide for a means of compensating those damaged by such water transfers.

21. Zoning Changes

The VML opposes any legislation that would restrict present land use powers of local governments to establish, modify and enforce zoning classifications. Local governments must remain free to adopt and enforce zoning changes that address local land use needs.

FMM/mfr