

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 7TH DAY OF DECEMBER, NINETEEN HUNDRED NINETY-TWO, AT 7:00 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. MINUTES - November 16, 1992

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

Mr. Sisk 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).

C. CONSENT CALENDAR

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

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. Civil Defense Budget Amendment - State Reimbursement

R E S O L U T I O N

BUDGET AMENDMENT - CIVIL DEFENSE

WHEREAS, the Board of Supervisors of James City County has been requested to approve the reimbursement by the Virginia Department of Emergency Services to James City County for equipment and computer support.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby amends its FY 93 Budget, as follows:

Revenues:

Department of Emergency Services \$17,525

Expenditures:

Capital Outlay \$17,525

2. Trash and Grass Liens

R E S O L U T I O N

CODE VIOLATION LIEN

WHEREAS, the Director of Code Compliance has certified to the Board of Supervisors of James City County, Virginia, that the property owner as described below has failed to pay a bill in the amount listed, for cutting of grass and weeds or removal of trash and debris, although the County has duly requested payment; and

WHEREAS, the unpaid and delinquent charges are chargeable to the owner and collectible by the County as taxes and levies and constitute a lien against the Property.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that in accordance with Section 7-4 and 7-5 of the Code of the County of James City, Virginia, the Board of Supervisors directs that the following delinquent charge for services rendered, plus interest at the legal rate from the date of recordation until paid, shall constitute a lien against the Property to wit:

Cleaning of Trash/Debris and/or Cutting of Grass, Weeds, etc.:

ACCOUNT:	David Dobbs 7649 Turlington Toano, VA 23168
DESCRIPTION:	7649 Turlington
TAX MAP NO.:	(22-2)(04-0-0008) James City County, Virginia
AMOUNT DUE:	\$70.00

RESOLUTIONCODE VIOLATION LIEN

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WHEREAS, the unpaid and delinquent charges are chargeable to the owner and collectible by the County as taxes and levies and constitute a lien against the Property.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that in accordance with Section 7-4 and 7-5 of the Code of the County of James City, Virginia, the Board of Supervisors directs that the following delinquent charge for services rendered, plus interest at the legal rate from the date of recordation until paid, shall constitute a lien against the Property to wit:

Cleaning of Trash/Debris and/or Cutting of Grass, Weeds, etc.:

ACCOUNT: Drummond's Quarter on the James, Ltd.
2501 Washington Avenue, No. 416
Newport News, VA 23607

DESCRIPTION: 3200 Derby Lane

TAX MAP NO.: (46-3)(05-0-0004-)
James City County, Virginia

AMOUNT DUE: \$60.00

3. Year End Balance - Williamsburg Regional Library

RESOLUTIONREGIONAL LIBRARY YEAR END FUND BALANCE

WHEREAS, the Board of Supervisors of James City County has been asked to allow the Regional Library Board to retain \$14,338 in a year-end fund balance to reallocate to FY 1993 spending in the Library.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does approve the retention of \$14,338 in a year-end fund balance by the Williamsburg Regional Library Board of Trustees.

D. PUBLIC HEARING

1. Route 5 Funding Plan

Mr. John T. P. Horne, Manager, Development Management, stated that the Commonwealth Transportation Board (CTB) on November 19, 1992, authorized advancement of \$1,000,000 from Revenue Sharing to be matched by the County, with funds generated by a Transportation Improvement District used to pay back CTB and the County.

Staff recommended deferral of the item to allow time to review all options until the January 4, 1993, Board of Supervisors' meeting, and to schedule a work session to follow the December 21, 1992, Board of Supervisors' meeting.

2. Proposed James City County Charter

Mr. Edwards stated that he had the opportunity to serve on the Dillon Rule Commission, and believed that a charter would put the County in a better position for possible future actions the Commonwealth might take for counties with charters.

Mr. Frank M. Morton, III, County Attorney, stated that the charter included the Uniform Charter Act and incorporated our current operation with no significant change.

Mr. Edwards indicated that the Constitutional officers had been informed that a charter would have no effect on their positions, and that they had expressed no objections to a charter.

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

Ms. Knudson 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 NJAMES CITY COUNTY CHARTER

WHEREAS, the Board of Supervisors of James City County held a public hearing on December 7, 1992, on a proposed Charter; and

WHEREAS, it is the opinion of the Board of Supervisors based on the comments received from the public that the proposed Charter should be submitted to the 1993 General Assembly for action thereon.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that it hereby requests its representatives in the General Assembly to submit and seek passage of a new Charter for the County of James City.

3. Case No. SUP-23-92. Busch Properties Inc., Golf Course No. 3

Mr. R. Patrick Friel, Senior Planner, stated that Mr. Joseph Cross had applied on behalf of Busch Properties, Inc., for a special use permit to allow an 18-hole golf course in the M-1, Limited Industrial, on approximately 214 acres of a 1,217.38-acre tract, located west of Pocahontas Trail between Busch Gardens and Magruder Avenue, further identified as Parcel (1-8) on James City County Real Estate Tax Map No. (51-4). He further stated that a special use permit approved in February 1990 had expired.

In concurrence with staff, the Planning Commission unanimously recommended approval of the special use permit with conditions listed in the resolution.

Mr. Edwards opened the public hearing.

1. Mr. Joseph Cross, employee of Busch Properties, Incorporated, owner and applicant, asked for approval of the project, and advised that the Natural Heritage program had been complied with and development would be in a responsible manner.

2. Ms. Carolyn Lowe, 50 Summer East, spoke of the need for parties concerned to preserve natural habitats in all development projects.

Mr. Edwards closed the public hearing.

Mr. Sisk 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

CASE NO. SUP-23-92. BUSCH PROPERTIES, INC., GOLF COURSE NO. 3

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 November 10, 1992, voted 6 to 0 with one abstention to recommend approval of Case No. SUP-23-92 to permit an outdoor recreation facility in the M-1, Limited Industrial District, on property identified as part of Parcel (1-8) on James City County Real Estate Tax Map No. (51-4).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-23-92 as described herein with the following conditions:

1. This special use permit shall remain in effect for a period of 24 months from the date of issuance. If within this time site plan approval and/or building plan approvals are issued, the special use permit shall remain in effect for the term of those approvals and/or permits. Issuance of a Certificate of Occupancy would preserve the rights of the special use permit.
2. An internal entrance way shall be provided from the Kingsmill Planned Community.

3. No golf course areas shall be located within 50 feet of any residentially zoned property. Any golf course areas located within 100 feet of any residentially zoned property shall be appropriately buffered with landscaping and/or structures as determined by the Development Review Committee.
4. An operation and maintenance plan, including an integrated pest management plan shall be submitted as part of the site plan submittal and approved by the Director of Code Compliance prior to final site plan approval. The Integrated Pest Management Plan shall include documents for the recordation of the application of all fertilizers, herbicides, pesticides, insecticides and/or other chemicals applied to the golf course. A copy of the application records shall be kept on site and shall, upon request, be made available for review by the Director of Code Compliance. Additionally, a copy of the records shall be submitted to the Director of Code Compliance annually from the date of issuance of this permit for review and approval. The Director of Code Compliance may require the submittal of a new Integrated Pest Management Plan if the review of these records show the plan to be inadequate.
5. An irrigation plan for the golf course shall be submitted for approval by the Director of Code Compliance as part of the site plan. Water used for golf course irrigation shall be drawn from the Rhine River. If it is determined that the Rhine River is not a suitable source of water, the special use permit shall become void.
6. The golf course shall have no more than 1 new entrance on Route 60.
7. A construction phasing plan shall be provided as part of the site plan to be approved by the Director of Code Compliance. The plan shall divide the construction into phases. Land disturbance beyond the first phase shall be permitted based upon the adequacy of erosion and sediment control measures installed in prior phases.
8. The driving range, practice area and golf course shall not be illuminated for night use.
9. A Phase I Archaeological Study for the entire site shall be submitted to the Director of Planning for his review and approval prior to land disturbance. A treatment plan shall be submitted to and approved by the Director of Planning for all sites that are, in the Phase I study, recommended for a Phase II evaluation and/or identified as being eligible for inclusion on the National Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the Planning Director and a treatment plan for said sites shall be submitted to and approved by the Director of Planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If, in the Phase II study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study area. All Phase I, Phase II and Phase III studies shall meet the Virginia Department of Historic Resource's Guidelines for Preparing Archaeological Resource Management Reports and the Secretary of the Interior's Standard and Guidelines for Archaeological Documentation, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's Professional Qualification Standards. All approved treatment plans shall be incorporated into the plan of development for the site and the clearing, grading or construction activities thereon.

10. Prior to the land disturbance of any portion of the site within the area designated a Natural Area by the Virginia Department of Conservation and Recreation's Division of Natural Heritage's Natural Areas Inventory of the Lower Peninsula of Virginia, dated January 24, 1992, the developer shall directly consult with that agency and review their detailed site files in relation to the existence of rare species or potential habitat for such species. Confirmation of this review shall be submitted to the County Engineer for his review and approval. If the existence of rare species or potential habitat for such species is determined to be found on site, the County Engineer may require the protection of such areas in a form acceptable to the County Engineer. Such measures may include, but are not limited to; mapping areas, leaving areas undisturbed and/or transplanting specimens. The developer should minimize disturbance to the maximum extent possible in areas containing rare species and potential habitat.

4. Case No. SUP-25-92. Mershon Properties

Mr. O. Marvin Sowers, Jr., Director of Planning, recommended deferral of the item, as requested by the applicant's counsel to allow submittal of additional information, until the December 21, 1992 Board of Supervisors' meeting.

Mr. Edwards opened the public hearing and without objection, he declared a continuation until the December 21, 1992 Board of Supervisors' meeting.

5. Case No. Z-3-92. Williamsburg Development, Inc.

Mr. Sowers stated that Mr. Alvin Anderson, of Anderson, Franck and Davis, had applied on behalf of Williamsburg Developments, Inc., to rezone approximately 65.6 acres from R-8, Rural Residential, to PUD-R, Planned Unit Development - Residential, located south of Route 199, east of Carter's Grove Country Road and west of Tutter's Neck Creek, further identified as part of Parcels (1-3) and (1-5) on James City County Real Estate Tax Map No. (49-2).

In concurrence with staff that the project was consistent with the Comprehensive Plan, surrounding development and zoning, the Planning Commission recommended approval of the rezoning.

Mr. Edwards opened the public hearing.

1. Mr. Alvin Anderson, representing Williamsburg Developments, Inc., detailed the parcels, access and maintenance.

Mr. Edwards closed the public hearing.

Ms. Knudson made a motion to approve the resolution.

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

RESOLUTIONCASE NO. Z-3-92. WILLIAMSBURG DEVELOPMENTS, INC.

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-3-92 for rezoning approximately 65.6 acres from R-8, Rural Residential, district to PUD-R, Planned Unit Development-Residential on property identified as Parcel (1-3) and Parcel (1-5) on James City County Real Estate Tax Map No. (49-2); and

WHEREAS, the Planning Commission of James City County, following its public hearing on November 10, 1992, voted 6 to 0 with one abstention to recommend approval of Case No. Z-3-92.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Zoning Case No. Z-3-92, and accepts the voluntary proffers.

6. Virginia Peninsulas Public Service Authority Transfer and Disposal and System Service Agreement

Mr. Larry M. Foster, General Manager, James City Service Authority, stated that State Code Section 15.1-1250.01 required a public hearing to be held and a resolution approved authorizing the County Administrator to negotiate and develop a transfer and disposal system service agreement with Virginia Peninsulas Public Service Authority.

Staff recommended approval of the resolution.

The Board questioned whether trash from other VPPSA jurisdictions would be accepted, and commented that recycling was a separate agreement and James City County might be the choice for a transfer station for the Peninsula.

Mr. Edwards opened the public hearing.

1. Mr. Joshua Palmer, Jr., Suburban Disposal Company, asked why the County landfill could not be used by VPPSA rather than those in other areas.

Mr. Edwards suggested Mr. Palmer meet with staff for response to his concerns.

Mr. Edwards closed the public hearing.

The Board requested a public meeting on the VPPSA service agreement for the January 4, 1993 Board of Supervisors' meeting.

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).

RESOLUTIONPARTICIPATION IN REGIONAL VPPSA TRANSFER AND DISPOSAL PROGRAM

NOW, THEREFORE, BE IT RESOLVED that, in accordance with Virginia Code 5 15.1-1250.01 and after public notice and hearing, this Board hereby finds that the operation by Virginia Peninsulas Public Service Authority ("VPPSA") (itself or by contract) of a garbage and refuse transfer and disposal system in the County pursuant to an Agreement to be approved by this Board of Supervisors, in spite of any potential anticompetitive effect, is important in order to provide for the development and/or operation of a regional system of garbage and refuse transfer and disposal for two or more units.

BE IT FURTHER RESOLVED, that the County Administrator is authorized to negotiate and develop a Transfer and Disposal System Service Agreement with VPPSA which shall be subject to approval by this Board of Supervisors before it shall become effective.

7. Case No. CP-2-92. Comprehensive Plan Amendments

Mr. Trenton L. Funkhouser, Senior Planner, stated that the Board of Supervisors' had directed staff to refer 3 Comprehensive Plan items to the Planning Commission for review and consideration. Those items include: 1) Revision to test referencing access to Route 199; 2) Revision to the Land Use Plan Map description for the Williamsburg-Jamestown Airport; and, 3) Addition of 6 parcels of land to the Warhill Mixed Use area of the Land Use Plan Map, located in area generally bounded by Mooretown Road, Richmond Road, and the proposed Route 199 Overpass at Richmond Road.

Mr. Edwards opened the public hearing.

No public speakers came forward.

1) Route 199

Mr. DePue made a motion to approve the modified text referencing access to Route 199.

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

2) Williamsburg - Jamestown Airport

The Board deferred the revision to the Land Use Plan Map description for the Williamsburg-Jamestown Airport until review of the Master Plan was completed by the January 4, 1993, Board of Supervisors' meeting.

3) Warhill Tract

Mr. DePue made a motion to approve the resolution to add 6 parcels of land to the Warhill Tract Mixed Use area.

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

Mr. Edwards continued the public hearing for further information on the Williamsburg-Jamestown Airport item until January 4, 1993, Board of Supervisors' meeting.

Mr. Edwards declared recess for a break at 8:55 p.m.

Mr. Edwards reconvened the Board at 9:10 p.m.

E. BOARD CONSIDERATION

1. Case No. CP-1-92. Comprehensive Plan Amendments

Case No. CPA-1-92. Stanley E. Akins and Charles D. Crawford

Mr. Funkhouser stated that Mr. Stanley E. Akins and Charles D. Crawford, owners, have requested a designation change from Low Density Residential to Commercial or Mixed Use designation of Parcel (12-1) on James City County Real Estate Tax Map No. (1-3) to maximize economic development potential of the property.

In concurrence with staff, the Planning Commission recommended denial of the designation change request because of ample vacant land at interstate interchanges; public utilities are unavailable and must be provided by developer; and, the location and configuration of the property was unsuitable for commercial development.

Mr. Funkhouser noted that residents of Burnham Woods had presented to the Board a signed petition in opposition to the designation change.

Mr. Edwards invited persons in the audience to speak.

1. Mr. Bruce Daniels, resident of Burnham Woods, spoke in opposition to the request because of inadequate draining, increased traffic and lack of public utilities to support commercial development.

2. Mr. Charles Crawford, owner, reiterated that his reason for the designation change request was to build a home, antique shop and carpet shop.

3. Mr. Gary Anderson, representing the owners, stated that Mr. Crawford bought the property in 1987 before a change in zoning was approved by the update of the Comprehensive Plan. He emphasized that this designation change would give flexibility for appropriate development of the property.

4. Mr. Leon Dillard, 122 Old Stage Road, Toano, stated that housing and narrow roadway are main concerns, and the neighborhood should stay a residential community.

After comments by the Board, Mr. DePue made a motion to approve the resolution (Alternative 1).

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

RESOLUTIONCASE NO. CP-1-92CASE NO. CPA-1-92. STANLEY E. AKINS AND CHARLES D. CRAWFORD

WHEREAS, the James City County Board of Supervisors has determined that, as part of the First Annual Review of the 1991 Comprehensive Plan Update, a change should be made to the Comprehensive Plan; and

WHEREAS, the change adds the James City County tax map parcel number (12-1)(01-0-0003-A) to the Stonehouse Mixed Use Area of the Land Use Plan Map.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does add James City County tax map parcel number (12-1)(01-0-0003-A) to the Stonehouse Mixed Use Area of the Land Use Plan Map.

Mr. DePue made a motion to refer Alternative 2 to the Planning Commission.

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

2. Regional Bikeways Plan Pilot Program

Mr. Sowers stated that the Regional Issues Committee had developed and endorsed a regional bikeways plan pilot project in order to request funding in the Hampton Roads Planning District Commission's FY 94 Regional Transportation Improvement Program. He further stated the deadline for that funding request was mid-December.

Staff recommended approval of the resolution with project components listed.

Discussion of acquisition of right-of-way and differences between Class I and Class II bikeways followed.

Mr. Sowers responded that no relocations were expected.

Mr. Sisk made a motion to approve the resolution.

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

RESOLUTIONREGIONAL BIKEWAYS PLAN PILOT PROJECT

WHEREAS, the development of bicycle facilities is an objective in the Comprehensive Plans of each of the three jurisdictions; and

WHEREAS, the Regional Issues Committee has recommended that the development of a Regional Bikeway Plan be the next project of this regional body and the governing bodies of the three jurisdictions have agreed to this proposal; and

WHEREAS, the Regional Issues Committee recommends that a pilot project be proposed for inclusion in the FY 94 Hampton Roads Transportation Improvement Program in advance of completion of the full Regional Bikeway Plan; and

WHEREAS, the pilot project consists of the following components:

Class II Bikeway (4-foot lanes adjacent to roadway) on Longhill Road between Olde Towne Road and the Longhill Connector Road;

Class I Bikeway (8-foot separate pathway) on the east side of Ironbound Road between the Longhill Connector and Strawberry Plains Road;

Class II Bikeway on Monticello Avenue between Ironbound Road and Compton Drive;

Bicycle-Transit transfer station at the Williamsburg/ James City Recreation Center; and

WHEREAS, the Board finds that this pilot project incorporating the Longhill Road, Ironbound Road, and Monticello Avenue corridors with a linkage to transit is of significant regional interest.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby endorse the pilot project recommended by the Regional Issues Committee as a part of the development of a Regional Bikeway Plan and the Hampton Roads Metropolitan Planning Organization is hereby requested to incorporate said project in the FY 1994 Transportation Improvements Program.

3. Saddletown Road Dirt Street Improvements - Award of Construction Contract

Mr. Horne stated bids for construction of approximately 2,650 linear feet of Saddletown Road, a dirt street off Riverview Road (Route 606), were received.

Staff recommended approval of the construction contract to Basic Construction Company, the lowest responsible bidder.

Ms. Knudson made a motion to approve the resolution.

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

RESOLUTIONSADDLETOWN ROAD DIRT STREET PROJECTAWARD OF CONSTRUCTION CONTRACT

WHEREAS, funds were appropriated in the FY 93 Dirt Street CIP Budget for improving Saddlestown Road, a dirt street off Riverview Road (Route 606), to Virginia Department of Transportation standards; and

WHEREAS, Basic Construction Company has submitted the lowest responsible bid in the amount of \$119,659.00 for improving Saddlestown Road to Virginia Department of Transportation standards.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the Saddlestown Road Improvements construction contract is hereby awarded to Basic Construction Company in the amount of \$119,659.00 and the County Administrator is hereby authorized to execute the construction contract.

4. Budget Transfer - Regional Jail

Mr. John E. McDonald, Manager, Financial Management Services, stated that a transfer of monies to create a Regional Jail - Capital Projects was requested to cover funds needed for the planning study. He explained that the request was based on the Hampton Roads Planning District Commission needs assessment for the four jurisdictions - James City County, York County, and cities of Williamsburg and Poquoson.

Staff recommended approval of the resolution.

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).

RESOLUTIONBUDGET TRANSFER - REGIONAL JAIL

WHEREAS, the Board of Supervisor of James City County has been asked to identify funds for a regional jail planning study and funds now exist in the County's Capital Budget that could be reallocated.

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

From: Capital - Juvenile Detention	\$42,000
To: Capital - Regional Jail	\$42,000

- F. PUBLIC COMMENT - None
- G. REPORTS OF THE COUNTY ADMINISTRATOR - None
- H. BOARD REQUESTS AND DIRECTIVES

Mr. Edwards made a motion to recess until 7:00 p.m., December 14, 1992, for a joint meeting with Williamsburg City Council and Williamsburg-James City County School Board, at Lafayette High School.

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

The Board recessed at 10:20 p.m.



David B. Norman
Clerk to the Board

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THE CHARTER**JAMES CITY COUNTY CHARTER****Chapter 1. Charter and Boundaries**

- § 1.1 Charter.
- § 1.2 Transition to charter form of government.
- § 1.3 Transition of office holders.
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Chapter 2. Powers of County

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- § 2.2 Additional powers.
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Chapter 3. Board of Supervisors

- § 3.1 Magisterial District.
- § 3.2 Composition and election.
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Chapter 5. Budget and Accounting

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- § 6.1 Creation of departments and divisions.
- § 6.2 Responsibilities of division and department heads.
- § 6.3 Responsibility of division and department directors and managers to the Board and County Administrator.
- § 6.4 Personnel rules and regulations.
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- § 6.6 Department of Financial and Management Services.
- § 6.7 Department of Police.
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- § 6.9 Division of Social Services.
- § 6.10 Department of Development Management.
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Chapter 7. Planning and Zoning

- § 7.1 Planning Commission.
- § 7.2 Function of Planning Commission.
- § 7.3 Board of Zoning Appeals.
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Chapter 8. Education

- § 8.1 Composition.
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Chapter 9. Miscellaneous Provisions

- § 9.1 Immunity from liability.
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- § 9.3 Amendments to charter.
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- § 9.5 Severability.

Chapter 1. Charter and Boundaries

§ 1.1. Charter.

The General Assembly hereby charters the County of James City, a political subdivision of the Commonwealth of Virginia, as a county within the Commonwealth of Virginia and as such shall have perpetual succession and all other powers and responsibilities granted by this charter or general law.

§ 1.2. Transition to charter from of government.

Upon granting of this charter, the County of James City shall be liable for the bonded indebtedness and current debts and obligations of the County of James City as such obligations exist immediately preceding existence of the charter. The chartered County of James City shall succeed in right and title to all assets, properties, contracts and rights of every nature then possessed by the county, including all money belonging to the county and its books, records, papers and all other things of value. All ordinances, rules, regulations, policies and orders made by the County of James City, all Special Acts of the General Assembly, in force at the effective date of this charter insofar as they, or any portion thereof are not inconsistent herewith, shall remain in full force and effect until amended or repealed in accordance with the provisions of this charter and general law.

All the county levies and taxes, both current and delinquent, and all school and other funds held by the Commonwealth to the credit of the County of James City shall be turned over to the chartered County of James City. The tax levy and assessments made for the current and ensuing year or years shall stand as the levy and assessment of the county. All contracts entered into by the county for materials or supplies or construction work in force on the date of chartering shall thereby become the contracts of the chartered county.

§ 1.3. Transition of office holders.

Upon granting of the charter the persons holding office as members of the board of supervisors of the county immediately preceding the granting of a charter shall become members of and shall constitute the Board of Supervisors of the County of James City and shall continue to constitute such board until the election and qualification of their successors subject to the following specific requirements and qualifications:

As members of the new board of supervisors they shall continue to have and exercise all of the rights, powers and privileges conferred on such board and shall be subject to all of the duties, liabilities and restrictions now imposed by law on the government of counties using the non-optional form of government and as vested in members of the board by the provisions of this charter. Members of the Board of Supervisors shall continue to be elected for staggered terms as immediately prior to the adoption of a charter.

Those persons who shall hold office as Commonwealth's Attorney, Clerk of the Circuit Court, Sheriff, Treasurer and Commissioner of the Revenue, immediately preceding the granting of a charter, shall by virtue of such chartering become respectively the Commonwealth's Attorney, Clerk of the Circuit Court, Sheriff, Treasurer and Commissioner of the Revenue of the chartered County of James City, and shall continue to hold office until the expiration of the respective terms for which they were elected or appointed and until their successors have been elected and have qualified. Such officers and their successors shall have and exercise all of the rights, powers and privileges conferred upon them and shall be subject to all of the duties, liabilities and restrictions imposed by law upon such officers of counties of the Commonwealth.

§ 1.4 Effective date.

This charter shall be in effect from July 1, 1993, and thereafter until repealed or amended as provided by law.

Chapter 2. Powers of County

§ 2.1. General grant of powers.

The powers set forth in Title 15.1 of the Code of Virginia, and all other powers which are now or may be conferred upon or delegated to counties under the Constitution and laws of the

Commonwealth and all other powers pertinent to the conduct of a county are hereby specifically conferred upon the County of James City, and no enumeration of particular powers in this charter shall be held to be exclusive but shall be held to be in addition to this general grant of powers. There is hereby specifically conferred upon James City County without further act all of the powers contained in Sections 15.1-837 through 15.1-907 of the Code of Virginia, as now and hereafter to be amended not inconsistent with this charter. All such power or authority shall be exercised insofar as they are consistent with the provisions of this charter. The scope of all powers conferred by this charter shall be liberally interpreted so as to best effectuate the responsibility of the board of supervisors to perform its duty to govern the county.

§ 2.2 Additional powers.

In addition to the powers granted by other sections of this charter and general law, the county shall have the power to raise annually by taxes and assessments as permitted by general law such sums of money as the board shall deem necessary to pay the debts and defray the expenses of the county in such manner as the board shall deem expedient. In addition to, but not as a limitation upon this general grant of power, the county shall have power to levy and collect ad valorem taxes on real estate and tangible personal property and machinery and tools; to levy and collect taxes on hotel and motel rooms; to levy and collect business taxes, local general retail sales and use tax as provided by law; to levy and collect taxes on prepared food and beverages; unless prohibited by general law, to require licenses, prohibit the conduct of any business, profession, vocation or calling without such a license and require taxes to be paid on such

licenses in respect of all businesses, professions, vocations and calling which cannot, in the opinion of the board be reached by the ad valorem system; to franchise any business or calling so as to protect the public interest; and to require licenses of all owners of vehicles as provided by general law.

In addition to the other powers conferred by law, the County of James City shall have the power to impose, levy and collect, in such manner as its board may deem expedient, a consumer tax upon the amount paid for the use of water, gas, electricity, telephone, cable television, and any other public utility service within the county or upon the amount paid for any one or more of such public utility services, subject to provisions of general law and may provide that such tax shall be added to and collected with bills rendered consumers and subscribers for such services.

§ 2.3 Acquisition of real estate.

In addition to the powers granted by other sections of this charter the county may acquire property within or without its boundaries for any of its facilities or functions, in fee simple or lesser interest or estate, by purchase, gift, devise, lease or eminent domain for property within the county and may sell, lease, hold, manage and control such property as the county's interest may require. No judicial process need precede the exercise of these powers except acquisition of property by eminent domain.

§ 2.4 Special districts.

The county, in addition to any other authority provided by law, may by ordinance create special districts or areas within the county if those areas desire additional or more complete governmental services than are desired in the county as a whole. The board of supervisors shall have the power to levy a higher tax in such areas and the proceeds therefrom shall be so segregated as to enable the same to be expended in the areas in which raised. Any sanitary districts in existence shall continue to exist as immediately prior to the issuance of a charter.

Chapter 3. Board of Supervisors§ 3.1 Magisterial district.

There shall be one magisterial district to be known as the James City County Magisterial District. The boundaries of such district shall be contiguous with and identical to the boundaries of the county.

§ 3.2. Composition and election.

The County of James City shall be divided into five election districts, which shall comprise the five election districts of the County of James City as existing immediately preceding the effective date of this charter and shall be known as the Districts of Berkeley, Jamestown, Roberts, Powhatan and Stonehouse. The board of supervisors shall consist of five members and shall be elected one from each district. The board members shall qualify and be elected as provided by general law for members of county boards of supervisors elected for staggered terms. The board may redistrict or change the number, form of the membership or manner of electing board members in accordance with general law without the necessity of amending the charter.

Vacancies in the office of supervisor from whatever cause, shall be filled within 30 days for the unexpired portion of the term by a majority vote of the remaining members of the board; provided that, so long as any supervisor is elected from an election district, the vacancy shall be filled by a qualified voter residing in the same election district. If a vacancy is not filled by the board within thirty days as provided herein, the vacancy shall be filled in accordance with general law.

Members of the board of supervisors shall act in accordance with the Virginia Comprehensive Conflict of Interests Act, as now written or as amended.

§ 3.3. Compensation.

The board members shall receive as compensation for their services such amounts as the board may determine, provided that no salary increase approved by the board shall be effective during the term of such board. The salary in effect upon chartering shall remain in effect until changed by the board. In addition to a salary, members of the board may receive reimbursement for reasonable expenses incurred in the conduct of county business as provided by law.

§ 3.4. Board of supervisors chair and vice chair.

The board at its first meeting in January and annually thereafter, unless otherwise provided by the board, shall elect one of its members, who shall have the title of chairman and shall preside at meetings of the board and shall be recognized as head of the county government for all official ceremonial purposes. The chairman shall serve for a term of one year or until his replacement is elected. The board shall elect a new chairman when a vacancy occurs in that office. The board shall also elect a vice chairman annually who shall act as chairman during the absence or disability of the chairman. The chairman shall have the same powers and duties as other members of the board and shall have a vote, but no power of veto.

§ 3.5. Procedural powers.

The board shall have the power, subject to the provisions of this charter, to adopt its own rules of procedure and other guidelines controlling the actions of its members. Such rules shall provide for the time and place of holding regular meetings of the board which shall be not less frequently than once a month. The procedure for calling special meetings shall be as provided by general law in the Code of Virginia. A majority of the board shall constitute a quorum for the transaction of business.

§ 3.6. Powers.

The board of supervisors shall be the policy determining body of the county and shall be vested with all rights and powers conferred on governing bodies by general law not inconsistent with this charter. All powers vested in the county by this charter, and to counties generally by the Code of Virginia, shall be exercised by the board collectively except as otherwise provided in this charter or in the Constitution of Virginia. In addition to the foregoing, the board shall have the following powers:

- a. To control and manage the fiscal affairs of the county and all property, real and personal, belonging to the county.

- b. To provide revenue for the county and appropriate the revenue for expenses; to provide annual assessments of taxable persons and property in the county; and it may adopt such ordinances, orders and bylaws relating to the powers of this charter as it shall deem proper and necessary.

- c. To adopt such ordinances, bylaws, orders and regulations as it may deem desirable to carry out the following powers which are hereby vested in them:
 - (1) To provide for the preservation of the general health, safety and welfare of the inhabitants of the county.

 - (2) To require and compel the abatement and removal of all public nuisances within the county at the expense of the person or persons causing the nuisance or the occupant or owner of the ground upon which the nuisance is located.

 - (3) To preserve public peace and good order; to prevent and quell riots, disturbances, disorderly assemblages, environmental hazards and shortages; and the board shall also have the power to adopt such additional ordinances as it may deem necessary for the general welfare of the county.

- d. To create, alter or abolish departments, bureaus, divisions, offices or agencies except where such departments, bureaus, division, offices or agencies are specifically required by this charter or general law.
- e. To create, alter and abolish commissions and advisory boards to assist the county in accomplishing its statutory responsibilities except where such commissions and advisory boards are specifically required by this charter or general law.
- f. To provide for the number, title, qualifications, powers, duties, classification and compensation for all officers and employees of the county.
- g. To provide for the form of oaths, who shall administer oaths and the amount and condition of surety bonds to be required of certain officers and employees of the county.
- h. To make or cause to be made such investigation relating to the financial affairs and internal operations of the county government as they may deem necessary.
- i. As a collective body, to make appointments to boards, commissions and other bodies as provided by law or board action.

Nothing contained herein shall be construed to deprive the board of supervisors or county of any of the powers conferred upon them either by general or special laws of the Commonwealth of Virginia, except insofar as the same may be inconsistent with the provisions of this charter.

§ 3.7. County clerk.

The board of supervisors may appoint a county clerk who shall serve at the pleasure of the board. The Clerk of the Board shall also serve as custodian of the corporate seal of the county and shall have such other public duties as prescribed by general law or as the board may prescribe. The clerk shall in addition:

- (1) Record the proceedings of the board in a book to be provided for that purpose.
- (2) Preserve and file all accounts and papers acted upon by the board with its action thereon.

If the board chooses not to appoint a county clerk, such duties and responsibilities shall be performed by the county administrator.

Chapter 4. County Administrator.§ 4.1. Appointment of county administrator.

The board shall appoint a county administrator who shall be the administrative head of the county government and who shall be responsible for the proper administration of the government as reflected by the legislative and policy directions of the board and general law. The county administrator shall serve at the pleasure of the board and shall enforce the laws of the county and, where applicable, the Commonwealth and shall ensure the faithful performance of all administrative duties required by the board. The board may enter into an employment agreement with the county administrator, defining terms of employment.

§ 4.2. Duties and responsibilities.

The county administrator shall have all the responsibility and shall carry out all the duties prescribed by § 15.1-117 of the Code of Virginia, as now and hereafter may be amended and in such other duties and responsibilities as may be established by the board of supervisors.

The county administrator shall devote full-time to the work and services of the county under the direction of the board of supervisors to whom the county administrator shall be accountable. The county administrator need not be a resident of the county at the time of appointment, but shall become an actual resident of the county within a time prescribed by the board.

In the absence or disability of the county administrator, the assistant county administrator shall perform the duties of the office.

In addition, it shall be the duty of the county administrator:

- (1) To execute and enforce all lawful resolutions and orders of the board concerning any department in the county government and to ensure that all laws of the Commonwealth required to be enforced through the board are faithfully executed.
- (2) To make reports to the board in regard to matters of administration, and keep it fully advised as to the financial condition of the county.
- (3) To appoint qualified officers and employees to head the administrative departments of the county and to dismiss, suspend and discipline, in accordance with duly adopted personnel regulations, all officers and employees in such departments, except as otherwise specifically provided by law or this charter. Department heads who are appointed by the county administrator shall serve at the pleasure of the county administrator. An assistant county administrator may be appointed by the county administrator.
- (4) To perform or cause to be performed by some other officer or employee the duties of any office or position of the administrative service under the county administrator's

control which is vacant or which lacks administration due to the absence or disability of the incumbent.

- (5) To recommend to the board appropriate ordinances to carry out the policies of the board.
- (6) To assign any employee of the county to any department requiring services in accordance with duly adopted personnel regulations.
- (7) To prescribe such rules and regulations necessary or expedient for the conduct of administrative departments or agencies subject to the county administrator's authority; and the county administrator shall have the power to revoke, suspend or amend any rule or regulation of any such department or agency, promulgated by any officer or employee subject to the county administrator's control so long as such rules or regulations are not promulgated by the board of supervisors.
- (8) To conduct or have conducted an administrative investigation into the affairs or operation of any department, division or agency of the county.
- (9) To attend and address the board at any meeting thereof.

- (10) May direct any department, division or agency of the county to perform work for any other department, division or agency of the County and may, subject to the county administrator's retention of general supervision and control, delegate any powers and duties conferred upon the county administrator by this charter to any other officer or employee who is subject to the county administrator's supervision.

Chapter 5. Budget and Accounting

§ 5.1. Fiscal year.

The fiscal year of the county shall begin on the first day of July of each year and shall also constitute the budget and accounting year. The provisions of Title 15.1 of the Code of Virginia shall control the preparation, consideration, adoption and execution of the budget of the county.

§ 5.2. Submission of budget.

In preparing, approving and adopting a budget for the county, the county administrator and the board of supervisors shall be governed by general law, specifically the provisions of Chapter 4 of Title 15.1 of the Code of Virginia.

§ 5.3. Borrowing.

The board of supervisors may incur indebtedness by issuing bonds, notes or other obligations for the purposes, in the manner and to the extent provided for by the Constitution of Virginia and the Code of Virginia. The term indebtedness shall not include contractual obligations of the county, lease/purchase agreements subject to annual appropriations and revenue bonds payable solely from revenue producing properties.

Chapter 6. Administration

§ 6.1. Creation of departments and divisions.

The following administrative departments are hereby created:

- (1) Department of County Attorney.
- (2) Department of Financial and Management Services.
- (3) Department of Police.
- (4) Department of Fire.

- (5) Department of Development Management.
- (6) Division of Planning.
- (7) Department of Community Services.
- (8) Division of Social Services.
- (9) Department of Human Resource.

The Board of Supervisors may create new departments or divisions, or combine or abolish existing departments or offices and distribute the functions thereof or establish temporary departments for special work.

§ 6.2. Responsibilities of division, office and department heads.

There shall be a director at the head of each division and a manager at the head of each department. The director or manager of each administrative division or department, except the county attorney and the chief of police, shall be appointed by the county administrator. Such directors or managers shall serve in accordance with applicable personnel policies and may be removed by the county administrator.

§ 6.3. Responsibility of division or department directors and managers to the board and county administrator.

The directors or managers of each administrative department or division shall be responsible to the county administrator and board for the administration of their respective department and division and their advice may be required by the board on all matters affecting their department or division.

§ 6.4. Personnel rules and regulations.

The personnel system shall be established by the board of supervisors for county administrative officials and employees and set forth in a policies and procedures manual. The system shall be based on merit and professional ability without regard to race, national origin, religion, sex, age, disability, or political affiliation. The personnel system shall include a classification plan, a uniform pay plan and procedure for resolving grievances for employees of the county as provided by general law. Employees of constitutional officers and other agencies may participate in the personnel system at the discretion of the board and upon the concurrence of the constitutional officer or agency head.

§ 6.5. Department of county attorney.

The county attorney shall be the chief civil legal advisor of the board of supervisors, the county administrator and of all departments, boards, commissions and agencies of the county in all matters affecting the interests of the county and shall represent such departments and its employees in all civil litigation arising out of the provision of services. In addition to the duties of the county attorney provided by general law, the county attorney shall perform such other appropriate responsibilities as are assigned by the board. The county attorney shall be appointed by the board and shall serve at its pleasure. The county attorney shall devote full-time to the work and services of the county. The board of supervisors may authorize the employment of assistant county attorneys as needed.

§ 6.6. Department of financial and management services.

The manager of financial and management services shall be responsible for carrying out the fiscal and financial affairs of the county as defined by the board of supervisors.

The manager of financial and management services shall perform such accounting, budgeting and financing responsibilities as are directed by the county administrator, so long as such responsibilities are not in conflict with general law.

§ 6.7. Department of police.

The police department shall be composed of a chief of police and such officers, patrol officers and other employees as the board of supervisors may determine. The powers and duties set forth in § 15.1-138 of the Code of Virginia shall apply to the police force. The chief of police shall be responsible for the immediate direction and control of the department. The chief of police shall promulgate rules and regulations for the department subject to state and county law, personnel policies of the county and Commonwealth, and generally accepted policy practices of the board of supervisors.

The chief of police shall be appointed by the board of supervisors on recommendation of the county administrator. The chief shall report to the county administrator. The chief of police can only be dismissed by the board of supervisors.

§ 6.8. Department of fire.

The fire department shall be composed of a chief and such other officers, fire fighters and employees as the board of supervisors may determine. The fire chief shall have immediate direction and control of the department. The chief shall be appointed by the county administrator and shall serve subject to the same terms and conditions applicable to other department heads. The members of the fire department shall be appointed and may be removed in accordance with established personnel policies.

§ 6.9. Division of social services.

The division of social services shall consist of the director of social services, a social services advisory board, and such officers and employees organized in such manner as directed by the county administrator. The division shall be responsible for the duties imposed by the laws of the Commonwealth of Virginia relating to public assistance and relief of the poor and such other powers and duties as may be assigned by the board of supervisors. The director of social services shall be appointed by the manager of community services and shall have general management and control of the division. The director shall report to and cooperate with the manager of community services to ensure the provision of social services is fairly coordinated with the provision of other governmental services. The social services advisory board shall consist of members appointed in the same fashion as existed prior to the adoption of a charter. The social services advisory board shall have such authority as is vested in it by general law and may recommend necessary rules and regulations not in conflict with this charter or general law concerning the social services division.

§ 6.10. Department of development management.

The department of development management shall be composed of the manager of development management and such additional employees as the board of supervisors may determine. The manager of development management shall have immediate direction and control of the department. The manager shall be appointed by the county administrator. The manager shall have general management responsibilities for such aspects of community planning, code enforcement, environmental management, and facilities planning as are directed by the county administrator, so long as such responsibilities are not in conflict with general law.

§ 6.11. Department of human resource.

The human resource department shall consist of a manager and such employees as the board of supervisors may determine. The department shall develop and maintain personnel rules and regulations.

Chapter 7. Planning and Zoning

§ 7.1. Planning commission.

There shall be a county planning commission which shall consist of no fewer than seven nor more than nine residents who shall be appointed and organized as provided by general law.

§ 7.2. Functions of planning commission.

The planning commission shall be responsible for making recommendations to the board of supervisors on all phases of county planning, including a comprehensive plan, long range planning, zoning, and subdivision regulations. It shall have the powers and duties provided by general law and such other powers and duties as may be assigned by the board of supervisors.

§ 7.3. Board of zoning appeals.

There shall be a board of zoning appeals appointed as provided by law and with those powers granted by general laws.

§ 7.4. Division of planning.

The planning division shall be composed of a director of planning and such employees as the board of supervisors may determine. The planning division shall perform such responsibilities as are imposed by general law and as may be assigned by the planning commission and board of supervisors. The director of planning shall have immediate direction and control of the division, shall be appointed by the manager of development management and shall serve subject to the same terms and conditions as are applicable to other department heads. The director of planning shall report to the manager of development management.

Chapter 8. Education

§ 8.1. Composition.

The educational department shall consist of the county school board, the superintendent of schools, and the officers and employees thereof. The county school board and the superintendent of schools shall exercise all the powers conferred and perform all the duties imposed upon them by general law in a manner consistent with this charter.

§ 8.2. Joint school system.

The county and the city have elected to operate a joint school system under a contract entitled, "An Amended and Restated Contract for the Joint Operation of Schools, the City of Williamsburg and County of James City, adopted Oct. 9, 1980," as amended. Upon its granting of a charter the powers, duties, and responsibilities under the contract shall continue as immediately prior to the adoption of a charter.

Chapter 9. Miscellaneous Provisions§ 9.1. Immunity from liability.

The county and all its officers, employees and agents shall retain all immunities from liability available to counties in the Commonwealth of Virginia. No actions or claims shall be instituted against the county unless the claimant shall have complied with all procedural prerequisites to such actions or claims as are contained in the Constitution and general laws of the Commonwealth.

§ 9.2. Retention of funding.

Unless revised or changed by this charter, the County of James City shall continue to receive state and federal funds in the same manner as if the County of James City had no charter.

§ 9.3. Amendments to charter.

This charter may be amended upon approval of any amendments by the Virginia General Assembly in accordance with the Constitution and general laws of the Commonwealth.

§ 9.4. Transition savings clause.

All ordinances, resolutions and orders of the board of supervisors and all rules and regulations made by it or by any department, board, commission or officer of the county, in force at the effective date of this charter, insofar as they or any part thereof are not inconsistent with the provisions of this charter, shall remain in full force and effect until amended or repealed in accordance with this charter or the general laws of the Commonwealth.

Assets and liabilities. All assets and liabilities of the county existing as of the effective date of this charter shall continue to be assets and liabilities of the county from and after the effective date of this charter.

§ 9.5. Severability.

Should any part of this charter be declared unconstitutional by a court of competent jurisdiction, such action shall have no effect on the constitutionality or validity of any other part of this charter.



SOUTH ENGLAND POINT
PROFFER AGREEMENT

This Agreement made this 26th day of November, 1992, by and between Williamsburg Developments, Inc. ("the Owner") and the County of James City ("the County").

Whereas, the Owner owns separate tracts of land situated in James City County, Virginia, the combination of which tracts is known as South England Point containing 65.8 acres, more or less, and lying adjacent to and on the southerly side of State Route 199, between the Carter's Grove Country Road and Tutter's Creek, a portion of which is shown on a plan entitled "MASTER PLAN - SOUTH ENGLAND POINT PUD, JAMES CITY COUNTY, VIRGINIA FOR WILLIAMSBURG DEVELOPMENTS, INC., PREPARED BY: LANGLEY & MCDONALD, P.C. which portion is more particularly described on Exhibit "A" attached (the "Property"); and

Whereas, the Owner has applied for a rezoning of the Property from the Rural Residential District (R-8) ("the Existing Zoning") to the Planned Unit Development (A) District ("the Proposed Zoning"); and

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

NOW, THEREFORE, this Agreement witnesseth that for and in consideration of the County rezoning the Property from the Existing Zoning to the Proposed Zoning and pursuant to Section 15.1-491.1 of the Code of Virginia, 1950, as amended, and Section 20-18 of the

Zoning Ordinance of the County, the Owner agrees that in addition to the regulations provided in the Proposed Zoning, it will meet and comply with all of the following conditions in the development of the Property.

1. GREENBELT ALONG STATE ROUTE 199. No clearing, grading or construction shall be permitted within 160 feet of the present right-of-way of State Route 199; however, with the prior written permission of the Planning Director, selective pruning and removal of dead trees and removal of selected vegetation may be permitted within this area.

2. OWNER'S ASSOCIATION. The Owner shall provide documentation acceptable to the County Attorney demonstrating that an Owners' Association has been legally established with authority to impose, raise and collect assessments against the owners of lots according to law. The Association shall have the ability to place a lien on any lot within the Property for unpaid assessments levied against that lot.

3. PATH SYSTEM. Prior to the issuance of any temporary or permanent certificate of occupancy for any dwelling on the Property, the Owner shall install a path system utilizing pine bark mulch or other material acceptable to the Planning Director which material shall be four (4) inches in depth and seventy-two (72) inches in width to form a path system generally as shown on the Master Plan.

4. BINDING UPON SUCCESSORS. The obligations created by this Agreement shall be binding upon each of the successors in title to all or any portion of the property.

5. HEADINGS. All section and subsection headings of this Agreement are for convenience only and are not part of these proffers.

WILLIAMSBURG DEVELOPMENTS, INC.

By: *John T. Hallowell*
John T. Hallowell, President

STATE OF VIRGINIA

CITY/COUNTY OF Williamsburg, to-wit:

The foregoing instrument was acknowledged before me this 26th day of November, 1992 by John T. Hallowell, President of and acting on behalf of Williamsburg Developments, Inc.

Trudy S. Mayes
NOTARY PUBLIC

My commission expires: January 31, 1996

EXHIBIT "A"

BOOK 595 PAGE 271

LEGAL DESCRIPTION OF SOUTH ENGLAND POINT REZONING

Beginning at a point said point being in the southern right-of-way of Route 199 and the eastern line of Carter's Grove Country Road formerly Route 619; thence leaving point of beginning and following the southern right-of-way of Route 199 S89°18'52" E, 17.62 feet to a VDH monument; thence S89°18'52" E, 215.77 feet to a VDH monument; thence S76°20'51" E, 126.77 feet to a VDH monument; thence S81°34'40" E, 130.29 feet to a VDH monument; thence S76°08'13" E, 78.82 feet to a VDH monument; thence S66°58'52" E, 82.70 feet to a VDH monument; thence S77°57'11" E, 649.85 feet to a point; thence S80°41'26" E, 315.43 feet to a point; thence S77°57'11" E, 513.79 feet to a point; thence S77°57'11" E, 195.00 feet to a point; said point being the high water mark along the eastern bank of Tutter's Neck Creek; thence leaving Route 199 following the approximate high water mark S09°41'28" W, 170.00 feet to a mark; thence S08°05'42" E, 200.00 feet to a mark; thence S42°58'22" W, 302.00 feet to a mark; thence S05°09'01" E, 142.00 feet to a mark; thence S39°20'31" E, 217.00 feet to a mark; thence S69°59'42" W, 225.00 feet to a mark; thence S33°33'36" W, 385.00 feet to a mark; thence S56°53'01" E, 115.00 feet to a mark; thence S18°49'23" W, 57.00 feet to a mark; thence crossing Tutter's Neck Creek to the western high water mark; S86°25'25" W, 360.00 feet to a mark; thence following the western high water mark of Tutter's Neck Creek, N06°35'44" W, 190.00 feet to a mark; thence N35°53'22" W, 96.70 feet to a mark; thence leaving said high water mark and following the existing ravine bottom as approximated by the following traverse line S83°39'05" W, 378.33 feet to a mark; thence N63°12'00" W, 168.00 feet to a mark; thence N55°30'40" W, 274.00 feet to a mark; thence N37°53'12" W, 126.00 feet to a point; said point being in the center of a 50 foot Colonial Pipeline Easement; thence following said centerline S81°24'27" W, 165.00 feet to a pipeline marker; thence S81°18'27" W, 43.78 feet to a point; said point being along the eastern edge of a 50 ingress/egress easement; thence along the aforementioned easement N32°35'25" W, 148.87 feet to a point; thence N26°41'36" W, 182.22 feet to a point; thence N35°50'32" W, 227.78 feet to a point; thence S70°47'15" W, 137.57 feet to a point; said point being along the eastern right-of-way of Carter's Grove Country Road this right-of-way being 30 feet off the center of the existing road bed; thence following said right-of-way N17°25'12" W, 161.79 feet to a point; thence along a curve to the right having a radius of 670 feet an arc distance of 414.99 feet to a point; thence N18°04'05" E, a distance of 108.33 feet to a point; thence along a curve to the left having a radius of 730 feet an arc distance of 256.58 feet to a point; said point being the point of beginning.

Said parcel contains 65.8 acres ±.

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

In the Clerk's office of the Circuit Court of the City of Williamsburg and County of James City the 9 day of Dec 19 92 This Deed

was presented with certificate annexed and admitted to record at 1:10 o'clock

Teste: Helene S. Ward, Clerk

by Helene S. Ward
Deputy Clerk