

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 26TH DAY OF NOVEMBER, NINETEEN HUNDRED NINETY-SIX, AT 5:08 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

**A. ROLL CALL**

David L. Sisk, Chairman, Roberts District  
Robert A. Magoon, Jr., Vice Chairman, Jamestown District

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

**B. WORK SESSION**

1. Proposed 1997 Legislative Program

Mr. Sisk introduced Mr. Sanford B. Wanner, County Administrator, who introduced Mr. Frank M. Morton, III, County Attorney. Mr. Morton welcomed State Senator Thomas K. Norment, Jr., and State Delegate George W. Grayson to the work session.

Mr. Morton explained the proposed legislative program and discussion by legislators, Board, and staff followed.

Mr. Sisk made a motion to recess the Board for dinner.

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

The Board recessed at 6:00 p.m.

The Board reconvened into open session at 7:03 p.m.

**C. PRESENTATIONS**

1. Project Excel

Ms. Iris Street, Social Work Supervisor, introduced Mr. Kevin Floyd, Social Worker.

Mr. Floyd defined the services offered to at-risk youth ages 11 through 18 and the success of the Neighborhood Basketball League (NBL).

2. Regional Foster Care Recruitment and Training

Ms. Street introduced Ms. Amanda Dresser, Social Worker, who detailed the foster home program, the need and number of foster homes in the County, and the success of recruitment and training events.

**D. MINUTES - November 12, 1996**

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

Mr. DePue made a motion to approve the minutes.

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

**E. HIGHWAY MATTERS**

The representative from Virginia Department of Transportation was absent.

**F. CONSENT CALENDAR**

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

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

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

**1. Increase of Social Services Petty Cash Fund****RESOLUTION****INCREASE OF THE SOCIAL SERVICES PETTY CASH FUND**

WHEREAS, the Division of Social Services has seen a significant increase in the need to make emergency purchases for children in foster care and the elderly in crisis; and

WHEREAS, sufficient security and accountability procedures are in place related to the fund.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby increases the Social Services Petty Cash Fund to \$300.

**2. Change in Employment Category of Position in the Clerk of the Circuit Court's Office****RESOLUTION****CHANGE IN EMPLOYMENT CATEGORY OF POSITION IN****THE CLERK OF THE CIRCUIT COURT'S OFFICE**

WHEREAS, the Clerk of the Circuit Court has requested that the employment category of a part-time temporary General Office Clerk be changed to part-time limited term for purposes of internal equity; and

WHEREAS, the position no longer meets the employment category definition of part-time temporary; and

WHEREAS, the State Compensation Board has approved and funded an additional position in the Clerk's office; and

WHEREAS, no County funds will be required.

NOW, THEREFORE, BE IT RESOLVED that effective December 1, 1996, the Board of Supervisors of James City County, Virginia, changes the employment category of the part-time temporary General Office Assistant in the Clerk of the Circuit Court's office to part-time limited term, with an expiration date of June 30, 1999.

3. Reappointment of County Administrator to Virginia Peninsulas Public Service Authority Board

**RESOLUTION**

**REAPPOINTMENT OF COUNTY ADMINISTRATOR TO**

**VIRGINIA PENINSULAS PUBLIC SERVICE AUTHORITY BOARD**

WHEREAS, on September 10, 1996, the James City County Board of Supervisors appointed the County Administrator to be a member of the Virginia Peninsulas Public Service Authority Board with a term expiration date of December 31, 1996; and

WHEREAS, as set forth in Articles of Incorporation, a member is eligible for reappointment to a four-year term and shall hold office until a successor shall have been named.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, reappoints Sanford B. Wanner as a member of the Virginia Peninsulas Public Service Authority Board for a four-year term expiring December 31, 2000.

**G. PUBLIC HEARINGS**

1. Case No SUP-29-96. Herman and Mary Robinson Replacement Manufactured Home

Mr. John Patton, Development Management Technician, stated that Mr. and Mrs. Herman Robinson had applied for a special use permit to allow replacement of an 18-year-old single-wide manufactured home with a new double-wide manufactured home in A-1, General Agricultural, located at 9899 Richmond Road, further identified as Parcel No. (1-20) on James City County Real Estate Tax Map No. (11-2).

Staff determined that the application met most of the Administrative Guidelines for Placement of Manufactured Homes and recommended approval of the special use permit with conditions listed in the resolution.

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

Mr. Taylor made a motion to approve the resolution.

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

**RESOLUTION**

**CASE NO. SUP-29-96. HERMAN AND MARY ROBINSON**

**REPLACEMENT MANUFACTURED HOME**

WHEREAS, it is understood that all conditions for the consideration of an application for a special use permit have been met.

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

Applicant: Herman and Mary Robinson

Real Estate Tax Map No: (11-2)

Parcel No: (1-20)

Address: 8788 Richmond Road

District: Stonehouse

Zoning: A-1, General Agricultural

- Conditions:
1. This permit shall be valid only for the manufactured home described in the application. If the manufactured home is removed, this permit shall become void. Any replacement shall require a new permit from the Board of Supervisors. If the permit is not exercised, it shall become void one year from the date of approval.
  2. The manufactured home shall be skirted and meet the requirements of the Department of Housing and Urban Development Manufactured Home Construction and Safety Standard.
  3. The manufactured home shall be connected to the existing septic drain field and well in accordance with Health Department requirements prior to occupancy.
  4. The manufactured home currently existing on the property shall be removed prior to placement of the new unit.
  5. The applicant shall provide a landscaping and screening plan that meets, at a minimum, the standard landscaping plan outlined in the Administrative Guidelines for Placement of Manufactured Homes prior to occupancy. The plan shall be submitted to and approved by the Planning Director prior to occupancy of the manufactured home.

6. The landscaping as shown on the approved landscaping and screening plan shall be installed by November 30, 1997.

2. Case No. ZO-9-96. Ordinance Amendment, Chapter 20, Zoning, Article V, Districts, Division 9, Limited Business District, L.B. Section 20-369, Uses Permitted by Special Use Permit Only

Mr. Patton stated that the Ordinance amendment would allow contractor's offices with storage of construction materials and equipment limited to a fully enclosed building by a special use permit. Staff supported the amendment that would allow an opportunity for the County to consider impacts of proposed use and address them through conditions if necessary.

The Planning Commission, by a vote of 6-1, denied the ordinance amendment with the reason that ordinance amendments should be deferred until approval of the Comprehensive Plan update.

Mr. Sisk opened the public hearing.

Mr. DePue requested that the public hearing be continued until the next Board of Supervisors' meeting to allow a citizen to speak who could not attend this meeting. He emphasized that the Board wanted to hear citizens' concerns about this issue.

Without objection, Mr. Sisk continued the public hearing until the December 10, 1996, Board of Supervisors' meeting.

3. Review of the Draft Comprehensive Plan for James City County, Virginia

Mr. Donald E. Davis, Principal Planner, stated that Community Participation Team, Steering Committee and staff reviewed the technical and statistical information and goals of the Comprehensive Plan during the past year. He explained the recommended proposed changes to the existing Comprehensive Plan Land Use Map and the applications received for each change.

In concurrence with staff, the Planning Commission, by a 6-1 vote, recommended approval of the Comprehensive Plan and the Land Use Map, as amended.

Mr. Sisk opened the public hearing.

1. Mr. James E. Vaiden, 4557 The Foxes, urged the Board to approve the Planning Commission recommendation on Land Use Application 8, Elizabeth N. Vaiden, in the Comprehensive Plan.

2. Thomas K. Norment, Jr., Esq., 145 Jerdone Road, representing the owners of the Boy Scouts of America property on Jolly Pond Road, asked the Board to support the Planning Commission's recommendation to retain 273 acres within the Primary Service Area.

Mr. Norment, representing Robert Sherman and Linda and Johnny Sturgill, Land Use Application 28, near the intersection of Route 30 at Barhamsville Road, requested the Board to consider rezoning the property from A-1 to B-1, and change land use designation from Low-Density Residential to Mixed Use.

3. Mr. Billie Millner, Busch Corporate Center, asked for an opportunity to discuss the case for Mixed Use land designation for Greenmount property at a work session.

Mr. Sisk informed the audience that a work session to discuss the issues and Board concerns would be scheduled.

4. Mr. Robert L. Clifford, 109 Shellbank Drive, presented suggested additions to the Comprehensive Plan from the Historic Triangle Growth Management Group, in part: ...Citizen surveys indicate a widespread satisfaction with (location) as a place to live but there is overwhelming agreement on need to control growth.... Mr. Clifford also noted, possibly in the Environment Chapter, ...(Location) is the centerpiece in a unique historical area, famous around the world, because it encompassed land important in the early beginnings of our nation: Jamestown... Williamsburg... and Yorktown....

5. Mr. Grant Olson, 105 Holman Road, requested consideration of proposed additions to Transportation Element Strategies and Community Character Element Strategies submitted to the Planning Commission at its November 11, 1996, meeting.

6. Ms. Ingrid Jahn, 118 Dover Road, spoke in opposition to cluster homes because of density and impact on traffic and school population.

7. Mr. Mark Rinaldi, 109 Tendril Court, requested the Board change the Rural Lands designation of the southeast quadrant of Croaker Road at Interstate 64 interchange to Mixed Use to make the area consistent with recommendation in Comprehensive Plan and to provide maximum economic development potential and tax revenue.

8. Mr. Andy Bradshaw, representative for Jane B. and John H. Speegle, 7605 Richmond Road, asked the Board to consider change of acreage of Land Use Application 22 from Moderate Density Residential to Community Commercial.

9. Mr. Arch Marston, 105 Henry Tyler Drive, representing George Marston, Land Use Application 6, requested a change to expand Primary Service Area for the entire parcel of 100 acres located at the end of Bush Springs Road.

10. Mr. Keith Reagan, 7657 Turlington Road, Toano, President of Williamsburg Land Conservancy, requested that the Board preserve the County character and endorse the proposals not to expand the Primary Service Area.

11. Alvin Anderson, Esq., representative for some of the owners of Alabama Farm property, off Croaker Road near Riverview, Land Use Application 25, requested the Board retain the 157 acres that is currently in the Primary Service Area.

12. Mr. Richard Costello, 10020 Sycamore Landing, stated the Sycamore Landing neighborhood supported addition of the incorporated subdivision's 94 acres into the Primary Service Area. He cited possible failure of septic fields as a concern.

Mr. Alexander Kuras, Chairman of the Planning Commission, presented the draft Comprehensive Plan to the Board stating that the Planning Commission felt that the document was a good consensus for quality growth in the County. He thanked the Planning Commission for its dedication and professionalism and the citizens for their involvement and valuable input.

Mr. Sisk closed the public hearing.

Mr. Edwards suggested a work session to discuss general policy issues, identify land use application where additional information was needed, and advise applicants of that meeting. He stated a second work session could continue discussion of specific land use applications.

Mr. Sisk announced a work session would be held on Tuesday, December 3, 1996, at 4:00 p.m., in the Building C Board Room at the Government Center, and the second work session would be preceding the next regular Board of Supervisors' meeting on Tuesday, December 10, 1996, at 4:00 p.m., in the Building C Board Room at the Government Center.

Mr. Sisk declared a ten-minute break at 8:46 p.m.

Mr. Sisk reconvened the Board at 8:56 p.m.

4. Ordinance Amendment, Chapter 2, Administration, Article IV, Officers and Employees, Division 2, Section 2-16, Executive Secretary, Change Designation to County Administrator

Mr. Leo P. Rogers, Deputy County Attorney, stated that the amendment would change the designation from executive secretary to county administrator as authorized in State Code Sections 15.1-115 and 15.1-116.

Staff recommended approval of the ordinance amendment.

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

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

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

5. Ordinance Amendment, Chapter 2, Administration, Article IV, Officers and Employees, Division 2, Section 2-16.4, False Alarms Prohibited, Penalty

Mr. Robert C. Key, Police Chief, stated that the proposed Ordinance amendment would impose a \$100 fee for all false burglar alarms in excess of three over a 30-day period. He explained that the purpose of the amendment was to encourage citizens to properly maintain and monitor alarm systems to reduce the number of false alarms.

Staff recommended approval of the amendment.

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

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

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

6. Ordinance Amendment, Chapter 9, Licenses, Article I, Sections 9-5, 9-6, 9-18, 9-21; Article II, Sections 9-41, 9-55, 9-72, 9-78.1, 9-83; and Article III, Section 9-103, Incorporate Recent Changes to the State Code

Mr. Rogers stated that the proposed Ordinance amendment incorporated recent State code changes effective January 1, 1997. He explained the changes to the exemptions/fees and the provision of an appeal from determination made by the Commissioner of the Revenue.

Staff recommended approval of the Ordinance amendment.

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

Mr. Edwards made a motion to approve the Ordinance amendment.

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

Mr. Wanner commended Mr. Ford and Mr. Rogers on maintaining intent of the model ordinance.

**H. BOARD CONSIDERATIONS**

**1. Case Nos. Z-7-96 and MP-3-96. Governor's Land Master Plan Amendment (Deferred from 11/12/96)**

Mr. O. Marvin Sowers, Jr., Director of Planning, stated that Mr. Vernon M. Geddy, III, had applied on behalf of Governor's Land Associates to rezone two separate parcels, approximately 38 acres, from A-1, General Agricultural, to R-4, Residential Planned Community, with amended proffers, for the purpose of incorporating both parcels into the Governor's Land Planned Community for development of 12 additional single-family homes, seven lots on the 22-acre parcel and five lots on the 16-acre parcel, further identified as Parcel No. (1-17) on James City County Real Estate Tax Map No. (44-2) and Parcel No. (1-9) on James City County Real Estate Tax Map No. (43-2).

Mr. Magoon abstained from discussion or voting on these cases because of his relationship with the applicant.

Mr. DePue made a motion to approve the two resolutions.

Mr. Edwards stated that he could not support the motion because the cases are growth management issues and unfair to less affluent individuals who are unable to connect to waterline.

Individual Board members stated support as a compromise to protect quality of subdivision; applicants should have freedom to use owned property by right; and, developers gave assurance that no future purchases would be made of adjoining property.

On a roll call, the vote was: AYE: Taylor, DePue, Sisk (3). NAY: Edwards (1). ABSTAIN: Magoon (1).

**RESOLUTION**

**CASE NO. MP-3-96. GOVERNOR'S LAND ASSOCIATES MASTER PLAN AMENDMENT**

WHEREAS, in accordance with Section 15.1-431 of the Code of Virginia, and Section 20-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified and a hearing scheduled on Master Plan Case No. MP-3-96 for amending the existing Governor's Land Master Plan to incorporate and rezone approximately 38 acres of land from A-1, General Agricultural District, to R-4, Residential Planned Community, with proffers, into the Governor's Land Master Planned Community, and is further identified as Parcel No. (1-17) on James City County Real Estate Tax Map No. (44-2), and Parcel No. (1-9) on James City County Real Estate Tax Map No. (43-2); and

WHEREAS, the Planning Commission of James City County unanimously recommended denial of Master Plan Case No. MP-3-96, by a vote of 6 to 0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Master Plan Case No. MP-3-96.



**RESOLUTION****CASE NO. Z-7-96. GOVERNOR'S LAND ASSOCIATES**

WHEREAS, in accordance with Section 15.1-431 of the Code of Virginia, and Section 20-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled on Zoning Case No. Z-7-96 for rezoning approximately 38 acres of land from A-1, General Agricultural District, to R-4, Residential Planned Community, with proffers, and is further identified as Parcel No. (1-17) on James City County Real Estate Tax Map No. (44-2), and Parcel No. (1-9) on James City County Real Estate Tax Map No. (43-2); and

WHEREAS, the Planning Commission of James City County recommended denial of Zoning Case No. Z-7-96, by a vote of 6 to 0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Zoning Case No. Z-7-96, with the attached proffers.

2. **Telecommunications Consulting**

Mr. Sowers stated that a proposal for retaining a consultant to prepare a telecommunications ordinance for James City County, the City of Williamsburg, and York County had been received with a total cost of \$33,000. He further stated that a cost sharing arrangement had been prepared for approval with Williamsburg for \$5,000, York County for \$10,000, and James City County for \$18,000.

Staff recommended the Board authorize staff to proceed with scope of services for an amount not to exceed \$18,000.

Mr. Magoon made a motion to approve the resolution.

Mr. Sisk stated that he had talked to the Mayor of the City of Newport News, who volunteered the services of his staff who had completed an extensive telecommunications ordinance policy.

Mr. DePue asked when the proposed ordinance might be brought forward.

Staff responded that the earliest date would be in January, 1997.

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

**RESOLUTION****TELECOMMUNICATIONS CONSULTING**

WHEREAS, the County desires to retain a consultant to prepare a telecommunications ordinance, assist with review of applications for telecommunication facilities, and provide staff training; and

WHEREAS, the County desires to undertake this as a regional project with the City of Williamsburg and York County, provided an acceptable cost-sharing agreement can be reached; and

WHEREAS, the consulting firm of Espey, Huston & Associates, Inc., has submitted a satisfactory scope of services for the project at a cost of \$33,000 for preparation of an ordinance for the three localities; and \$28,000 for an ordinance prepared solely for the County, should the City of Williamsburg and York County decide not to participate.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes Sanford B. Wanner, County Administrator, to execute a contract with Espey, Huston & Associates, Inc., for a sum not to exceed \$33,000, with the County contributing an amount not to exceed \$18,000, and the balance of \$15,000 contributed by the City of Williamsburg and York County.

BE IT FURTHER RESOLVED that the Board of Supervisors authorizes Sanford B. Wanner, County Administrator, to execute a contract with Espey, Huston & Associates, Inc., for a sum not to exceed \$28,000 should the City of Williamsburg and York County decide not to participate in the project, and that the following transfer be made from Operating Contingency to Development Management within the FY 97 General Fund Budget:

Expenditures:

Operating Contingency	\$(28,000)
Development Management	<u>28,000</u>
	<u>\$ 0</u>

3. Proposed 1997 Legislative Program

Mr. Morton stated that a work session had been held earlier in the evening and recommended approval of the Proposed 1997 Legislative Program.

Mr. DePue made a motion to approve the resolution.

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

**RESOLUTION**

**1997 LEGISLATIVE PROGRAM**

WHEREAS, it is appropriate for the Board of Supervisors to consider a legislative program to present to the 1997 session of the General Assembly.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby endorses the attached 1997 Legislative Program and urges its consideration and passage as appropriate.

I. **PUBLIC COMMENT**

1. Mr. Carlyle Ford, Commissioner of the Revenue, recognized Richard Bradshaw in the audience as the person mainly responsible for the Business License Ordinance amendment.

2. Mr. Ed Oyer, 139 Indian Circle, outlined increasing debt for construction and operation of schools that, in his opinion, was determined by initial low estimates.
3. Mr. Arthur C. Hilstrom, 3724 Brick Bat Road, expressed his anger at the approval of the rezoning of Governor's Land and the unfair treatment of less affluent citizens.
4. Mr. Arthur Hilstrom, Jr., 3682 Brick Bat Road, supported his father's remarks.

#### J. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner responded to Capital Projects funding by explaining the previous planned funding, projects to be funded and the funding plans for each project.

Mr. Wanner announced that he would be providing a summary of each Board of Supervisors' meeting on the government cable television channel beginning Wednesday, November 27, 1996.

He reminded the Board of the scheduled meeting of the James City Service Authority Board of Directors.

#### K. BOARD REQUESTS AND DIRECTIVES

Mr. DePue requested a letter be sent to Virginia Department of Transportation regarding Williamsburg Crossing Shopping Center/Route 5.

Mr. Wanner stated that a letter had been sent.

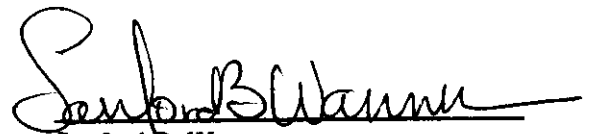
Mr. Magoon commented that reuse of design for schools had been discussed and stated that Memorandums of Understanding would describe scope of program and budget for school projects.

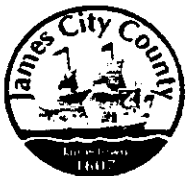
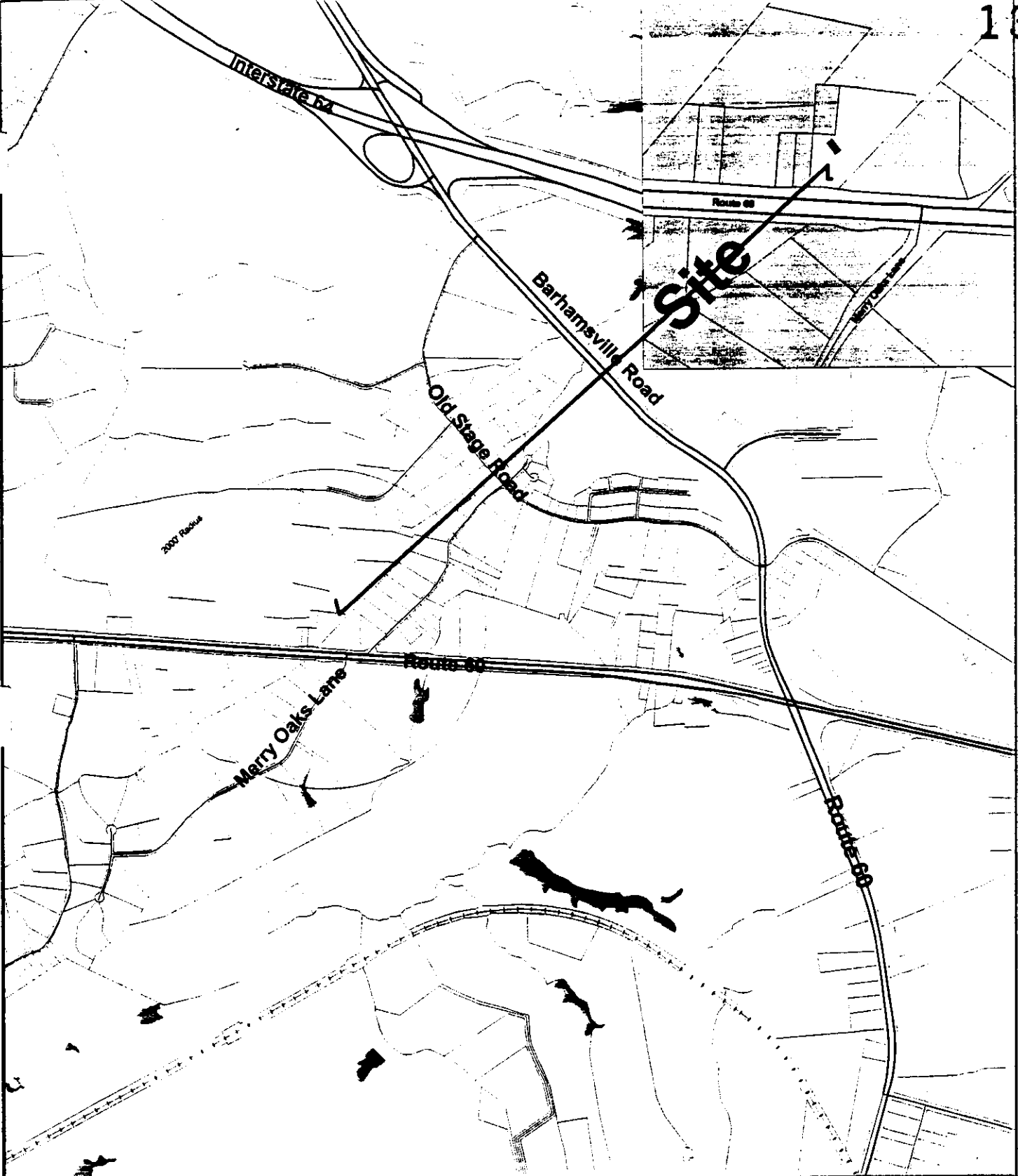
Board members emphasized that staff had prepared accurate financial forecasts and praised the talents and knowledge of John E. McDonald, Manager of Financial Management Services, as financial advisor and Sanford Wanner, County Administrator, for financial leadership; defined the way the Board handled County business and recognized citizen criticism of issues as a reminder that additional review was needed.

Mr. Sisk made a motion to recess until 4:00 p.m., Tuesday, December 3, 1996, for a work session on the 1996 Comprehensive Plan.

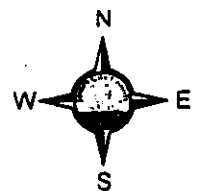
On a roll call, the vote was: AYE: Taylor, Magoon, DePue, Edwards, Sisk (5). NAY: (0).

The Board recessed at 10:10 p.m.

  
Sanford B. Wanner  
Clerk to the Board



**SUP-29-96  
Herman & Mary Robinson  
Replacement Manufactured Home**



NOV 28 1996

ORDINANCE NO. 55A-21

BOARD OF SUPERVISORS  
JAMES CITY COUNTY  
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 2, ADMINISTRATION, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE IV, OFFICERS AND EMPLOYEES, DIVISION 2, SPECIFIC OFFICERS, SECTION 2-16, EXECUTIVE SECRETARY.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 2, Administration, is hereby amended and reordained by amending Section 2-16, County administrator.

Chapter 2. Administration

Article IV. Officers and Employees

Division 2. Specific Officers

Sec. 2-16. Executive secretary. ~~County administrator~~

~~The office of executive secretary to the board of supervisors is hereby created. The board of supervisors hereby creates the office of county administrator,~~ which shall be filled by appointment by the board of supervisors under the provisions of sections 15.1-115 and 15.1-116 of the Code of Virginia.

David L. Sisk, Chairman  
Board of Supervisors

ATTEST:

Sanford B. Wanner  
Clerk to the Board

SUPERVISOR	VOTE
TAYLOR	AYE
MAGOON	AYE
DEPUE	AYE
EDWARDS	AYE
SISK.	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 26th day of November, 1996.

NOV 26 1996

ORDINANCE NO. 55A-22

BOARD OF SUPERVISORS  
JAMES CITY COUNTY  
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 2, ADMINISTRATION, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE IV, OFFICERS AND EMPLOYEES, DIVISION 2. SPECIFIC OFFICERS, BY ADDING SECTION 2-16.4, FALSE ALARMS PROHIBITED; PENALTY.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 2, Administration, Article IV, Officers and employees, Division 2, Specific officers, is hereby amended and reordained by amending Section 2-16.4, False alarms prohibited; penalty.

Chapter 2. Administration

Article IV. Officers and Employees.

Division 2. Specific Officers

~~Sec. 2-16.4. False alarms prohibited; penalty.~~

~~(a) The following words, terms and phrases, when used in this article, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning.~~

~~(1) "Alarm system" means an assembly of equipment arranged to signal an unlawful entry or other unlawful activity requiring the urgent attention at a protected premises and to which a law enforcement agency is expected to respond. The term shall include, but not be limited to, localized or audible alarms.~~

~~(2) "Alarm user" means any person in control of any protected building, structure, or protected premises where an alarm system is maintained.~~

Ordinance to Amend and Reordain  
Chapter 2. Administration  
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(3) "False alarm" means an alarm signal eliciting a response from a law enforcement agency when a situation requiring such response does not in fact exist. However, it shall not include an alarm signal caused by violent conditions of nature or other extraordinary circumstances not reasonably subject to control by the alarm user or alarm company operator.

(b) It shall be unlawful for any user to send a false alarm.

(c) For each false alarm after three false alarms originating from the same premises within a thirty-day period, there is hereby imposed a civil penalty in the amount of one hundred dollars for each such false alarm.


(d) The police chief shall bill each user responsible for the false alarm the appropriate amount of penalty set forth above. All such penalties shall be paid within thirty days of billing. Any user who is more than thirty days delinquent in the payment of such bill shall not receive police department emergency response service for any alarm based on activation of the alarm system until the user has satisfied such debt.

(e) The penalty set forth in this article shall not apply to any premises equipped with a fire alarm system used, owned, or occupied by the Commonwealth of Virginia, its agencies, or political subdivisions, but all the other provisions including the termination of service, shall apply to them.


State Law Reference - §15.1-28.2 - Authority to regulate alarm systems.

The effective date of this ordinance shall be December 1, 1996.

Ordinance to Amend and Reordain  
 Chapter 2. Administration  
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 \_\_\_\_\_  
 David L. Sisk  
 Chairman, Board of Supervisors

ATTEST:

  
 \_\_\_\_\_  
 Sanford B. Wanner  
 Clerk to the Board

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

Adopted by the Board of Supervisors of James City County, Virginia, this 26th day of  
 November, 1996.

falarms.ord



NOV 26 1996

ORDINANCE NO. 16A-20BOARD OF SUPERVISORS  
JAMES CITY COUNTY  
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 9, LICENSES, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL, SECTION 9-5, LICENSE REQUIREMENT; SECTION 9-6, EXEMPTIONS; SECTION 9-18, LIMITATIONS, EXTENSIONS, APPEALS AND RULINGS; SECTION 9-21, RATES OF LICENSE TAXES. BY AMENDING ARTICLE II, SPECIFIC BUSINESSES AND ACTIVITIES, SECTION 9-41, BONDSMEN, PROFESSIONAL, AND THEIR AGENTS; SECTION 9-55, DETECTIVE AGENCIES AND WATCHMEN; SECTION 9-72, PAWNBROKERS; SECTION 9-78.1, REPAIR, PERSONAL, BUSINESS AND OTHER SERVICES; SECTION 9-83, TATTOOING; AND SECTION 9-103, PEDDLER'S LICENSE TAX.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 9, Licenses is hereby amended and reordained by amending Article I, In General, Section 9-5, License requirement; Section 9-6, Exemptions; Section 9-18, Limitations, extensions, appeals and rulings; Section 9-21, Rates of license taxes; by amending Article II, Specific Businesses and Activities, Section 9-41, Bondsmen, professional, and their agents; Section 9-55, Detective agencies and watchmen; Section 9-72, Pawnbrokers; Section 9-78.1, Repair, personal, business and other services; Section 9-83, Tattooing; and Section 9-103, Peddler's license tax.

Chapter 9. Licenses

Article I. In General

Sec. 9-5. License requirement.

(c) Each person subject to a license tax ~~and/or fee~~ shall obtain a license within 10 days of beginning business, if he was not licensable in the county on or before January 1, of the license year. The application shall

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be on forms prescribed by the assessing official. ~~The initial application and a~~ *Any application for* renewal shall be submitted prior to February of each year ~~March 1 of each license year.~~

(d) The tax ~~and/or fee~~ shall be paid with the application in the case of any license not based on gross receipts or purchases. If, the tax is measured by the gross receipts or purchases of the business, the tax shall be paid on or before March 1.

(f) A penalty of ten percent of the tax or \$10.00, whichever is greater, may be imposed upon the failure to file an application or the failure to pay the tax ~~and/or fee~~ by the appropriate due date. Only the late filing penalty shall be imposed by the assessing official if both the application and payment are late; however both penalties may be assessed if the assessing official determines that the taxpayer has a history of noncompliance. In the case of an assessment of additional tax made by the assessing official, if the application and, if applicable, the return were made in good faith and the understatement of the tax was not due to any fraud, reckless or intentional disregard of the law by the taxpayer, there shall be no late payment penalty assessed with the additional tax. If any assessment of tax by the assessing official is not paid within thirty days the treasurer may impose a ten percent late payment penalty. The penalties shall not be imposed, or if imposed, shall be abated by the official who assessed them, if the failure to file or pay was not the fault of the taxpayer. In order to demonstrate lack of fault, the taxpayer must show that he acted responsibly and that the failure was due to events beyond his control.

(h) Interest shall be charged on the late payment of the tax ~~and/or fee~~ from the due date until the date paid without regard to fault or other reason for the late payment. Whenever an assessment of additional or omitted tax by the assessing official is found to be erroneous, all interest and penalty charged and collected on the amount of the assessment found to be erroneous shall be refunded ~~from the date of payment or the date due.~~

~~whichever is later. Interest shall be paid on any refund from the date of payment or date due, whichever is later. Interest on any refund shall be paid at the same rate charged to the taxpayer.~~

State law reference-Doing business at more than one place, Code of Va., § 58.1-3709 and § 58.1-3703.1.

#### Sec. 9-6. Exemptions.

No license tax ~~on fee~~ shall be assessed or charged to any person prosecuting any business or businesses in which the aggregate gross receipts are \$4,000.00 or less in any license tax year; provided, however, all such persons shall provide the commissioner of the revenue, on a form provided by him, all information otherwise required to apply for a license. This exemption shall apply only to those businesses upon which taxes are imposed based upon gross receipts and shall specifically not apply to businesses upon which taxes are imposed by sections 9-28, 9-47, 9-99, 9-106, 9-120.1 or 9.131.

#### Sec. 9-18. Limitations, extensions, appeals and rulings.

The enforcement of the provisions of this chapter including limitations with respect thereto, the correction of any assessment hereunder and any appeal by the county of a correction made by its assessing official or by any person assessed with taxes hereunder and aggrieved by such assessment shall be pursuant to chapter 39, title 58.1 of the Code of Virginia; provided, however:

(1) Any person assessed with a licensing tax under this chapter as the result of an audit may ~~within the period provided in section 58.1-3980 of the Code of Virginia, apply~~ ~~apply~~ ~~within 90 days from the date of such assessment~~ to the assessing official for a correction of the assessment. The application must be filed in

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good faith and sufficiently identify the taxpayer, audit period, remedy sought, each alleged error in the assessment, the grounds upon which the taxpayer relies, and any other facts relevant to the taxpayer's contention. The assessor may hold a conference with the taxpayer if requested by the taxpayer, or require submission of additional information and documents, further audit, or other evidence deemed necessary for a proper and equitable determination of the applications. The assessment shall be deemed prima facie correct. The assessor shall undertake a full review of the taxpayer's claims and issue a determination to the taxpayer setting forth its position. Every assessment pursuant to an audit shall be accompanied by a written explanation of the taxpayer's right to seek correction and the specific procedure to be followed in the jurisdiction (e.g., the name and address to which an application should be directed).

(2) ~~Provided an application is made within 90 days of an assessment; a timely and complete application is made~~ collection activity shall be suspended until 30 days after the final determination is issued by the assessor, unless the assessor determines that collection would be jeopardized by delay or that the taxpayer has not responded to a request for relevant information after a reasonable time. Interest shall accrue in accordance with the provisions of section 9-5(h), but no further penalty shall be imposed while collection action is suspended. The term "jeopardized by delay" includes a finding that the application is frivolous, or that a taxpayer desires (i) to depart quickly from the locality, (ii) to remove his property therefrom, (iii) to conceal himself or his property therein, or (iv) to do any other act tending to prejudice, or to render wholly or partially ineffectual, proceedings to collect the tax for the period in question.

(3) ~~A taxpayer may apply within 90 days of the determination made by the assessing official on an application pursuant to paragraph 1 of this section to the Commissioner of the Virginia Department of Taxation for a correction of such assessment. The Tax Commissioner shall issue a determination to the~~

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~~taxpayer within 90 days of receipt of the taxpayer's application, unless the taxpayer and the assessing official are notified that a longer period will be required.~~

~~(4) On receipt of a notice of intent to file an appeal to the Tax Commissioner the assessing official shall further suspend collection activity until a final determination is issued by the Tax Commissioner, unless the assessor determines that collection would be jeopardized by delay or that the taxpayer has not responded to a request for relevant information after a reasonable time. Interest shall accrue but no further penalty shall be imposed while collection activity is suspended. The term "jeopardized by delay" shall have the same meaning as set forth in paragraph 2 of this section.~~

~~(3)(3)~~ Any taxpayer may request a written ruling regarding the application of the tax to a specific situation from the assessor. Any person requesting such a ruling must provide all the relevant facts for the situation and may present a rationale for the basis of an interpretation of the law most favorable to the taxpayer. Any misrepresentation or change in the applicable law or the factual situation as presented in the ruling request shall invalidate any such ruling issued. A written ruling may be revoked or amended prospectively if (i) there is a change in the law, a court decision, or (ii) the assessor notifies the taxpayer of a change in the policy or interpretation upon which the ruling was based. However, any person who acts on a written ruling which later becomes invalid shall be deemed to have acted in good faith during the period in which such ruling was in effect.

Sec. 9-21. Rates of license taxes ~~and fees.~~

~~Except as may be specifically otherwise provided by this chapter or other law, the annual license tax imposed hereunder shall be \$30.00 or the rate set forth below for the class of enterprise listed, whichever is greater. Except as may be specifically otherwise provided by this chapter or other law, there shall be an~~

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~~annual license fee of \$30.00 charged to any class of business requiring a license pursuant to this chapter that has gross receipts exceeding \$4,000 but less than \$50,000. For all businesses requiring a license pursuant to this chapter with gross receipts of \$50,000 or more the annual charge shall be a flat fee of \$30.00 in lieu of the tax amount calculated based on the gross receipts of such business. For businesses with gross receipts of \$50,000 or more the annual charge shall be a flat fee of \$30.00 in lieu of the tax amount calculated based on the gross receipts of such business. For the purpose of this chapter, gross receipts shall include all receipts from all licensable enterprises at any location place of business.~~

- (1) For contractors and persons constructing for their own account for sale, 16 cents per \$100 of gross receipts;
- (2) For retailers, 20 cents per \$100 of gross receipts;
- (3) For financial, real estate and professional services, 58 cents per \$100 of gross receipts;
- (4) For repair, personal and business services and all other businesses and occupations not specifically listed or exempted in this ordinance or otherwise by law, 36 cents per \$100 of gross receipts;
- (5) For wholesalers, 5 cents per \$100 of purchases (see section 58.1-3716 of the Code of Virginia for limitations);
- (6) For carnivals, circuses and speedways, \$100 for each performance held in this jurisdiction (see section 58.1-3728 of the Code of Virginia for limitations);
- (7) For fortune tellers, clairvoyants and practitioners of palmistry, \$1,000 per year;

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- (8) For massage clinic or therapist, 36 cents per \$100 of gross receipts;
- (9) For itinerant merchants or peddlers, \$500 per year (see limitation in section 58.1-3717 of the Code of Virginia);
- (10) For dealers in precious metals, 20 cents per \$100 of gross receipts;
- (11) For permanent coliseums, arenas or auditoriums having a maximum capacity in excess of 10,000 persons, open to the public, \$1,000 per year (see limitation in section 58.1-3729 of the Code of Virginia);
- (12) For savings and loan associations, \$50.00 per year.

Any person engaging in such business without the required license shall be guilty of a Class 3 misdemeanor. This license shall not be proratable or transferrable.

## Article II. Specific Businesses and Activities

### Sec. 9-41. Bondsmen, professional, and their agents.

- (a) Every person who shall, for compensation, become or furnish surety for any person or persons charged with a felony or misdemeanor or with violation of any county ordinance or state law, shall pay a license tax of thirty dollars (\$30.00) or thirty-six cents (\$0.36) per one hundred dollars (\$100.00) of gross receipts;

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whichever is the greater amount: ~~be licensed as a personal service enterprise and pay such amount as required under section 9-21.~~ Such license shall not be transferable.

Sec. 9-55. Detective agencies and watchmen.

(a) Every person operating a detective agency, or engaged in a business as a detective, shall pay an annual license tax of \$30.00 or \$0.36 per \$100.00 of gross receipts, whichever is the greater amount: ~~be licensed as a personal service enterprise and pay such amount as required under section 9-21.~~

No license shall be issued hereunder unless and until there is presented to the commissioner of the revenue a certificate or permit from the chief of police of this county recommending the applicant as a person of good moral character with no police record.

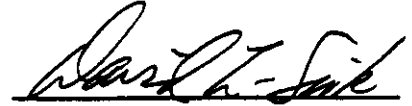
(b) Every person operating a business or agency furnishing watchmen, including ship watching for compensation, shall pay an annual license tax of \$30.00 or \$0.36 per \$100.00 of gross receipts, whichever is the greater amount: ~~be licensed as a personal service enterprise and pay such amount as required under section 9-21.~~

Sec. 9-72. Pawnbrokers.

(e) *Annual tax.* Every person engaging in the business of a pawnbroker shall pay an annual license tax of \$30.00 or \$0.36 per \$100.00 of gross receipts, whichever amount is greater: ~~be licensed as a personal service enterprise and pay such amount as required by section 9-21.~~




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David L. Sisk  
Chairman, Board of Supervisors

ATTEST:



Sanford B. Wanner  
Clerk to the Board

SUPERVISOR      VOTE

TAYLOR	AYE
MAGOON	AYE
DEPUE	AYE
EDWARDS	AYE
SISK	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 26th day of November, 1996.

License.ord

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Sec. 9-78.1. Repair, personal, business and other services.

(a) *Maximum rate.* The maximum rate for a local license tax imposed upon a person engaged in a repair, personal or business service or any other business or occupation not specifically listed or excepted from Code of Virginia, section 58.1-3703 is ~~\$30.00 or \$0.36 per \$100.00 of gross receipts, whichever is greater.~~ ~~shall be such amount provided in section 9-21.~~

Sec. 9-83. Tattooing.

(a) Every person engaged in the business of tattooing in this county shall ~~pay an annual license tax of \$30.00 or \$0.36 per \$100.00 of gross receipts whichever is the greater,~~ ~~be licensed as a personal service enterprise and pay such amount as required by section 9-21.~~ which ~~\$30.00~~ license shall not be proratable.

(b) No license shall be issued hereunder unless and until there is presented to the commissioner of the revenue a certificate from the county administrator permitting the operation of this business.

Sec. 9-103. Peddler's license tax.

Every person who engages in the business of peddling as defined in this article shall be deemed a peddler and shall ~~pay an annual license tax of thirty dollars (\$30.00) or twenty cents (\$0.20) per one hundred dollars (\$100.00) of gross receipts, whichever is greater.~~ ~~be licensed as a retail merchant enterprise and pay such amount as required by section 9-21.~~

This ordinance shall become effective January 1, 1997.

018179

AMENDED AND RESTATED  
GOVERNOR'S LAND PROFFER AGREEMENT

THESE AMENDED AND RESTATED PROFFERS are made as of this 19<sup>th</sup> day of November, 1996, by GOVERNOR'S LAND ASSOCIATES, a Virginia joint venture (together with its successors and assigns, the "Owner").

RECITALS

A. Owner is the owner of certain real property (the "Existing Property") in James City County, Virginia more particularly described on Exhibit A attached hereto and made a part hereof.

B. The Property is now zoned R-4, with proffers and is subject to a Master Plan approved by the County (the "Master Plan"). The existing Governor's Land Proffers are dated October 2, 1989 and are recorded in James City County Deed Book 451 at page 68 have been amended by Proffer Agreement Amendment dated September 10, 1992 and recorded in James City County Deed Book 591 at page 484 (the "Existing Proffers").

C. Owner has applied to amend its approved Master Plan to include a parcel of approximately 22.43 acres and a parcel of approximately 16 acres, both parcels being more particularly described on Exhibit B hereto (the "Additional Property") not currently subject to the Master Plan or proffers and to rezone the parcels from A-1 to R-4, with proffers. The Existing Property and the Additional Property is sometimes referred to herein as the "Property."

D. In consideration of the approval of the amendment of the approved Master Plan and the rezoning of Additional Property, the Existing Proffers are hereby amended and restated as follows:

CONDITIONS

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

<u>Project Land Bay Area</u>	<u>R-4 Designation</u>	<u>Maximum Density/Dwelling Types (Dwelling Units per Land Bay Area)</u>
1	A	193 (single-family)
2	A	390 (single-family)
3	B	138 (townhouse/cluster)
4	B	121 (townhouse/cluster)

NOTE: THE TOTAL NUMBER OF UNITS ON THE 1482.854 ACRE GOVERNOR'S LAND PARCEL SHALL NOT EXCEED 734 UNITS (OVERALL DENSITY 1/2 UNITS/ACRE). MAXIMUM DENSITIES PER LAND BAY ARE SHOWN ABOVE. IF DENSITY WITHIN A LAND BAY IS MAXIMIZED PER THE TABLE ABOVE, THE NUMBER OF UNITS IN THE OTHER LAND BAYS SHALL BE REDUCED SO THAT THE FINAL NUMBER OF DEVELOPED UNITS ON THE 1482.854 ACRE GOVERNOR'S LAND DOES NOT EXCEED 734 UNITS.

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

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

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

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

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

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

7. The Owner has dedicated as open space to an appropriate non-profit land stewardship entity approved by the Board of Supervisors a "conservative easement" of approximately 194± acres as shown generally on the Master Plan subject only to any drainage improvement and/or utility easement (as shown generally on the Master Water, Sanitary Sewer, and Stormwater Management plans prepared by AES, a professional corporation, dated June 6, 1989 and submitted with these proffers) and/or nature, pedestrian, and/or golf trails and bridges as approved by the James City County Planning Commission. A 20-foot wide buffer strip of natural vegetation shall be maintained along both sides of any drainage ditches within this area. Where the drainage improvement or utility easements pass through forested areas of this open space, there shall be no clear cutting or commercial harvesting of timber within the easements. Select understory, maintenance, and visual path clearance may take place along the James River frontages; select, but necessary hand clearing may be implemented along the wetland frontage (i) in conjunction with the establishment of the golf course fairways and/or (ii) for understory, maintenance, or visual path purposes as approved by the Planning Commission. There shall be no use of pesticides, herbicides, fertilizers, or other agricultural chemicals within the conservation easement except as approved by the County Administrator.

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

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

8. An overall Stormwater Best Management Plan for the entire project has been submitted to and approved by James City County by the Director of Code Compliance.

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

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

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

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

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

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

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

16. That all property owners at Governor's Land shall be required to join the homeowners association. The homeowners

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

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

Land Bay 1	78.5 Acres
Land Bay 2	329.0 Acres
Land Bay 3	149.0 Acres*
Land Bay 4	<u>148.0 Acres*</u>

TOTAL MAJOR OPEN SPACE 704.5 ACRES

\* includes Neighborhood Recreational Centers

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

19. A) The owner agrees that, until a plan (including an appropriate funding plan) for the improvement of Route 5 to a four lane divided highway, or such other equivalent or lower design category approved by VDOT and James City County or an alternate roadway that eliminates the need to widen existing Route 5 to a four lane divided highway ("Improvements"), in James City County from Route 199 to the Governor's Land entrance off of

Route 5 has been approved by VDOT and James City County, Owner shall be limited to final subdivision and/or site plan of no more than a total of 250 units (single-family, townhouses, and/or clusters) of the project's total 734 units defined in Paragraph 2 herein. However, the owner shall have the right to continue platting lots beyond 250 through the build out of the property provided that letter(s) of credit ("Letters of Credit") equal to the product of the number of lots platted in excess of 250 times \$4,873.00 is deposited with James City County prior to final subdivision and/or site plan approval of the lots causing the total to exceed 250. Upon approval of the "Funding Plan", James City County shall immediately release all Letters of Credit to owner. James City County may draw on the Letters of Credit only when construction of the improvements is required or if the Letters of Credit are not kept current or otherwise renewed. Construction of the improvements shall commence only when the average daily traffic on Route 5, as measured by the criteria in Exhibit "C", reaches 13,000 vehicles per day. If a "Funding Plan" is not approved prior to the platting of more than 400 total lots, or, in any event, if a Funding Plan is not approved prior to January 1, 1995, then the use of Letters of Credit shall satisfy all applicable transportation proffers related to Route 5. In the event VDOT and James City County determine that no improvement of Route 5 in James City County from Route 199 to the Governor's Land entrance off of Route 5 is necessary, the Owner shall not be limited in the subdivision and/or site plan of the project's total 734 units defined in Paragraph 2 herein and all Letters of Credit shall immediately be returned to owner.

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

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

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

- i) Turn lanes at the community entrance to the



Property.

ii) Signalization at the community entrance to the Property when required by VDOT.

iii) Improvements of Route 5 along the Property's frontage to a four lane divided highway, or such other equivalent or lower design category approved by VDOT and James City County including, but not limited to, and subject to approval by VDOT and James City County, a Class 1 Bikeway to be provided along the property frontage exclusive of the greenbelt buffer described in Paragraph 2 herein; and

iv) Other Route 5 off-site improvements including, but not limited to, necessary utility relocations, and acquisition of necessary Route 5 right-of-way for the Improvements described herein.

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

In any event, upon final approval of any subdivision and/or site plan which approval causes the number of approved units (single-family, townhouse, and/or cluster) to exceed 400, Owner shall have completed or contracted to complete (i) donation of right-of-way and the construction of Route 5 to a four-lane divided highway, or such equivalent or lower design category approved by VDOT and James City County, across the Route 5 frontage of the Property; (ii) construction of left and right turn lanes on westbound Route 5 at the community entrance to the Property; and (iii) signalization of the Route 5 community

entrance to the Property and any other traffic control measures required by VDOT on the portion of Route 5 that would be improved along the Property's frontage per (i) above in this paragraph.

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

(C) Further, unless otherwise agreed, Owner, in accordance with Code of Virginia, Section 15.1-466E, agrees, subject to A) and B) herein as part of the funding plan for the Improvements to underwrite, guarantee, or otherwise provide sufficient funding over and above those funds contributed in B) above and those funds contributed in the Greensprings project Proffer Paragraph 26 B), a copy of which is attached hereto as Exhibit B., to complete the Improvements as necessary subject to provision having been made in a legally binding agreement (herein the "Agreement") specifying, without limitation, a mutually acceptable method of reimbursing Owner (and/or releasing Owner from any underwriting or guarantee described herein), or at least providing Owner the prospect of reimbursement, for any funds provided by Owner over and above those contributed by Owner per B) above. Provided, however, that no reimbursement shall be made of any assessment, tax, or levy including, but not limited to any special assessments paid by Owner as specified in the Governor's Land recorded restrictive covenants, paid by Owner for the Route 5 Improvements described herein. The sources of said reimbursements and/or release from any underwriting or guarantee described herein may include, but is not limited to: (i) contributions from other developers; and/or (ii) reimbursements via a transportation and/or sanitary and/or other special taxing district for the remaining undeveloped land in the Route 5 corridor; and/or (iii) special assessments from the purchasers of units (single-family, townhouses, and/or clusters) within the Greensprings and Governor's Land projects as specified in each project's respective recorded restrictive covenants; and/or (iv) reimbursement in accordance with Code of Virginia, Section 15.1-

466E(c); and/or (v) any other source specified in the Agreement.

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

20. Owner shall make a contribution to the County of \$5,800.00 for each of the lots included on a subdivision plat of the Additional Property payable prior to the approval of such final subdivision plat for lots on the Additional Property for use by the County for improvements to Route 5 or to Alternate Route 5. If and when Owner notifies the County that it is transferring one or more of the 12 lots permitted on the Additional Property to elsewhere on the Existing Property pursuant to Condition 1, Owner shall make a contribution to the County of \$1,400.00 for each such lot payable prior to the approval of a final subdivision plat for such lots for use by the County for improvements to Route 5 or to Alternate Route 5 and the parties acknowledge that such lots shall be in the Route 5 Transportation Improvement District.

21. The Owner shall designate a 75-foot buffer along the northern boundary of the 16 acre parcel of the Additional Property as Major Open Space as described in Proffer 17.

WITNESS the following signature.

Governor's Land Associates, a Virginia  
general partnership

By: Governor's Land Management  
Company, Inc., its authorized  
representative

By: *Ralph R. DeFren*  
Title: EUP

STATE OF VIRGINIA

~~STATE~~/COUNTY OF Jones City, to-wit:

The foregoing instrument was acknowledged before me this 19<sup>th</sup>  
day of November, 1996, by Ralph DeRose, EVP of Governor's, authorized representative  
of Governor's Land Associates. Land Management Company,

Vern M. Sedby III  
Notary Public

My commission expires: 12/31/99

EXHIBIT A  
DESCRIPTION OF EXISTING PROPERTY

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

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

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

EXHIBIT B  
DESCRIPTION OF ADDITIONAL PROPERTY

ALL THAT portion of the tract, piece or parcel of land, formerly situate in Powhatan Magisterial District, and Berkeley Magisterial District, James City County, Virginia, known as "Fish House" or the "Fish House Tract," containing twenty (20) acres, more or less, bounded as follows:

Commencing at a pine corner line, thence West along Marsh to cedar fore and aft, thence to stob on Fish House Gut; thence North up said gut to head of same; thence to read oak corner line; thence East to small gum on side of swamp; thence across said swamp to another gum; thence to red-oak; thence to gum, thence to pine, thence to pine again, thence to pine, corner line, thence South to pine side line, thence to pine fore and aft, thence to white oak, thence to white oak again, thence to pine on side of marsh of the beginning;

Being the land bounded on the West by the land now or formerly of M. R. Harrell and L. W. Lane, known as "Piney Grove;" on the North, East and South by the lands now or formerly of E. W. Warburton and J. S. Jones, known as the Fish House Tract.

ALL THAT certain lot, piece or parcel of land containing 16.00 acres, more or less, set out, shown and described on a certain plat entitled, "PLAT OF BOUNDARY LINE ADJUSTMENT AND PROPERTY LINE EXTINGUISHMENT BETWEEN THE PROPERTIES OF GOVERNOR'S LAND ASSOCIATES AND ATLANTIC VENTURES, POWHATAN DISTRICT, JAMES CITY COUNTY, VIRGINIA," dated June 8, 1995, made by G. T. Wilson, Jr., certified land surveyor, a copy of which plat is to be recorded simultaneously herewith.

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

*20* day of *Dec* 19*96* This *instrument*

was presented with certificate annexed and admitted to record at *9:14* o'clock

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

**JAMES CITY COUNTY**  
**1997 LEGISLATIVE PROGRAM**

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

**1-1. TRANSIENT OCCUPANCY TAX**

Amend §58.1-3819, to include James City County as one of the localities permitted to levy a tax not to exceed five percent.

**1-2. REGULATION OF STORMWATER**

Amend Chapter 28, Virginia Water and Sewer Authorities Act, and §15.1-292.4 permit authorities to manage stormwater in the same manner granted the governing bodies of localities under 15.1-292.4.

**1-3. NEIGHBORHOOD ASSISTANCE ACT**

Amend §63.1-324 to expand the scope of eligible health care clinics to include nonprofit clinics which charge based on Health Departments formula for ability to pay. The goal is to allow physicians who volunteer at Olde Towne Medical Center to receive a tax credit. Currently, the Code permits tax credits for physicians working at health care clinics offering free service.

**PART II. Legislation/policy of significant importance to James City County**

**2-1. BUSINESS, PROFESSIONAL, AND OCCUPATIONAL LICENSE TAX (BPOL)**

James City County opposes further changes to the uniform BPOL ordinance. The County is still open to revenue neutral alternatives to the tax.

**2-2. COMPREHENSIVE SERVICES ACT (CSA)**

The County is supportive of the stated aims of the Comprehensive Services Act and the following as they relate to the Act:

- a. The elimination of pro-rationing of supplemental CSA funds. Pro-rationing as planned by the State would make the local government the funder of last resort for unanticipated CSA spending. The State and local funding partnership should be maintained. In addition the 45 percent cap on local contributions for supplemental funding should be maintained.

- b. Cost containment measures must be implemented including rate setting for residential providers and parental co-pay collection assistance. The Commonwealth and local governments should work together to decrease the per child cost of the Comprehensive Services Act.
- c. The County supports the efforts of VACUO, VAL, and VALHSO to ensure that the Commonwealth continues to fund the CSA at an adequate per child level so that local governments do not become subjected to yet another State legislative mandate without the State share of the funding to carry out the mandate.

Finally, James City County opposes language in the State budget which would allow the State to prorate funding for the Comprehensive Services Act beginning in FY 98 and thus shift costs to local governments.

### 2-3. EDUCATION

- a. James City County supports full funding of Standards of Quality and categorical educational mandates.
- b. The General Assembly should support funding for school construction costs.
- c. The State should not attempt to address disparity by simply redistributing existing State aid among localities.

### 2-4. LOCAL LAND USE AND GROWTH MANAGEMENT

- a. James City County opposes legislation that would restrict current land use powers of local governments to establish, modify and enforce zoning classifications. Local governments must remain free to adopt and enforce zoning changes that address local land use needs, especially if infrastructure systems including transportation are inadequate to serve increased land use. Furthermore, the explicit power of local governments to plan for growth and development should not be curtailed by any shape, manner or form of "vesting" legislation. James City County, therefore, opposes any legislation that would define a vested right by statute.
- b. James City County opposes legislation that removes local land use decisions from localities. Such legislation would include:
  - o HB 592 which restricts the ability of localities to regulate forestry practices.
  - o HB 1517 which restricts the authority of localities to accept donations, payments, or conveyance as part of the process of approving rezoning.
  - o HB 1518 which restricts the ability of localities to require special use permits for certain users.



- o HB 1224 which excludes residential house size, architectural standards and specifications and construction techniques permitted by the Virginia Uniform Statewide Building Code from conditions we could consider in a rezoning.
- c. James City County requests that the General Assembly: 1) grant all local governments the ability to assess impact fees to pay for the related costs of new development; 2) extend to all localities the same level of authority for conditional zoning to address off- and on-site transportation issues as it granted to Northern Virginia and Eastern Shore; and, 3) grant localities the authority to require land developers to pay pro rata share of the costs of supplying necessary roads adjacent to property they are developing.

#### 2-5. CORRECTIONS, JAIL, OVERCROWDING/STATE SUPPORT

- a. The State should live up to its commitment to remove State prisoners from local jails.
- b. The State should fully fund the per diem reimbursement for all State prisoners.
- c. The State should pay a full 50 percent of the cost of regional jail construction, instead of "up to 50 percent."
- d. Section 16.1-309.6, the Virginia Juvenile Community Crime Control Act should be amended to localities to average up to the last three years of funds from predispositional or post-dispositional block grant service or programs utilized by the locality rather than being limited to the year 1995. Using the current definition, local costs could not go down and may remain artificially high if 1995 was a year of extraordinary usage of the block grants.

#### 2-6. PUBLIC TRANSPORTATION

James City County urges the General Assembly to consider increasing its funding of public transportation to help offset the loss of Federal funding. In addition, the County supports the efforts of the Virginia Association of Public Transit Officials to secure a reliable source of revenue for public transportation.

#### 2-7. HEART/LUNG/CANCER PRESUMPTION

James City County supports legislative action that restores balance to the rebuttal process for the heart/lung/cancer presumption statute as was the intent of the original legislation. Compensability should be determined by establishing whether work or non-work related risk factors are more likely the primary cause of the claimant's condition. Until such legislative action is taken, the County opposes any further expansion of the statute.

2-8. WATER AND SEWER FEES

James City County opposes House Bill 1513 and any similar efforts by the General Assembly to cap water and sewer fees or otherwise impose fiscal constraints on the ability of local governments to provide public water and sewer services.

2-9. HAMPTON ROADS MAYORS AND CHAIRS CONCERNS - LEGISLATIVE AGENDA

James City County has participated in the formulation of the Mayors and Chairs Legislative Agenda for 1997 and as such supports the following:

a. Regional Incentive Fund

The Regional Competitiveness Act recognizes that Virginia is not as competitive with other states as it needs to be, and that local governments must be encouraged to work together to maximize economic opportunity. The Incentive Fund called for in the Act is an appropriate vehicle to carry out the goals of the Act and must be funded at \$50 million to achieve its stated purpose. This Incentive Fund should not compete with the Governor's Opportunity Fund.

b. Transportation

The General Assembly should expeditiously move to define the State's needs for transportation improvements and options to meet those needs by the 1998 session. The time at which maintenance costs will exceed available funds in the Highway Maintenance and Operating Fund and the State Transportation Trust Fund will have to start being utilized is somewhere in the 1999 time period. The State is also urged to be proactive in having the Congress adopt the principles in the STEP 21 Program.

c. Local Prerogatives

The General Assembly is urged not to reduce traditional local authority to manage such functions as land use, zoning, conditional use permitting, franchise fees, personal property taxes, water and sewer connection fees, and especially activity associated with the telecommunications industry which could serve to reduce community revenue and aesthetics. Legislation is needed that enables local governments to enhance their tools of application in properly planning for the orderly development of land and the delivery of essential services. The General Assembly should provide the necessary authority for localities to proceed with implementing local comprehensive plans, including additional optional measures such as impact fees, proffers, transferable development rights and adequate facilities ordinances. Virginia is a low tax state, however, local taxes are comparatively high. Therefore, additional burdens should not be placed on local governments. The BPOL tax should not be adjusted or eliminated unless a revenue neutral situation regarding local governments can be achieved.

d. State/Local Relationships

The Hampton Roads region supports the examination of the relationship of the functions of State and local governments as part of the activities of the Commission on State and Local Responsibilities and Taxing Authority with special emphasis on education including capital costs and technology.

e. Comprehensive Services Act

The General Assembly is urged to eliminate the proration language in the State budget which, if implemented, would shift costs to local governments beginning in FY 1998. This is particularly important as the Federal government devolves responsibility for welfare and other social programs to the states, and then to localities.