

AT A SPECIAL MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 4TH DAY OF JANUARY, NINETEEN HUNDRED NINETY-THREE, AT 5:05 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

Mr. Edwards made a motion to convene into executive session pursuant to Section 2.1-344(a)(7)(1) of the Code of Virginia to consult with staff on a legal matter and to consider appointment of individuals to County boards/commissions.

Mr. Edwards reconvened the Board into open session at 6:09 p.m. and made a motion to approve the executive 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

MEETING DATE: January 4, 1993

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 nominate Andy M. Piplico, Bruce Keener and Mayo Waltrip for reappointment to the Board of Equalization for designated terms; and, to reappoint Linda Rice to the Clean County Commission for a 3-year term, term expiring January 5, 1996.

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

TO RECOMMEND APPOINTEES TO THE JAMES CITY COUNTY

BOARD OF EQUALIZATION

WHEREAS, Section 18-30 of the Code of the County of James City, Virginia, requires the Board to recommend to the Circuit Court qualified freeholders of the County for appointment to the James City County Board of Equalization; and

WHEREAS, the terms of Bruce Keener, Andy M. Piplico and Mayo W. Waltrip expired on December 31, 1992, and the Board of Supervisors of James City County, seek to reappoint them for a three-year term; and

WHEREAS, Bruce Keener, Andy M. Piplico and Mayo W. Waltrip are qualified freeholders of the County.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby recommends to the Circuit Court the appointment to the James City County Board of Equalization of the following qualified freeholders, Bruce Keener, Andy M. Piplico and Mayo W. Waltrip, for three-year terms.

Mr. Edwards recessed the Board at 6:10 p.m. for dinner.

Mr. Edwards reconvened the Board at 7:06 p.m.

B. PRESENTATION - Chairman's Award

Mr. Edwards gave a brief description of Community Services Self-Sufficiency Program idea and presented a certificate of appreciation for that program to Iris Lynch, staff representative.

Ms. Lynch thanked Mr. Edwards.

Mr. Edwards expressed appreciation to the Board of Supervisors and County citizens for the opportunity to be Chairman during the past year.

C. ORGANIZATIONAL MEETING

Mr. Edwards asked for nominations for Chairman.

Mr. DePue nominated Ms. Knudson.

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

Ms. Knudson asked for nominations for Vice Chairman.

Mr. Sisk nominated Mr. Taylor.

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

Ms. Knudson stated the regular Board meeting time would be changed from 1:00 p.m. to 7:00 p.m. for the second meeting of the month.

Mr. DePue made a motion to approve the resolution as amended and the appointment of Board representatives to Boards and Commissions.

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

ORGANIZATIONAL MEETING OF THE BOARD OF SUPERVISORS

WHEREAS, the Board of Supervisors of James City County, Virginia, is required by State law to organize at the first meeting in January.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the following rules shall apply for the year 1993.

1. Regular meetings of the Board shall be held as shown on the attached 1993 calendar, in the Board Room of the James City County Government Center. The meeting times shall be 7:00 p.m.
2. The Board shall for parliamentary purposes follow Robert's Rules of Order and more specifically those provisions which pertain to the conduct of Business in Boards, Newly Revised, 1981 at p. 404 as follows; provided, however, the Board may amend by Resolution the Rules as it deems appropriate.

Procedure in Small Boards: In a board meeting where there are not more than about a dozen members present, some of the formality that is necessary in a large assembly would hinder business. The rules governing such meetings are different from the rules that hold in assemblies, in the following respects:

Members are not required to obtain the floor before making motions or speaking, which they can do while seated.

Motions need not be seconded.

There is no limit to the number of times a member can speak to a question, and motions to close or limit debate generally should not be entertained.

Informal discussion of a subject is permitted while no motion is pending.

The Chairman can speak in discussion without rising or leaving the chair; and, subject to rule or custom within the particular board (which should be uniformly followed regardless of how many members are present), he usually can make motions and usually votes on all questions.

A motion to rescind shall not be in order in a land use decision involving a rezoning or a special use permit. A motion to reconsider such a decision must be made at the same meeting the decision is made by the Board.

Ms. Knudson stated a Blue Ribbon Panel for Solid Waste Management had been created, and read the Board of Supervisors' appointments to Boards and Commissions:

Chamber of Commerce	Sisk
Community Action Agency	Edwards/Tony Conyers Sisk/John O'Hare DePue/Rev. J. Moody
Courthouse Committee	DePue/Sisk
Drug Free Schools Advisory Committee	Sisk
Emergency Preparedness	Knudson
Farmers Advisory Committee	Taylor
Grove Advisory Committee	Sisk
Hampton Roads Planning District Commission	Sisk
James River Commerce Center	DePue
Joint Sanitary District # 1 Board	Knudson/Sisk
Pamunkey River Study Committee	Taylor
Health Foundation	Knudson
Regional Issues (Quarterly)	Knudson
Richmond Road Sub-Area Study Group	DePue
School Liaison Subcommittee	Edwards/Knudson
Virginia Peninsula Economic Development Council	DePue
Library Committee	Edwards/Knudson

Ms. Knudson asked for nomination for James City County Transit President.

Mr. Taylor nominated Mr. Edwards.

Ms. Knudson made a motion to approve the resolution appointing the James City County Transit Board of Directors and officers.

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

APPOINTMENT OF BOARD OF DIRECTORS AND OFFICERS FOR

JAMES CITY COUNTY TRANSIT COMPANY BY

BOARD OF SUPERVISORS

WHEREAS, the stockholders of the James City County Transit Company (Transit Co.) have requested the Board of Supervisors to appoint the Board of Directors and the officers of the Transit Company for the year 1993.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that it hereby appoints as Directors of the Transit Company for the year 1993 the following individuals:

Perry M. DePue
Jack D. Edwards
Judith N. Knudson
David L. Sisk
Stewart U. Taylor

BE IT FURTHER RESOLVED, that the Board of Supervisors appoints the following officers:

President - Jack D. Edwards

Secretary/Treasurer - Anthony Conyers, Jr.

Ms. Knudson recessed the Board of Supervisors for a James City County Transit Stockholders' meeting and a Board of Directors' meeting, at 7:20 p.m.

Ms. Knudson reconvened the Board at 7:24 p.m.

D. MINUTES - December 21, 1992

Ms. Knudson asked if there were corrections or additions to the minutes.

Mr. Edwards 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).

E. CONSENT CALENDAR

Ms. Knudson asked if any Board member wished to remove an item from the Consent Calendar item.

Mr. DePue asked that Item # 1 be removed and made a motion to approve Items 2, 3 and 4 on the Consent Calendar.

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

2. Dedication of Street in Toano Coves

RESOLUTION

DEDICATION OF STREETS IN TOANO COVES

WHEREAS, the following road in Toano Coves is shown on plats recorded in the Clerk's Office of the Circuit Court of James City County and has been constructed to standards equal to the Virginia Department of Transportation's Subdivision Street Requirements as a requisite for acceptance for maintenance as part of the Secondary System of Highways; and

WHEREAS, the Board of Supervisors desires a certain road in Toano Coves to be included in the State Secondary Highway System; and

WHEREAS, the Virginia Department of Transportation's Resident Engineer for James City County has inspected this road and found it acceptable for maintenance.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the Virginia Department of Transportation be, and is hereby respectfully requested, contingent on the above, to include the following road in Toano Coves, Stonehouse Election District, James City County, in the State Secondary Highway System:

1. School Lane, 50-foot right-of-way
From: Route 1002 (School Lane)
To: End of Cul-de-sac
Distance: 520 feet (0.10 mi)

The unencumbered rights-of-way of 50 feet, along with drainage easements, are guaranteed as evidenced by the following plats of record:

Toano Coves, Lots 2 through 11, recorded in Plat Book 48, Page 16, dated April 20, 1988.

BE IT FURTHER RESOLVED that this resolution be forwarded to the Resident Engineer of the Virginia Department of Transportation.

3. Additional Administrative Allocations - Social ServicesR E S O L U T I O NAPPROPRIATION TO THE SOCIAL SERVICES DEPARTMENT

WHEREAS, the State Department of Social Services has provided additional funding to render services through Regular Administration; and

WHEREAS, sufficient local matching funds are available in Account No. 007-081-2001.

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

Revenues:

Revenues from the Commonwealth	\$7,952.00
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Expenditures:

Regular Salary	\$9,940.00
Fringes	(1,988.00)
Total	\$7,952.00

4. Seized Assets - PoliceR E S O L U T I O NSEIZED ASSETS

WHEREAS, the James City County Police Department has received \$3,733 in seized assets as a result of drug-related seizures; and

WHEREAS, Federal and State law requires that these funds be used exclusively by the Police Department for the investigation of drug-related offenses; and

WHEREAS, a line item account must be established into which these funds will be deposited and from which expenditures will be made.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors at James City County, Virginia, authorizes the deposit of \$3,972 into a line item account from which the Police Department may make expenditures related to the investigation of drug-related offenses.

1. FY 1992-93 Secondary Roads Budget

Mr. DePue asked why Priority No. 2 was not included on the Details of Construction Budget page.

Mr. John T. P. Horne, Manager, Development Management, stated that Priority No. 2 was fully funded.

A brief discussion regarding Virginia Department of Transportation's method of showing revenue sharing funds followed.

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 N

FY 1992-93 SECONDARY ROADS CONSTRUCTION BUDGET

WHEREAS, the Board of Supervisors of James City County, Virginia, has reviewed the FY 1992-93 Secondary Roads Construction Budget proposed by the Virginia Department of Transportation; and

WHEREAS, the Board has found the budget to be reflective of the approved Secondary Roads Priority List.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the FY 1992-93 Secondary Roads Construction Budget.

F. PUBLIC HEARINGS

1. Pre-Budget

Mr. John E. McDonald, Manager, Financial and Management Services, stated the public hearing gave citizens the opportunity to make recommendations and suggestions concerning the upcoming budget process.

Ms. Knudson opened the public hearing.

1. Ms. Elise Emanuel, Jamestown district, encouraged the Board to increase spending on education for future benefits.

2. Ms. Vicki Lagouri, Vice President, Williamsburg-James City County Public School Council of Parent Teacher Associations, stated the PTA supported construction of a new high school, longer school day and encouraged the Board to raise taxes specifically for education.

3. Mr. Ed Oyer, 139 Indian Circle, spoke in opposition to raising taxes for any purpose and expressed concern about future costs involved with solid waste management and closure of the landfill.

4. Mr. R. E. Gilley, Jamestown district, asked the Board to consider the Task Force on County Financial Planning recommendations during the upcoming budget process.

5. Ms. Mary Minor, 5813 Hawthorne, asked the Board to provide funding to meet educational goals.

6. Ms. Carol Mathews, 103 Argall Town Lane, spoke in support of longer school days and asked for a review of recycling truck routes and amount of recyclables for pickup.

Ms. Knudson closed the public hearing.

Mr. DePue expressed the need for citizen input to make the system work.

2. Route 5 Funding Plan

Mr. John T. P. Horne, Manager, Development Management, stated that the Board indicated general concurrence with the funding plan proposed by Governor's Land and Greensprings at the December 21, 1992, work session.

Staff recommended deferral of the item to allow time to prepare documents for the February 1, 1993, Board of Supervisors' meeting.

Ms. Knudson opened the public hearing, and without Board objection, continued the public hearing until February 1, 1993, Board of Supervisors' meeting.

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

Mr. O. Marvin Sowers, Jr., Director of Planning, stated that the Board of Supervisors, at its December 7, 1992, meeting, deferred action on changing the land use designation of the Williamsburg-Jamestown Airport to allow staff time to review a copy of the draft master plan.

Mr. Sowers further stated that the owners of the airport had requested an opportunity to present the request and master plan to the Board of Supervisors at its January 19, 1993, meeting.

Staff recommended deferral and that the presentation be made a part of the continued public hearing.

Ms. Knudson opened the public hearing, and without objection, continued the public hearing until January 19, 1993, Board of Supervisors' meeting.

4. Case No. Z-4-92. James River Commerce Center

Mr. Trenton L. Funkhouser, Senior Planner, stated that Mr. John T. Hallowell and Mr. David B. Norman have applied on behalf of Williamsburg Developments, Inc., and the James City County Industrial Development Authority to rezone approximately 219 acres from R-8, Rural Residential, and M-2, General Industrial, to MU, Mixed Use, to permit the development of a business park for light industrial and office development as primary uses and public and commercial development as secondary uses. He further stated that the site was located east of Pocahontas Trail, adjacent to James River Elementary School site and opposite the Pocahontas Trail Plantation subdivision, further identified as Parcel (1-17) on James City County Real Estate Tax Map No. (59-2).

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Staff recommended approval of the application with proffers for reasons that the proposed development conformed with the Land Use and Economic Strategies Development Standards and Mixed Use designation of the Comprehensive Plan, and the provision of open space and a substantial setback addressed transportation and environmental issues.

Ms. Knudson opened the public hearing.

1. Mr. Keith Taylor, Secretary, Industrial Development Authority, gave a brief outline and description of the Master Plan.

2. Ms. Victoria Gussman, Vice President, Williamsburg Developments, Inc., a subsidiary of Colonial Williamsburg, requested approval of the rezoning for reasons that the industrial park would be an asset to the community and compatible with its historical neighbor, Carter's Grove.

3. Mr. Ed Oyer, 139 Indian Circle, spoke in support of the rezoning.

Ms. Knudson closed the public hearing.

Mr. Sisk made a motion to approve the resolution.

The Board briefly discussed whether this rezoning might bring a decline in traffic level of service on Route 60 East and set a precedence for other similar development.

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 as 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.

5. Case No. ZO-11-92. Zoning Ordinance Amendment, Chapter 20, Zoning - Golf Courses

Mr. Sowers stated that staff prepared an ordinance to allow golf courses and country clubs in the R-1, Limited Residential district, upon the issuance of a special use permit, and to make the issuance of a special use permit mandatory in R-2, General Residential, R-5, Multi-family Residential and R-6, Low-Density Residential.

In concurrence with staff, the Planning Commission unanimously recommended approval of the Ordinance amendment and staff recommended approval of the resolution vesting the rights of existing or planned golf courses.

Ms. Knudson opened the public hearing, and as no one wished to speak, she closed the public hearing.

Mr. DePue made a motion to approve the ordinance amendment.

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

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 NZO-11-92. ZONING ORDINANCE AMENDMENTS GOLF COURSES

WHEREAS, the Board of Supervisors is considering revisions and amendments to sections of Chapter 20, Zoning of the Code of the County of James City, Virginia as described in Case No. ZO-11-92; and

WHEREAS, the orderly transition from the existing zoning regulations to revised regulations requires a transition period to effect changes in law.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that vested rights under the regulations in effect prior to the adoption of the comprehensive revisions referenced above shall only be granted under one of the following situations:

1. Having preliminary approval of a site plan on or before the date of adoption.
2. Having obtained a valid building permit and/or land disturbing permit on or before the date of adoption.
3. Having special use permit approval and commencement of construction or use covered under that permit within one year from the date of adoption, or the term of the special use permit, whichever is greater.
4. Having a binding master plan or proffers approved which provide for the development of a golf course.

6. Ordinance Amendment, Chapter 19A, Wetlands, Article I, Sections 19A-1 through 13

Mr. Bernard M. Farmer, Jr., Director of Code Compliance, stated that the Ordinance amendments were required by State code.

Ms. Knudson opened the public hearing, and as no one wished to speak, she closed the public hearing.

Mr. Frank M. Morton, III, County Attorney, stated that a period should be inserted after the words "mean high water" in the first sentence under Section 19-A, Definitions, Nonvegetated wetlands, as the remainder of the sentence does not apply to James City County.

Ms. Knudson made a motion to approve the amended ordinance amendment.

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

G. BOARD CONSIDERATIONS

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

Mr. David N. Fletcher, Planning Technician, noted this case was deferred at the December 21, 1992, Board of Supervisors' meeting.

Mr. Fletcher reiterated that Mr. Mark Williamson of McGuire, Woods, Battle and Boothe had applied on behalf of Mershon Properties for a special use permit to allow a 250-foot communications tower in M-1, Limited Industrial, located at 4039 Ironbound Road, further identified as Parcel (1-3B) on James City County Real Estate Tax Map No. (38-4).

Staff recommended denial of the case for reasons of inconsistency with surrounding residential development and the Comprehensive Plan and the visual impact to adjacent properties and roadway traffic; and, the Planning Commission, at its November 10, 1992, meeting, recommended approval with conditions by a vote of 4-3.

Mr. DePue made a motion to approve the resolution.

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

R E S O L U T I O N

CASE NO. SUP-25-92. MERSHON PROPERTIES

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, voted 4-3 to recommend approval of Case No. SUP-25-92 to permit a 250-foot communications tower in the M-1, Limited Industrial District, on property identified as Parcel 1-3B on James City County Real Estate Tax Map No. 38-4; and

WHEREAS, the applicant has requested a height limitation waiver and a waiver of the required setbacks as part of this application.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby grant a height limitation waiver to allow for the construction of a 250-foot communications tower.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby grant a waiver of the required side and rear setbacks in the amount of 67.5 feet.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-25-92 as described herein with the following conditions.

1. The operation of the communication tower shall not interfere with operation of the County's communication system. The applicant shall be responsible for assuring that the signal(s) for this equipment shall not interfere with the County's radio communication system. Upon notice from the County that interference is being received, the applicant shall terminate such interference immediately.
2. If construction of the tower has not begun within 12 months of the date of issuance of the special use permit, the permit shall be void.

3. Prior to the placement of additional equipment on the tower, the applicant shall submit to the Director of Planning a certification from a professional engineer, licensed by the Commonwealth of Virginia which indicates that the tower can safely support the loads caused by the placement of additional equipment on the tower. The applicant shall secure all necessary permits prior to altering, constructing, or modifying any portion of the tower.
4. The applicant shall secure all required permits and approvals from State and Federal Agencies and shall submit copies to the Director of Planning prior to construction of the facility.
5. The tower shall not exceed 250 feet above grade.
6. A landscaping and screening plan shall be prepared along with a site plan for this project for review by the Development Review Committee.
7. Lighting on the tower shall be limited to red beacon lighting at night and white strobe lighting during the day.
8. Prior to the construction of the tower, the applicant shall provide all relevant information concerning the structural safety of the tower to the Director of Planning.

2. Virginia Peninsula Regional Jail Authority

Mr. Sanford B. Wanner, Assistant County Administrator, indicated that the Hampton Roads Planning District Commission completed a Needs Assessment, recommending that the counties of James City and York and cities of Williamsburg and Poquoson should consider construction of a regional jail facility. He noted that the State Department of Corrections approved the Needs Assessment.

Mr. Wanner stated that the jurisdictions studied formation of a regional jail authority, and staff recommended participation in the Virginia Peninsula Regional Jail Authority and 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).

R E S O L U T I O N

THE VIRGINIA PENINSULA REGIONAL JAIL AUTHORITY

WHEREAS, the Counties of York and James City and the Cities of Williamsburg and Poquoson have studied and considered the advantages of a regional jail authority as provided in Section 53.1-95.2, et seq., of the Code of Va., 1950, as amended.

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

1. The County of James City intends to enter into a regional jail authority (Authority) with the County of York and Cities of Williamsburg and Poquoson pursuant to Section 53.1-95.2, et seq., of the Code of VA., 1950, as amended.
2. The name of the Authority shall be Virginia Peninsula Regional Jail Authority and its principal office being located in James City County, Virginia.
3. The Counties of James City and York and the Cities of Williamsburg and Poquoson shall be the initial participating political subdivisions in the Virginia Peninsula Regional Jail Authority, and each of the said subdivisions shall appoint one member to the Authority's Board; in addition, the host locality shall be entitled to appoint an additional member; the sheriffs of the City of Williamsburg and the Counties of James City and York shall also be members. The initial members of the Board shall be:

Names

Addresses

Walter B. Dutton
James City County

P.O. Box 227
Williamsburg, VA
23187-0227

David B. Norman
James City County

P.O. Box 8784
Williamsburg, VA
23187-8784

Daniel M. Stuck
Preston Williams
York County

P.O. Box 532
Drawer F
Yorktown, VA 23690

Jackson C. Tuttle
William Dorsey
Williamsburg

401 Lafayette Street
P.O. Drawer GC
Williamsburg, VA 23187

Robert Murphy
Poquoson

830 Poquoson Avenue
Poquoson, VA 23662

The terms of office of the members, other than the aforesaid sheriffs, shall be at the will of governing bodies of the respective participating political subdivisions. Each member shall have one vote on the Authority. The aforesaid sheriffs and their duly elected successors shall serve on the Board during their respective terms of office.

4. The general purpose of the Virginia Peninsula Regional Jail Authority shall be that of acquiring, constructing, equipping, maintaining, and operating a jail (or jail farm) and the usual facilities associated with such undertakings, including, but not limited to, enlarging, renovating and improving such facilities; acquiring the necessary real and personal property therefore, with the right of contract for the use of, or to lease, mortgage, or sell any or all of such facilities, including real property; and doing any and all things deemed by the Authority necessary, convenient and desirable for and incident to the efficient and proper development and operation of the facilities for such types of undertakings.

5. The preliminary estimate of the capital costs of constructing the facilities for the Virginia Peninsula Regional Jail Authority shall be Eighteen million dollars (\$18,000,000), and the project shall be financed as provided in Section 53.1-95.2, et seq., of the Code of Va., 1950, as amended.

BE IT FURTHER RESOLVED that the Virginia Peninsula Regional Jail Board is instructed to take all necessary steps to form the Virginia Peninsula Regional Jail Authority.

H. PUBLIC COMMENT - None

I. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. David B. Norman, County Administrator, recommended a recess from this meeting until the January 19, 1993, meeting for work sessions at 5:00 p.m. due to the approved time change of regular Board of Supervisors' meeting to 7:00 p.m.

J. BOARD REQUESTS AND DIRECTIVES - None

Ms. Carol Mathews asked for a response regarding pickup of recyclables.

Ms. Knudson asked Ms. Mathews to meet with Mr. Larry Foster, General Manager, James City Service Authority, after the meeting.

Ms. Knudson made a motion to recess until 5:00 p.m., Tuesday, January 19, 1993, for work sessions with Parks and Recreation Master Plan and Solid Waste Management.

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

The Board recessed at 8:40 p.m.



David B. Norman
Clerk to the Board

2Janbosm.j04

JAMES RIVER COMMERCE CENTER
PROFFER AGREEMENT

This Agreement made this 28th day of December, 1992, by and between Williamsburg Developments, Inc. and the Industrial Development Authority of James City County ("the Owners") and the County of James City ("the County").

Whereas, each of the Owners owns a separate tract of land situated in James City County, Virginia, the combination of which tracts is known as the James River Commerce Center, containing 219.24 acres, more or less, and lying adjacent to and on the southerly side of U.S. Route 60 East, Pocahontas Trail, as shown on a plan entitled "MASTER PLAN - JAMES RIVER COMMERCE CENTER", dated September 29, 1992, prepared by Rancorn, Wildman, Krause, Brezinski Architects, more particularly described on Exhibits A, B, and C attached, ("the Property"); and

Whereas, the Owners have applied for a rezoning of the Property from the Rural Residential District, R-8, and the General Industrial District, M-2 ("the Existing Zoning") to the Mixed Use District ("the Proposed Zoning");

Whereas, the Owners are 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 Owners agree that in addition to the regulations provided in the Proposed Zoning, they and each of them will meet and comply with all of the following conditions in the development of the Property.

- 1. Limitations on Use. The Property shall only be used for one or more of the following uses:

- Accessory structures, as defined in Section 20-2.
- Banks, and other similar financial institutions.
- Barber and beauty shops
- Book stores
- Community recreation facilities, public or private, including parks, playgrounds, clubhouses, boating facilities, swimming pools, ball fields, tennis courts and other similar recreation facilities.
- Contractor offices, excluding equipment storage yards, but including shops and warehouses with storage under cover or screened with landscaping and fencing from adjacent property.
- Convenience stores without the sale of fuel.
- Business, professional and governmental offices.
- Data processing centers.

- Day care and child care centers.
- Dry cleaners and laundries.
- Employment services or agencies.
- Food processing and storage, but not the slaughter of animals.
- Indoor sport facilities, health clubs, exercise clubs, and fitness centers.
- Industrial and technical training schools.
- Janitorial service establishments.
- Manufacture and assembly of musical instruments, toys, novelties, and rubber and metal stamps.
- Manufacture and bottling of soft drinks and wine.
- Manufacture and processing of textiles and textile products.
- Manufacture, compounding, assembly or treatment of products made from previously prepared paper, plastic, metal, textiles, tobacco, wood, paint, fiber glass, glass, rubber, leather, cellophane, canvas, felt, fur, horn, wax, hair and yarn.
- Manufacture, compounding, processing or packaging of cosmetic, toiletry, and pharmaceutical products.
- Manufacture of carpets and carpet yarns.
- Manufacture of pottery and ceramic products, using kilns fired only by gas or electricity.

Manufacture or assembly of appliances, tools, firearms, hardware products, and heating, cooling or ventilating equipment.

Manufacture or assembly of electronic instruments, electronic devices or electronic components.

Manufacture or assembly of medical, drafting, metering, marine, photographic and mechanical instruments.

Medical clinics and offices.

Office supply stores, secretarial and duplicating services.

Off-street parking as required by Section 20-12.

Parking lots and garages.

Printing and publishing establishments.

Processing, assembly and manufacture of light industrial products or components, with all storage, processing, assembly and manufacture conducted indoors and under cover, with no dust, noise, odor or other objectionable effect.

Property maintenance facilities, sheds or garages.

Research, development, and design facilities or laboratories.

Restaurants, tea rooms and taverns.

Security service offices.

Schools, libraries, fire stations, and post offices.

Telephone exchanges and telephone switching stations.

Travel bureaus.

Warehouse, storage, and distribution centers with storage under cover or screened with landscaping and fencing from adjacent property.

2. **Initial Road Improvements.** Access to U.S. Route 60 from the Property shall be limited to a single entrance as shown on the Master Plan, across from the eastern leg of Tarleton Bivouac. Prior to issuance of any Certificate of Occupancy on the Property, the Owners shall install the following road improvements:

- a. A four-lane entrance roadway (two lanes entering and two lanes exiting) within a right-of-way sufficient to accommodate a third exiting lane meeting VDOT requirements, and designed to accommodate right, left, and through movements exiting the property.
- b. A left turn lane meeting VDOT requirements on the westbound Route 60 East approach.
- c. A right turn lane meeting VDOT requirements on the eastbound Route 60 approach.

3. **Traffic Light Improvements.** Upon meeting applicable VDOT warrants, the Owners shall signalize, in a manner acceptable to VDOT, the intersection of the entrance roadway to the Property with U.S. Route 60 East.

4. **Subsequent Road Improvements.** If VDOT has not previously included in its Six Year Plan the alternate U.S. Route 60 East as generally shown on the County's Comprehensive Plan, development within the Property shall be limited to no more than 300,000 square feet of interior building area until the following road improvements are in place:
 - a. Widening of U. S. Route 60 East to a four-lane divided urban minor arterial highway meeting VDOT requirements. The widening shall extend from the intersection at the BASF entrance road tapered to a two lane section at the western edge of the site of the James River Elementary School.

 - b. A second left turn lane on the westbound U.S. Route 60 East approach.

 - c. If the peak hour volume exiting the Property to westbound

Route 60 East exceeds 400 vehicles, a second northbound left turn lane.

If VDOT has previously included in its Six Year Plan the alternate U.S. Route 60 East, as generally shown on the County's Comprehensive Plan, development within the Property may exceed 300,000 square feet of interior building area once the following conditions are met and satisfied.

- a. A traffic study of the intersection of the Property's entrance roadway with U.S. Route 60 East shall be prepared at the Owners' expense and provided to VDOT and the County for review and approval.
- b. Upon approval of the aforesaid traffic study, the Owners shall install such turn lanes, signal installation, modifications or improvements as may be required by the approved traffic study.

5. **Landscaping Requirements.** Prior to the issuance of any Certificate of Occupancy on the Property, the main entrance to the Property from U. S. Route 60 East shall be landscaped by the Owners in conformance with a landscape plan approved by the Development Review

Committee of the James City County Planning Commission.

6. Setback from U. S. Route 60 East. No building shall be located within 195 feet of the centerline of the right-of- way of U.S. Route 60 East, existing at the time of approval of the rezoning of this Property.
7. Owner's Association. The Owners 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.
8. Limitation on Land Disturbing Activities. No land disturbing activities with the exception of stormwater facilities or other utilities approved by the Development Review Committee, and archaeological research, shall take place in any area shown as "Undevelopable Land" on the plats entitled "Subdivision of Property of Colonial Williamsburg Foundation, Being Part of the Locust Grove Tract, Situated in the Roberts District, James City County, Virginia", dated 8/7/91, recorded in James City County Plat Book 55, Page 43 and "Subdivision of Property of Colonial Williamsburg Foundation, Being Part of the

Conveyed to Williamsburg Developments, Inc. Situated in the Roberts District, James City County, Virginia" dated April 27, 1992 recorded in James City County Plat Book ____, Page ____.

9. **Conflict with Declaration of Covenants and Restrictions.** If any one or more of these proffers or any portion thereof be in conflict with any one or more of the conditions contained in the Declaration of Covenants and Restrictions recorded in James City County Deed Book 545, Page 361, et. seq., and the Supplemental Declaration thereto recorded in James City County Deed Book ____, Page ____, et seq. the more restrictive provision(s) shall govern.
10. **Contract Not Amended.** Nothing in this agreement shall be deemed to change any provision of the Agreement dated December 1, 1991 between the City of Williamsburg, Virginia, the County of James City, Virginia, The Colonial Williamsburg Foundation and Williamsburg Developments, Inc. and the limitations on the financial responsibilities of the parties thereto.
11. **No Relationship Created.** Neither Williamsburg Developments, Inc. nor the Industrial Development Authority of James City County by the execution and delivery of this Proffer Agreement intend to create a

joint venture, partnership, agency or other legal combination of their respective entities.

12. **Binding Upon Successors.** The obligations created by this Agreement shall be binding upon each of the successors in title to each of Williamsburg Developments, Inc. and the Industrial Development Authority of James City County.
13. **Headings.** All section and subsection headings of this Agreement are for convenience only and are not part of these proffers.

WILLIAMSBURG DEVELOPMENTS, INC.

By: Victoria Gussman
Victoria Gussman, Vice President

INDUSTRIAL DEVELOPMENT AUTHORITY
OF JAMES CITY COUNTY

By: Jon A. Nystrom
Jon A. Nystrom, Chairman

STATE OF VIRGINIA

CITY/COUNTY OF Williamsburg, to-wit:

BOOK 600 PAGE 209

The foregoing document was acknowledged before me this 28th day of December, 1992 by Victoria Gussman, Vice President, of and acting on behalf of Williamsburg Developments, Inc.

Iris P. Dennis
NOTARY PUBLIC

My commission expires: September 30, 1994

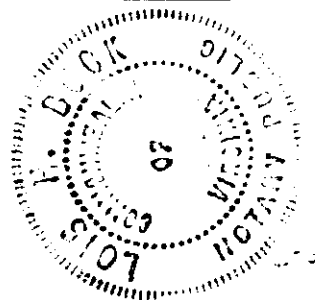
STATE OF VIRGINIA

CITY/COUNTY of WILLIAMSBURG, to-wit:

The foregoing document was acknowledged before me this 28th day of December, 1992 by Jon A. Nystrom, Chairman of and acting on behalf of the Industrial Development Authority of James City County.

Leis H. Buck
NOTARY PUBLIC

My commission expires: Oct. 31, 1993



**EXHIBIT A
PROPERTY OF
WILLIAMSBURG DEVELOPMENTS, INC.**

All of that certain piece of land situated in the Roberts District of James City County of Virginia, containing 154.8946 acres and more particularly described as follows:

Beginning at the intersection of Ron Springs Road and Pocohontas Trail; thence along the south right-of-way line of Pocohontas Trail approximately 3,690 feet to an iron pipe said point being the true point of beginning; thence along the south right-of-way of Pocohontas Trail S59°09'40"E, 876.45 feet to a point; thence S01°17'09"W, 1236.28 feet to a point; thence S88°42'51"E, 748.19 feet to a point; thence S03°19'41"W, 302.96 feet to a point; thence S03°06'57"W, 469.76 feet to a point; thence S70°40'14"W, 525.23 feet to a point; thence S11°00'00"E, 267.47 feet to a point; thence S05°00'05"W, 358.67 feet to a point; thence S87°45'58"W, 1163.93 feet to a point; thence S00°00'00"E, 250.00 feet to a point; thence S05°20'05"W, 208.07 feet to a concrete monument found; thence N68°38'33"W, 136.25 feet to an iron pipe found; thence S52°32'27"W, 304.50 feet to a point; thence S73°25'27"W, 145.50 feet to a point; thence N62°12'33"W, 359.10 feet to a point; thence N40°56'33"W, 164.50 feet to a point; thence N63°51'33"W, 570.64 feet to a point; thence N06°37'44"W, 265.84 feet to a point; thence N17°07'44"W, 194.04 feet to a point; thence N72°40'44"E, 341.00 feet to a point; thence N72°22'48"E, 190.06 feet to a point; thence N86°55'28"E, 72.32 feet to a point; thence S79°52'55"E, 70.94 feet to a point; thence N68°30'57"E, 172.56 feet to a point; thence S46°48'20"E, 155.50 feet to a point; thence N54°31'00"E, 156.50 feet to a point; thence N21°55'30"W, 282.43 feet to a point; thence N66°32'00"W, 160.81 feet to a point; thence S75°10'45"W, 111.11 feet to a point; thence N77°18'36"W, 226.91 feet to a point; thence N78°42'46"W, 171.01 feet to a point; thence N61°25'45"W, 168.17 feet to a point; thence N46°14'16"E, 433.15 feet to an iron pipe found; thence N16°10'16"E, 223.43 feet to an iron pipe found; thence N11°30'02"E, 228.32 feet to an iron pipe found; thence N16°04'57"E, 219.05 feet to an iron pipe found; thence N25°05'55"E, 134.12 feet to an iron pipe found; thence N30°06'55"E, 205.42 feet to a point; thence N33°49'30"E, 124.73 feet to an iron pipe found; thence N05°26'45"E, 106.99 feet to a point; thence S66°10'25"E, 75.40 feet to a point;

thence S01°35'40"W, 227.11 feet to a point; thence N88°24'20"W, 50.00 feet to a point; thence S01°35'40"W, 113.00 feet to a point; thence N70°00'43"E, 218.90 feet to a point; thence N81°26'00"E, 231.92 feet to a point; thence N10°56'40"W, 61.80 feet to a point; thence N04°14'00"W, 43.75 feet to a point; thence N35°53'10"E, 60.00 feet to a point; thence N49°26'00"E, 92.50 feet to a point; thence N06°04'45"E, 178.50 feet to a point; thence N25°20'30"E, 781.50 feet and returning to the true point of beginning.

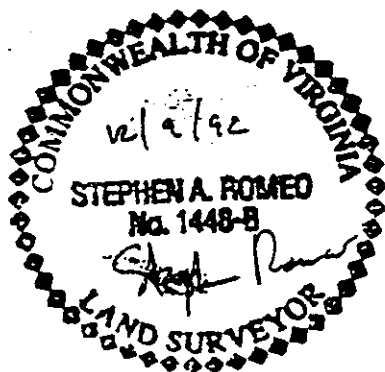


EXHIBIT B
AREA REQUIRED FOR SUBDIVISION APPROVAL

BOOK 600 PAGE 212

All of that piece of property containing 3.1387 acres, being an area required for subdivision approval situated in the Roberts District of James City County, Virginia and more particularly described as follows; beginning at a concrete monument found on the south right-of-way line of U.S. Route 60, said point also being the northwest property corner of property now or formerly of the Ball Corporation thence; S01°17'09" W, 1,157.93 feet to a concrete monument found; thence S88°42'51" E, 750.00 feet to a point; thence S03°19'41" W, 354.68 feet to an iron pin found; thence S03°06'57" W, 449.01 feet to a point; thence S70°40'14" W, 54.10 feet to a point; thence N03°06'57" E, 469.76 feet to a point; thence N03°19'41" E, 302.96 feet to a point; thence N88°42'51" W, 748.19 feet to a point; thence N01°17'09" E, 1,236.28 feet to a point on the south right-of-way of U.S. Route 60; thence S59°09'40" E, 57.48 feet and returning to the point of beginning.

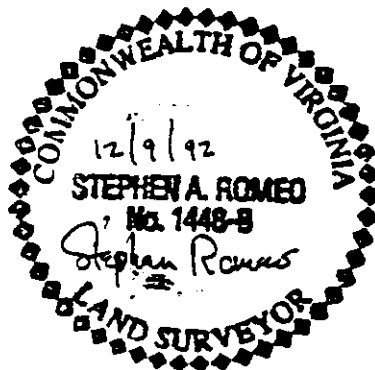


EXHIBIT C
PROPERTY OF
INDUSTRIAL DEVELOPMENT AUTHORITY OF JAMES CITY COUNTY

BOOK 600 PAGE 213

All of that property containing 61.2113 acres situated in the Roberts District of James City County, Virginia and more particularly described as follows: Beginning at a concrete monument found on the south right-of-way line of U.S. Route 60, said point also being the northwest property corner of property now or formerly of the Ball Corporation; thence S01°17'09" W, 1,157.93 feet to a concrete monument found; thence S88°42'51" E, 750.00 feet to a point; thence S03°19'41" W, 354.68 feet to an iron pin found; thence S03°06'57" W, 449.01 feet to the true point of beginning; thence S03°06'57" W, 353.00 feet to a concrete monument found; thence S04°51'44" W, 215.31 feet to a concrete monument found; thence S05°19'46" W, 483.67 feet to a concrete monument found; thence S07°12'37" W, 199.19 feet to a concrete monument found; thence S35°05'45" W, 215.75 feet to a concrete monument found; thence S21°53'51" W, 271.10 feet to a concrete monument found; thence S08°07'39" W, 346.48 feet to a point; thence S16°55'39" W, 295.40 feet to a point; thence S09°53.21" E, 127.55 feet to a point; thence S24°56'21" E, 250.50 feet to a point; thence S06°58'39" W, 367.80 feet to a point; thence N73°47'21" W, 411.00 feet to a point; thence N51°17'21" W, 291.50 feet to a point; thence N37°01'51" W, 487.75 feet to a point; thence N39°21'21" W, 243.60 feet to a point; thence N14°17'08" W, 131.87 feet to a concrete monument found; thence N07°27'52" W, 196.44 feet to a concrete monument found; thence N23°12'47" E, 150.43 feet to an iron pin found; thence N30°46'47" E, 215.90 feet to a point; thence N48°21'00" W, 241.00 feet to a concrete monument found; thence N83°09'00" W, 187.27 feet to a concrete monument found; thence N05°20'05" E, 208.07 feet to a point; thence due north 250.00 feet to a point; thence N87°45'58" E, 1,163.93 feet to a point; thence N05°00'05" E, 358.67 feet to a point; thence N11°00'00" W, 267.47 feet to a point; thence N70°40'14" E, 525.23 feet to a point; thence N70°40'14" E, 54.10 feet and returning to the true point of beginning.



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 12 day of Jan. 1993 This Agreement was presented with certificate annexed and admitted to record at 10:40 o'clock

Teste: Helene S. Ward, Clerk
by Helene S. Ward
Deputy Clerk

JAN 4 1993

ORDINANCE NO. 31A-148

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 20, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE IV. DISTRICTS, DIVISION 4. LIMITED RESIDENTIAL DISTRICT, R-1, BY AMENDING SECTION 20-151, USES PERMITTED BY SPECIAL USE PERMIT ONLY; DIVISION 5. GENERAL RESIDENTIAL DISTRICT, R-2, BY AMENDING SECTION 20-170, PERMITTED USES; AND SECTION 20-171, USES PERMITTED BY SPECIAL USE PERMIT ONLY; DIVISION 8. MULTI-FAMILY RESIDENTIAL DISTRICT, R-5, BY AMENDING SECTION 20-242, PERMITTED USES; AND SECTION 20-243, USES PERMITTED BY SPECIAL USE PERMIT ONLY; AND DIVISION 9. LOW-DENSITY RESIDENTIAL DISTRICT, R-6, BY AMENDING SECTION 20-265, PERMITTED USES; AND SECTION 20-266, USES PERMITTED BY SPECIAL USE PERMIT ONLY; TO PERMIT GOLF COURSES AND COUNTRY CLUBS WITHIN THESE DISTRICTS UPON THE ISSUANCE OF A SPECIAL USE PERMIT IN ORDER TO PROTECT THE HEALTH, SAFETY AND WELFARE OF THE RESIDENTS OF JAMES CITY COUNTY BY ENSURING THAT THESE USES, DUE TO THEIR POTENTIAL ADVERSE IMPACTS, ARE REVIEWED BY BOTH THE PLANNING COMMISSION AND BOARD OF SUPERVISORS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 20. Zoning, is hereby amended and reordained by amending Section 20-151, Uses permitted by special use permit only; Section 20-170, Permitted uses, and Section 20-171, Uses permitted by special use permit only; Section 20-242, Permitted uses; Section 20-243, Uses permitted by special use permit only; Section 20-265, Permitted uses; and Section 20-266, Uses permitted by special use permit only; to permit golf courses and country clubs within these districts upon the issuance of a special use permit in order to protect the health, safety and welfare of the residents of James City County by ensuring that these uses,

Ordinance to Amend and Reordain
Chapter 20. Zoning
Page 2

due to their potential adverse impacts, are reviewed by both the Planning Commission and Board of Supervisors.

ARTICLE IV. DISTRICTS

DIVISION 4. LIMITED RESIDENTIAL DISTRICT, R-1

Section 20-151. Uses permitted by special use permit only.

Golf courses, country clubs

DIVISION 5. GENERAL RESIDENTIAL DISTRICT, R-2

Section 20-170. Permitted uses.

~~Golf courses, country clubs.~~

Section 20-171. Uses permitted by special use permit only.

Golf courses, country clubs.

DIVISION 8. MULTI-FAMILY RESIDENTIAL DISTRICT, R-5

Section 20-242. Permitted uses.

~~Golf courses, country clubs.~~

Section 20-243. Uses permitted by special use permit only.

Golf courses, country clubs.

DIVISION 9. LOW-DENSITY RESIDENTIAL DISTRICT, R-6

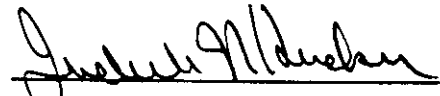
Section 20-265. Permitted uses.

~~Golf courses, country clubs.~~


Section 20-266. Uses permitted by special use permit only.

Golf courses, country clubs.

Ordinance to Amend and Reordain
Chapter 20. Zoning
Page 4


Judith N. Knudson
Chairman, Board of Supervisors

ATTEST:


David B. Norman
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
DEPUE	AYE
TAYLOR	AYE
EDWARDS	AYE
SISK	AYE
KNUDSON	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 4th day of
January, 1993.

Z1192J93.ord

JAN 4 1993

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

ORDINANCE NO. 65A-5

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 19A, WETLANDS, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL, SECTION 19A-1, PURPOSE OF CHAPTER; SECTION 19A-2, DEFINITIONS; SECTION 19A-3, PERMITTED USES; ARTICLE II, USE PERMITS, SECTION 19A-4, REQUIRED FOR CERTAIN ACTIVITIES; APPLICATION GENERALLY; FEE; SECTION 19A-5, APPLICATIONS, MAPS, DOCUMENTS TO BE OPEN TO PUBLIC INSPECTION; SECTION 19A-6, PUBLIC HEARING; SECTION 19A-7, WETLANDS BOARD ACTION; SECTION 19A-8, BOND REQUIRED; SUSPENSION OR REVOCATION OF PERMIT; BY ADDING NEW SECTION 19A-9, ROLE OF BOARD; BY RENUMBERING AND AMENDING SECTION 19A-9. STANDARDS FOR APPROVAL; GRANTING OR DENIAL PERMIT; SECTION 19A-10, PERMIT TO BE IN WRITING; SECTION 19A-11, EXPIRATION DATE; AND BY RENUMBERING SECTION 19A-12, NO EFFECT ON APPLICABLE ZONING AND LAND USE ORDINANCES.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 19A, Wetlands, is hereby amended and reordained by amending Article I, In General, Section 19A-1, Purpose of chapter; Section 19A-2, Definitions; Section 19A-3, Permitted uses; Article II, Use Permits, Section 19A-4, Required for certain activities; application generally; fee; Section 19A-5, Applications, maps, documents to be open to public inspection; Section 19A-6, Public hearing; Section 19A-7, Wetlands board action; Section 19A-8, Bond required; suspension or revocation of permit; by adding new Section 19A-9, Role of board; by renumbering and amending Section 19A-10, Standards for approval; granting or denial

Ordinance to Amend and Reordain
Chapter 19A. Wetlands
Page 2

permit; Section 19A-11, Permit to be in writing; Section 19A-12, Expiration date; and Section 19A-13,
No effect on applicable zoning and land use ordinances.

CHAPTER 19A. WETLANDS

ARTICLE I. IN GENERAL

Section 19A-1. Purpose of chapter.

The governing body of the county acting pursuant to ~~Chapter 2.1 of Title 62.1 of the Code of Virginia, Virginia Code Sections 28.2-1300 et. seq.~~ for purposes of fulfilling the policy standards set forth in such chapter, adopts this chapter regulating the use and development of wetlands.

Section 19A-2. Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Commission. The state ~~m~~Marine ~~r~~Resources ~~e~~Commission.

Commissioner. The ~~e~~Commissioner of ~~m~~Marine ~~r~~Resources.

Governmental activity. Any ~~or all~~ of the services provided by this county to its citizens for the purpose of maintaining public facilities and shall include, but shall not be limited to, such services as

Ordinance to Amend and Reordain
Chapter 19A. Wetlands
Page 3

constructing, repairing and maintaining roads, sewage facilities, supplying and treating water, street lights and construction of public buildings.

Nonvegetated wetlands. ~~All that land lying contiguous to mean low water and which land is between mean low water and mean high water not other wise included in the term "vegetated wet lands" as defined herein.~~ *Unvegetated lands lying contiguous to mean low water and between mean low water and mean high water.*

Person. ~~Any corporation, association or partnership, one or more individuals or any unit of government or agency thereof.~~ *Any individual, corporation, partnership, association, company, business, trust, joint venture, or other legal entity.*

Vegetated wetlands. All that land lying between and contiguous to mean low water and an elevation above mean low water equal to the factor 1.5 times the mean tide range at the site of the proposed project in this county; and upon which is growing ~~on the effective date of this act or grown thereon subsequent thereto~~, any one or more of the following: Saltmarsh cordgrass (*Spartina alterniflora*), saltmeadow hay (*Spartina patens*), saltgrass (*Distichlis spicata*), black needlerush (*Juncus roemerianus*), saltwort (*Salicornia* spp.), sea lavender (*Limonium* spp.), marsh elder (*Iva frutescens*), groundsel bush (*Baccharis halimifolia*), wax myrtle (*Myrica* sp.), sea oxeye (*Borrchia frutescens*), arrow arum (*Peltandra virginica*), pickerelweed (*Pontederia cordata*), big cordgrass (*Spartina cynosuroides*), rice cutgrass (*Leersia oryzoides*), wildrice (*Zizania aquatica*), bulrush (*Sprius validus*), spikerush (*Eleocharis* sp.), sea rocket (*Cakile edentula*), southern wildrice (*Zizaniopsis miliacea*), cattails (*Typha* spp.), three-square (*Scirpus* spp.), buttonbush (*Cephalanthus occidentalis*), bald cypress (*Taxodium distichum*), Black gum (*Nyssa*

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sylvatica), tupelo (*Nyssa aquatica*), dock (*Rumex* spp.), yellow pond lily (*Nuphar* sp.), marsh fleabane (*Pluchea purpurascens*), royal fern (*Osmunda regalis*), marsh hibiscus (*Hibiscus moscheutos*), beggar's tick (*Bidens* sp.), smartweed (*Polygonum* sp.), arrowhead (*Sagittaria* spp.), sweet flag (*Acorus calamus*), water hemp (*Amaranthus cannabinus*), reed grass (*Phragmites communis*), and switch grass (*Panicum virgatum*).

Wetlands. All vegetated and nonvegetated wetlands.

Wetlands board or board. A board created *pursuant to Virginia Code as provided in Section 62.1-13.6 28.2-1303. of the Code of Virginia.*

Section 19A-3. Permitted uses.

The following uses of and activities on wetlands are permitted, if otherwise permitted by law:

(a) The construction and maintenance of noncommercial catwalks, piers, boathouses, boat shelters, fences, duckblinds, wildlife management shelters, footbridges, observation decks and shelters and other similar structures; provided, that such structures are so constructed on pilings as to permit the reasonably unobstructed flow of the tide and preserve the natural contour of the wetlands;

(b) The cultivation and harvesting of shellfish and worms for bait;

(c) Noncommercial outdoor recreational activities, including hiking, boating, trapping, hunting, fishing, shellfishing, horseback riding, swimming, *and* skeet and trap shooting, and *shooting on*

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shooting preserves, provided, that no structure shall be constructed except as permitted in subsection (a) of this section;

(d) *Other outdoor recreational activities, provided they do not impair the natural functions or alter the natural contour of the wetlands.*

(d) (e) The cultivation and harvesting of agricultural, forestry or horticultural products; grazing and haying;

(e) (f) Conservation, repletion and research activities of the ~~Virginia Marine Resources Commission, the Virginia Institute of Marine Science, Commission the Department of Game and Inland Fisheries~~ and other related conservation agencies;

(f) (g) The construction or maintenance of aids to navigation which are authorized by governmental authority;

(g) (h) Emergency ~~decrees of measures decreed by~~ any duly appointed health officer of a governmental subdivision acting to protect the public health;

(h) (i) The normal maintenance, repair or addition to presently existing roads, highways, railroad beds, or the facilities of any person, firm, corporation, utility, federal, state, county, city or town abutting on or crossing wetlands; provided, that no waterway is altered and no additional wetlands are covered.

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(j) Governmental activity ~~on~~ *in* wetlands owned or leased by the Commonwealth of Virginia or a political subdivision thereof; and

(k) The normal maintenance of man-made drainage ditches; provided that no additional wetlands are covered; ~~and provided further, that this paragraph shall not be deemed to~~ *This subdivision does not* authorize construction of any drainage ditch.

ARTICLE II. USE PERMITS

Section 19A-4. Required for certain activities; application generally; fee.

(a) Any person who desires to use or develop any wetland within this county, other than ~~for these~~ *the purpose of conducting the* activities specified in section 19A-3 above, shall first file an application for a permit with the wetlands board directly or through the Commission.

(b) ~~An~~ *The* permit application shall include the following: The name and address of the applicant; a detailed description of the proposed activities; ~~and~~ a map drawn to an appropriate and uniform scale, showing the area of wetlands directly affected, ~~with~~ the location of the proposed work thereon, ~~indicating~~ the area of existing and proposed fill and excavation, ~~especially~~ the location, width, depth and length of any proposed channel and ~~the~~ disposal area, ~~and the location of~~ all existing and proposed structures; sewage collection and treatment facilities, utility installations, roadways, and other related appurtenances or facilities, including those on adjacent uplands; ~~, a description of and~~ the type of equipment to be used and the means of equipment access to the activity site; the names and addresses of

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owners of record of adjacent land and known claimants of water rights in or adjacent to the wetland of whom the application has notice; *an* estimate of cost; the primary purpose of the project; any secondary purposes of the project, including further projects; the public benefit to be derived from the proposed project; a complete description of measures to be taken during and after the alteration to reduce detrimental off-site effects; the completion date of the proposed work, project or structure; and such additional materials and documentation as the wetlands board may ~~deem necessary~~ *require*.

(c) A nonrefundable processing fee *shall accompany each permit application* to cover the cost of processing ~~shall accompany each application~~, as follows:

- (1) For permits affecting ~~twenty thousand~~ 20,000 square feet or less of wetlands - ~~One hundred dollars~~ \$100.00.
- (2) For permits affecting more than ~~twenty thousand~~ 20,000 but not more than ~~forty thousand~~ 40,000 square feet of wetlands - ~~Two hundred dollars~~ \$200.00.
- (3) For permits affecting more than ~~forty thousand~~ 40,000 square feet of wetlands - ~~Two hundred dollars~~ \$200.00 plus ~~one hundred dollars~~ \$100.00 for each acre in excess of one acre of affected wetlands.

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Section 19A-5. Applications, maps, documents to be open to public inspection.

All applications, ~~and maps and documents, relating thereto,~~ submitted shall be open for public inspection at the *Code Compliance* office. ~~of the recording officer of this county.~~

Section 19A-6. Public hearing.

Not later than sixty days after receipt of ~~such a complete~~ application, the wetlands board shall hold a public hearing on ~~such the~~ application. The applicant, the local governing body, the ~~e~~Commissioner, ~~the~~ owner of record of any land adjacent to the wetlands in question, known claimants of water rights in or adjacent to the wetlands in question, the Virginia Institute of Marine Science, the ~~Commission~~ Department of Game and Inland Fisheries, ~~the w~~Water ~~e~~Control ~~b~~Board, the Department of ~~Highways and~~ Transportation, and ~~any~~ governmental agencies expressing an interest ~~therein in the~~ application shall be notified ~~by the board~~ of the hearing. ~~by~~ The Board shall mail these notices not less than twenty days prior to the date set for the hearing. The wetlands board shall also cause notice of ~~such the~~ hearing to be published at least once a week for two weeks prior to such hearing in ~~the a~~ newspaper having ~~a~~ of general circulation in this county. The published notice shall specify the place or places within the county where copies of the application may be examined. The costs of such publication shall be paid by the applicant.

Section 19A-7. Wetlands board action.

A. ~~In acting on any application for a permit, the board shall grant the application upon the concurring favorable vote of three (3) members. Approval of a permit application shall require the affirmative vote of three members of a five member board or four members of a seven member board.~~

B. The chairman of the board, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. Any person may ~~appear and be heard~~ testify at the public hearing. Each witness at the hearing may submit a concise written statement of his testimony. The board shall make a record of the proceeding, which shall include the application, any written statements of witnesses, a summary of statements of all witnesses, the findings and decision of the board and the rationale for the decision.

C. The board shall make its determination within thirty days ~~from~~ of the hearing. If the board fails to act within ~~such~~ that time, the application shall be deemed approved. Within forty-eight hours of its determination, the board shall notify the applicant and the commissioner of ~~such~~ its determination. ~~and if the board has not made~~ fails to make a determination, within the thirty day period, it shall notify the applicant and the commission that ~~thirty (30) days has passed and that~~ the application is deemed approved. ~~The term~~ For purposes of this section, "act" ~~referenced above means shall be the~~ action of taking a vote on the application. If the application receives less than four ~~concurring favorable~~ affirmative votes, ~~for from a seven-member board and or less than three concurring favorable~~ affirmative votes ~~for from a five-member board, this will be a determination to deny the permit. shall be denied. The board shall transmit a copy of the permit to the commissioner.~~

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D. If the ~~application board's decision~~ is reviewed or appealed, ~~then~~ the board shall transmit the record of its hearing to the eCommissioner. Upon a final determination by the eCommission, the record shall be returned to the board. The record shall be open for public inspection at the *Code Compliance* office of ~~the recording officer~~ of this county.

Section 19A-8. Bond required; suspension or revocation of permit.

The board may require a reasonable bond or letter of credit in an amount with surety and conditions satisfactory to it, securing to the eCommonwealth compliance with the conditions and limitations set forth in the permit. The board may, after a hearing ~~as provided herein, held pursuant to this chapter~~ suspend or revoke a permit if the board finds that the applicant has failed to comply with any of the conditions or limitations set forth in the permit or has exceeded the scope of the work ~~as set forth described~~ in the application. The Board *may*, after a hearing, ~~may~~ suspend a permit if the applicant fails to comply with the terms and conditions set forth in the application.

Section 19A-9. ~~Standards for approval; granting or denying permit.~~ Role of board.

a. ~~In making its decision whether to grant, to grant in modified form, or to deny an application for a permit, the board shall base its decision on these factors:~~

- (1) ~~Such matters raised through the testimony of any person in support of or in rebuttal to the permit application.~~

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~~(2) Impact of the development on the public health and welfare as expressed by the policy and standards of Chapter 2.1 of Title 62.1 of the Code of Virginia and any guidelines which may have been promulgated thereunder by the commission.~~

~~(b) If the board, in applying the standards above, finds that the anticipated public and private benefit of the proposed activity exceeds the anticipated public and private detriment and that the proposed activity would not violate the purposes and intent of Chapter 2.1 of Title 62.1 of the Code of Virginia and of this chapter, the board shall grant the permit, subject to any reasonable condition or modification designed to minimize the impact of the activity on the ability of this county to provide governmental services and on the rights of any other person and to carry out the public policy set forth in Chapter 2.1 of Title 62.1 of the Code of Virginia and in this chapter. Nothing in this section shall be construed as affecting the right of any person to seek compensation for any injury in fact incurred by him because of the proposed activity. If the board finds that the anticipated public and private benefit from the proposed activity is exceeded by the anticipated public and private detriment or that the proposed activity would violate the purposes and intent of Chapter 2.1 of Title 62.1 of the Code of Virginia and of this chapter, the board shall deny the permit application with leave to the applicant to resubmit the application in modified form.~~

In fulfilling its responsibilities under this chapter, the board shall preserve and prevent the despoliation and destruction of wetlands within its jurisdiction while accommodating necessary economic development in a manner consistent with wetlands preservation.

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Section 19A-10. *Standards for approval; granting or denying permit.*

A. *In deciding whether to grant, grant in modified form or deny a permit, the board shall consider the following:*

1. *The testimony of any person in support of or in opposition to the permit application;*
2. *The impact of the proposed development on the public health, safety, and welfare; and*
3. *The proposed development's conformance with standards prescribed in Virginia Code Section 28.2-1308 and guidelines promulgated pursuant to Virginia Code Section 28.2-1301.*

B. *The board shall grant the permit if all of the following criteria are met:*

1. *The anticipated public and private benefit of the proposed activity exceeds its anticipated public and private detriment;*
2. *The proposed development conforms with the standards prescribed in Virginia Code Section 28.2-1308 and guidelines promulgated pursuant to Virginia Code Section 28.2-1301; and*

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3. *The proposed activity does not violate the purposes and intent of this chapter or Virginia Code Section 28.2-1300 et seq.*

C. *If the board finds that any of the criteria listed in subsection B of this section are not met, the board shall deny the permit application but allow the applicant to resubmit the application in modified form.*

Section 19A-10 11. Permit to be in writing.

The permit shall be in writing, signed by the chairman of the board and notarized. A copy of the permit shall be transmitted to the Commissioner.

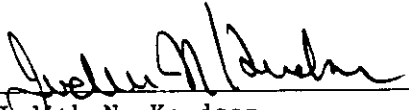
Section 19A-11 12. Expiration date.

No permit shall be granted without an expiration date, and established by the board, in the exercise of its discretion, shall designate an expiration date for completion of such work specified in the permit from the date the board granted such permit. Upon proper application The board, however, may grant, upon proper application therefor, extensions. extend the permit expiration date.

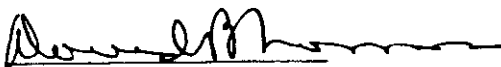
Section 19A-12 13. No effect on applicable zoning and land use ordinances.

No permit granted by a wetlands board shall affect in any way the applicable zoning and land use ordinances of this county.

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Judith N. Knudson
Chairman, Board of Supervisors

ATTEST:


David B. Norman
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
DEPUE	AYE
TAYLOR	NAY
EDWARDS	AYE
SISK	AYE
KNUDSON	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 4th day of
January, 1993.

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