

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 1ST DAY OF APRIL, NINETEEN HUNDRED NINETY-ONE, AT 6:59 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

Thomas K. Norment, Jr., Chairman, Roberts District
Judith N. Knudson, Vice Chairman, Jamestown District

Perry M. DePue, Powhatan District
Jack D. Edwards, Berkeley District
Stewart U. Taylor, Stonehouse District
David B. Norman, County Administrator
Frank M. Morton, III, County Attorney

B. MINUTES - March 18, 1991

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

Mr. DePue made a motion to approve the minutes.

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

D. CONSENT CALENDAR

Mr. Norment asked if any Board member wished to remove items from the Consent Calendar.

Ms. Knudson asked that Items 3 and 4 be removed.

Mr. DePue made a motion to approve Items 1, 2, 5 and 6 of the Consent Calendar.

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

1. National County Government Week

R E S O L U T I O N

NATIONAL COUNTY GOVERNMENT WEEK

WHEREAS, county government is the oldest form of local government in the United States; and

WHEREAS, Virginia is the birthplace of county government, with the first counties in America being Virginia's eight original shires that were established in 1634; and

WHEREAS, the County of James City has been in existence for 357 years; and

WHEREAS, 98 percent of the nation's population and two-thirds of Virginia's population live in counties; and

WHEREAS, county governments expended almost \$103,000,000,000 last year to provide a wide range of services for the benefit of people of the United States; and

WHEREAS, county governments are often the last available resource for providing emergency and long-term services for the poor, the homeless, the disadvantaged and other segments of society; and

WHEREAS, over the past 30 years county government have assumed increasing responsibility for the administration and financing of health, welfare, justice, transportation, housing and community development programs; and

WHEREAS, county governments have also been assigned a greater role in solving area wide problems dealing with air pollution, solid waste disposal, transportation, water supply and other issues.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the week of April 7 through 13, 1991, is designated as

NATIONAL COUNTY GOVERNMENT WEEK.

2. VPSA Bond Issue, Spring, 1991
5. Vacation of Right-of-Way

R E S O L U T I O N

VACATION OF PORTION OF PLAT

WHEREAS, Williamsburg West Corporation, Inc., caused to be recorded in the Clerk's Office of James City County, Virginia, in Plat Book 26, at pages 2 and 3, subdivision plats entitled "Williamsburg West - Section 'One' - 'A'" made by Martin Clifford and Associates (the "Williamsburg West Plats"); and

WHEREAS, the Williamsburg West Plats show a "Future 50-foot right-of-way" (the "Right-of-Way") leading in a southerly direction from Country Club Drive; and

WHEREAS, the Virginia Department of Transportation has never accepted the dedication, if any, of the Right-of-Way, nor has any public funds been expended on the Right-of-Way; and

WHEREAS, Realtec, Incorporated ("Realtec") is now the owner of all lots contiguous to or abutting the Right-of-Way and desires to vacate and clear the title to the same; and

WHEREAS, the Right-of-Way does not furnish access to any of the lots shown on the Williamsburg West Plats nor will access for any lot owners, other than Realtec, be impeded or altered by the vacation of the Right-of-Way; and

WHEREAS, the County of James City, Virginia, desires to vacate the Right-of-Way; and

WHEREAS, pursuant to Section 15.1-482(a) of the Code of Virginia, the Right-of-Way may be vacated by an instrument in writing by and between Realtec and the Board of Supervisors.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorized the Chairman, Thomas K. Norment, Jr., to execute the Agreement to vacate Right-of-Way, dated March 15, 1991, by and between James City County, Virginia and Realtec, vacating a portion of the Right-of-Way.

6. Intensified Drug Enforcement Assistance Grant

R E S O L U T I O N

INTENSIFIED DRUG ENFORCEMENT ASSISTANCE GRANT

WHEREAS, the chief law enforcement officials of James City County and York County, in conjunction with the Commonwealth Attorneys of both jurisdictions and the State Police/Bureau of Criminal Investigation have entered into an agreement to form the Colonial Narcotics Enforcement Task Force (Task Force); and

WHEREAS, the purpose of the Task Force is to Enhance Drug Enforcement and Prosecution of Narcotics Violations in both jurisdictions; and

WHEREAS, the Task Force will apply to the Office of the Governor of Virginia for a grant of \$428,932; and

WHEREAS, this grant requires local cash match funds of which James City County's portion will be \$8,466.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes David B. Norman, County Administrator, to apply on behalf of the Task Force, to the Office of the Governor of Virginia for an Intensified Drug Enforcement Assistance Grant in the amount of \$419,454.00.

Ms. Knudson asked whether the Emergency Home Repair program included funds for training of homeowner in maintaining repairs.

Mr. Norman replied that a response would be forthcoming.

Ms. Knudson made a motion to approve Items 3 and 4.

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

3. Emergency Home Repair Program Grant Increase - FY 91

R E S O L U T I O N

AMENDMENT OF THE APPROPRIATION OF FUNDS FOR THE

EMERGENCY HOME REPAIR PROGRAM

WHEREAS, Virginia Department of Housing and Community Development has increased by \$5,592 the grant awarded James City County under the Emergency Home Repair Grant Program.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes that the appropriated funds for the Office of Community Development be amended as follows:

Revenues

VHPF Emergency Home Repair Funds	\$1,746
VHPF Emergency Energy Funds	<u>3,846</u>
	<u>\$5,592</u>

Expenditure

Emergency Home Repair Grants	\$1,746
Emergency Energy Repair Grants	<u>3,846</u>
	<u>\$5,592</u>

4. FY 1992 Emergency Home Repair Grant ApplicationR E S O L U T I O NAUTHORIZATION TO SUBMIT AN APPLICATION TO ADMINISTER ANEMERGENCY HOME REPAIR PROGRAM - FY 92

WHEREAS, the Commonwealth of Virginia Department of Housing and Community Development has issued a Notice of Funding Availability and Request for Proposals under the Emergency Home Repair; and

WHEREAS, assistance is needed to effectively and adequately address the emergency home repair needs of low-income persons to be served by James City County; in our service area of James City County; and

WHEREAS, an application for a grant under this program has been prepared; and

WHEREAS, James City County agrees to provide emergency home repair services to those in need in conformance with the regulations and guidelines of this State Program; and

WHEREAS, the County Administrator can act on behalf of James City County and will sign all necessary documents required to complete the grant transaction; and

WHEREAS, a local dollar for dollar match is required under the program and will be provided.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to apply for and accept the grant and enter into a grant Agreement with the Department of Housing and Community Development and undertake any and all actions and responsibilities in relation to such Agreement.

E. PUBLIC HEARINGS

1. Case No. SUP-55-90. Sheldon Lumber Company, Inc., Concrete Plant (Continued from 3/4/91)
2. Case No. SUP-57-90. Sheldon Lumber Company, Inc., Concrete Plant (RPOD) Continued from 3/4/91)

Mr. O. Marvin Sowers, Jr., Director of Planning, stated this case was postponed at the March 4, 1991, Board of Supervisors' meeting and reiterated that Mr. Vernon Geddy, III, had applied on behalf of the Sheldon Lumber company, Inc. for a special use permit to allow a concrete plant and storage of cement and stone used for the manufacture of cement, located at 7812

Richmond Road, on approximately 2.7 acres, zoned M-2, General Industrial, further identified as part of Parcel (1-30) on James City County Real Estate Tax Map No. (12-4).

Staff felt that the proposal was generally consistent with the Comprehensive Plan, and the Planning Commission on February 12, 1991, by a 9-2 vote, recommended approval of Case No. SUP-55-90 with conditions listed in the resolution.

Mr. Bernard M. Farmer, Jr., Director of Code Compliance, stated this case was postponed at the March 4, 1991, Board of Supervisors' meeting, and reiterated that Mr. Arch Marston, of AES Consulting Engineers, had applied on behalf of Branscome Concrete and the property owner for a special use permit to create more than 5,000 square feet of impervious surface area within the Reservoir Protection Overlay District, located at 7812 Richmond Road, further identified as Parcel (1-30) on James City County Real Estate Tax Map No. (12-4).

Mr. Farmer further stated that a runoff analysis had been submitted and reviewed, and staff recommended approval of Case No. SUP-57-90 with conditions listed in the resolution.

Mr. Norment reopened the public hearings.

Mr. William Beck, P.O. Box 324, Toano, spoke in favor of the issuance of the special use permits.

Mr. Howard Sheldon, 116 Henry Tyler, addressed the citizens' concerns of truck traffic and plant not being in an industrial park. He stated the plant would be a good business for the County.

Mr. Norment closed the public hearings.

Mr. Taylor made a motion to approve Special Use Permits 55-90 and 57-90.

Board comments were as follows: the plant would increase tax base, many other uses are available under existing zoning, and what the Comprehensive Plan update might designate for that area.

Mr. Edwards made a substitute motion to postpone until after the Comprehensive Plan update was approved.

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

Mr. Norment asked for a roll call on the main motion.

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

R E S O L U T I O NCASE NO. SUP-55-90. SHELTON LUMBER COMPANY, INC.,CONCRETE PLANT

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 its public hearing on February 12, 1991, voted 9-2 and recommended approval of Case No. SUP-55-90 to permit a concrete plant in the M-2, General Industrial district on property identified as Parcel (1-30) 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-55-90 as described herein with the following conditions:

1. If construction has not commenced on the project within 18 months from the date of issuance of the special use permit, it shall become void.
2. A Spill Prevention and Control and Counter Measure Plan shall be approved by the Director of Code Compliance prior to the issuance of any Certificate of Occupancy.
3. All roads and parking areas shown as paved on AES's plan entitled "Preliminary Plan: Aggregate and Cement Storage Facility" and dated November 1990, shall be paved prior to the issuance of any Certificate of Occupancy.
4. A berm 6 feet in height shall be provided along the northwest boundary of the site. The berm shall commence in the north corner of the site and extend south a distance of 225 feet. The berm shall be landscaped to create an effective visual screen in accordance with the requirements of the Zoning Ordinance and such landscaping shall be approved by the Development Review Committee.
5. The dust collection system to be utilized shall be identical in design and function to the system currently in operation at Henry S. Branscome's concrete plant in Hampton (C&W Manufacturing and Sales Company, Incorporated Model No. CW-RA-140 portable dust collection system).
6. Right- and left-turn lanes on Route 60 shall be constructed to have a minimum 200-foot storage area and a taper acceptable to VDOT. Such turn lanes shall be completed prior to the issuance of any Certificate of Occupancy for the site.

7. The "reverse beepers" on all equipment which serve the concrete plant shall be turned down to their lowest volumes.
8. All lighting on the site shall be of the sodium-vapor type.
9. No flags or signage shall be placed on the silos or aggregate hoppers or any other piece of permanent equipment.

R E S O L U T I O N

CASE NO. SUP-57-90. SHELDON LUMBER CONCRETE PLANT

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 develop land in the RP, Reservoir Protection Overlay district on property identified as Parcel (1-30) 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-57-90 as described herein with the following conditions:

1. An Inspection/Maintenance Agreement as approved by the County Attorney shall be executed prior to final site plan approval. This agreement shall address the requirement to monitor the proposed runoff control basin for pH and treat the basin discharge if pH levels exceed those permitted by the State Water Control Board.
2. The detention basin shall be designed in accordance with the Controlling Urban Runoff Manual published by the Metropolitan Washington Council of Governments and the Chesapeake Bay Ordinance.
3. The site plan shall establish those areas shown as green areas on Exhibit A of the Runoff Analysis as natural open space in accordance with the Chesapeake Bay Preservation Ordinance. Vegetation shall be established in these areas to provide ground cover, a shrub layer, and a tree canopy in accordance with the requirements of the Director of Code Compliance.
4. The applicant shall provide a facility to control runoff from the wash area, cement loading area and waste storage area designed for a 25-year storm event of a 24-hour duration. This facility shall also contain one additional foot of freeboard capacity in addition to the volume necessary for control of stormwater runoff.

4. Ordinance Amendment, Chapter 9, Licenses, Massage (Continued from 3/18/91)

Mr. Leo P. Rogers, Assistant County Attorney, stated that the proposed amendments would require that a massage technician graduate from a massage school approved by the Virginia Department of Education, and be certified as a massage therapist by the American Massage Therapy Association, Inc., or similar professional association which has equivalent eligibility standards. He indicated a separate permit process for massage technicians and massage clinics was proposed, with a massage technician permit fee of \$100 initially, \$25 annual renewal, and a massage clinic fee of \$250 initially, \$50 annual renewal.

Mr. Rogers further stated that a proposed change for the application process was to allow issuance of the permits by the County Administrator's Office rather than the Health Department.

Staff recommended approval of the Ordinance.

Mr. Norment reopened the public hearing, and as no one wished to speak, he closed the public hearing.

Mr. DePue made a motion to approve the Ordinance.

Mr. DePue and Mr. Norment commended staff and the public for working together.

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

4. Redistricting

Mr. John T. P. Horne, Manager, Development Management, stated that the report of the Redistricting Advisory Committee would be distributed to the Board of Supervisors after the public hearing. He expressed staff's appreciation to the committee members for their assistance.

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

Mr. Frank Morton, III, County Attorney, reminded the Board that citizens would have another opportunity to comment at a public hearing scheduled at 7:00 p.m. on Monday, April 22, 1991.

Mr. Norment noted that a work session on Redistricting was scheduled for April 15, 1991 at 4:00 p.m.

5. Case No. SUP-1-91. James City Service Authority/News Road Water Main

Mr. O. Marvin Sowers, Jr., stated that Mr. Larry M. Foster had applied on behalf of the James City Service Authority for a special use permit to allow the construction of a 12-inch water transmission main, located along

News Road within the Virginia Department of Transportation right-of-way, between Powhatan Secondary and the proposed entrance to Section 7 of Ford's Colony, total length approximately 2,400 feet.

In concurrence with staff, the Planning Commission unanimously recommended approval of Case No. SUP-1-91 with conditions listed in the resolution.

The Board discussed cost of project, whether the time limit condition was consistent with other requests, and need for the capacity increase.

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

Mr. Norment made a motion to approve the resolution.

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

R E S O L U T I O N

CASE NO. SUP-1-91. JCSA - NEWS ROAD WATER MAIN

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 its public hearing on March 12, 1991, unanimously recommended approval of Case No. SUP-1-91 to permit a 12-inch waterline located along News Road, within the Virginia Department of Transportation right-of-way, between Powhatan Secondary and the proposed entrance to Section 7 of Ford's Colony. The total length of the waterline is approximately 2,400 feet.

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-1-91 as described herein with the following conditions:

1. Construction, operation and maintenance of the water transmission main shall comply with all local, State and Federal requirements.
2. The project shall comply with all State erosion and sediment control regulations as specified in the 1980 Virginia Erosion and Sediment Control Handbook.
3. All required permits and easements shall be acquired prior to the commencement of construction.

4. If construction has not commenced on the project within a period of 24 months from the date of issuance of the permit, it shall become void. Construction shall be defined as the clearing, grading and excavation of trenches necessary for the construction of the water main.
5. For pipeline construction adjacent to existing development, adequate dust and siltation control measures shall be taken to prevent adverse effects on the adjacent property. It is intended that the present and future results of the proposed water transmission main do not create effects adverse to the public health, safety, comfort, convenience, or value of the surrounding property and uses thereon.

6. Case No. SUP-2-91. James City Service Authority - Penniman/Madison Roads Water Main

Mr. O. Marvin Sowers, Jr., stated that Mr. Larry M. Foster had applied on behalf of the James City Service Authority for a special use permit to allow the construction of an 8-inch water main, located along Penniman and Madison Roads, within the Virginia Department of Transportation right-of-way and on an easement between the C & O Railroad and the intersection of Adams Road and Tyler Drive, total length approximately 2,100 feet.

In concurrence with staff, the Planning Commission unanimously recommended approval of Case No. SUP-2-91 with conditions listed in the resolution.

The Board questioned whether increase in size of water main would facilitate development, and estimated cost of project.

Mr. Norment opened the public hearing.

1. Mr. Mark Lusk, 1207-1/2 Penniman Road, asked if the 2-inch water main was on Penniman or Madison Road, and stated that the new water main would be an asset to his property.

Mr. Sowers responded that the 2-inch water main ran along Madison Road.

Mr. Norment closed the public hearing.

Mr. Edwards made a motion to approve the resolution.

Mr. Norment stated that citizens had called him in support of the water main and also expressed their appreciation for the cooperation shown by the Service Authority staff.

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

R E S O L U T I O NCASE NO. SUP-2-91. JCSA - PENNIMAN/MADISON ROADS WATER MAIN

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 its public hearing on March 12, 1991, unanimously recommended approval of Case No. SUP-2-91 to permit an 8-inch watermain located along Penniman Road and Madison Road, within the Virginia Department of Transportation right-of-way and on an easement between the C & O Railroad and the intersection of Adams Road and Tyler Drive. The main would be located on an easement along Penniman Road. The total length of the watermain is approximately 2,100 feet.

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-2-91 as described herein with the following conditions:

1. Construction, operation and maintenance of the water transmission main shall comply with all local, State and Federal requirements.
2. The project shall comply with all State erosion and sediment control regulations as specified in the 1980 Virginia Erosion and Sediment Control Handbook.
3. All required permits and easements shall be acquired prior to the commencement of construction.
4. If construction has not commenced on the project within a period of 24 months from the date of issuance of the permit, it shall become void. Construction shall be defined as the clearing, grading and excavation of trenches necessary for the construction of the water main.
5. For pipeline construction adjacent to existing development, adequate dust and siltation control measures shall be taken to prevent adverse effects on the adjacent property. It is intended that the present and future results of the proposed water transmission main do not create effects adverse to the public health, safety, comfort, convenience, or value of the surrounding property and uses thereon.

7. Case No. SUP-5-91. City of Newport News Northern Zone Water Transmission Main

Mr. O. Marvin Sowers, Jr., stated that Mr. J. P. Noonan, of Malcolm Pirnie, Inc. had applied on behalf of the City of Newport News for a conditional special use permit to allow the construction of a 30-inch water transmission main, located for the most part within the existing 100-foot wide Virginia Power right-of-way, commencing at the Newport News/James City County boundary and extend north to a point east of the Anheuser Busch Brewery in the vicinity of the entrance to Busch Gardens, total length approximately 29,830 feet.

Mr. Sowers further stated the purpose of the main is to meet the increasing demand for water in three jurisdictions and improve overall system reliability by providing a redundant water source to these areas.

In concurrence with staff, the Planning Commission by a 10-1 vote recommended approval of the conditional special use permit with conditions listed in the resolution.

Mr. Norment opened the public hearing.

1. Mr. Ed Oyer, 139 Indian Circle, questioned where the projection would occur on the Edith Pitts Curtis tract.

Mr. Norment postponed the item until later in the meeting, and indicated Malcolm Pirnie, Inc. representatives would address Mr. Oyer's concern.

8. Case No. Z-1-91. Toano Woods Associates

Mr. O. Marvin Sowers, Jr., stated that Mr. Michael Scruggs had applied on behalf of Toano Woods Associates, a Limited Partnership, to rezone approximately 2.86 acres from A-1, General Agricultural, to R-1, Limited Residential, located on the east side of Bush Springs Road, approximately 800 feet south of its intersection with Richmond Road, further identified as Parcel (1-29B) on James City County Real Estate Tax Map No. (22-2).

Mr. Sowers explained staff's recommendation that the property be rezoned R-8, Rural Residential, which would allow four residential lots to be developed on the site, rather than rezoning to R-1, which could be developed with a density as high as 2.8 units per acre, in excess of the Comprehensive Plan's suggested density for the area.

In concurrence with staff's recommendation, the Planning Commission approved the rezoning by a vote of 10-0 with one abstention.

Mr. Norment opened the public hearing.

1. Mr. Michael Scruggs, of Toano Woods Associates, stated that R-1 zoning was requested for uniformity of the site, but R-8 zoning would be acceptable.

Mr. Norment closed the public hearing.

Ms. Knudson made a motion to approve the resolution.

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

R E S O L U T I O N

CASE NO. Z-1-91 TOANO WOODS ASSOCIATES

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-1-91 for rezoning approximately 2.86 acres from A-1, General Agricultural to R-1, Limited Residential, on property identified as Parcel (1-29B) on James City County Real Estate Tax Map No. (22-2); and

WHEREAS, the Planning Commission of James City County, voting 10-0 with one abstention, recommended approval of Case No. Z-1-91 to be rezoned from A-1, General Agricultural, to R-8, Rural Residential.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Zoning Case No. Z-1-91.

9. Case No. Z-12-90/SUP-48-90. Old Dominion French Winery

Mr. O. Marvin Sowers, Jr., stated that Mr. Vernon Geddy, III, on behalf of the Hankins Land Trust, had requested a one-month postponement of Cases No. Z-12-90 and SUP-48-90.

Staff concurred with the applicant's request and requested a continuation of the public hearings.

Mr. Norment opened the joint public hearings and with Board consensus, continued the public hearings until the May 6, 1991 Board of Supervisors' meeting.

7. Case No. SUP-5-91. (Continued)

Mr. Norment recognized Mr. Oyer in the audience and asked if he had received a response to his concern on Agenda Item No. 7, Case No. SUP-5-91.

Mr. Oyer replied in the affirmative.

Mr. Norment closed the public hearing on Case No. SUP-5-91.

Mr. Norment made a motion to approve the resolution.

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

R E S O L U T I O N

CASE NO. SUP-5-91. CITY OF NEWPORT NEWS NORTHERN ZONE

WATER TRANSMISSION MAIN

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 its public hearing on March 12, 1991, voted 10-1 to make a finding that the above-mentioned water transmission main is in accordance with the Comprehensive Plan and voted 10-1 to recommended approval of Case No. SUP-5-91 to permit a 30-inch water transmission main extending from the City of Newport News/James City County boundary north to a point east of the Anheuser Busch Brewery in the vicinity of the entrance to Busch Gardens. The main would be located, for the most part, within the existing 100-foot wide Virginia Power right-of-way. The length of the main would be approximately 29,830 feet.

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-5-91 as described herein with the following conditions:

1. This special use permit shall have no cause or effect until all the parcels or rights thereto, have been acquired by the City of Newport News. Evidence of this acquisition shall be provided to the Planning Division prior to preliminary approval of the site plan for the project. This permit is valid only for the route shown on the maps submitted to the County as part of this application. Any deviation from the route must be approved by the Development Review Committee. Any relocation of the proposed main on property other than that identified on the maps submitted as part of this application would cause the permit to become void.
2. If construction has not commenced on this project within a period of 24 months from the date of issuance of the special use permit, it shall become void.
3. Construction, operation and maintenance of the water transmission main shall comply with all local, State and Federal requirements.
4. The erosion and sediment plan shall be submitted as part of the site plan submittal and shall be approved by the County Engineer.

5. Copies of all State, Federal and local permits shall be provided as part of the site plan submittal.
6. Crossings of roads and existing utilities shall be coordinated with applicable agencies during the construction of the main.
7. For pipeline construction adjacent to existing development, adequate dust and siltation control measures shall be taken to prevent adverse effects on adjacent property. These methods are to be shown on the site plan and approved as part of the site plan submittal.
8. A Phase I archaeological study shall be undertaken for the project. The study shall be submitted to and approved by the Director of Planning prior to final site plan approval. If warranted by the Phase I study, a Phase II and Phase III study of the site shall also be completed. The recommendations of such studies shall be incorporated into the plan of development and any clearing, grading, or construction activities.
9. The topsoil shall be removed and stockpiled separate from other soil. When construction is completed, the topsoil shall be restored to its previous location and conditions to the greatest extent practical. In areas where topsoil restoration is not possible, post-construction topsoil conditions shall be reestablished to preconstruction conditions utilizing soil amendments as approved by the Soil Conservation Service.
10. In areas of the construction easement that have been cleared, seedlings shall be planted in accordance with the State Department of Forestry guidelines and shall be shown on a reforestation plan to be approved by the Planning Director. The reforestation of this easement shall be completed within 2 years of the clearing of the easement. It shall be the responsibility of City of Newport News to secure the necessary means to plant on the construction easement after the easement reverts back to the property owner.

10. Case No. ZO-1-91. Zoning Ordinance Amendments/Group Homes

Mr. Allen Murphy, Jr., Principal Planner, stated that State legislation required group homes with 8 or less residents, referred to as residential care facilities for mentally ill, mentally retarded or developmentally disabled persons, be permitted in the County ordinance as single family homes and be added to the list of permitted uses in each zoning district that permitted single family homes.

At its March 12, 1991, meeting, the Planning Commission, by a vote of 8-3, recommended approval of the ordinance amendments.

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

Mr. Edwards made a motion to approve the ordinance.

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

Mr. Morton stated amendments to the current ordinance would be prepared and brought forward at a future meeting.

E. BOARD CONSIDERATIONS

Mr. Taylor questioned whether a report had been prepared regarding the issue of building on A-1 lots less than 250 feet wide, in particular, the Racefield Drive matter.

Mr. John T. P. Horne responded that a memorandum to the Board with additional details was being prepared.

F. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, stated his concern that his real estate assessments in the Poplar Hall subdivision had risen an average of 20 percent on land values for this year.

Mr. Oyer commented that development creating additional water runoff and the greenhouse effect caused by emissions of carbon dioxide, which would warm the earth's surface, would bring flooding during the next century.

G. REPORTS OF THE COUNTY ADMINISTRATOR

With Board consensus, Mr. Norment asked that a memorandum and copies of applications for current Boards and Commissions vacancies be included in the Reading File for the next Board of Supervisors' meeting on April 15, 1991.

I. BOARD REQUESTS AND DIRECTIVES - None

Mr. Taylor made a motion to adjourn.

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

The Board adjourned at 8:28 p.m.



David B. Norman
Clerk to the Board

The undersigned Clerk of the Board of Supervisors (the "Board") of James City County, Virginia (the "County"), hereby certifies as follows:

1. A regular meeting of the Board was held on April 1, 1991, at the time and place established by such Board for its regular meetings at its preceding annual meeting in accordance with Section 15.1-536 of the Code of Virginia of 1950, as amended, at which the following members were present and absent:

PRESENT:

Perry M. DePue
Stewart U. Taylor
Jack D. Edwards
Judith N. Knudson
Thomas K. Norment, Jr.

ABSENT:


2. A resolution entitled "Resolution Providing for the Issuance of \$2,730,000 School Bonds, Series of 1991A, of James City County, Virginia, Heretofore Authorized, To Be Sold To the Virginia Public School Authority, and Setting Forth the Form and Details Thereof" was adopted by a majority of all members of the Board by a roll call vote, the ayes and nays being recorded in the minutes of the meeting as shown below:

<u>MEMBER</u>	<u>VOTE</u>
DEPUE	AYE
TAYLOR	AYE
EDWARDS	AYE
KNUDSON	AYE
NORMENT	AYE

3. Attached hereto is a true, correct and complete copy of such resolution as adopted at such meeting.

WITNESS my signature and the seal of the Board of Supervisors of James City County, Virginia, this 2nd day of April, 1991.

(SEAL)


Clerk, Board of Supervisors of
James City County, Virginia

**RESOLUTION PROVIDING FOR THE ISSUANCE OF \$2,730,000
SCHOOL BONDS, SERIES OF 1991A, OF JAMES CITY COUNTY,
VIRGINIA, HERETOFORE AUTHORIZED, TO BE SOLD TO THE
VIRGINIA PUBLIC SCHOOL AUTHORITY, AND SETTING FORTH
THE FORM AND DETAILS THEREOF**

WHEREAS, by resolution adopted March 4, 1991, the Board of Supervisors (the "Board") of James City County, Virginia (the "County"), has determined that it is necessary and expedient to issue its general obligation bonds in the maximum amount of \$2,730,000 to finance capital projects for school purposes, none of which bonds have been issued and sold; and

WHEREAS, the Virginia Public School Authority, a state agency prescribed by the General Assembly of Virginia pursuant to Article VII, Section 10(b) of the Constitution of Virginia (the "VPSA"), has offered to purchase the County's school bonds in an amount not to exceed \$2,730,000 pursuant to a Bond Sale Agreement dated as of April 5, 1991 (the "Bond Sale Agreement"); and

WHEREAS, the Board of Supervisors (the "Board") of the County has determined that it is necessary and expedient to borrow an aggregate amount not to exceed \$2,730,000 and to issue its general obligation school bonds for the financing of certain capital projects for school purposes; and

WHEREAS, the County held a public hearing after due notice, on March 4, 1991, on the issuance of the Bonds, as defined below, in accordance with the requirements of Sections 15.1-171.1 and 15.1-504, Code of Virginia of 1950, as amended (the "Virginia Code");

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF JAMES CITY COUNTY, VIRGINIA:

1. **Issuance of Bonds and Use of Proceeds.** The Board has determined previously that it is advisable to contract a debt and issue and sell general obligation bonds in the maximum aggregate amount of \$2,730,000 (the "Bonds") for the purpose of financing certain capital projects for public school purposes. The Board hereby provides for the issuance and sale of the Bonds in the form and upon the terms established pursuant to this Resolution.

2. **Sale of Bonds.** It is determined to be in the best interest of the County to accept the offer of the VPSA to

purchase the Bonds, and to sell the Bonds to the VPSA at par upon the terms established pursuant to this Resolution. The Chairman of the Board and the County Administrator, or either of them, are hereby authorized and directed to execute the Bond Sale Agreement in substantially the form submitted to the Board at this meeting, which is hereby approved, and deliver it to the VPSA.

3. Details of Bonds. The Bonds shall be issuable in registered form in denominations of \$5,000 and whole multiples thereof; shall be dated the date of their issuance and delivery; shall be designated "School Bonds, Series of 1991A;" shall bear interest payable semi-annually on June 15 and December 15 (each an "Interest Payment Date"), beginning December 15, 1991, at the rate or rates, and shall mature on December 15 in the years (each a "Principal Payment Date") and in the amounts, established in accordance with paragraph 4 of this Resolution.

Interest on each Bond shall be payable (a) from its date, if it is authenticated prior to December 15, 1991, or (b) otherwise from the June 15 or December 15 that is, or immediately precedes, the date on which it is authenticated (unless payment of interest thereon is in default, in which case such Bond shall bear interest from the date to which interest has been paid). Principal and premium, if any, shall be payable, subject to the provisions of Section 6, to the registered owners upon surrender of the Bonds as they become due at the principal corporate trust office of Crestar Bank, Richmond, Virginia, the Registrar. Subject to the provisions of Section 6, interest shall be payable by check or draft mailed to the registered owners at their addresses as they appear on registration books kept by the Registrar on the first day of the month of the interest payment date. Principal, premium, if any, and interest shall be payable in lawful money of the United States of America.

4. Award of Bonds; Interest Rates. The County Administrator is hereby authorized and directed to award the Bonds to the VPSA at a price of par and at an interest rate or rates established by the VPSA, provided that no such interest rate or rates shall be more than one-tenth of one percent ($1/10$ of 1%) over the annual rate to be paid by the VPSA for the corresponding maturity of the bonds to be issued by the VPSA (the "VPSA Bonds"), the proceeds of which will be used to purchase the Bonds, and provided further, that no interest rate on the Bonds shall exceed nine percent (9%) per year. Principal of the Bonds shall be payable in installments in years and amounts as set forth on Exhibit A; provided, however, that the County Administrator is hereby authorized to award the Bonds to the VPSA in accordance with a principal payment schedule different from that set forth in Exhibit A as the VPSA may propose, provided that such schedule shall include for annual payments in the years 1991 through 2010, inclusive. The execution and delivery of the Bonds as described in Section 8

hereof shall conclusively evidence the same as having been approved and authorized by this Resolution.

5. **Form of Bonds When Owned by VPSA.** For as long as the VPSA is the registered owner of the Bonds, the Bonds shall be in the form of a single, temporary typewritten bond substantially in the form attached hereto as Exhibit B. Upon 20 days' written notice from the VPSA, the County shall deliver, at its expense, Bonds in marketable form in denominations of \$5,000 or any integral multiple, as requested by the VPSA, in exchange for the temporary typewritten Bond. Such Bonds in marketable form shall be in substantially the form of Exhibit B hereto, with such changes as shall be necessary or appropriate for the Bonds to be in marketable form, as are not inconsistent with the terms of this Resolution and as may be approved by the County officials executing such Bonds.

6. **Payment to VPSA; Paying Agent and Registrar.**

a. For as long as the VPSA is the registered owner of the Bonds, all payments of principal of, premium, if any, and interest on the Bonds shall be made in immediately available funds to the VPSA at or before 11:00 a.m. (Richmond, Virginia, time) on the applicable Interest Payment Date and Principal Payment Date, or, if such date is not a business day for Virginia banks or for the Commonwealth of Virginia, then at or before 11:00 a.m. (Richmond, Virginia, time) on the business day next preceding such Payment Date; and

b. All overdue payments of principal, and interest to the extent permitted by law, shall bear interest at the applicable interest rate or rates on the Bonds.

c. Crestar Bank, Richmond, Virginia, is designated as Bond Registrar and Paying Agent for the Bond (the "Registrar").

7. **Prepayment or Redemption.** The principal installments of the Bonds held by the VPSA coming due on or before December 15, 2000, and the definitive Bonds for which the Bonds held by the VPSA may be exchanged that mature on or before December 15, 2000, are not subject to prepayment or redemption prior to their stated maturities. The principal installments of the Bonds held by the VPSA coming due after December 15, 2000, and the definitive Bonds that mature after December 15, 2000, are subject to prepayment or redemption at the County's option prior to their stated maturities in whole or in part, on any date on or after December 15, 2000, upon payment of the prepayment or redemption prices (expressed as percentages of principal installments to be prepaid or the principal amount of the Bonds to be redeemed) set forth below plus accrued interest to the date set for prepayment or redemption:

December 15, 2000 to December 14, 2001, inclusive	
103%	
December 15, 2001 to December 14, 2002, inclusive	102
December 15, 2002 to December 14, 2003, inclusive	101
December 15, 2003 and thereafter	100

Provided, however, that while the VPSA is the registered owner of the Bonds or of the definitive Bonds for which the Bonds may be exchanged, the County shall not call the principal installments of the Bonds for prepayment or call the definitive Bonds for which the Bonds may be exchanged for redemption prior to their stated maturities as described above without first obtaining the prior written consent of the VPSA. Notice of any such prepayment or redemption shall be given by the Registrar to the registered owner by registered mail not more than ninety nor less than thirty days before the date fixed for prepayment or redemption. Notice of prepayment (but not the requirement that the VPSA give its prior written consent to prepayment or redemption) may be waived by the owner of a Bond to be prepaid.

8. Execution of Bonds. The Bonds shall be signed by the manual or facsimile signature of the Chairman or Vice-Chairman of the Board, shall be countersigned by the manual or facsimile signature of the Clerk of the Board and the Board's seal shall be affixed thereto or a facsimile thereof printed thereon; provided, however, that if both of such signatures are facsimiles, no bond shall be valid until it has been authenticated by the manual signature of an authorized officer or employee of the Registrar and the date of authentication noted thereon.

9. Pledge of Full Faith and Credit. For the timely payment of the principal of and the interest on the Bonds provided for by this Resolution as the same shall become due, the full faith and credit of the County are hereby irrevocably pledged, and in each year while any of the Bonds shall be outstanding, unless other funds are lawfully available and appropriated for timely payment of the Bonds, the Board shall levy and collect in accordance with law an annual ad valorem tax upon all taxable property in the County subject to local taxation sufficient in amount to provide for the payment of the principal of and the interest on the Bonds as such principal and interest shall become due, which tax shall be without limitation as to rate and amount and in addition to all other taxes authorized to be levied in the County.

10. School Board Approval. The Clerk of the Board is hereby authorized and directed to cause a certified copy of this Resolution to be presented to the School Board of Willimburg-James City County. The Bonds authorized hereby shall not be issued by the County until the School Board of Willimburg-James City County shall have adopted an appropriate resolution

consenting to the issuance of the Bonds.

11. **State Non-Arbitrage Program; Proceeds Agreement.** In accordance with the requirements of the VPSA, the Board hereby determines that it is in the County's best interests to participate in the State Non-Arbitrage Program in connection with the Bonds, and hereby authorizes and directs the County Treasurer to take such action as shall be necessary or desirable therefor. The appropriate officers of the County are hereby authorized and directed to execute and deliver a Proceeds Agreement with respect to the deposit and investment of proceeds of the Bonds by and among the County, the other participants in the sale of the VPSA Bonds, the VPSA, Public Financial Management, Inc., as investment manager, and Central Fidelity Bank, as depository; provided, however, that such proceeds shall be invested in such manner that none of the Bonds will be "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, including regulations applicable to the Bonds (the "Code"). The Proceeds Agreement shall be in such form as shall be approved by the County's bond counsel.

12. **Maintenance of Tax-Exemption.** The County hereby covenants that it shall not take or omit to take any action the taking or omission of which will cause the Bonds to be "arbitrage bonds" within the meaning of Code Section 148, or otherwise cause interest on the Bonds to be includable in the gross income for federal income tax purposes of the registered owners thereof under existing law. Without limiting the generality of the foregoing, the County shall comply with any provision of law that may require the County at any time to rebate to the United States any part of the earnings derived from the investment of the gross proceeds of the Bonds. The County shall pay any such required rebate from its general funds.

13. **Use of Proceeds Certificate.** The appropriate officers and agents of the County are hereby authorized and directed to execute a Use of Proceeds Certificate or Certificates setting forth the expected use and investment of the proceeds of the Bonds and containing such covenants as may be necessary in order to show compliance with the provisions of the Internal Revenue Code of 1986, as amended (the "Code"), and applicable regulations relating to the exclusion from gross income of interest on the Bonds or on the VPSA Bonds. The Board, on behalf of the County, covenants that the proceeds from the issuance and sale of the Bonds will be invested and expended as set forth in such Use of Proceeds Certificate and other Certificates and that the County shall comply with the other covenants and representations contained therein. Furthermore, the Board, on behalf of the County covenants that the County shall comply with the provisions of the Code so that interest on

the Bonds and on the VPSA Bonds will remain excludable from gross income for Federal income tax purposes. Such Certificates may also provide for any elections such officers deem desirable regarding rebate of earnings to the United States for purposes of complying with the provisions of Code Section 148.

14. Restrictions on Private Use. The County covenants that it will not permit the gross proceeds of the Bonds to be used in any manner that would result in (a) 5% or more of such proceeds being used in a trade or business carried on by any person other than a governmental unit, as provided in Code Section 141(b), (b) 5% or more of such proceeds being used with respect to any "output facility" (other than a facility for the furnishing of water), within the meaning of Code Section 141(b)(4), or (c) 5% or more of such proceeds being used directly or indirectly to make or finance loans to any persons other than a governmental unit, as provided in Code Section 141(c); provided, however, that if the County receives an opinion of bond counsel to the County with respect to the Bonds, and bond counsel to the VPSA with respect to the VPSA Bonds, that compliance with any such restriction is not required to prevent interest on the bonds of both issues from being includable in the gross income for federal income tax purposes of the registered owners thereof under existing law, the County need not comply with such restriction.

15. No Sale of Bonds of Same Issue. The County covenants that it will not, without the Authority's consent, sell or deliver any general obligation bonds which are part of the same common plan of financing (and paid for from the same source of funds) as the Bonds between the dates that are 31 days prior to the date of sale of the VPSA Bonds and 31 days after the Closing Date.

16. Filing of Resolution; Publication of Notice. The appropriate officers or agents of the County are hereby authorized and directed to cause a certified copy of this Resolution to be filed with the Circuit Court of the County and, within ten days thereafter, to cause to be published once in a newspaper having general circulation in the County a notice setting forth (a) in brief and general terms the purposes for which the Bonds are to be issued and (b) the amount of the Bonds.

17. Further Actions. The members of the Board and all officers, employees and agents of the County are hereby authorized to take such action as they or any one of them may consider necessary or desirable in connection with the issuance and sale of the Bonds, and any such action previously taken is hereby ratified and confirmed.

18. Repeal of Resolutions in Conflict. All resolutions or

parts thereof in conflict herewith are hereby repealed.

19. Effective Date. This Resolution shall take effect immediately.

EXHIBIT A

Principal Repayment Schedule

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
1991	\$ 50,000	2001	\$125,000
1992	55,000	2002	135,000
1993	60,000	2003	150,000
1994	65,000	2004	165,000
1995	75,000	2005	180,000
1996	80,000	2006	195,000
1997	90,000	2007	215,000
1998	95,000	2008	235,000
1999	105,000	2009	260,000
2000	115,000	2010	280,000

(FORM OF TEMPORARY BOND)

EXHIBIT B

NO. TR-1

\$2,730,000

UNITED STATES OF AMERICA
COMMONWEALTH OF VIRGINIA
JAMES CITY COUNTY
School Bond, Series of 1991A

JAMES CITY COUNTY, VIRGINIA (the "County"), for value received, hereby acknowledges itself indebted and promises to pay to the VIRGINIA PUBLIC SCHOOL AUTHORITY the principal amount of **TWO MILLION SEVEN HUNDRED THIRTY THOUSAND DOLLARS (\$2,730,000)**, in annual installments on December 15 of the years (each a "Principal Payment Date"), together with interest on the unpaid installments at the annual rates set forth below from the date of this Bond until payment of the principal sum hereof, such interest to be payable commencing on December 15, 1991, and semi-annually thereafter on June 15 and December 15 of each year (each an "Interest Payment Date"; together with any Principal Payment Date, a "Payment Date"), as follows:

<u>Year of Maturity</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Year of Maturity</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
1991	\$ 50,000	%	2001	\$125,000	%
1992	55,000		2002	135,000	
1993	60,000		2003	150,000	
1994	65,000		2004	165,000	
1995	75,000		2005	180,000	
1996	80,000		2006	195,000	
1997	90,000		2007	215,000	
1998	95,000		2008	235,000	
1999	105,000		2009	260,000	
2000	115,000		2010	280,000	

subject to prepayment as hereinafter provided. Both principal of and interest on this Bond are payable in lawful money of the United States of America.

For as long as the Virginia Public School Authority is the registered owner of this Bond, Crestar Bank, Richmond, Virginia, as Bond Registrar, shall make all payments of principal of, premium, if any, and interest on this Bond, without the presentation or surrender hereof, to the Virginia Public School Authority, in immediately available funds at or before 11:00

a.m. (Richmond, Virginia, time) on the applicable Payment Date. If a Payment Date is not a business day for banks in the Commonwealth of Virginia or for the Commonwealth of Virginia, then the payment of principal of, premium, if any, or interest on this Bond shall be made in immediately available funds at or before 11:00 a.m. (Richmond, Virginia, time) on the business day next preceding the scheduled Payment Date. Upon receipt by the registered owner of this Bond of said payments of principal, premium, if any, and interest, written acknowledgement of the receipt thereof shall be given promptly to the Bond Registrar, and the County shall be fully discharged of its obligation on this Bond to the extent of the payment so made. Upon final payment, this Bond shall be surrendered to the Bond Registrar for cancellation.

The full faith and credit of the County are irrevocably pledged for the payment of principal of and interest on this Bond.

This Bond is duly authorized and issued in compliance with and pursuant to the Constitution and laws of the Commonwealth of Virginia, including the Public Finance Act, Chapter 5, Title 15.1, Code of Virginia of 1950, as amended, and resolutions duly adopted by the County's Board of Supervisors and the School Board of the County to provide funds, together with other available funds, to finance capital projects for public schools.

This Bond may be exchanged without cost at the principal corporate trust office of the Bond Registrar for an equal aggregate principal amount of bonds in definitive form having maturities and bearing interest at rates corresponding to the maturities of and the interest rates on the installments of principal of this Bond then unpaid, issuable in fully registered form in the denomination of \$5,000 or integral multiples thereof.

This Bond is registered in the name of Virginia Public School Authority on books of the County kept by the Bond Registrar, and the transfer of this Bond may be effected by the registered owner of this Bond only upon due execution of an assignment by such registered owner. Upon receipt of such assignment and the surrender of this Bond, the Bond Registrar shall exchange this Bond for definitive Bonds as hereinabove provided, such definitive Bonds to be registered on such registration books in the name of the assignee or assignees named in such assignment.

The principal installments of this Bond coming due on or before December 15, 2000, and the definitive Bonds for which this Bond may be exchanged that mature on or before December 15, 2000, are not subject to prepayment or redemption prior to their

stated maturities. The principal installments of this Bond coming due after December 15, 2000, and the definitive Bonds for which this Bond may be exchanged that mature after December 15, 2000, are subject to prepayment or redemption at the County's option prior to their stated maturities in whole or in part, on any date on and after December 15, 2000, upon payment of the prepayment or redemption prices (expressed as percentages of principal installments to be prepaid or the principal amount of the Bonds to be redeemed) set forth below plus accrued interest to the date set for prepayment or redemption:

December 15, 2000 to December 14, 2001, inclusive	103%
December 15, 2001 to December 14, 2002, inclusive	102
December 15, 2002 to December 14, 2003, inclusive	101
December 15, 2003 and thereafter	100

Provided, however, that while the Virginia Public School Authority is the registered owner of this Bond or of the definitive Bonds for which this Bond may be exchanged, the County shall not call the principal installments of this Bond for prepayment, or call the definitive Bonds for which this Bond may be exchanged for redemption prior to their stated maturities as described above without first obtaining the prior written consent of the Virginia Public School Authority. Notice of any such prepayment or redemption shall be given by the Registrar to the registered owner by registered mail not more than ninety (90) and not less than thirty (30) days before the date fixed for prepayment or redemption. Notice of prepayment (but not the requirement that the Virginia Public School Authority give its prior written consent to prepayment or redemption) may be waived by the owner of the Bond to be prepaid or redeemed.

All acts, conditions and things required by the Constitution and laws of the Commonwealth of Virginia to happen, exist or be performed precedent to and in the issuance of this Bond have happened, exist and have been performed in due time, form and manner as so required, and this Bond, together with all other indebtedness of the County, is within every debt and other limit prescribed by the Constitution and laws of the Commonwealth of Virginia. The resolution adopted by the Board of Supervisors authorizing the issuance of the Bond provides, and Section 15.1-210 of the Code of Virginia of 1950, as amended, requires, that there shall be levied and collected an annual tax upon all taxable property in the County subject to local taxation sufficient to provide for the payment of the principal of, premium, if any, and interest on this Bond as the same shall become due which tax shall be without limitation as to rate and amount and shall be in addition to all other taxes authorized to be levied in the County.

IN WITNESS WHEREOF, the Board of Supervisors of James City County, Virginia, has caused this Bond to be signed by its Chairman, to be countersigned by its Clerk, its seal to be affixed hereto, and this Bond to be dated May __, 1991. 161

COUNTERSIGNED:

Clerk, Board of Supervisors
of James City County,
Virginia

(SEAL)

Chairman, Board of
Supervisors of James City
County, Virginia

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto

(PLEASE PRINT OR TYPEWRITE NAME AND ADDRESS, INCLUDING ZIP CODE,
OF ASSIGNEE)

PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF
ASSIGNEE: _____

the within Bond and irrevocably constitutes and appoints

_____ attorney to
exchange said Bond for definitive bonds in lieu of which this
Bond is issued and to register the transfer of such definitive
bonds on the books kept for registration thereof, with full
power of substitution in the premises.

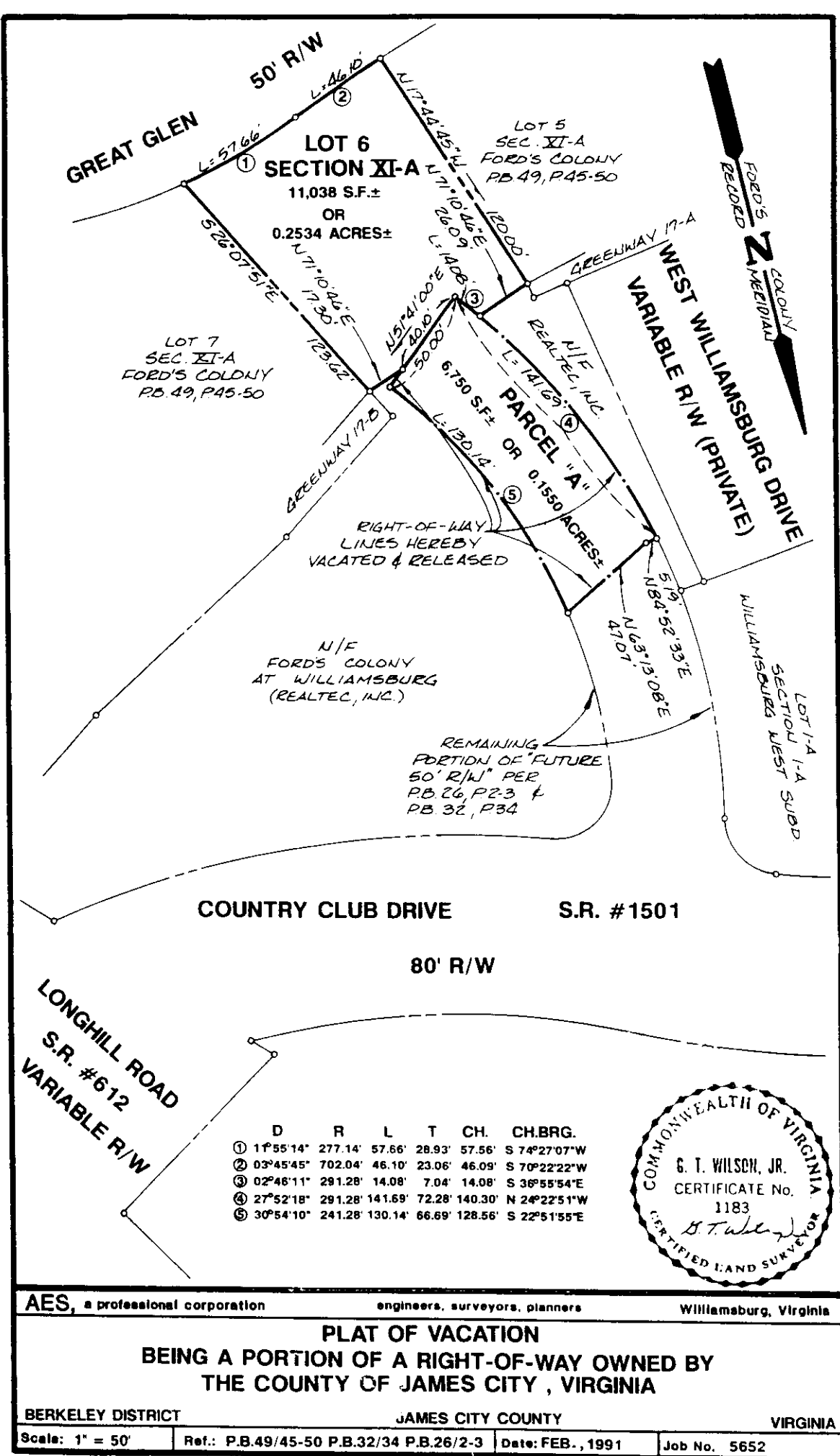
Date: _____

Registered Owner

Signature Guaranteed:

(NOTICE: Signature(s) must be
guaranteed by a member firm of
the New York Stock Exchange or
a commercial bank or trust
company.)

(NOTICE: The signature above
must correspond with the name
of the Registered Owner as it
appears on the front of this
Bond in every particular,
without alteration or change.)



ORDINANCE NO. 87A-3

APR 1 1991

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 9, LICENSES, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE V. MASSAGE PARLORS, SECTION 9-114. DEFINITIONS, SECTION 115. PERMIT - REQUIRED, SECTION 9-116. SAME - EXEMPTIONS FROM REQUIREMENT, SECTION 9-117. SAME - APPLICATION, SECTION 9-118. SAME - REFERRAL OF APPLICATION TO CERTAIN ADMINISTRATIVE OFFICERS, SECTION 9-119. SAME - ISSUANCE, SECTION 9-120. DISPLAY OF PERMIT AND LIST OF EMPLOYED TECHNICIANS, SECTION 9-120.1. PERMIT FEE, SECTION 9-121. REQUIRED FACILITIES; MAINTENANCE, SECTION 9-121.1. OPERATING REQUIREMENTS, SECTION 9-122. HOURS OF OPERATION, SECTION 9-123. HEALTH REQUIREMENTS FOR OPERATORS AND TECHNICIANS, SECTION 9-123.1. RIGHT OF INSPECTION, SECTION 9-123.2. KEEPING OF RECORDS, SECTION 9-123.3. ALCOHOLIC BEVERAGES PROHIBITED, SECTION 9-124. MASSAGE OF CERTAIN PORTIONS OF BODY PROHIBITED; EXPOSURE OF CERTAIN PORTIONS OF BODY PROHIBITED, SECTION 9-125. WHERE MASSAGE PERMITTED, SECTION 9-126. RESPONSIBILITY OF PERMITTEE, SECTION 9-127. REVOCATION AND SUSPENSION OF PERMITS GENERALLY, SECTION 9-128. PERMIT NONTRANSFERRABLE; GROUNDS FOR REVOCATION OF PERMIT, SECTION 9-129. PENALTY, AND SECTION 9-129.1. SEVERABILITY.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 9, Licenses, is hereby amended and reordained by amending Article V. Therapeutic Massage, Section 9-114. Definitions, Section 9-115. Permit - Required, Section 9-116. Exemptions, Section 9-117. Applications, Section 9-118. Referral of applications, Section 9-119. Issuance of permits, Section 9-120. Display of permit and list of employed

technicians, Section 9-120.1. Permit fees, Section 9-121. Required facilities; maintenance, Section 9-121.1. Operating requirements, Section 9-122. Hours of operation, Section 9-123. Health requirements for massage technicians, Section 9-123.1. Right of inspection, Section 9-123.2. Keeping of records, Section 9-123.3. Alcoholic beverages prohibited, Section 9-124. Exposure or massage of certain portions of body prohibited, Section 9-125. Where massage permitted, Section 9-126. Responsibility of permittee, Section 9-127. Revocation and suspension of permits generally, Section 9-128. Permit nontransferable, grounds for revocation, Section 9-129. Penalty, and Section 9-129.1, Severability.

Chapter 9. Licenses

Article V. Therapeutic Massage

Section 9-114. Definitions.

For the purposes of this article, the following words and terms shall have the meanings respectively ascribed to them by this section:

Administrator: The James City County Administrator or his designee.

Applicant: Any person applying for a permit under this article and must include all partners, including limited partners, of a partnership applicant, all officers and directors of a corporate applicant and any stockholder holding more than twenty-five percent (25%) of the stock of a corporate applicant.

Approved school: Any school recognized by or approved by or affiliated with the American Massage and Therapy Association, Inc., any other school having a professional massage technician curriculum approved by the Virginia Board of Education and which issues a certificate of satisfactory completion of training in such discipline, or any out-of-state school which, in the discretion of the director, provides massage instruction equal to or greater than the standards set by the Virginia Board of Education.

Director: The district health director of the Peninsula Health District, or his designee.

Massage: A method of treating the external parts of the body for medical, hygienic, exercise or relaxation purposes by rubbing, stroking, kneading, tapping, pounding, vibrating or stimulating with the hands or any instrument, or by the application of air, liquid or vapor baths of any kind.

Massage clinic: Any establishment having a fixed place of business where any person engages in, carries on, or permits to be engaged in or carried on, any business of giving of any kind or character of massage, not including the residence of any patron.

Massage technician: Any person who administers a massage to another person for consideration and who has a valid permit issued under this article.

Patron: Any person who receives a massage in exchange for the payment of money or any other consideration.

Permit: A current card or other document issued by the Administrator evidencing compliance with the application provisions of this article.

Permittee: Any person issued a permit under this article or the operator of a licensed massage clinic.

Person: Any individual, partnership, firm, association, joint stock company, corporation, or combination of individuals of whatever form or character.

Erogenous area: The genitals, pubic area, anus or perineum of any person, or the vulva or breasts of a female.

Section 9-115. Permit - Required.

It shall be unlawful for person to conduct, perform or permit to be given a massage in or upon any premises in the County except by a massage technician with a permit issued pursuant to this article. It shall be unlawful for any person, including a massage technician, to conduct, perform, or permit to be given a massage in a fixed place of business within the County without obtaining a massage clinic permit pursuant to this article.

Section 9-116. Exemptions.

The requirements of Section 9-115 shall not apply to a physician, surgeon, chiropractor, or osteopath duly licensed by the state, or to a licensed nurse, licensed physical therapist or graduate from an approved school acting under direct prescription and direction of any physician, surgeon, chiropractor or osteopath for treatment of a specified ailment. The requirements of Section 9-115 shall not apply to barbershops or beauty parlors in which massage is given to the scalp, the face the neck or the shoulders only.

Section 9-117. Applications.

- A. **Massage Technician Permit.** Any person desiring a permit to perform or conduct massages in the County shall make application to the Administrator. Such application shall be accompanied by a receipt showing payment to the County Treasurer of the nonrefundable application fee provided in Section 9-120.1. Such fee shall cover the cost of investigation, inspection and monitoring by the Administrator and the director. The applicant for a permit shall furnish the following information:
1. Full legal name, home and business addresses and phone numbers;
 2. Social security number;
 3. Height, weight, color of eyes, sex;
 4. Portrait photograph of applicant, giving a clear view of the applicant's face;
 5. Complete history of applicant's related employment experience with names and phone numbers of employers or references;
 6. Written proof of graduation from an approved school;
 7. A copy of a valid business license issued by the County, if applicable;
 8. Any criminal convictions of the applicant, other than traffic offenses, listing the places of each such convictions;
 9. Written authorization for the County, its agents and employees to conduct an investigation into the truth of information provided by the applicant; and
 10. Written declaration under oath, duly dated and signed by the applicant, certifying that the information contained in the application is true and correct.
- B. **Massage Clinic Permit.** Any person desiring a permit to operate a massage clinic in the County shall make application to the Administrator. Such application shall be accompanied by a receipt showing payment to the County Treasurer of the nonrefundable application fee provided in Section 9-120.1. Such fee shall cover the cost of investigation, inspection and monitoring by the Administrator and the director. The applicant for the permit shall furnish the following:

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1. Legal name of applicant and any trade name, and its business address and phone number;
2. Applicant's social security number and-or employer identification number;
3. Applicant's related employment or business experience with the names and phone numbers of employers or references;
4. List of each massage technician employed or to be employed by the applicant;
5. Copy of business license issued by the County;
6. Any criminal conviction of the applicant, other than traffic offenses, listing the place of each such conviction;
7. Written authorization for the County, its agents and employees to conduct an investigation into the truth of the information provided by the applicant; and
8. Written declaration under oath, dated and signed by the applicant, certifying that the information contained in the agreement is true and correct.

Section 9-118. Referral of applications.

A. The Administrator shall refer a copy of a massage technician application to the director and the police department who shall review such application and make a written recommendation to the County administrator within ten (10) days.

B. The Administrator shall refer a copy of a massage clinic application to the director, the police department and administrative offices of the county charged with the enforcement of building, plumbing, electric and fire prevention codes. Each such person or department shall, within ten (10) days, inspect the premises proposed to be operated as a massage clinic and make written recommendations to the Administrator.

Section 9-119. Issuance of permits.

Within twenty-one (21) days of the application, the Administrator shall issue or reissue in case the permit has expired or been revoked, the permit if he shall find:

- (a) The premises to be used or constructed meets the building, plumbing, electric and fire prevention codes of the county as reported by the administrative officers of the county.
- (b) The applicant meets and complies with all requirements of this article and all other applicable laws.

- (c) The applicant has not been convicted of any felony or misdemeanor involving dishonesty, fraud, or moral turpitude, unless such conviction occurred at least five (5) years prior to the date of the application.
- (d) The applicant for a massage technician permit or every massage technician employed or to be employed by the applicant for a massage clinic permit holds a certificate of graduation from an approved school and is qualified as a massage therapist by the American Massage Therapy Association, Inc., Associated Bodyworks & Massage Professionals, Inc. (Level 1 Member), or similar professional association which, in the discretion of the Administrator, has equivalent eligibility standards.
- (e) The applicant has not made any false, misleading, or fraudulent statement of fact in the permit application or in any document required by the county in conjunction therewith.

Every permit issued pursuant to this article shall remain in force until January 31, of the next following year, unless sooner suspended or revoked.

Section 9-120. Display of permit and list of employed technicians.

Massage technicians shall have their permit available whenever they perform a massage. Every massage clinic shall display its permit in a conspicuous place, so that such may be readily seen by anyone entering the premises. The massage clinic shall also display in a conspicuous place a list of all massage technicians employed in the massage clinic.

Section 9-120.1. Permit Fee.

The permit fees here provided are the costs of investigations and monitoring by the Administrator, the health department and other departments.

(a) An initial permit application fee of two hundred and fifty dollars (\$250.00) shall be paid to the county treasurer by each applicant for a massage clinic permit. The permit, when issued, shall remain in force until January 31 of the next following year. The permittee shall renew such permit by February 1 of each ensuing year by filing the required renewal application and paying a renewal permit fee of fifty dollars (\$50.00) to the county treasurer not later than the 31st day of January of each year.

(b) An initial permit application fee of one hundred dollars (\$100.00) shall be paid to the county treasurer by each applicant for a massage technician permit. The permit, when issued, shall remain in force until January 31 of the next following year. The permittee shall renew such permit by February 1 of each ensuing year by filing the required renewal application and paying a renewal fee of twenty-five dollars (\$25.00) to the county treasurer not later than 31st day of January of each year.

(c) No permit fee shall be prorated nor shall any permit be transferable to another person.

Section 9-121. Required facilities; maintenance.

Each massage clinic shall have, and maintain in a clean, sanitary and workable condition:

(a) Adequate equipment or arrangements for disinfecting nondisposable instruments and materials used in administering massages. Such nondisposable instruments and materials shall be disinfected after each use.

(b) Washbasins provided with both hot and cold running water installed in either the toilet room or a vestibule immediately adjacent thereto. Washbasins shall be provided with soap and dispenser with sanitary towels.

(c) Closed cabinets used for storage of clean linen, towels, and other materials used in connection with administering massages. All soiled linens, towels, and other materials shall be kept in properly covered containers or cabinets which containers or cabinets shall be kept separate from the clean storage areas.

(d) Rest rooms as required under the County's building regulations.

(e) Separate massage and dressing rooms for each sex if male and female are to be served simultaneously.

(f) A service sink for custodial services provided either in the massage clinics quarters or on the floor of the building on which the quarters are located.

(g) Massage tables, and steam or bath areas with nonporous surfaces which may be readily disinfected.

Section 9-121.1. Operating requirements.

(a) Every portion of the massage clinic, including appliances and apparatus, shall be clean and operated in a sanitary condition.

(b) Price rates for all services shall be prominently posted in the reception area in a location available to all prospective customers.

(c) All employees and massage technicians shall be clean and wear clean, fully opaque clothing.

(d) Sanitary towels and linens shall be provided for each patron of the massage clinic. No common use of towels or linens shall be permitted.

(e) All walls, ceilings, floors, pools, showers, bathtubs, steam rooms and other physical facilities shall be kept in good repair and maintained in a sanitary condition. Wet and dry heat rooms, steam or vapor rooms or cabinets, shower compartments and toilet rooms shall be thoroughly cleaned each day the business is in operation. When carpeting is used on the floors, it shall be kept dry.

(f) Oils, creams, lotions, or other preparations used in administering massages shall be kept in clean, closed containers or cabinets.

(g) Eating in the massage work areas shall not be permitted. Animals, except for seeing eye dogs, shall not be permitted in the massage work areas.

(h) Each massage technician shall wash his or her hands in hot running water using proper soap or disinfectant before administering a massage to each patron.

Section 9-122. Hours of operation.

No massage clinic or technician shall administer any massage between the hours of 10:00 p.m. and 6:00 a.m. of the following morning.

Section 9-123. Health requirements for massage technicians.

(a) No massage technician shall give a massage or come in contact with a patron unless such massage technician shall be free of any contagious or communicable disease. The director may, for cause, require that a massage technician not be allowed to give massage unless and until any such person provides the director with a certificate from a medical doctor, duly licensed by the State of Virginia, that such person has been examined within the previous ten (10) days and found to be free of all contagious or communicable disease. Upon the director's recommendation, the Administrator shall suspend the permit until such certificate is received.

(b) No massage technician shall knowingly serve any patron infected with fungus or other skin infection; nor shall service be performed on any patron exhibiting skin inflammation or eruptions; provided, however, that a physician, duly licensed by the State of Virginia, may certify that any such patron may be safely served prescribing the conditions thereof.

Section 9-123.1. Right of inspection.

The police department or the department of public health may, from time to time, make an inspection of each massage clinic granted a permit under this article for the purposes of determining compliance. Such inspections shall be made at reasonable times and in a reasonable manner. It shall be unlawful for any permittee to fail to allow such inspection officer access to the premises or to hinder such officer in any manner.

Section 9-123.2. Keeping of records.

Every massage clinic or massage technician shall at all times keep an appointment book in which the name and address of each patron shall be entered, together with the time, date, service provided, and price charged.

Section 9-123.3. Alcoholic beverages prohibited.

No person shall sell, give, dispense, provide or keep or cause to be sold, given, dispensed or kept, any alcoholic beverage on the premises of any massage business.

Section 9-124. Exposure or massage of certain portions of body prohibited.

(a) It shall be unlawful for any massage technician or any person employed in a massage clinic to massage, fondle or touch in any manner an erogenous area, or any portion thereof, of any person.

(b) It shall be unlawful for any massage technician or person employed in a massage clinic to expose or fail to keep covered with fully opaque clothing an erogenous area, or any portion thereof, of his or her body while in the presence of any patron.

Section 9-125. Where massage permitted.

Each massage clinic shall have one area designated for massage; or in the event massage be administered to both sexes during the same times, such massage clinic shall have two (2) separate massage areas - one being for male and one being for female patrons. All massages shall be administered in said massage area or areas. The massage area or areas shall be open to inspection by the director or his designee, and other law enforcement officers of the county during business hours.

Section 9-126. Responsibilities of permittee.

No person granted a massage clinic permit under this article shall operate under any name or at any location not specified in the permit. The permittee shall be responsible for maintaining the premises in accordance with the requirements of this article and for the conduct of all agents and employees in complying with the requirements of this article. Such permittee shall not permit in its premises activity or behavior prohibited by the laws of the United States, state or this county, relating to gambling, prostitution, sodomy, adultery, fornication, lewd and lascivious cohabitation or other laws relating to obscenity or moral turpitude.

Section 9-127. Revocation and suspension of permits generally.

The Administrator may revoke or suspend for a term, as hereinafter provided, any permit issued pursuant to this article upon the violation of any of the rules, requirements or restriction of this article. No permit, however, shall be revoked until after a hearing shall have been held by the Administrator to determine just cause of such revocation. At such hearing the permittee shall be given the opportunity to present evidence and argument against revocation or suspension. Notice of such hearing shall be given the permittee by mailing, at least five (5) days prior to such hearing, a written statement setting forth the grounds of the complaint, addressed to the permittee at the address on the permit. The decision of the Administrator shall be final. After such hearing, the Administrator may suspend such permit for a term not to exceed sixty (60) days, revoke the permit or dismiss the complaint.

Section 9-128. Permit nontransferable; grounds for revocation.

- A. It shall be unlawful for any person to sell, convey or otherwise transfer a permit issued under this article.
- B. A massage clinic permit shall be revoked or rendered null and void, ipso facto, if:
 - 1. The permittee or a twenty-five percent or greater interest in the permittee is sold, conveyed or otherwise transferred without the express written consent of the Administrator;
 - 2. The structure of the massage clinic is substantially enlarged or altered without the expressed written consent of the Administrator; or
 - 3. The massage clinic employs a massage technician, whether or not such person has a valid permit, without listing or notifying the Administrator pursuant to Section 9-117 or otherwise.

Section 9-129. Penalty.

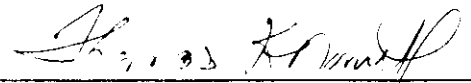
Any person, firm or corporation who shall violate any of the provisions of this article shall, in addition to being subject to the provisions of Sections 9-127 and 9-128 be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding one thousand dollars (\$1,000.00) or by a confinement in jail for a period not exceeding one (1) year, either or both.

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Section 9-129.1. Severability.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this article, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court or competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this article or any part thereof.

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Thomas K. Norment, Jr.
Chairman, Board of Supervisors

ATTEST:


David B. Norman
Clerk to the Board

SUPERVISOR	VOTE
DEPUE	AYE
TAYLOR	AYE
EDWARDS	AYE
KNUDSON	AYE
NORMENT	AYE

Adopted by the Board of Supervisors of James City County, Virginia,
this 1st day of April, 1991.

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