

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 24TH DAY OF JUNE, NINETEEN HUNDRED NINETY-SEVEN, AT 5:02 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

Robert A. Magoon, Jr., Chairman, Jamestown District (Absent)
Jack D. Edwards, Vice Chairman, Berkeley District

David L. Sisk, Roberts 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. Parks and Recreation Fees and Charges Policy

Mr. Edwards called the meeting to order. Mr. Wanner introduced Mr. Anthony Conyers, Jr., and Mr. Needham Cheely, III, who reported on proposed fees and charges policy.

The Board and staff discussed fee structures and the policy, including target recovery rates for programs and facilities.

The Board agreed to further discussion during Board Considerations on the regular agenda at 7:00 p.m.

Mr. Edwards recessed the Board for dinner at 6:15 p.m.

Mr. Magoon was present and reconvened the Board at 7:02 p.m.

C. HIGHWAY MATTERS

Mr. Jim Brewer, Assistant Resident Engineer, Virginia Department of Transportation (VDOT), stated that Route 199 was on schedule and the Route 610 project was to be bid on Wednesday, June 25, 1997.

Mr. Edwards asked what methods Route 199 contractors were using to keep dirt from Route 5.

Mr. Brewer responded that the contractors kept Route 5 wet and scraped.

Mr. Magoon once again asked about Best Management Practices (BMPs) along Route 199.

Mr. Brewer responded that staff had the plans.

Mr. John T. P. Horne, Development Management Manager, stated that the information would be brought to the Board in the near future.

Presentation Regarding Water Conservation. Larry Foster

Mr. Larry M. Foster, General Manager, James City Service Authority, reported that the water situation was critical in that the wells were unable to continue to pump at capacity to replenish depleted water storage tanks. He stated that consumption had been over 4 million gallons a day for several days and asked all citizens including those having deep wells to voluntarily reduce consumption as was requested in the Daily Press article published on Saturday, June 21, 1997.

Mr. Magoon explained the water situation was not due to water shortage and thanked the Daily Press for its support.

The Board expressed support of reduced consumption for safety reasons; available water was a concern for all citizens; and water conservation was needed in order to get the State permit for additional water supply.

D. CONSENT CALENDAR

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

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

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

1. Carry Forward Budget Adjustments**RESOLUTION****CARRY FORWARD BUDGET ADJUSTMENTS**

WHEREAS, the Board of Supervisors of James City County has been requested to carry forward from FY 97 to FY 98 monies for specific programs.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors, James City County, Virginia, hereby authorizes the following amendment to the previously adopted FY 98 budget:

Sources of Funds

Fund Balance - July 1, 1997	<u>\$19,940</u>
-----------------------------	-----------------

Uses of Funds

Clerk of the Circuit Court	\$13,940
Extension Service	<u>6,000</u>

\$19,940

2. FY 97 Budget Adjustment - Juvenile Detention**RESOLUTION****FY 97 BUDGET ADJUSTMENT - JUVENILE DETENTION**

WHEREAS, the Board of Supervisors of James City County, Virginia, has previously budgeted for estimated spending for juvenile detention services.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes the transfer of the following funds from Operating Contingency:

Juvenile Detention:	\$23,300
Sheriff's Department:	<u>14,000</u>
	<u>\$37,300</u>

3. Appointment of Assistant County Administrator as Alternate Member to Virginia Peninsula Regional Jail Authority**RESOLUTION****APPOINTMENT OF MEMBER AND ALTERNATE TO VIRGINIA PENINSULA****REGIONAL JAIL AUTHORITY BOARD**

WHEREAS, the Virginia Peninsula Regional Jail Authority (VPRJA) Board of Directors consists of one member from each participating jurisdiction and the Sheriffs; and

WHEREAS, there are occasions when the regular member is unable to attend VPRJA meetings.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, hereby appoints William C. Porter, Jr., Assistant County Administrator, as the County's alternate member to the VPRJA Board.

4. Crime and Delinquency Prevention Resource Officer Grant Application - Criminal Justice Services Grant**RESOLUTION****APPLICATION FOR CRIMINAL JUSTICES SERVICES GRANT**

WHEREAS, the Department of Criminal Justice Services has grant monies available for a one-year expansion of the middle school Crime and Delinquency Prevention Resource Officer Program established in the Williamsburg/James City County Public Schools; and

WHEREAS, one additional middle school Crime and Delinquency Prevention Resource Officer and additional hours for the current Grant Administrator are needed to responsibly meet the obligations of the grant application; and

WHEREAS, sufficient local matching funds are available from the Police budget.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the submission of grant application for funding of an additional middle school Crime and Delinquency Prevention Resource Officer and additional hours for the current Grant Administration position for a one-year period.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to accept the grant.

E. PUBLIC HEARINGS

1. Case No. SUP-9-97. Haynes Bed and Breakfast

Ms. Jill E. Schmidle, Planner, stated that Ms. Edith Haynes had applied for a special use permit to allow rental of two rooms for use as a bed and breakfast with a maximum of six guest in R-1, Limited Residential District, located in an existing house at 1409 Jamestown Road, further identified as Parcel No. (4-16A) on James City County Real Estate Tax Map No. (48-1).

Staff determined the use was compatible with surrounding development and zoning and consistent with the Comprehensive Plan.

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

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

Board discussion followed regarding perhaps limiting the rental period to 21 days to designate that the permit was for bed and breakfast rental only.

Mr. Steven Haynes, 1409 Jamestown Road, representing the applicant, stated that he was opposed to having a 21-day limitation added as a condition.

Mr. Edwards suggested deferral to allow staff to review the Board's request for wording that would limit the use of bed and breakfast.

Without objection, Mr. Magoon deferred the item until the July 8, 1997, Board of Supervisors meeting.

2. Case No. SUP-18-97. Our Saviour's Lutheran Church Day Care Center

Mr. John Patton, Development Management Technician, stated that Pastor Thord K. Einarsen, on behalf of Our Saviour's Lutheran Church, had applied for a special use permit for a day-care center to be located in the fellowship hall addition to the Church, zoned R-2, General Residential, located at 7279 Richmond Road, further identified as Parcel No. (1-64) on James City County Real Estate Tax Map No. (23-2).

Staff determined that the proposed use was compatible with the surrounding zoning and development, and consistent with the Low Density Residential land use designation of the Comprehensive Plan.

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

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

Mr. DePue made a motion to approve the resolution.

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

RESOLUTION

CASE NO. SUP-18-97. OUR SAVIOUR'S LUTHERAN CHURCH DAY CARE CENTER

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

WHEREAS, the Planning Commission following its public hearing on June 2, 1997, voted 7-0 to approve this application.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that a special use permit be granted for a day care center for up to 30 children in the Fellowship Hall and Sunday School of Our Saviour's Lutheran Church.

Applicant:	Our Saviour's Lutheran Church
Real Estate Tax Map ID No.:	(23-2)
Parcel No.:	(1-64)
Address:	7479 Richmond Road
District:	Powhatan
Zoning:	R-2, General Residential
Conditions:	<ol style="list-style-type: none"> 1. Final approval shall be contingent upon approval by the appropriate agencies that the sewer and water are adequate and that the building meets the appropriate building codes for a day care center. 2. Final approval for the facility is obtained and the necessary permits secured within 18 months from the date of issuance of Case No. SUP-18-97.

3. Case No. SUP-11-96. 360° Communications/Virginia Metronet - Brick Bat Road

Mr. Gary A. Pleskac, Planner, stated that the case had been deferred indefinitely in March 1997, and readvertised. He further stated that Mr. M. E. Gibson, on behalf of Virginia Metronet, Inc., doing business as 360° Communications Company had applied for a special use permit to allow construction of a cellular telecommunications tower facility on approximately .3 acres, consisting of an 185-foot free-standing tower and two 12-feet by 28-feet equipment huts, zoned A-1, General Agricultural, located at 3470 Brick Bat Road, further identified as Parcel No. (1-18) on James City County Real Estate Tax Map No. (44-2).

Mr. Pleskac presented slides showing the balloon test performed on June 11, 1997, and stated that the applicant had reviewed alternate sites as requested. He described the revised conceptual site plan with additional landscaping.

Staff determined that the application sufficiently met intent and implementation measures of the County's Wireless Communications Policy and recommended approval of the special use permit with conditions listed in the resolution.

Mr. Magoon opened the public hearing.

1. Mr. M. E. Gibson stated that the tower height had been reduced from 250 feet to 185 feet; deficiencies were corrected in compliance with criteria specified; 85 alternate sites were considered and the Company had worked with staff on the buffering plan.

Board discussion followed regarding whether Agricultural and Forestal District properties inside and outside the Primary Service Area had been considered and expressed skepticism that no alternate wooded sites were found to be feasible.

2. Mr. Arthur C. Hilstrom, 3724 Brick Bat Road, on behalf of the Hilstrom family, expressed opposition stating the tower should be located at Governor's Land, it can't be put on school property because of health hazards. He asked for denial of the special use permit.

3. Mr. Stan Milton, 136 Saw Mill Road, emphasized reasons to deny the special use permit as the tower would destroy beautiful rural environment, devalue land, and the proposed site distance from residences was less than distances listed in the tower policy. He asked the Board to deny the tower site.

4. Mr. Ed Oyer, 139 Indian Circle, agreed with statements of citizens on Brick Bat Road.

Mr. Magoon closed the public hearing.

Mr. DePue made a motion to deny the special use permit.

Individual Board members spoke to reasons for denial such as the visibility of entire tower because it is sited in an open field; residents persistent in not wanting tower in the neighborhood; and the belief that there is a more appropriate site for a tower in that vicinity.

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

4. Case No. Z-7-97. Michael C. Brown, Ltd./Toano Business Center

Mr. Pleskac stated that Mr. Michael C. Brown had applied to rezone approximately 7.25 acres from A-1, General Agricultural, and B-1, General Business, to M-1, Limited Business/Industrial District, with proffers, for construction of contractor's offices and warehouses, and to rezone approximately 2.5 acres from B-1, General Business, to B-1, General Business, with proffers, located at 8105 Richmond Road, further identified as Parcel No. (1-9) on James City County Real Estate Tax Map No. (12-4).

Mr. Pleskac stated that the applicant had requested deferral until the July 22, 1997, Board of Supervisors meeting to allow time to purchase additional property.

Mr. Magoon opened the public hearing and continued the public hearing.

Without objection, Mr. Magoon deferred the case until the July 22, 1997, Board of Supervisors meeting.

5. Ordinance Amendment, Chapter 6, Adoption of Fire Prevention Code

Mr. Richard M. Miller, Fire Chief, stated that the recent Statewide Fire Prevention Code amendments became effective April 15, 1997. He further stated that the five proposed amendments were not substantive changes and would accomplish the County's adoption of those recent Code amendments.

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

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

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

6. Ordinance Amendment, Administration, Article II, Magisterial District, Election Districts and Elections

Mr. Frank M. Morton, III, County Attorney asked that the ordinance amendment be withdrawn and public hearing be opened and closed. He stated that the amendment would be included with a public hearing advertised for the July 8, 1997, Board of Supervisors meeting.

Mr. Magoon opened and closed the public hearing.

F. **BOARD CONSIDERATIONS**

1. FY 98 Budget - Public Health Services

Mr. John E. McDonald, Financial and Management Services Manager, stated that Peninsula Health District and Williamsburg Area Medical Assistance Corporation (WAMAC) had revised funding and services at the Olde Towne Medical Clinic. He further stated that the Public Health Department would terminate dental and dental sealant programs and eliminate three positions now assigned to Olde Towne Medical Clinic and WAMAC would expand dental services and hire three Full-time Other positions.

Staff requested that authorization be given to the County Administrator to change the allocation of budgeted funds in FY 98, with no new local funds required.

Staff recommended approval of the amended resolution.

Mr. Edwards made a motion to approve the amended resolution..

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

RESOLUTION

FY 98 BUDGET - PUBLIC HEALTH SERVICES

WHEREAS, the Board of Supervisors of James City County has been requested to revise the source and mix of public health services for the benefit of County residents, by transferring service requirements and budgeted funds from the Peninsula Public Health District to the Williamsburg Medical Assistance Corporation (WAMAC).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors, of James City County, Virginia, hereby authorizes the County Administrator to execute amended agreements that would eliminate the clinical services, dental services, and/or the dental sealant program provided by the Public Health District in order to transfer all, or some, of those services and funds to WAMAC.

BE IT FURTHER RESOLVED that the Board of Supervisors authorizes the addition of three full-time other positions if WAMAC assumes responsibility for clinical services previously provided by the Peninsula Health District at the Olde Towne Clinic.

2. FY 98 Strategic Management Plan

Mr. Sanford B. Wanner, County Administrator, stated that the FY 98 Strategic Management Plan outlined approximately 160 objectives that would achieve goals and outcomes previously approved by the Board.

Staff recommended approval of the resolution.

Mr. Magoon made a motion to approve the resolution

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

RESOLUTION

FY 98 STRATEGIC MANAGEMENT PLAN

WHEREAS, James City County government has engaged in a comprehensive strategic management process; and

WHEREAS, the County has received and reviewed input from citizens, staff, and elected officials concerning issues facing the community; and

WHEREAS, the Strategic Management Plan sets forth those goals and objectives that the County intends to accomplish over the next few years.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the FY 98 Strategic Management Plan.

3. Parks and Recreation Fees and Charges Policy

Mr. Anthony Conyers, Jr., Manager, Community Services, stated that he was available to answer questions regarding the Parks and Recreation fees and charges.

Mr. Edwards made a motion to approve the fees and charges policy.

Board members discussed need to clearly understand about target to direct and indirect costs of delivery of programs and implementation of the policy.

Mr. Wanner recommended that the proposed fees of the Community Center dealing with membership be approved effective August 1, 1997, and to defer action on the policy until the August 19, 1997, Board of Supervisors meeting.

Mr. Edwards made a motion to endorse the James City County/Williamsburg Community Center fee structure to go into effect August 1.

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

Mr. Edwards withdrew his motion to approve the policy.

Without objection, Mr. Magoon deferred the action on the proposed fees and changes policy until the August 19, 1997, Board of Supervisors meeting.

G. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, spoke regarding water conservation efforts and stated less demand of water rested with the citizens and more supply of water rested with the Board. He stated James City County advertisements in an Economic Development magazine should cite the industries that are here. He reiterated that the residents of Indian Circle deserve completion of a gravity sewer line.

2. Mr. Jim Dorsey, 105 Glenwood Drive, on behalf of the Parks and Recreation Advisory Commission, voiced opposition to the fees and charges policy that included a percentage of the fees going for indirect costs unrelated to Parks and Recreation expansion.

H. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner responded to Mr. Oyer that the advertisement information would be provided to Mr. Keith Taylor, Economic Development Director. He asked Mr. Foster to respond to the sewerline issue.

Mr. Foster responded that the Health Department reported no septic system drainfield failures in original section of Indian Circle and options providing sewers at modest fees could still be addressed in the future.

Mr. Wanner stated that Mr. Archie S. Cannon, Jr., Chairman, Board of Directors, Patriot's Colony, Inc., extended compliments for the cooperation and professionalism of staff in helping the Patriot's Colony project to fruition. He announced that a public comment period would be held Tuesday, July 1, 1997, at

7:00 p.m., by Historical Commission, Ruritans and James City County to receive input on possible relocation and funding of Norge Station.

Mr. Wanner noted a celebration would be held July 1, 1997, 10:00 a.m., in Surry for the Virginia Department of Transportation removal of tolls from Jamestown-Scotland Ferry System.

He recommended an executive session pursuant to Section 2.1-344(A)(3) to consider acquisition/disposition of parcels of property for public use and Section 2.1-344(A)(1) to consider a personnel matter, appointment of individuals to County boards and/or commissions.

I. BOARD REQUESTS AND DIRECTIVES

Mr. Magoon read a letter of commendation addressed to Mr. Joe Basilone, Code Compliance, from Mr. Jesse Young, Kingsmill Resort, for assistance throughout the Golf Clubhouse project.

Mr. Sisk made a motion to convene into executive session as recommended by the County Administrator, at 10:12 p.m.

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

Mr. Magoon reconvened the Board into open session at 10:36 p.m.

Mr. DePue made a motion to approve the executive session resolution.

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

RESOLUTION

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.

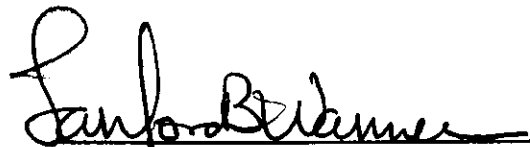
Mr. Magoon made a motion to appoint John Berkenkamp and John Carmichael to the Industrial Development Authority for 4-year terms, terms expiring July 8, 2001, respectively; to reappoint Felecia Manley to the Clean County Commission for a 3-year term, term expiring May 1, 2000; and to appoint Sara Patton to the Lower James River Advisory Board for a 4-year term, term expiring June 24, 2001.

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

Mr. DePue made a motion to adjourn.

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

The Board adjourned at 10:37 p.m.



Sanford B. Wanner
Clerk to the Board

062497bs.min

JUN 24 1997

ORDINANCE NO. 9A-10

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 6, FIRE PROTECTION, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, FIRE PROTECTION CODE, SECTION 6-1, ADOPTION OF VIRGINIA STATEWIDE FIRE PREVENTION CODE; SECTION 6-2, DEFINITIONS; SECTION 6-3, AMENDMENTS; AND SECTION 6-4, OPEN BURNING OF YARD WASTE.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 6, Fire Protection, is hereby amended and reordained by amending Section 6-1, Adoption of Virginia Statewide Fire Prevention Code; Section 6-2, Definitions; Section 6-3, Amendments; and Section 6-4, Open burning of yard waste.

Chapter 6. Fire Protection

Article I. Fire Prevention Code

Sec. 6-1. Adoption of Virginia Statewide Fire Prevention Code.

Pursuant to section 27-97 of the Code of Virginia, ~~the 1996 edition of~~ the Virginia Statewide Fire Prevention Code is adopted by James City County, except as otherwise modified or amended in this article, and the same is hereby incorporated fully by reference. This code shall be referred to in this chapter as the "fire prevention code." The fire department shall enforce the fire prevention code under the direction of the fire official.

Ordinance to Amend and Reordain
 Chapter 6. Fire Protection
 Page 2

Sec. 6-2. Definitions.

The following words and terms used in the fire prevention code shall have the definitions ascribed to them in this section:

~~Chief appointing authority or appointing authority shall mean the James City County Board of Supervisors.~~

~~Chief authority or chief administrative officer shall mean the county administrator of James City County.~~

~~Deputy shall mean the James City County Deputy Fire Marshal.~~

Fire official shall mean the fire marshal of the county or his duly authorized representative. ~~For the purposes of this code, the term code official shall also mean fire official.~~

Yard waste shall include leaves, brush, grass, stumps, scrub vegetation, bushes, and twigs or branches less than one inch in diameter.

Sec. 6-3. Amendments.

The fire prevention code is hereby amended, modified and changed as set out in the following subsections of this section.

- (1) Section ~~F-104.2~~ ~~F-107.2.3~~, *Permits required*, is hereby amended to read as follows:

Permits shall be obtained, when required, from the fire official. Permits shall be available at all times on the premises designated in the permit for inspection of the fire official. Fees for such permits, and for inspections, shall be in such amounts as are from time to time established by resolution of the board of supervisors.

(2) ~~Section F-107.2.3.1 Permits required, is hereby added:~~

~~With exception of mandatory permits for explosives and blasting agents, the county shall require permits issued as a part of the Statewide Fire Prevention Code for the following:~~

(a) ~~Fireworks~~

(b) ~~Open burning of debris waste as a result of land clearing, refuse as result of agricultural and forestal management practices, and bonfires~~

(3) ~~Section F-109.2.4.1 Local Fees is hereby amended:~~

(a) ~~\$50.00 per event or \$100.00 per calendar year (at same site with similar displays) for fireworks.~~

(b) ~~With exception to fireworks permits, no fees are required for Statewide Fire Prevention Code permits issued by the fire department.~~

Ordinance to Amend and Reordain
Chapter 6. Fire Protection
Page 4

(2) ~~4~~ *Section F-105.1., Local appeals F-113.2.1.1., Board of Appeals*, is hereby amended to read as follows:

(a) The James City County Building Board of Appeals ~~Board of Building Code Appeals~~ is hereby constituted as and shall serve as the James City County Fire Prevention Code Appeals Board ~~of Fire Prevention Code Appeals~~.

~~(b) The chairman and secretary of the James City County Building Board of Appeals shall serve in that same capacity for the James City County Fire Prevention Appeals Board. A majority of the members of the board shall constitute a quorum. The board shall operate in accordance with the applicable provisions of the Administrative Process Act set forth in section 9-6.14 of the Code of Virginia. All board hearings shall be open to the public.~~

~~(c) The fire official shall provide clerical support to the board within personnel and budgeting limits.~~

~~(d) Appeals to the board may be made by any person aggrieved by any decision or interpretation of the fire official made under the provisions of this code. The board shall meet within thirty days of receipt of an appeal application by the board.~~

(5) *Section F-113.2.3 Chairman is hereby amended to read:*

The chairman of the James City County Board of Building Code Appeals shall also serve as chairman of the James City County Board of Fire Prevention Code Appeals.

(6) *Section F-311.1.1 Specifications is hereby amended to read:*

Fire lanes, when required, shall conform to the specifications issued by the fire official. The fire official shall maintain records of those properties which are required to establish and maintain fire lanes.

(37) *Section F403.3., Allowable burning, is hereby amended to read:*

Open burning shall be allowed without prior notification to the fire official for recreational fires, highway safety flares, smudge pots and similar occupational needs, and the burning of yard waste, twigs or branches one inch or greater in diameter and household debris, except garbage, when conducted in accordance with this code; provided, however, pursuant to section 10.1-1142 of the Code of Virginia, that:

- (a) It shall be unlawful for any owner or lessee of land to set fire to, or to procure another to set fire to, any woods, brush, logs, leaves, grass, debris or other inflammable material upon such land unless he previously has taken all reasonable care and precaution, by having cut and piled the same or carefully cleared around the same, to prevent the spread of such fire to lands other than those owned or leased by him. It shall also be unlawful for any employee of any such owner or

Ordinance to Amend and Reordain
 Chapter 6. Fire Protection
 Page 6

lessee of land to set fire to or to procure another to set fire to any woods, brush, logs, leaves, grass, debris or other inflammable material upon such land unless he has taken similar precautions to prevent the spread of such fire to any other land.

- (b) During the period beginning February 15 and ending ~~May 1~~ April 30 of each year, even though the precautions required by the foregoing subsection have been taken, it shall be unlawful in this county for any person to set fire to, or to procure another to set fire to, any brush, leaves, grass, debris or field containing dry grass or other inflammable material capable of spreading fire located in or within three hundred feet of any woodland, brushland or field containing dry grass or other inflammable material, except between the hours of 4:00 p.m. and 12:00 midnight.

The provisions of this subsection shall not apply to any fires which may be set on ~~rights-of-way of railroad companies by their authorized employees~~ forest lands and between February 15 and March 1 of each year on lands owned by the Department of Game and Inland Fisheries.

- (c) Any person who builds a fire in the open air, or uses a fire built by another in the open air, within one hundred fifty feet of any woodland, brushland or field containing dry grass or other inflammable material shall totally extinguish the fire before leaving the area and shall not leave the fire unattended.
- (d) Any person violating any of the provisions of subsections (a), (b) or (c) of this section shall be guilty of a Class 3 misdemeanor for each separate offense. If any forest fire originates as a result of the violation by any person of any provision of this section, such person shall, in

~~addition to the above penalty, be liable to the Commonwealth for the full amount of all expenses incurred by the Commonwealth in suppressing such fire. Such amounts shall be recoverable by action brought by the State Forester in the name of the Commonwealth on behalf of the Commonwealth and credited to the Forestry Operations Fund.~~

(+ 8) Section F-403.5, *Location requirements*, is hereby amended to read:

The location for any open burning shall not be less than 50 feet from any structure and provisions shall be made to prevent the fire from spreading to within 50 feet of any structure. Fires in approved containers shall be permitted; provided, that such fires are not less than 15 feet from any structure.

Exception: The location of any open burning conducted for the disposal for land clearing refuse which has been permitted in accordance with regulations concerning open burning issued by the Virginia Department of Environmental Quality shall not be less than 500 feet from an occupied dwelling.

(5 9) Section ~~F-403.7 + F-403.5~~, *Open burning prohibited-Construction sites*, is hereby added:

Open burning of construction waste, demolition waste, refuse or any other type of waste is prohibited when located at a construction or demolition site. The removal of such waste from a construction or demolition site and the subsequent burning of the same at another location in James City County is also prohibited.

Ordinance to Amend and Reordain
Chapter 6. Fire Protection
Page 8

Exception: Approved open burning for the disposal of land clearing refuse shall be allowed on construction sites when conducted in accordance with the regulations concerning open burning issued by the Virginia Department of Environmental Quality and this Code.

(6 ~~10~~) Section ~~F-403.8~~ ~~F-403.6~~, *Open burning stipulations*, is hereby amended to read:

Notwithstanding any other provision of this article ~~chapter~~, open burning shall not be used for waste disposal purposes, the quantity, of material to be burned shall not exceed five feet in any dimension, and the fuel shall be chosen to minimize the generation and emission of air contaminants.

Exception: Approved burning for forest management and agriculture practices and open burning for disposal of land clearing refuse when conducted in accordance with regulations concerning open burning issued by the Virginia Department of Environmental Quality.

(7 ~~11~~) Section *F-3101.2. Permit required*, is hereby amended to read:

A permit shall be obtained from the county administrator ~~fire official~~ for the display or discharge of fireworks. Upon written application by an organization or association representing a fair or amusement park or by any administrator, organization or group of individuals to the county ~~fire department~~, a permit may be issued for the display of fireworks; provided, that such display shall be held under proper supervision and at a location safe to persons and property. Such application ~~shall be made at least fifteen days in advance of the date of display or discharge of the fireworks~~ and shall include a description of the types of fireworks to be displayed and the location to be used to ensure the safety of those in attendance. The permittee shall furnish a bond in the

Ordinance to Amend and Reordain
Chapter 6. Fire Protection
Page 9

amount required by section F-3103.4 of the Virginia Statewide Fire Prevention Code. A permit, when issued, shall be for a stated period. No such permit shall be issued by the ~~county administrator~~ *fire official* to any organization or association or group of individuals unless the ~~county administrator~~ *fire official* is satisfied that the display will be held at an appropriate site. A member of the fire department shall, prior to the issuance of such a permit, inspect the scene for its appropriateness for the display of fireworks. ~~and make a recommendation to the county administrator.~~ The ~~county administrator or an~~ *an* authorized member of the fire department may revoke any such permit during the display if such is conducted in any manner not in keeping with the application or in compliance with this section and the display shall thereupon be immediately stopped.

~~In order to cover administrative and inspection costs, the applicant shall pay, prior to issuance of the permit, a fee of fifty dollars per event or one hundred dollars for an annual permit to hold multiple events, during a calendar year, in the same location with similar fireworks, projectiles, launchers and height limits.~~

(8 ~~12~~) Section F-3102.1, *Definitions, general definition*, is hereby amended to read:

~~The following words and terms shall, for the purpose of this chapter and as stated elsewhere in this code, have the meanings shown herein.~~

"Fireworks" shall mean and include any item known as a firecracker, torpedo, skyrocket or other substance or thing, of whatever form or construction, that contains any explosive or ~~inflammable~~ *flammable* compound or substance and is intended or commonly known as fireworks and which explodes, rises into the air, or travels laterally, or fires projectiles into the air. The term "fireworks" shall also include pinwheels, sparklers, fountains or Pharaoh's serpents. The term "fireworks" shall not include auto flares or caps for pistols.

Ordinance to Amend and Reordain
Chapter 6. Fire Protection
Page 10

(13) *Section F-3103.1 General is amended to read:*

The rules and regulations for fireworks shall be in accordance with NFPA 1123, 122A and 1126 listed in Chapter 44.

(14) *Section F-3103.4 Bond for display is amended to read:*

The permit holder shall furnish a bond at a minimum in the amount of \$1,000,000.00 for the payment of all potential damage caused by either to the person on property due to the permitted display and arising from any acts of the permit holder or agent of the permit holder. The property owner shall agree in writing to the bond amount prior to the permit being issued.

Sec. 6-4. Open burning of yard waste.

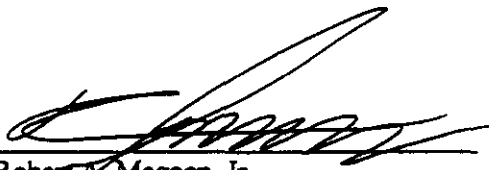
The fire prevention code is hereby amended, modified and changed as set out in the following subsection of this section:


(1) * *Section F-403.3.1. Burning yard waste, is hereby added.*

(a) Notwithstanding any other provision of this Code, open burning of yard waste by any person shall be unlawful within the county except in those areas zoned A-1, General Agriculture; provided, however, even within A- 1 acres, yard waste shall not be burned in platted

Ordinance to Amend and Reordain
Chapter 6. Fire Protection
Page 11

subdivisions consisting of five or more lots of which at least three lots have occupied dwellings or in manufactured home parks. In those areas where the open burning of yard waste is otherwise permitted, it shall be unlawful for any person to burn yard waste during the period beginning February 15 and ending ~~May~~ April 30 of each year, except between the hours of 4:00 p.m. and 12:00 midnight.


Robert A. Magoon, Jr.
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

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

Adopted by the Board of Supervisors of James City County, Virginia, this 24th day of June, 1997.