

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 16TH DAY OF NOVEMBER, NINETEEN HUNDRED NINETY-TWO, AT 1:02 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

**A. ROLL CALL**

Jack D. Edwards, Chairman, Berkeley District  
Judith N. Knudson, Vice Chairman, Jamestown District

Perry M. DePue, Powhatan District  
David L. Sisk, Roberts District  
Stewart U. Taylor, Stonehouse District  
David B. Norman, County Administrator  
Frank M. Morton, III, County Attorney

**B. PRESENTATIONS**

1. Employee Recognition Awards

Mr. Edwards presented Outstanding Service Awards to the following employees: Sue Anne Martin, Extension Office; Joan Williamson, Code Compliance; Charlotte Halbleib, Russ Brown and Robert Smith, James City Service Authority; Carol Schenk, Sandra Hale, Melinda Smith, Thomasin Kashin, Allen Murphy, Keith Taylor, and Stuart Hale, Social Recreation Committee; Patrick Page, Brenda Grow, and Thomas Pennington, Information Resources Management; and, Iris Lynch, Caroline Rhodes, Gerri Robertson, and Barbara Gary, Community Services.

On behalf of the Board, Mr. Edwards expressed congratulations and appreciation for their accomplishments.

**C. MINUTES - November 2, 1992**

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

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

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

**D. HIGHWAY MATTERS**

Mr. Quintin Elliott, Williamsburg Resident Engineer, Virginia Department of Transportation, reported that Route 615, Chickahominy Road project, would start by mid-March 1993, Route 199 project between Route 60 and Interstate 64 would start by mid-December and widening of Interstate 64 to 6-lanes from Hampton Center Parkway to J. Clyde Morris Boulevard would be completed by August 1993 with continuation west to Ft. Eustis Boulevard as funds allow.

Mr. Elliott introduced Mr. Michael Taylor, Assistant Resident Engineer.

The Board had no highway requests.

**E. CONSENT CALENDAR**

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

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

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

1. Appointment of a Policy and Management Team to Implement the Comprehensive Services Act for At-Risk Youth and Families

**RESOLUTION**

**COMPREHENSIVE SERVICES ACT**

WHEREAS, the Comprehensive Services Act for At-Risk Youth and families enacted by the 1992 General Assembly requires each local governing body to develop a policy and management team; and

WHEREAS, the intent of the Comprehensive Services Act is to develop services to meet the needs of children who are at-risk of developing emotional or behavioral problems, or who are at-risk of going into out-of-home placements, as well as to meet the needs of the families of those children; and

WHEREAS, the purpose of the local Policy and Management Team is to receive funds pursuant to the Act and to develop procedures to deliver community-based services; and

WHEREAS, regional cooperation with the County of York and the Cities of Williamsburg and Poquoson would facilitate improved services to children and families.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, approves the establishment, effective this date, of a regional Policy and Management Team representing the Counties of James City and York, and the Cities of Williamsburg and Poquoson, subject to like approval from York, Williamsburg, and Poquoson.

BE IT FURTHER RESOLVED that membership of the Policy and Management Team shall include, the agency heads, or their representatives, from each jurisdiction's Social Services Department, each jurisdiction's School Division, Colonial Mental Health and Mental Retardation Services Board, Peninsula Health Department, and the Ninth District Juvenile Court Services Unit; and shall also include a government representative from each jurisdiction, a parent, and a private agency service provider.

2. Virginia State Library GrantR E S O L U T I O NBUDGET - VIRGINIA STATE LIBRARY GRANT

WHEREAS, the Board of Supervisors of James City County has been advised that the Clerk of the Circuit Court has been awarded a Grant in the amount of \$1,013.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, approve the following budget amendment to appropriate grant funds awarded from the State Library's Court Records Preservation Program:

State Revenues - Library Grant	+ \$1,013
Office of the Clerk of the Circuit Court	+ \$1,013

F. **PUBLIC HEARINGS**1. Case No SUP-29-92. Carlton A. Brown

Mr. David N. Fletcher, Planning Technician, stated that Mr. Carlton A. Brown had applied for a special use permit to allow replacement of a manufactured home on one acre, zoned R-8, Rural Residential, located at 4270 Longhill Road, further identified as Parcel (1-10A) on James City County Real Estate Tax Map No. (31-4).

Staff recommended denial of the special use permit. A resolution was prepared with conditions should the Board approve the special use permit.

Mr. Edwards opened the public hearing.

1. Mr. Carlton Brown, 4270 Longhill Road, stated that approval would replace the older manufactured home with a newer, better one.

Mr. Edwards closed the public hearing.

Mr. DePue made a motion to approve the resolution.

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

R E S O L U T I O NCASE NO. SUP-29-92. CARLTON A. BROWN

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:	Carlton A. Brown
Real Estate Tax Map ID:	(31-4)
Parcel No.:	(1-10A)
Address:	4270 Longhill Road
District:	Powhatan
Zoning:	R-8
Conditions:	<ol style="list-style-type: none"> <li>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.</li> <li>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.</li> <li>3. The manufactured home shall be connected to public water.</li> <li>4. The number of bedrooms shall not exceed three.</li> </ol>

#### G. BOARD CONSIDERATION

##### 1. Case No. MP-2-92. Governor's Land Master Plan Amendment

Mr. R. Patrick Friel, Senior Planner, stated that Mr. Jerry Moore had applied on behalf of Governor's Land Associates to amend the master plan and proffers for the Governor's Land at Two Rivers Planned Community, to consist of a golf course and 722 dwelling units, zoned R-4, Residential Planned Community, located south of Route 5 in western James City County, further identified as Parcel (1-16) on James City Real Estate Tax Map No. (44-2).

Mr. Friel noted changes had been made to Conditions 1 and 14 of the amended proffers.

In concurrence with staff, the Planning Commission unanimously recommended approval of the proposed amendment for the reasons that most of the proposed amendments are minor in nature and either clarify Governor's Land's responsibilities or provide flexibility to the developer and County; will ultimately provide for the Route 5 diversion by allowing the Board of Supervisors' approval of a funding plan based on direct contributions on a per lot basis or based on partial Virginia Department

of Transportation funding; and, the environmental sensitivity of the site would continue to be adequately protected.

1. Ms. Jane Carroll, 2894 John Tyler Highway, spoke in opposition to a massive, paved parking lot and suggested formation of a committee to discuss options for a parking area which would allow citizens access to the James River.

Mr. Edwards asked staff to identify the public use land and determine how it might be used.

Mr. Horne responded that the procedure would be to set up a staff team from various departments and public representatives to look at a variety of uses.

Mr. Edwards asked that staff form the team and be in touch with Ms. Carroll and Governor's Land Associates.

Mr. David Norman, County Administrator, replied in the affirmative.

The Board discussed the proffers regarding concerns that the Commonwealth Transportation Board was unaware of the changes; adequate funding from developer came only on completed build-out; and, impact of Condition 19 to the County with assuming a part of the applicant's risk.

2. Mr. Jerry Moore, representing Governor's Land Associates, stated that the changes to the proffers were proposed for timing as an interim step to continue development while awaiting a funding plan.

3. Mr. Lawrence Beamer stated that, as owner of Powhatan Secondary, he had asked that the subdivision be removed from the Transportation Improvement District.

Mr. DePue made a motion to approve the Master Plan amendment.

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

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

### CASE NO. MP-2-92. GOVERNOR'S LAND MASTER PLAN AMENDMENT

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. MP-2-92 for rezoning approximately 1,444.424 acres from R-4, Residential Planned Community, with proffers, to R-4, Residential Planned Community, with proffers, on property identified as Parcel (1-16) on James City County Real Estate Tax Map No. (44-2); and

WHEREAS, the Planning Commission of James City County, following its public hearing on October 13, 1992, unanimously recommended approval of Case No. MP-2-92.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Zoning Case No. MP-2-92, and accepts the voluntary proffers.

2. Hampton Roads Planning District Commission Richmond Road Subarea Study

Mr. O. Marvin Sowers, Jr., Director of Planning, stated that the Hampton Roads Planning District Commission staff, along with staff from City of Williamsburg, and Counties of York and James City, would be conducting a Richmond Road Subarea Study to develop a transportation plan that would address existing congestion problems and meet transportation improvements as land in the study area will be developed, as well as evaluate alternatives to the Monticello Avenue Flyover and to the streets and intersections which might be impacted by any alternatives, including a no-build option.

Mr. Sowers further stated that Phase I would be completed in FY 92-93 and consist of traffic data collection and analysis, with an estimated cost of \$7,500 to be shared by the three jurisdictions. He indicated costs for Phase II have not been determined, and funding for Phase I was available in the Planning Division budget.

Mr. Sowers recommended that the Board appoint the James City citizen-at-large and Board representative to the Citizen Advisory Committee.

Mr. Edwards made a motion to approve the resolution.

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

R E S O L U T I O N

HRPDC RICHMOND ROAD SUBAREA STUDY

WHEREAS, the Hampton Roads Planning District Commission (HRPDC) along with the City of Williamsburg, and the Counties of James City and York will be conducting a Richmond Road Subarea Study to address existing congestion problems in the area; and

WHEREAS, the Study includes a recommended scope of work and the creation of a citizen advisory committee; and

WHEREAS, the Phase I cost of the Study is estimated to be \$7,500.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby endorse the HRPDC Richmond Road Subarea Study scope of work and citizens advisory committee structure, and commits to pay not more than \$2,500 fulfilling its one-third share of Phase I of the project cost.

3. Affordable Housing Incentive Program - Wood Duck Commons

Mr. Edwards stated that the interested parties were continuing discussions on this matter, and without objection, he indicated the item would be placed on a future agenda.

H. PUBLIC COMMENT

1. Mr. William F. Brown, Vice President, Busch Corporate Center, spoke in opposition to the Zoning Ordinance requirement of need for Special Use Permit for business park offices and its

impact on economic development in the County. He urged the Board to consider amendment of the Zoning Ordinance.

2. Mr. Dennis Shook, 218 Neck-O-Land Road, asked the reason for the County ban on burning leaves and wanted to know how many names were needed on a petition to request Board reconsideration of the Ordinance.

Mr. Edwards responded that the ban on burning leaves was to protect citizens' health and that a petition could be submitted with any number of names.

Mr. Shook also spoke in opposition to the Zoning Ordinance requirement on landscaping for small businesses.

#### **I. REPORTS OF THE COUNTY ADMINISTRATOR**

Mr. David B. Norman, County Administrator, recommended an executive session pursuant to Section 2.1-344(a)(1) of the Code of Virginia to consider a personnel matter, appointments of individuals to County Boards and/or Commissions.

#### **J. BOARD REQUESTS AND DIRECTIVES**

Mr. DePue expressed appreciation for Mr. Brown's comments and invited the Board to review the issues. He read an article in The Virginia Gazette about Turning Point students at Lafayette High School, and emphasized that the decision to move those students to the Lafayette campus was made by the School Division and was not related to funding cuts.

Mr. Taylor stated that he was in agreement with Mr. Brown's statement and thought the issue should be reviewed.

Mr. Edwards asked the Board to review the proposed Board Calendar for 1993 and consider whether two evening meetings each month would be preferable to the current one afternoon and one evening meeting.

Mr. Edwards declared a brief recess at 2:55 p.m.

#### **K. WORK SESSION - Proposed 1993 Legislative Program**

Mr. Edwards welcomed Senator Thomas K. Norment, Jr. and Delegate George W. Grayson.

Mr. Frank M. Morton, III, County Attorney, stated the 1993 Legislative Proposals were listed in three parts: Part I, Legislation to be introduced on behalf of the County; Part II, Legislation to be supported by the County; and, Part III, County support for Virginia Municipal League proposals. He indicated that items marked with an asterisk were part of past legislative programs and that votes that were not unanimous would be reflected after each item.

Discussion followed on various elements of the proposals.

Senator Norment expressed appreciation to the Board for the opportunity to review the proposed legislative program and stated that he and Delegate Grayson would inform the Board of how the proposals will be presented to the 1993 General Assembly.

Delegate Grayson thanked the Board and stated he looked forward to working with the County and Senator Norment. 213

Mr. Edwards stated the County was grateful for their cooperation and representation.

Mr. Edwards made a motion to approve the resolution.

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

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

### 1993 LEGISLATIVE PROGRAM

WHEREAS, it is appropriate for the Board of Supervisors to consider a legislative program to present to the 1993 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 1993 Legislative Program and urge its consideration and passage as appropriate.

#### L. WORK SESSION - Solid Waste Management

Mr. Sanford B. Wanner, Assistant County Administrator, presented an overview of key provisions of the Transfer and Disposal System Service Agreement for a regional solid waste transfer and disposal system which Virginia Peninsulas Public Service Authority intends to develop for participating communities.

Discussion by the Board and staff followed.

#### M. WORK SESSION - James City Service Authority Disinfection Program

Mr. Larry M. Foster, General Manager, James City Service Authority, updated the Board on the progress of addressing the Total Coliform Rule violations experienced by the JCSA since January 1, 1991, and presented a schedule for attaining the introduction of disinfectant to the system by September 1993.

Mr. Edwards made a motion to convene into executive session as recommended by the County Administrator, at 4:42 p.m.

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

Mr. Edwards reconvened the Board into open session at 4:57 p.m, and made a motion to approve the executive session resolution.

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



RESOLUTION

MEETING DATE: November 16, 1992

CERTIFICATION OF EXECUTIVE MEETING

WHEREAS, the Board of Supervisors of James City County, Virginia, (Board) has convened an executive meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.1-344.1 of the Code of Virginia requires a certification by the Board that such executive meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge; (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the executive meeting to which this certification resolution applies; and, (ii) only such public business matters as were identified in the motion convening the executive meeting were heard, discussed or considered by the Board.

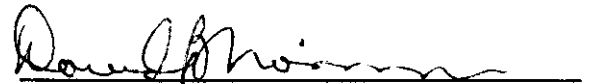
Mr. Edwards made a motion to appoint Linda Rice to the Clean County Commission to serve an unexpired term, term expiring January 5, 1993; to appoint Michael Matthews to the Parks and Recreation Commission to serve an unexpired term, term expiring April 12, 1996; to appoint Harris Daniel, Sandra Whitaker, Dr. Daniel Warren, Dr. Gayden Carruth, John Holdren, and Anthony Conyers, Jr., to the Comprehensive Services Act Multijurisdictional Policy and Management Team to serve at the pleasure of the Board; and, to appoint Jack Edwards and Philip Gieseler to the Richmond Road Subarea Study Citizen Advisory Committee.

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

Mr. Taylor made a motion to adjourn.

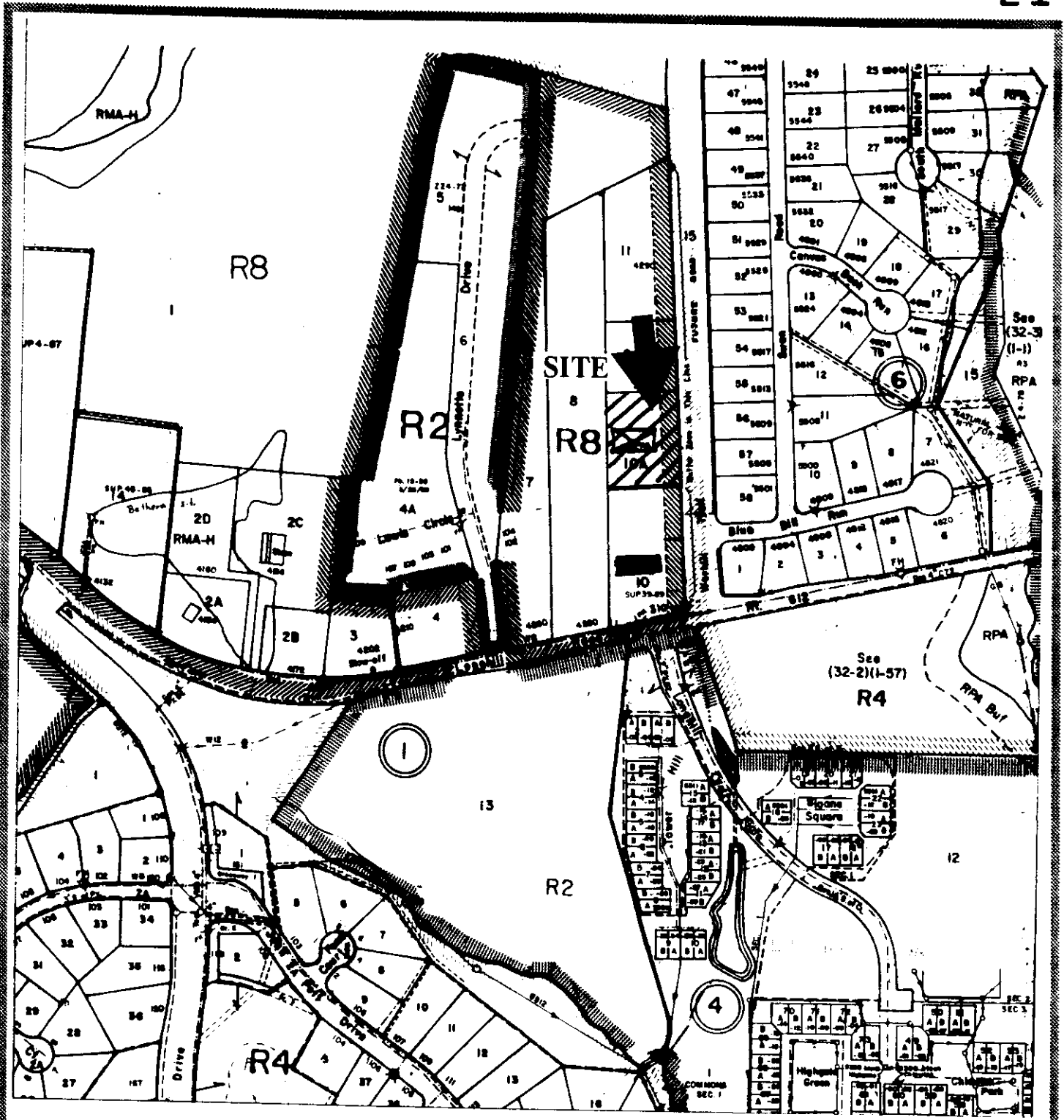
On a roll call, the vote was: AYE: DePue, Taylor, Sisk, Knudson, Edwards (5). NAY: (0).

The Board adjourned at 4:58 p.m.

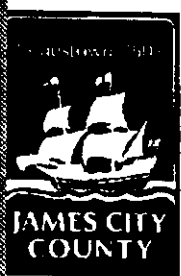


David B. Norman  
Clerk to the Board

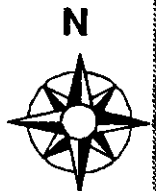
1DecBosM.N16



SCALE 1"=400 Feet



Case No: SUP-29-92  
 Name : Carlton A. Brown, Manufactured Home  
 [Solid black rectangle] : Existing Manufactured Homes  
 [Hatched rectangle] : Proposed Manufactured Home



### PLANNING DIVISION

## GOVERNOR'S LAND PROFFER AGREEMENT

This Proffer Agreement Amendment, made as of this 10th day of September, 1992, by Governor's Land Associates, a Virginia joint venture between Dominion Lands, Inc., a Virginia corporation, and Governor's Land, Inc., a Virginia corporation ("Owner").

RECITAL

WHEREAS, Owner is the record title owner of certain real property in James City County, Virginia (hereinafter called "the Property") being a 1440-acre, more or less, tract along Route 5 more particularly described as follows:

All that certain tract, piece or parcel of land belonging, lying and being in James City County, Virginia on the south side of State Route 5 also known as John Tyler Highway containing approximately 1444.424 acres, more or less, as shown on that certain plat of survey entitled "BOUNDARY SURVEY OF THE GOVERNOR'S LAND LOCATED IN JAMES CITY COUNTY, VIRGINIA" prepared by Bengtson, DeBell, Elkin & Titus, Ltd., Engineers, Surveyors, Planners, Landscape Architects, dated July 8, 1988, which plat is recorded in the Plat Books in the Clerk's Office of the Circuit Court of James City County, Virginia, said property being subject to a right-of-way containing 3.1127 acres conveyed by instrument recorded in the aforesaid Clerk's Office in Deed Book 210, Page 165.

Subject, however, to all recorded unreleased restrictive covenants, easements and rights of way of record affecting said property.

Together with all rights and privileges, tenements, hereditaments, easements and appurtenances unto the said land belonging or in anywise appertaining, including riparian rights.

and

WHEREAS, the Owner has applied for rezoning of the Property from the General Agricultural District, A-1, to the Residential Planned Community District, R-4: and

WHEREAS, the County of James City (hereinafter the "County") may be unwilling to rezone the property from the General Agricultural District, A-1, to the Residential Planned Community District, R-4, because the Residential Planned Community District, R-4, zoning regulations may be deemed inadequate for the orderly development of the Property; 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 Residential Planned Community District, R-4.

NOW, THEREFORE, this agreement witnesseth that for and in consideration of the County of James City rezoning the Property from the General Agricultural district, A-1, to the Residential Planned Community District, R-4, and pursuant to Section 15.1-491.1, et seq. of the Code of Virginia, 1950, as amended, and Section 20-15, et seq. of Chapter 20 of the Code of James City County, Virginia, the Owner agrees that in addition to the regulations provided for in the Residential Planned Community District, R-4, it will meet and comply with all of the following conditions to the development of the Property.

CONDITIONS

1. The number of residential units shall be limited in relation to the areas as designated on the Master Plan as follows:

<u>Project Land Bay Area</u>	<u>R-4 Designation</u>	<u>Maximum Density/Dwelling Types (Dwelling Units per Land Bay Area)</u>
1	A	186 (single-family)
2	A	385 (single-family)
3	B	138 (townhouse/cluster)
4	B	121 (townhouse/cluster)

**NOTE: THE TOTAL NUMBER OF UNITS ON THE 1444.424 ACRE GOVERNOR'S LAND PARCEL SHALL NOT EXCEED 722 UNITS (OVERALL DENSITY 1/2 UNITS/ACRE). MAXIMUM DENSITIES PER LAND BAY ARE SHOWN ABOVE. IF DENSITY WITHIN A LAND BAY IS MAXIMIZED PER THE TABLE ABOVE, THE NUMBER OF UNITS IN THE OTHER LAND BAYS SHALL BE REDUCED SO THAT THE FINAL NUMBER OF DEVELOPED UNITS ON THE 1444.424 ACRE GOVERNOR'S LAND DOES NOT EXCEED 722 UNITS.**

All Project Land Bay Areas identified as "R-4 Designation" "B" shall be limited to townhouse dwelling types or single-family cluster lots as approved by the Planning Commission.

2. The Owner shall designate a 150-foot greenbelt buffer along the Property's Route 5 frontage (exclusive of right-of-way dedicated herein for future improvements of Route 5 to a four-lane divided highway) as defined by the Greenbelt Corridor Policy of James City County. The "Greenbelt" buffers shall be undisturbed and exclusive of any lots, except for approved utilities, drainage improvements, jogging/nature trails, community entrance roads as shown generally on the Master Plan and appropriate historical, environmental, directional, and community identification signage as approved by the Planning commission.

3. As part of the approval of any subdivision plan within Land Bays 2 or 3, the Owner shall provide recreational amenities for the community as located on the Master Plan as follows: one regulation-size 25-meter swimming pool and 2,000 minimum square foot neighborhood recreation center; four regulation-size tennis courts; two tot lots with playground equipment; one regulation "basketball" size multi-use court; and 5 miles of jogging/fitness/nature/pedestrian trails (approximately half of which shall be hard surface and half of which shall be a soft "natural" surface).

4. As part of the approval of any subdivision plan which approval causes the number of approved units to exceed 455, the Owner shall provide recreational amenities for the community as generally located on the Master Plan as follows: one regulation 25-meter swimming pool and 2,000 minimum square foot clubhouse/recreation center; four regulation-size tennis courts; one tot lot with playground equipment; 5 miles of jogging/fitness/nature/pedestrian trails (approximately half of which shall be hard surface and half of which shall be a soft "natural" surface).

5. All such recreational amenities per paragraphs 3 and 4 shall be guaranteed by a surety as part of the public improvements covered by the appropriate subdivision agreement and completed within one (1) year of recordation of said subdivision.

6. All archaeological sites identified on the property shall be handled pursuant to the memorandum of agreement dated August 16, 1991 between Governor's Land Associates and James City County and James City County Historical Commission.

7. The Owner shall dedicate as open space to an appropriate non-profit land stewardship entity approved by the Board of Supervisors a "conservation easement" of approximately 194+ acres as shown generally on the Master Plan subject only to any drainage improvement and/or utility easement (as shown generally on the Master Water, Sanitary Sewer, and Storm-water Management plans prepared by AES, a professional corporation, dated June 6, 1989 and

submitted with these proffers) and/or nature, pedestrian, and/or golf trails and bridges as approved by the James City County Planning Commission. A 20-foot wide buffer strip of natural vegetation shall be maintained along both sides of any drainage ditches within this area. Where the drainage improvement or utility easements pass through forested areas of this open space, there shall be no clear cutting or commercial harvesting of timber within the easements. Select understory, maintenance, and visual path clearance may take place along the James River frontages; select, but necessary hand clearing may be implemented along the wetland frontage (i) in conjunction with the establishment of the golf course fairways and/or (ii) for understory, maintenance, or visual path purposes as approved by the Planning Commission. There shall be no use of pesticides, herbicides, fertilizers, or other

agricultural chemicals within the conservation easement except as approved by the County Administrator.

The ability to access the nature/pedestrian trails within the "conservation easement" shall apply equally to owners of Governor's Land units and all other citizens of James City County.

The boundaries of the "conservation easement" shall be identified by metes and bounds upon submittal of the subdivision or site plan for each property abutting the said "conservation easement" and said boundaries shall conform generally to the areas on the Master Plan shown as "Conservation Easement" (generally, south of the conceptual golf holes shown on said "Master Plan").

8. An overall Stormwater Best Management Plan for the entire project will be submitted to James City County for review and approval by the Director of Code Compliance. The Plan shall be submitted to the County by January 1, 1993 and shall be approved no later than April 1, 1993.

9. Shoreline erosion abatement measures as approved by the Planning Commission shall be provided along James River frontage, phased in conjunction with development along said frontage.

10. Prior to any subdivision plat or site plan approval for any development area within the Land Bays defined above, Owner shall submit to Planning Commission for its approval a plan for each respective development area delineating general limits of clearing and grading and general building envelopes.

11. Select understory, maintenance, and visual path clearance may take place along the James River frontage; select, but necessary hand clearing may be implemented along the wetland frontage (i) in conjunction with the establishment of the golf course fairways and/or (ii) for understory, maintenance, or visual path purposes as approved by the Planning Commission. The golf course defined herein shall adhere to an Integrated Pest Management (IPM) plan fertilizer and pesticide method as approved by the Planning Commission. Any wells used for golf course irrigation shall not draw from the Chickahominy Piney Point aquifer and data on any such well pumping shall be provided James City County. The James City Service Authority shall be given quarterly reports of the amount of pumping (peak gallons per minute/total gallons) during each preceding quarter and projected usage for the next following quarter.

12. Prior to any approval of a subdivision or site plan of the Property or any Land Bay therein, the Owner, at its expense, shall cause to be prepared a comprehensive drainage study of the subject Land Bay, and implementation schedule of drainage improvements for review and approval by the County Director of Code Compliance.

13. Upon approval of the drainage study and implementation schedule, the Owner shall be obligated to incorporate the recommendations of the study in the said subdivision or site plan in accordance with the said implementation schedule.

14. Within 120 days of written request by James City County the Owner shall convey to James City County, without cost, fee simple title to a 10-acre site as a public use site with fee-simple access rights to a public road within the Property. Such site shall be at a location as identified generally on the proposed Master Plan.

15. That the number of entrances and driveways to the project off of Route 5 shall be limited to three: one being identified as "community entrance" as shown on the Master Plan; one being for a temporary construction entrance opposite Brick Bat Road (S.R. 613); and one being for a temporary construction entrance at Governor's Landing Road (an existing private driveway) if approved by the Planning Commission.

16. That all property owners at Governor's Land shall be required to join the homeowners association. The homeowners association shall be a legal non-profit corporation. An annual budget for maintenance of all common open space, recreation areas, sidewalks, parking, private streets, if any, and other privately-owned but common facilities serving the project shall be required and shall be included in the restrictive covenants along with lien powers to assess each property owner for any non-payment. The restrictive covenants provisions for the maintenance budget shall provide that the owner shall be responsible for any budget deficiency during the development term.

17. In conjunction with the approval of any subdivision plan within any Land Bay, all areas designated on the Master Plan within said Land Bay as "Major Open Space" shall be identified by metes and bounds and shall conform generally to the proportionate acreage breakdowns (plus or minus 10%) between "Major Open Space" and the balance of acreage in each Land Bay as shown on the Master Plan. The major open space areas per land bay have been measured and are itemized below. Total major open space for the project will not be reduced. Major Open Space areas shall be undisturbed and exclusive of any lots, except for golf fairways, utilities, drainage improvements, roads as shown generally on the Master Plan, jogging, nature, or golf trails or bridges, and signage approved by the Planning Commission.

Land Bay 1	71 Acres
Land Bay 2	317 Acres
Land Bay 3	139 Acres
Land Bay 4	<u>138 Acres</u>

TOTAL MAJOR OPEN SPACE	665 ACRES
------------------------	-----------

18. Any use herein of the term "wetland" shall be defined as an area identified as a "wetland" under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act (Corps of Engineers Multi-Parameter as stated in Technical Report Y-87-1 entitled "Corps of Engineers Wetlands Delineation Manual" published January, 1987) and pursuant to Section 62.1-13.5 of the Code of Virginia. A qualified environmental engineer retained by Owner and approved by the County Administrator or his designee shall prepare a wetland delineation map for approval by the County Administrator or his Designee.

19. A) The Owner agrees that, until a plan (including an appropriate funding plan) for the improvement of Route 5 to a four-lane divided highway, or such other equivalent or lower design category approved by VDOT and James City County or an alternate roadway that eliminates the need to widen existing Route 5 to a four lane divided highway ("Improvements"), in James City County from Route 199 to the Governor's Land entrance off of Route 5 has been approved by VDOT and James City County, Owner shall be limited to final subdivision and/or site plan of no more than a total of 250 units (single-family, townhouses, and/or clusters) of the project's total 722 units defined in Paragraph 2 herein. However, the owner shall have the right to continue platting lots beyond 250 through the build out of the property provided that letter(s) of credit ("Letters of Credit") equal to the product of the number of lots platted in excess of 250 times \$4,873.00 is deposited with James City County prior to final subdivision and/or site plan approval of the lots causing the total to exceed 250. Upon approval of the "Funding Plan", James City County shall immediately release all Letters of Credit to owner. James City County may draw on the Letters of Credit only when construction of the improvements is required or if the Letters of Credit are not kept current or otherwise renewed. Construction of the improvements shall commence only when the average daily traffic on Route 5, as measured by the criteria in Exhibit "C", reaches 13,000 vehicles per day. If a "Funding Plan" is not approved prior to the platting of more than 400 total lots, or, in any event, if a Funding Plan is not approved prior to January 1, 1995, then the use of Letters of Credit shall satisfy all applicable transportation proffers related to Route 5. In the event VDOT and James City County determine that no improvement of Route 5 in James City County from Route 199 to the Governor's Land entrance off of Route 5 is necessary, the Owner shall not be limited in the subdivision and/or site plan of the project's total 722 units defined in Paragraph 2 herein and all Letters of Credit shall immediately be returned to owner.

In addition, upon preliminary subdivision approval of the first subdivision and/or site plan for the Property, Owner agrees to dedicate sufficient right-of-way from its property along its Route 5 frontage for improving Route 5 to a four-lane divided highway as determined necessary by VDOT. Said first subdivision and/or site plan for the Property shall include provision for



construction of right and left turn lanes on Route 5 into the entrance to the Property.

The "funding plan" referred to herein, while not precluding the possibility, does not anticipate any funding from either James City County or VDOT.

B) Unless otherwise agreed, Owner, in accordance with Code of Virginia, Section 15.1-466E, agrees to enter into a development agreement with James City County prior to approval of any subdivision and/or site plan within any Land Bay to contribute \$2,125,000 (herein "Contributions") for the improvements in James City County. Said Improvements shall include, but shall not be limited to, the following:

- i) Turn lanes at the community entrance to the Property;
- ii) Signalization at the community entrance to the Property when required by VDOT;
- iii) Improvements of Route 5 along the Property's frontage to a four lane divided highway, or such other equivalent or lower design category approved by VDOT and James City County including, but not limited to, and subject to approval by VDOT and James City County, a Class 1 Bikeway to be provided along the Property frontage exclusive of the greenbelt buffer described in Paragraph 2 herein; and
- iv) Other Route 5 off-site improvements including, but not limited to, necessary utility relocations, and acquisition of necessary Route 5 right-of-way for the Improvements described herein.

The form of said development agreement shall be in substantially the same form as that attached hereto as Exhibit A. The said Contributions shall begin upon commencement of and as payment for the preliminary engineering design work for the improvement of Route 5 as approved by James City County and VDOT. Except as otherwise set forth herein, the balance of said Contributions shall be due in full, unless otherwise agreed, subject to (i) VDOT and James City County's determination that the Improvements are necessary and upon VDOT's and James City County's approval of a plan for funding and construction of the Improvements and issuance of the first permit for the construction of the Improvements; and (ii) upon final approval of any subdivision and/or site plan which approval causes the number of approved units (single-family, townhouse, and/or cluster) to exceed 400. In any event, upon final approval of any subdivision and/or site plan which approval causes the number of approved units to exceed 250 or on or before January 1, 1992, whichever shall first occur, the balance of said Contributions not then expended shall be placed in an escrow,

interest-bearing account to which James City County or its designee shall be a necessary party. The said escrowed balance shall be used for the purposes set forth in this paragraph.

In any event, upon final approval of any subdivision and/or site plan which approval causes the number of approved units (single-family, townhouse, and/or cluster) to exceed 400, Owner shall have completed or contracted to complete (i) donation of right-of-way and the construction of Route 5 to a four-lane divided highway, or such equivalent or lower design category approved by VDOT and James City County, across the Route 5 frontage of the Property; (ii) construction of left and right turn lanes on westbound Route 5 at the community entrance to the Property; and (iii) signalization of the Route 5 community entrance to the Property and any other traffic control measures required by VDOT on the portion of Route 5 that would be improved along the Property's frontage per (i) above in this paragraph.

It is understood and agreed that it is the intention of the Owner and James City County to design the Improvements of Route 5 in such a way as to respect the historic character of Route 5 and to minimize the impact on existing development while addressing valid safety concerns. Governor's Land Partners shall participate in and cooperate with any legislative study of the future of the Route 5 corridor. Among other common goals for the design of Improvements for Route 5, the Owner and James City County agree to strive for: (1) lower speed limits; (2) minimization of through truck traffic; and (3) design standards, including landscaping design standards, which are the minimal necessary, yet appropriate for the historic character and safety needs of Route 5. It is also understood and agreed that while design plans and a funding plan for Improvements, including acquisition of necessary right-of-way, will commence within a reasonable time after the approval of the Governor's Land rezoning, that the timing of construction of said Improvements shall be as approved by James City County and VDOT.

C) Further, unless otherwise agreed, Owner, in accordance with Code of Virginia, Section 15.1-466E, agrees, subject to A) and B) herein as part of the funding plan for the Improvements to underwrite, guarantee, or otherwise provide sufficient funding over and above those funds contributed in B) above and those funds contributed in the Greensprings project Proffer Paragraph 26 B), a copy of which is attached hereto as Exhibit B., to complete the Improvements as necessary subject to provision having been made in a legally binding agreement (herein the "Agreement") specifying, without limitation, a mutually acceptable method of reimbursing Owner (and/or releasing Owner from any underwriting or guarantee described herein), or at least providing Owner the prospect of reimbursement, for any funds provided by Owner over and above those contributed by Owner per B) above. Provided, however, that no reimbursement shall be made of any assessment, tax, or levy including, but not limited to any special assessments paid by Owner

as specified in the Governor's Land recorded restrictive covenants, paid by Owner for the Route 5 Improvements described herein. The sources of said reimbursements and/or release from any underwriting or guarantee described herein may include, but is not limited to: (i) contributions from other developers; and/or (ii) reimbursements via a transportation and/or sanitary and/or other special taxing district for the remaining undeveloped land in the Route 5 corridor; and/or (iii) special assessments from the purchasers of units (single-family, townhouses, and/or clusters) within the Greensprings and Governor's Land projects as specified in each project's respective recorded restrictive covenants; and/or (iv) reimbursement in accordance with Code of Virginia, Section 15.1-466E(c); and/or (v) any other source specified in the Agreement.

D) In the event James City County and VDOT determine that no Improvements shall be made to Route 5 between Five Forks and Route 199 and that improvements to Ironbound Road north of Five Forks to proposed Route 199 are necessary in lieu of any Improvements to Route 5 between Five Forks and Route 199, Owner agrees that its proffers as set forth herein for improvements between Five Forks and Route 199 shall apply to the said improvements to Ironbound Road north of Five Forks to proposed Route 199.

Governor's Land Associates, a Virginia joint venture between Dominion Lands, Inc., a Virginia corporation and Governor's Land, Inc., a Virginia corporation

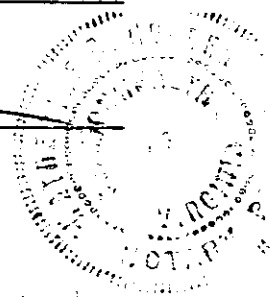
By: [Signature]  
 President, Governor's Land, Inc.,  
 General Partner

STATE OF VIRGINIA

CITY OF Williamsburg, to-wit:

The foregoing instrument was acknowledged before me this 16 day of November, 1998, by C. Lewis Waltrip, II, of Governor's Land Associates.

Katherine C. Ald  
 Notary Public



My commission expires: July 31, 1996

In 19...  
 City of Williamsburg  
9 17  
[Signature]  
 admitted to...  
 1:14 clock  
 Tector: [Signature]  
 Deputy Clerk

**JAMES CITY COUNTY**  
**1993 LEGISLATIVE PROPOSALS**

**PART I.** Legislation to be introduced on behalf of the County:

1-1. CHARTER

James City County requests that it be granted a Charter pursuant to § 15.1-833 et. seq. of the Va. Code. The proposed Charter incorporates the "Uniform Charter Act" set forth in § 15.1-837 et. seq. In other respects, the Charter reflects the current obligations, powers and duties of the non-chartered County. Vote to hold public hearing on proposed Charter December 7, 1992, passed 5-0.

1-2. SIGNATURES TO DRAW ON SCHOOL FUNDS

James City County requests that § 22.1-118 of the Va. Code be amended to require signatures of the Treasurer and the Clerk to the School Board (Superintendent) on checks issued on school funds. This change would delete the necessity of the chairperson's signature. (BOS vote: 5-0)

**PART II.** Legislation to be supported by the County:

2-1. ACCESS TO COMPUTER RECORDS

James City County opposes Senate Bill 332, as originally introduced in 1992 and carried over to the 1993 session. This bill would require localities to produce upon request information from their computer data bases in whatever format requested, with limits on what could be charged for such services. James City County is concerned that this bill would permit commercial firms to request hugh amounts of information from local governments, such as that which will be available in the County's new GIS system, in order to resell all or parts of the information to others for a fee. Localities should be able to continue to charge reasonable fees for making available computer generated information and should be able to recoup the costs of collecting and housing information and developing computer programs. (BOS vote: 4-1)

2-2. BUILDING CODES

The General Assembly should authorize localities to enhance building codes to improve the quality of local conditions, including the adoption of local codes providing greater public protection and efficiency than the minimum levels established under state law. (BOS vote: 4-1)

2-3. COMPREHENSIVE SERVICES ACT FOR AT-RISK YOUTH AND FAMILIES

James City County urges that the Act be fully funded and the state should give localities maximum flexibility regarding service delivery and use of funds. A process for providing additional funding for demonstrated unmet needs must be provided on a rational basis. (BOS vote: 5-0)

2-4. \*CONDITIONAL ZONING

James City County urges the General Assembly to extend to all localities the same level of authority of conditional zoning to address off- and on-site transportation issues as is enjoyed by Northern Virginia and the Eastern Shore. (BOS vote: 4-1)

2-5. \*DILLON RULE

James City County supports the main premise of the Dillon Rule which is that the state government needs to establish the responsibilities and duties of local government. The delegation of authority to accomplish specific tasks is very important to maintaining a level of uniformity across the state. The County, however, supports a modification to the second part of the Dillon Rule which the courts in Virginia have interpreted very strictly and which greatly limits local government flexibility to accomplish the tasks set out by the state. James City County supports the relaxation of the Dillon Rule to the extent necessary to allow localities to meet their responsibilities. (BOS vote: 4-1)

2-6. \*DRUGS

Virginia's laws should allow broader seizure of real and personal property from persons arrested in connection with the possession of illegal drugs. Legislation establishing civil procedures for dealing with drug houses through the seizure of property or assets should track the federal statute's enforcement procedures. (BOS vote: 4-1)

## 2-7. EDUCATION FUND ALLOCATION - INCREASED FLEXIBILITY

James City County urges the General Assembly to relax the rigid parameters on the manner in which state education funds can be spent by localities. The current requirements result in inefficient use of available resources. A "block grant" approach allowing budgeting flexibility to more closely parallel local needs would enhance the quality of education delivered by local school divisions. (BOS vote: 5-0)

## 2-8. FINANCE

James City County, as other Virginia localities, continues to feel the burden of fiscal stress. The traditional sources of revenue must be augmented if localities are to withstand the challenges of unfunded mandates and citizen demand for services. Therefore, James City County feels it imperative that the following funding or financial options be granted localities:

### a) \*Constitutional Officers, State Funding

James City County believes that the State should fully fund its share of salaries and expenses of constitutional officers and their staffs and capital costs relating to such offices. (BOS vote: 5-0)

### b) \*Equalization of Taxing Powers, State Funding

James City County supports granting counties taxing powers equal to those granted cities and towns in a way that does not prejudice the financial interests of towns. Also James City County supports increasing state funding to cities and towns to a level equivalent to that provided counties. (BOS vote: 5-0)

### c) Elimination of Sales Tax Exemptions

James City County urges the General Assembly to consider the elimination of certain existing sales tax exemptions to more accurately reflect today's service-based economy and to minimize inequities in the current tax system. (BOS vote: 4-1)

### d) \*Local Option Sales Tax

James City County strongly urges the General Assembly to enact enabling legislation giving cities, towns and counties authority to adopt a half-cent local option sales tax in addition to the one-cent local option

sales tax cities and counties now have, with the revenues to be used for general purposes. (BOS vote: 4-1)

e) \*Lottery

James City County recommends that significant revenue from Virginia's lottery be distributed to cities, towns and counties beginning with the next budget cycle. Lottery revenue should not reduce or be in lieu of any other state funding affecting local governments. (BOS vote: 5-0)

f) \*Mandates

James City County requests that state officials be especially sensitive to local government concerns in this area and urges the General Assembly not to enact new or expanded mandates unless the fiscal impacts associated with the mandates have been adequately evaluated, state appropriations are made to cover the full cost of such mandates and local governments are involved in the implementation process. James City County asks that all bills with possible fiscal impacts on local governments be accompanied by a financial impact statement prior to committee approval. (BOS vote: 5-0)

g) \*Recordation Tax

James City County urges the Governor and the General Assembly to fully fund prior commitments to distribute a portion of the State's recordation tax to local governments. In addition, James City County believes that the expiration date should be changed to preserve the original five-year timetable. (BOS vote: 5-0)

2-9. \*PERSONNEL, COLLECTIVE BARGAINING/DUES CHECK-OFF

James City County opposes collective bargaining, meet and confer and dues check-off for public employees.

James City County supports alternative mechanisms to, support and encourage positive and effective employee communications in local government. (BOS vote: 5-0)

2-10. \*PERSONNEL, GRIEVANCE PROCEDURES

James City County opposes federal legislation stipulating grievance procedures for state and local employees, such as the police officer's bill of rights. These matters are adequately addressed at the state and local level. (BOS vote: 5-0)

**PART III** The County supports the following VML proposals:

3-1. \*COMPREHENSIVE LAND USE PLANS, STATE COMPLIANCE WITH

James City County 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. (BOS vote: 5-0)

3-2. \*CORRECTIONS, JUVENILE JUSTICE REFORM

James City County urges the State Crime Commission to include in its study of juvenile offenders 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.

James City County recognizes the dramatic statewide increase in juvenile violent crime and supports the implementation of an intensive state-funded residential and/or non-residential program for youthful serious offenders. This program will offer a highly structured environment with educational counseling and job training components and, where appropriate, will also include intensive aftercare programming reintegrating the youth back into the community. (BOS vote: 5-0)

3-3. \*CORRECTIONS, OVERCROWDING/STATE SUPPORT

The General Assembly must continue its effort to eliminate local government subsidization of state penitentiaries by removing state felons from local jails.

James City County urges the state to fully fund the per diem reimbursement for all State prisoners and supports the concept of allowing jails built by a single large locality to be eligible for the same state reimbursement rate for construction as a regional jail facility. Additionally, James City County requests that the state pay a full 50 percent of the cost of regional jail construction versus "up to 50 percent."



James City County opposes the amortization of the state share of jail construction costs. State reimbursements should be completed by the end of construction. (BOS vote: 5-0)

3-4. E911 TAX

James City County requests the General Assembly to allow local governments to use the E911 tax to pay for maintenance, consoles and emergency personnel to operate the E911 system. (BOS vote: 4-1)

3-5. FIREARMS

James City County, in response to significant increases in violent crime (1987-1990) in urban, suburban and rural jurisdictions, and to the allegation that Virginia is the No. 1 State on the East Coast for ease in achieving single or multiple gun purchases, supports a seven-day waiting period for the purchase of a handgun and limiting the purchase of handguns to one every 30 days. (BOS vote: 5-0)

3-6. \*HOUSING

In view of the critical housing needs in the state, James City County 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.

James City County 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. (BOS vote: 5-0)

3-7. HUMAN SERVICES PROGRAM FUNDING

The state does not furnish sufficient resources to local social services agencies to adequately process food stamp and other benefit and service programs. As a result, local governments must make up for part of the state's share as well as the local share of costs. The state must honor the policy of the state board of social services to fund these programs and services at the full 80 percent state share. James City County opposes any decrease in the state's funding of local administrative costs for social services programs in order to meet state management savings goals. (BOS vote: 5-0)

### 3-8. \*LOCAL CONTROL OF LAND USE DECISIONS

Regulations of local land use has been a function traditionally reserved for local governments. The General Assembly has shown a disturbing trend towards adopting State-mandated local land use controls. It is the position of the County that local land use decisions are best made locally, not in Richmond.

Of particular concern to the County during the 1993 Session would be the reintroduction of any proposed legislation which would expand the concept of "vested rights", at the expense of the inherent right and power of localities to amend their zoning ordinances and zoning maps, as they deem necessary and appropriate.

James City County opposes additional legislation preempting its right to regulate manufactured homes through its Zoning Ordinance.  
(BOS vote: 5-0)

### 3-9. \*SHARED COSTS WITH PROPERTY OWNERS

James City County requests that the General Assembly: 1) grant all local governments the ability to assess impact fees to pay for the related costs of new development; 2) extend to all localities the same level of authority for conditional zoning to address off-and on-site transportation issues as it granted to Northern Virginia and Eastern Shore; and, 3) grant localities the authority to require land developers to pay pro rata share of the costs of supplying necessary roads adjacent to property they are developing.  
(BOS vote: 4-1)

### 3-10. SOLID WASTE MANAGEMENT FUNDING

Since the state has taken such an active regulatory role in solid waste management, James City County believes the state should provide funding to help pay for the cost of meeting those regulations. James City County supports a broad-based source of revenue to generate funds for local and regional waste management activities. It is preferred that the revenue source be tied to the amount of waste generated.

James City County supports state funding or other incentives for regional cooperation in the disposal of solid waste and recycling.

James City County urges the General Assembly to fund locally-directed public education programs to promote and coordinate recycling and source reduction programs to meet the state's recycling goals. (BOS vote: 5-0)

**3-11. TRANSPORTATION ALLOCATION FORMULAE STUDY**

The SJR 188 study of Virginia's transportation allocation formulae has concluded that statewide construction needs are substantially greater than the funds available to meet them. This study is therefore simply reallocating an inadequate pot of money. James City County requests the General Assembly to enact additional methods to finance these needs, including enhanced transportation user fees and long-term financing mechanisms.  
(BOS vote: 5-0)

**3-12. \*WATER RESOURCES ALLOCATION**

James City County 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 inter-jurisdictional 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 for compensating those damaged by such water transfers.  
(BOS vote: 4-1)

93LegPr.txt