

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 8TH DAY OF SEPTEMBER, 1998, AT 7:02 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

Jack D. Edwards, Chairman, Berkeley District
David L. Sisk, Vice Chairman, Roberts District

John J. McGlennon, Jamestown District
Ronald A. Nervitt, Powhatan District
M. Anderson Bradshaw, Stonehouse District
Sanford B. Wanner, County Administrator
Frank M. Morton, III, County Attorney

B. PUBLIC COMMENT

1. Mr. Robert McGaw, 2416 Sarah Spence, spoke of the Freedom of Information Act and citizens want open government by the public officials.

2. Mr. Jeff Cattell, 2805 Sassafras Court, requested staff to comment on Alternate Route 5 proffers from Governor's Land, and asked for clarification of comments regarding Freedom of Information Act.

3. Ms. Loretta Garrett, 5606 Riverview, Chairman of 1998 James City County Fair, reported over 25 percent increase in attendance, expressed pride in hosting the family and community based event, and thanked all who made it possible.

Mr. Edwards responded that staff would provide information on the Governor's Land proffers, and that balance was needed in the Freedom of Information Act for public's information and local officials' need to gather information to make decisions.

C. PRESENTATION

1. Virginia Municipal League, Beth MacDonald

Ms. Beth MacDonald, Director of Marketing and Member Services for the Virginia Municipal League, reported on the benefits of being a member of the Virginia Municipal League and thanked the County for its participation.

D. CONSENT CALENDAR

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

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

On a roll call, the vote was: AYE: Sisk, McGlennon, Bradshaw, Nervitt, Edwards (5). NAY: (0).

1. Minutes of August 18, 1998, Regular Meeting, and August 25, 1998, Work Session
2. Resolution of Appreciation, Betty S. Pettengill

RESOLUTION

BETTY S. PETTENGILL

WHEREAS, Betty S. Pettengill has served the citizens of James City County and the City of Williamsburg since February 1962, and was elected Treasurer in 1987; and

WHEREAS, during Betty S. Pettengill's 36 years of service, she was a leader among Virginia Treasurers; and

WHEREAS, she received the Treasurer's Association of Virginia's "Treasurer of the Year 1993-1994" award for work with the Association and the Compensation Board of Virginia, and in 1995, the "Commonwealth Award" for "dedicated service to the Commonwealth of Virginia;" and

WHEREAS, she has implemented procedures in the Treasurer's Office to upgrade and improve services to the citizens of James City County and the City of Williamsburg in an efficient and effective manner.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, expresses its sincere appreciation for her dedicated service and fiscal stewardship to the community and extends every good wish for continued success to

BETTY S. PETTENGILL

3. Declaration/Revocation of Local State of Emergency

RESOLUTION

LOCAL EMERGENCY

WHEREAS, the Board of Supervisors of the County of James City, Virginia, does hereby find that on August 26, 1998, James City County faced potential heavy property damage and threats to the life and safety of its citizens due to Hurricane Bonnie; and

WHEREAS, James City County opened a shelter for the evacuation of persons within the County and declared a local emergency on August 27, 1998; and

WHEREAS, the State of Emergency was lifted on August 28, 1998.

NOW, THEREFORE, BE IT PROCLAIMED AND ORDERED that the Board of Supervisors of James City County, Virginia, confirms the declaration of an emergency on August 27, 1998, by the James City County Director of Emergency Services.

IT IS FURTHER PROCLAIMED AND ORDERED that the State of Emergency was lifted on August 28, 1998, by the James City County Director of Emergency Services.

4. Changes to Personnel Policies and Procedures Manual, Chapter 8, Grievance Procedure

RESOLUTION

**REVISION TO CHAPTER 8, GRIEVANCE PROCEDURE, OF THE
JAMES CITY COUNTY PERSONNEL POLICIES AND PROCEDURES MANUAL**

WHEREAS, James City County provides a process to afford an immediate and impartial method for the resolution of disputes which may arise between the County government and employees; and

WHEREAS, James City County's Personnel Policies and Procedures shall be in compliance with the Code of Virginia.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby adopt the attached revision to Chapter 8, Grievance Procedure, of the James City County Personnel Policies and Procedures Manual.

5. Trash and Grass Lien - 110 Fairview

RESOLUTION

CODE VIOLATION LIEN

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

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

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors, James City County, Virginia, that in accordance with Sections 10-7 and 10-5 of the Code of the County of James City, Virginia, the Board of Supervisors directs that the following delinquent charges for services rendered, plus interest at the legal rate from the date of recordation until paid, shall constitute a lien against the Property to wit:

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

ACCOUNT: Lester and Lisa Dudney
110 Fairview
Williamsburg, VA 23188

DESCRIPTION: 110 Fairview - High Weeds and Grass

TAX MAP NO.: (13-4) (06-0-0025)
James City County, Virginia

AMOUNT DUE: \$60

6. Road Name Change for a Portion of Two Rivers Road

RESOLUTION

STREET NAME CHANGE FOR A PORTION OF TWO RIVERS ROAD

WHEREAS, Section 15.2-2019 of the Code of Virginia provides counties the authority to name, by resolution, roads inside their jurisdictional limits; and

WHEREAS, Two Rivers Road is an existing access road within the Governor's Land at Two Rivers development; and

WHEREAS, Two Rivers Point is an approved subdivision located at the western end of Two Rivers Road; and

WHEREAS, the section of Two Rivers Road located within the Two Rivers Point subdivision will serve a different function than the remainder of the road, as an internal subdivision street rather than an access, through-road.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the name Two Rivers Point for the portion of Two Rivers Road north of the Two Rivers Clubhouse.

7. Agreement - Treasurer and James City County

RESOLUTION

AGREEMENT/TREASURER/JAMES CITY COUNTY

WHEREAS, the Treasurer and the Board of Supervisors of James City County, Virginia, believe it to be in the best interests of the Treasurer's employees that they be on the County's personnel policies and on the County's pay plan.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and direct its Chairman execute that certain Agreement dated September 8, 1998, by and between the County of James City and the Office of the Treasurer.

8. Reappointment of James City County Member of Community Criminal Justice Board

RESOLUTION

REAPPOINTMENT OF COMMUNITY CRIMINAL JUSTICE BOARD MEMBERS

WHEREAS, §53.1-183 of the Code of Virginia, requires appointments to the Community Criminal Justice Board (CCJB) be made by local governing bodies; and

WHEREAS, James City County appoints three members to each serve a three-year term.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby reappoint the Chief Magistrate of the 9th Judicial Circuit or designee, the Chief of Police of James City County, and the Director of Clinical Services of the Colonial Services Board to three year terms as the James City County members, effective August 21, 1998.

Mr. Bradshaw read and presented the resolution to Ms. Betty S. Pettengill. Ms. Pettengill thanked the Board.

E. PUBLIC HEARINGS

1. Case No. SUP-15-98. Esquire III Self Storage, U-Haul Trailer Rental

Mr. Paul D. Holt, III, Senior Planner, stated that Mr. Douglas Haller had applied for rental of U-Haul trucks and trailers from an existing self-storage facility on an 0.76 acre, zoned B-1, General Business, located at 3283 Lake Powell Road, further identified as Parcel No. (1-25) on James City County Real Estate Tax Map No. (48-1).

Staff determined that the proposal, with conditions listed, was compatible with surrounding zoning and development; single access from Lake Powell Road; minimal increase of traffic; property within Primary Service Area; and proposal was consistent with the Comprehensive Plan.

In concurrence with staff, the Planning Commission, by a vote of 4-0, with three absent, recommended approval of the special use permit with conditions listed in the resolution.

Board and staff discussed landscaping, signage, whether maintenance of vehicles would be performed on site, and the existing security fence.

Mr. Edwards opened the public hearing.

1. Mr. Douglas Haller, applicant, stated that approval would enhance the self-storage business to offer clients full service opportunities and would work with Planning on landscaping.

The Board asked whether U-Haul limited the number of vehicles on-site; intention for signage to attract customers; enforcement of parking regulations and sizes of vehicles to be parked.

Mr. Edwards closed the public hearing.

Mr. Sisk made a motion to approve the resolution.

Mr. Edwards expressed a concern for the business along a Community Character Corridor, and Mr. McGlennon noted several concerns creating a greater impact from signage, parking, and number of vehicles.

Mr. Nervitt asked staff to contact the Virginia Department of Transportation about possibility of replacement of the unsightly security fence at Esquire III Self Storage.

On a roll call, the vote was: AYE: Sisk, Bradshaw, Nervitt (3). NAY: McGlennon, Edwards (2).

RESOLUTION

CASE NO. SUP 15-98. ESQUIRE III SELF STORAGE. U-HAUL TRAILER RENTAL

- WHEREAS, the Board of Supervisors of James City County has adopted, by ordinance, specific land uses that shall be subjected to a special use permit process; and
- WHEREAS, the applicant has requested a special use permit to allow for the rental of trucks at 3283 Lake Powell Road; and
- WHEREAS, the property is located on land zoned B-1, General Business, and can be further identified as Parcel No. (1-25) on the James City County Real Estate Tax Map No. (48-1); and
- WHEREAS, the Planning Commission, following its public hearing on August 3, 1998, voted 4-0 with three absences to recommend approval of this application.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-15-98 as described herein with the following conditions:

1. The applicant shall, within 60 days of approval of this special use permit, submit a site plan depicting the restriping of the parking area for the proposed rental vehicles and trailers, or the special use permit shall become void.
2. There shall be no more than five (5) rental vehicles and trailers on the site at any one time, including no more than two (2) motorized trucks and three (3) trailers. The vehicles shall be parked only in the location identified on the attached existing conceptual plan. This area shall be identified on the required site plan. The rental vehicles and trailers shall not be parked in the areas marked on the attached existing conceptual plan. These areas shall also be shown on the site plan required in Condition 1.
3. As part of the site plan required in Condition 1, the applicant shall submit a landscape screening plan acceptable to the Director of Planning. The purpose of the landscape screening plan shall be to screen the vehicles from Route 199 and to screen the existing security fence along the front of the site. All plantings shown on the plan shall be installed within 90 days after approval of the site plan. If weather conditions are not conducive to planting the required material during this period, the applicant shall supply a bond or letter of credit prior to final approval of the site plan. The bond or letter of credit shall be acceptable to the Director of Planning in an amount sufficient to cover all planting materials and labor.

2. Case No. SUP-17-98. Gagne Bed and Breakfast

Mr. Holt stated that John and Pamela Gagne had applied to operate a bed and breakfast in a single-family detached residence, on 0.49± acre, zoned R-1, Limited Residential, located at 1407 Jamestown Road, further identified as Parcel No. (4-16B) on James City County Real Estate Tax Map No. (48-1).

Staff determined that the proposal was consistent with surrounding development and zoning and the Comprehensive Plan; public water and sewer are available; and access was by a single driveway Jamestown Road.

In concurrence with staff, the Planning Commission, by a vote of 4-0, recommended approval of the case with conditions listed in the resolution.

Board and staff discussed Condition No. 2 of the resolution for clarification.

Mr. Edwards opened the public hearing and continued the case until the September 22, 1998, Board of Supervisors meeting to allow time for staff to propose new language for Condition No. 2.

3. Case No. SUP-18-98. The Williamsburg Pottery/Retail Greenhouse Replacement

Ms. Tamara A. M. Rosario, Senior Planner, stated that Mr. Richard Costello, on behalf of Williamsburg Pottery Factor, had applied for a special use permit to allow the replacement of four structures within the Williamsburg Pottery Factory with three similarly sized structures, with an increase of total sales area of 29,212 square feet. She further stated that the property was zoned M-1, Limited Business/Industrial, on 113.08 acres, located at 6692 Richmond Road, further identified as Parcel No. (1-31) on James City County Real Estate Tax Map No. (24-3).

Staff determined that the proposal was compatible with surrounding zoning and development, consistent with the Comprehensive Plan, was within the Primary Service Area and accessed from Richmond and Lightfoot roads.

In concurrence with staff, the Planning Commission, by a vote of 4-0, recommended approval with conditions listed in the resolution.

Mr. Edwards opened the public hearing.

1. Mr. Richard Costello, AES, was available for questions.

Mr. Edwards closed the public hearing.

Mr. Bradshaw made a motion to approve the resolution.

On a roll call, the vote was: AYE: Sisk, McGlennon, Bradshaw, Nervitt, Edwards (5). NAY: (0).

RESOLUTION

SPECIAL USE PERMIT 18-98.

WILLIAMSBURG POTTERY FACTORY RETAIL GREENHOUSE REPLACEMENT

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a special use permit process; and

WHEREAS, the applicant has requested a special use permit that would allow new retail structures and outdoor display areas within the Williamsburg Pottery Factory, located at 6692 Richmond Road, property which is further identified as Parcel No. (1-31) on James City County Real Estate Tax Map No. (24-3); and

WHEREAS, the Planning Commission, following its public hearing on August 3, 1998, voted 4-0 to recommend approval of this application.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-18-98 as described herein with the following conditions:

1. If construction has not commenced on the project within eighteen (18) months from the issuance of the special use permit, the permit shall become void. Construction shall be defined as the obtaining of any permits for building construction and demolition, connections to water and sewer, clearing and grading of the site, and the installation of footings and/or foundations.
2. This special use permit shall be limited to the following structures and uses:
 - a. The construction of two new replacement structures for the Retail Greenhouse, Cactus Building, entrance foyer, and Production Greenhouse, whose combined retail floor area shall not exceed 54,450 square feet; and
 - b. A new retail and outdoor display area to replace two steel frame structures, whose area shall not exceed 6,400 square feet.

The new structures and retail/outdoor display area shall be generally located as shown on the exhibit entitled, "Retail Greenhouse Replacement" prepared by AES Consulting Engineers, dated June 22, 1998.

3. The net increase in retail floor area for the Williamsburg Pottery Factory shall not exceed 29,250 square feet in combination with the retail floor area of the proposed buildings, and the relocation and/or demolition of the existing structures on the site of the proposed building.
4. The applicant shall transfer a portion of the required building foundation landscaping to the parking area along Richmond Road and the entrance ways to the Pottery on Lightfoot Road. The remainder of the required building foundation landscaping shall remain in the vicinity of the proposed buildings in order to enhance pedestrian corridors. This landscaping shall be in the form of deciduous shade trees and shrubs, the mix of which shall be approved by the Planning Director prior to final site plan approval.

4. Case No. ZO-3-98. Ordinance Amendment, Chapter 24, Zoning, Article V, Districts, Division 13, Limited Industrial District, M3

Ms. Jill Schmidle, Planner, introduced Mr. Joseph R. McCleary of the Business and Industrial Zoning Ordinance Update Committee, who stated that the M-3, Limited Industrial District, had been analyzed and the proposed ordinance amendment would seek to establish a unique district that would facilitate and protect industrial capital investment within the County, focusing on research and technology uses.

Mr. McCleary stated that the Committee proposed that the revised district be titled RT, Research and Technology District, minimum area of 25 acres with green space, and a required master plan. He stated the revisions facilitated the goals outlined in the Comprehensive Plan for broadening the business and industrial tax base for the County.

Staff concurred with the Committee and recommended approval of the proposed ordinance amendment.

The Board and Mr. McCleary discussed possible location of RT areas, additional green space, and land use and economic development incentives.

Mr. Edwards 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: Sisk, McGlennon, Bradshaw, Nervitt, Edwards (5). NAY: (0).

Mr. Wanner stated the ordinance amendment would be another advantage for recruitment of technology groups and clean industry.

5. Case No. Z-6-98. Ordinance Amendment. Chapter 24. Zoning. Article I. In General. Floodplain Designation

Mr. Holt stated that the Grab Bag Zoning Ordinance Committee found no substantive changes were needed and recommended definitions found in Section 24-589 be placed with definitions. Staff recommended changes in administrative procedure in designation of floodplain districts and the official map.

Staff and the Committee recommended approval of the ordinance amendment. The Planning Commission by a vote of 4-0 with three members absent, endorsed the amendments.

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

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

On a roll call, the vote was: AYE: Sisk, McGlennon, Bradshaw, Nervitt, Edwards (5). NAY: (0).

6. Case No. ZO-8-98. Ordinance Amendment. Chapter 24. Zoning. Article V. Districts. Division 9. Limited Business, LB, and Division 10. General Business District, B1

Mr. McCleary stated that the Business and Industrial Zoning Ordinance Update Committee had proposed several stylistic changes to make text consistent with other districts and substantive changes that would allow a level of flexibility for increasing business without compromising the high standard of development within the County to B-1, General Business. He further stated that changes to LB, Limited Business, would be presented to the Board at a later date.

Staff concurred with the Committee and recommended approval of the ordinance amendment to B-1, General Business, and the Planning Commission, at its September 2, 1998, meeting voted to approve revisions to B-1, General Business, ordinance amendment.

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

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

On a roll call, the vote was: AYE: Sisk, McGlennon, Bradshaw, Nervitt, Edwards (5). NAY: (0).

7. Outdoor Gathering Permit Application. Joe Morgan Builders

Mr. John T. P. Horne, Manager of Development Management, stated that Joe Morgan Builders had applied to hold an outdoor gathering for fund raising for a 15-year old in need of a heart transplant, on Saturday, September 12, 1998, from 11:00 a.m. to 5:00 p.m., at Eastern State Hospital, 4601 Ironbound Road. He further stated that all approvals had been received.

Staff recommended approval of the resolution.

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

Mr. McGlennon made a motion to approve the resolution.

On a roll call, the vote was: AYE: Sisk, McGlennon, Bradshaw, Nervitt, Edwards (5). NAY: (0).

RESOLUTION

OUTDOOR GATHERING PERMIT

JOE MORGAN BUILDERS

WHEREAS, James City County has received an application from Joe Morgan Builders to hold an outdoor gathering on Saturday, September 12, 1998, from 11:00 a.m. to 5:00 p.m., at Eastern State Hospital, 4601 Ironbound Road, Williamsburg, Virginia 23185; and

WHEREAS, the application was reviewed and approved with comments by the James City County Police Chief, Fire Chief, Emergency Medical Coordinator, the County Health Department, Building Official, and the Zoning Administrator.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes the County Administrator to issue a permit to Joe Morgan Builders to hold an outdoor gathering as proposed on the Outdoor Gathering Permit Application and the written comments made thereto.

F. BOARD CONSIDERATION

1. Williamsburg Area Civic and Cultural Center (WA3C)

Mr. John E. McDonald, Manager of Financial and Management Services, stated that resolution authorized the transfer of \$5,000 from Operating Contingency to the Contributions Account to finance a study on the feasibility of a cultural center in the Williamsburg area.

Staff recommended approval of the resolution.

Mr. Edwards stated that the committee's stated goal was to raise enough capital funds to build a cultural center and to achieve a break-even operation. He emphasized that the group had stated it would not be asking the County for additional funds.

Mr. Edwards made a motion to approve the resolution.

On a roll call, the vote was: AYE: Sisk, McGlennon, Bradshaw, Nervitt, Edwards (5). NAY: (0).

RESOLUTION

WILLIAMSBURG AREA COMMUNITY CULTURAL COMMISSION (WA3C)

WHEREAS, the Board of Supervisors has been asked to contribute \$5,000 to the Williamsburg Area community Cultural Commission (WA3C) to assist in financing a feasibility study.

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

From:

Operating Contingency	<u>\$5,000</u>
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To:

Contributions - WA3C	<u>\$5,000</u>
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G. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, stated that citizens had the right to have an open government.

H. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner responded to Mr. Cattell's information request regarding Governor's Land proffers, that the proffers included water and sewer and was not solely for the construction of Alternate Route 5.

Mr. Wanner advised that the Chesapeake Public Schools, on behalf of a group of Hampton Roads cities and school divisions, had initiated a natural gas cooperative with gas service provided by Virginia Natural Gas and billing provided by Aquila Energy Marketing. He stated that Chesapeake Public Schools were seeking participants to further lower costs; school boards of Chesapeake, Virginia Beach, and Norfolk, Norfolk Redevelopment and Housing Authority and the City of Virginia Beach have agreed to participate.

Staff recommended commitment under this cooperative agreement for one year.

Mr. Edwards made a motion to authorize the County's commitment to the natural gas cooperative for a one-year period.

On a roll call, the vote was: AYE: Sisk, McGlennon, Bradshaw, Nervitt, Edwards (5). NAY: (0).

Mr. Wanner recommended adjournment until the September 22, 1998, regularly scheduled Board of Supervisors meeting. He recommended that the Board go into executive session pursuant to Section 2.1-344(A)(1) of the Code of Virginia to consider a personnel matter, appointment of individuals to County boards and/or commissions.

I. BOARD REQUESTS AND DIRECTIVES

Mr. McGlennon expressed hope that the 4th Circuit Court of Appeals ruling on powers of local government to regulate wireless communications facilities would help the County in its pending case.

Mr. Nervitt asked for a work session to discuss the Freedom of Information Act.

After a brief discussion, Mr. Edwards stated that the Board would think about any additional topics regarding procedures for a work session discussion during the next two weeks.

J. EXECUTIVE SESSION

Mr. Edwards made a motion to go into executive session pursuant to Section 2.1-344(A)(1) of the Code of Virginia to consider appointment of individuals to County boards and/or commissions, at 9:07 p.m.

On a roll call the vote was: AYE: Sisk, McGlennon, Bradshaw, Nervitt, Edwards (5). NAY: (0).

Mr. Edwards reconvened the Board into open session at 9:20 p.m.

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

On a roll call, the vote was: AYE: Sisk, McGlennon, Bradshaw, Nervitt, Edwards (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 were heard, discussed or considered by the Board as were identified in the motion, Section 2.1-344(A)(1), consider appointment of individuals to County boards and/or commissions, convening the executive meeting.

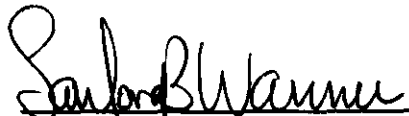
Mr. Edwards made a motion to appoint William Greenwood to the Industrial Development Authority to serve an unexpired term, term expiration July 8, 2001; to appoint Paul Tubach to the Lower James River Advisory Board to serve an unexpired term, term expiration June 24, 2001; to appoint Bonnie Winston to the Williamsburg Regional Library Board for a four-year term, term expiration June 30, 2002; to appoint Richard Orr to the Social Services Advisory Board for a four-year term, term expiration July 1, 2002; to reappoint Marsha Braxton to the Social Services Advisory Board for a three-year term, term expiration July 1, 2001; and to reappoint Henry Lindsey to the Wetlands Board for a five-year term, term expiration October 1, 2003.

On a roll call, the vote was: AYE: Sisk, McGlennon, Bradshaw, Nervitt, Edwards (5). NAY: (0).

Mr. Sisk made a motion to adjourn.

On a roll call, the vote was: AYE: Sisk, McGlennon, Bradshaw, Nervitt, Edwards (5). NAY: (0).

The Board adjourned at 9:21 p.m.


 Sanford B. Wanner
 Clerk to the Board

CHAPTER 8
GRIEVANCE PROCEDURE

Section 8.1 Objective

To support our value of "Communicating openly and constructively and working in a collaborative manner," James City County provides a process to afford an immediate and impartial method for the resolution of disputes which may arise between the County government and employees.

Section 8.2 Applicability

- A. The Grievance Procedure shall apply to all non-probationary employees in permanent and limited term positions in the following:
1. James City County, James City Service Authority, James City County Transit;
 2. the Department of Social Services of James City County, in accordance with Section 15.2-1507(A)(4) of the Code of Virginia;
 3. the Office of the General Register of James City County;
 4. the Office of the Commissioner of the Revenue; and
 5. the Office of the Treasurer.
- B. The Grievance Procedure shall also apply to employees in Other positions in an agency which agrees to follow it.
- C. The Grievance Procedure shall not apply to the following:
1. Appointees of elected groups or individuals;
 2. Officials and employees who by charter or other law serve at the will or pleasure of an appointing authority;
 3. Deputies and executive assistants to the chief administrative officer of James City County;
 4. Agency heads or chief executive officers of James City County, defined as department managers reporting directly to the County Administrator;
 5. Employees whose terms of employment are limited by law;

6. Employees in temporary or seasonal positions, or employees in their probationary period; and
 7. Law-enforcement officers as defined in Chapter 10.1 (§2.1-116.1 et seq.) of Title 2.1 whose grievance is subject to the provisions of Chapter 10.1 and who have elected to proceed pursuant to those provisions in the resolution of their grievance, or any other employee electing to proceed pursuant to any other existing procedure in the resolution of his grievance.
- C. The Board of Supervisors may include employees in any of the excepted categories, C 1-7, within the coverage of this grievance procedure.
- D. The County Administrator shall determine the officers and employees excluded from the Grievance Procedure, pursuant to subsection (C), and shall be responsible for maintaining an up-to-date list of the affected positions. (See Section 8.17)

Section 8.3 Definitions

For purposes of Chapter 8, the following definitions shall apply:

- A. County Administrator shall be either the County Administrator himself or his designee.
- B. Human Resource Manager shall be either the Human Resource Manager himself or his designee.
- C. Grievant shall be any employee eligible to use this procedure having a grievance, as defined below.
- D. Grievance shall be a complaint or dispute by an employee eligible to use this procedure relating to his or her employment, including, but not limited to:
 1. disciplinary actions, including dismissals, demotions and suspensions, provided that dismissals shall be grievable whenever resulting from formal discipline or unsatisfactory job performance;
 2. the application of Personnel policies, procedures, rules and regulations, including the application of policies involving matters referred to in subdivision 8.4(c) below;
 3. acts of retaliation as the result of using the grievance procedure or of participation in the grievance of another James City County employee;
 4. discrimination on the basis of race, color, creed, political affiliation, age, religion, disability, national origin or sex; and

5. acts of retaliation because the employee has complied with any law of the United States or of the Commonwealth, has reported any violation of such law to a governmental authority, has sought any change in law before the Congress of the United States or the General Assembly, or has reported an incidence of fraud, abuse, or gross mismanagement.

Section 8.4 Management Responsibilities

Management shall be the Board of Supervisors and its designees who establish policy for James City County. Management reserves the exclusive right to manage the affairs and operations of the County government. Accordingly, the following complaints are not grievable:

- (a) establishment and revision of wages or salaries including performance evaluations and/or concomitant pay raises, position classifications or general benefits;
- (b) work activity accepted by the employee as a condition of employment or work activity which may reasonably be expected to be a part of the job content;
- (c) the contents of ordinances, statutes or established personnel policies, procedures, rules and regulations;
- (d) failure to promote, except where an employee can show established promotional policies or procedures were not followed or fairly applied;
- (e) the methods, means and personnel by which work activities are to be carried on;
- (f) termination, layoff, demotion or suspension from duties because of lack of work, reduction in work force, or job abolition except where such action affects an employee who has been reinstated within the previous six months as the result of the final determination of a grievance;
- (g) the hiring, promotion, transfer, assignment, and retention of employees within the County service; and
- (h) the relief of employees from duties of the County in emergencies.

In any grievance brought under the exception to Section 8.4(f), the action shall be upheld upon a showing by the County that there was a valid business reason for the action and the employee was notified of such reason in writing prior to the effective date of the action.

Section 8.5 Procedure Generally

- A. For purposes of this procedure, Department Manager shall also include the General Registrar, Commissioner of the Revenue, and the Treasurer.
- B. For purposes of this procedure, "days" shall be defined as calendar days, unless otherwise noted, and time periods shall begin on the day following that on which any action is to be taken or report rendered, and run without regard to weekends or holidays. If a time period ends on a weekend or holiday, the last day of the time period shall be the end of the business day of the first working day following the weekend or holiday.
- C. Time limits established under this procedure are intended to be strictly construed and enforced. Any time limits may be extended if both parties agree to such extensions in writing.
- D. All stages of the Grievance Procedure beyond the First Step shall be reduced to writing on forms supplied by the Human Resource Department.
- E. At any Step beyond the Second Step, the grievant, at his option, may have present a representative of his choice. A person shall not serve as both a witness and a representative. The grievant shall bear any cost involved in employing representation and in preparing his case.
- F. After the initial filing of a written grievance, failure of either party to comply with all substantial procedural requirements of the Grievance Procedure, including the panel hearing, without just cause, shall result in a decision in favor of the other party on any grievable issue, provided the party not in compliance fails to correct the noncompliance within five (5) workdays of receipt of written notification of the compliance violation. Such written notification by the grievant shall be made to the County Administrator. The Human Resource Department shall provide written notification to the grievant. The County Administrator may require a clear written explanation of the basis for just cause extensions or exceptions. The County Administrator shall determine compliance issues. Compliance determinations made by the County Administrator shall be subject to judicial review by filing a petition with the Circuit Court within thirty days of the compliance determination.

Section 8.6 Human Resource Department Responsibilities

The Human Resource Department shall serve as an impartial administrator of this process. The Human Resource Department shall: open a file and assign a number to the grievance; ensure that all parties are aware of the process; monitor procedures and time frames; notify either party of noncompliance; be informed of the status of the grievance by both parties at each step; maintain appropriate documentation, and perform all other responsibilities as specified in the Procedure. In the

event that the grievant is an employee of the Human Resource Department, the Assistant County Administrator shall serve as the impartial administrator of the process.

Section 8.7 Grievability

- A. Decisions regarding grievability, including the question of access to the procedure, shall be made by the County Administrator pursuant to procedures set forth below.
1. Decisions shall be made at the request of the grievant or his department manager within ten (10) days of such request, at any time prior to the panel hearing.
 2. Neither the County Attorney nor the Commonwealth's Attorney shall be authorized to decide the issue of grievability.
 3. A copy of the decision shall be sent to the grievant and to the department manager on Grievance Form B.
- B. Decisions by the County Administrator that a grievance does not qualify for a panel hearing may be appealed by the grievant to the Circuit Court of James City County for a hearing on the issue as provided in Section 14.2-1507(A)(9) of the Code of Virginia.
1. Proceedings for the review of the decision of the County Administrator shall begin by the grievant submitting written notification of intent to appeal on Grievance Form B to the County Administrator within ten (10) days from the date of receipt of his decision.
 2. The County Administrator shall give a copy of the Grievance Form B to all parties to the grievance.
 3. Within ten (10) days after receiving Grievance Form B, the County Administrator shall transmit the following to the Clerk of Circuit Court of James City County: a) a copy of his decision; b) a copy of the written notification to appeal; and c) any exhibits the County Administrator used to make the decision. A list of the evidence furnished to the court shall also be given to the grievant.
 3. The failure of the County Administrator to transmit the record within the allowed time period shall not prejudice the rights of the grievant.
 4. If the County Administrator fails to transmit the record within the time allowed, the Circuit Court, on motion of the grievant, may issue a Writ of Certiorari requiring the County Administrator to transmit the record on or before a certain date.

- C. Within thirty (30) days of receipt by the Clerk of Court, the Court, sitting without a jury, shall hear the appeal on the record and such additional evidence as may be necessary to resolve any controversy as to the correctness of the record. The Court may receive such other evidence as the ends of justice may require. The Court may affirm, reverse or modify the decision of the County Administrator. The decision of the Court shall be rendered no later than the fifteenth (15th) day from the date of conclusion of the hearing. The decision of the Court is final and is not appealable.
- D. The issue of grievability may be raised at any step of the Grievance Procedure prior to the panel hearing, or it shall be waived by all parties. Once raised, the issue shall be resolved before further processing of the grievance. A request that grievability be determined shall suspend the time limits under this procedure. Time limits shall begin to run again the day after the decision on grievability is made by the County Administrator or the Circuit Court.
- E. The classification of a complaint as nongrievable by either the County Administrator or the Circuit Court of James City County shall not be construed to restrict any employee's right to seek, or management's right to provide, customary administrative review of complaints outside of the scope of the Grievance Procedure.

Section 8.8 Consolidation of Grievances

If more than one grievance is filed arising from the same factual circumstances, the County Administrator may, at any time prior to a panel hearing, consolidate those grievances for joint processing unless one of the grievants objects. If the grievances are consolidated, all time limits set forth in this Procedure shall thereafter be calculated from the date of the last filed grievance. Once consolidated, the grievances shall all be processed as a single matter.

Section 8.9 First Step Procedure: Immediate Supervisor Level

- A. No later than twenty (20) days after the occurrence or condition giving rise to the grievance, the employee affected shall identify the grievance verbally to his immediate supervisor. Within seven (7) days of such presentation, the immediate supervisor shall give his verbal response to the employee with respect to the particular grievance. The failure of an employee to identify the grievance within the time specified above shall constitute a forfeiture and a waiver of any rights to proceed further and shall terminate the grievance.
- B. If a satisfactory resolution is not reached by this informal process, the employee shall notify the Human Resource Department of the intent to file a grievance and obtain a copy of Grievance Form A. The employee shall reduce the grievance to writing on Grievance Form A, identifying specifically and in detail the nature of the grievance and the expected remedy. Grievants shall be entitled, should they prevail in their grievance, only to the relief specifically requested. Relief

requested may include reversal of action taken by the County, such as, but not limited to, being reinstated to a former position; awarding back pay; lessening a disciplinary action, or ordering expungement of information contained in the grievant's personnel files or other files maintained by the County. Such written grievance shall be presented to the immediate supervisor within seven (7) days of the supervisor's verbal reply to the oral grievance. The supervisor shall then reply in writing to this written grievance within seven (7) days of receiving it.

- C. If the employee's supervisor is also his department manager, he shall pass by the Second Step of this Procedure and proceed immediately to the Third Step. If the employee's supervisor is the County Administrator, he shall pass by the Third Step of this procedure and proceed immediately to the Fourth Step.

Section 8.10 Second Step Procedure: Department Manager Level

If a satisfactory resolution of the grievance is not reached at the First Step above, the grievant shall notify the Human Resource Department and so indicate on Grievance Form A and submit the grievance to his department manager or principal officer within seven (7) days following receipt of the First Step reply. Within seven (7) days of receipt of such submission, the department manager or principal officer shall schedule and hold a meeting with the grievant to review the grievance. The only persons who may be present at this meeting are the grievant, the department manager, and appropriate witnesses for each side. Witnesses shall be present only while actually providing testimony. The meeting may be adjourned to another time or place by agreement of the parties. A written reply to the grievance shall be provided to the grievant and the Human Resource Department within seven (7) days after the meeting.

Section 8.11 Third Step Procedure: County Administrator Level

If a satisfactory resolution of the grievance is not reached at the termination of the Second Step, the employee shall notify the Human Resource Department and so indicate on Grievance Form A and submit the grievance to the County Administrator within seven (7) days following receipt of the Second Step reply. The County Administrator shall schedule and hold a meeting with the employee within seven (7) days of receiving the submission. The employee may have legal counsel, or another representative present at the Third Step meeting. The County Administrator may have legal counsel present only if the grievant is represented by legal counsel. Either side may call appropriate witnesses. Witnesses shall be present only while actually providing testimony. Proceedings shall be in accordance with guidelines established by the County Administrator and provided to the grievant by the Human Resource Department prior to the meeting. The County Administrator may designate that the grievance shall be heard by the Assistant County his designee. A written response to the grievance shall be provided to the grievant and the Human Resource Manager on Grievance Form A within seven (7) days following the Third Step meeting.

Section 8.12 Fourth Step Procedure: The Grievance Panel Hearing

If a satisfactory resolution to the grievance is not reached at the Third Step, the grievant shall notify the Human Resource Department and so indicate on Grievance Form A, and request a hearing before a Grievance Panel (Panel). The request shall be submitted to the Human Resource Manager within seven (7) days of receipt of the Third Step response.

A new impartial Grievance Panel shall be constituted for each grievance. The Human Resource Manager shall arrange for the Panel selection. If the Human Resource Manager is a party to the grievance, the request form shall be submitted to the County Administrator and the County Administrator shall make the necessary arrangements.

Section 8.13 Composition of the Grievance Panel

- A. The Panel shall be composed of three (3) members who are County employees and who shall be chosen in the following manner: one member shall be appointed by the grievant, one member shall be appointed by the County Administrator, and the third member shall be selected by the first two. To ensure objectivity, the Panel shall not be composed of the following persons:
1. the grievant;
 2. the County Administrator;
 3. the Assistant County Administrator;
 4. the grievant's Department Manager
 5. the grievant's immediate supervisor;
 6. any person directly involved with the grievance being heard or the complaint or dispute giving rise to the grievance;
 7. persons residing in the same household as the grievant;
 8. the following relatives of anyone directly involved with the grievance or that person's spouse: spouse, parent, child, descendants of a child, sibling, niece, nephew, and first cousin;
 9. an attorney having direct involvement with the subject matter of the grievance or a partner, associate, employee, or co-employee of the attorney;
 10. managers who are in the direct line of supervision of the grievant.
- B. Both the grievant and the County Administrator shall make their appointments to the Panel on Grievance Form C. These two members shall select the third member. All appointments shall be made by notifying the Human Resource Manager on Grievance Form C. A complete panel shall be designated on Grievance Form C within ten (10) days of the request for a panel hearing.
- C. In the event the first two members cannot reach an agreement as to the third member within ten (10) days, as provided above, the Human Resource Manager, after confirming such fact, shall immediately notify the County Attorney's Office. The County Attorney shall request the Chief Judge of the Circuit Court to appoint the third member.
- D. The third member of the Panel shall serve as Chairperson. The Chairperson shall set the time for the hearing and notify the grievant, the County Administrator, and the Human Resource Manager. The grievant and the County Administrator shall be responsible for arranging the presence of their witnesses. The hearing shall be held as soon as possible after the date of the original request for a hearing,

allowing sufficient time for access to records as specified in 8.14(B) below. Either party may have present at this meeting an attorney or a representative of his choice.

Section 8.14 Rules for Grievance Panel Hearing

- A. The Panel is constituted solely for the purpose of determining whether a grievance filed by an employee is merited and what remedy, if any, should be provided. The Panel may not formulate or change policy, rules or procedures. The Panel shall determine whether the grievant has demonstrated, by a preponderance of the evidence, that the action complained of was without cause, or done in violation of a law, regulation, procedure, or other policy. It shall not otherwise substitute its judgment for that of management.
- B. The Human Resource Manager shall provide the Panel with copies of the grievance record prior to the hearing, and provide the grievant with a list of documents furnished to the Grievance Panel.

The grievant and his attorney shall be allowed access to and copies of all relevant files or materials intended to be used in the proceeding at least ten (10) days prior to the scheduled hearing.

- C. Documents, exhibits, and lists of witnesses are to be exchanged between the parties at least seven (7) days in advance of the hearing.
- D. The Panel shall conduct the hearing as follows:
1. The Panel has the discretion to determine the propriety of attendance at the hearing of persons not having a direct interest in the hearing, and at the request of either party, the hearing shall be private.
 2. The Panel shall consider any grievance de novo without regard to any proposed disposition at any other steps in the Procedure, unless the grievant and the County Administrator shall agree, in writing, that the issue(s) shall be so limited. In all other cases, the Panel shall consider the matter as if presented to it in the first instance.
 3. The Panel may at any time ask the parties or their representatives for statements clarifying the issues involved in the grievance.
 4. Exhibits, when offered by the grievant or the County Administrator, may be received as evidence by the Panel, and when so received shall be marked and made a part of the record.
 5. The parties may offer evidence and cross examine witnesses and shall produce such additional evidence as the Panel may deem necessary to an

- understanding and determination of the dispute. There shall be no formal rules of evidence for the Panel; however, the Panel shall be the judge of the relevancy of any evidence offered. All evidence shall be taken in the presence of the Panel and the parties, except by mutual consent of the parties. The grievant shall proceed first, and shall bear the ultimate burden of persuasion. At the conclusion of the grievant's evidence, the County Administrator shall have the opportunity to present his evidence.
6. At the conclusion of the County Administrator's presentation, the Chairperson shall specifically inquire of all parties whether they have any further proof to offer or witnesses to be heard. Upon receiving a negative response, the Chairperson shall permit the parties to summarize their cases and shall then declare the hearing closed.
 7. The hearing may be reopened by the Panel on its own motion or upon application of a party for good cause shown at any time before a final decision is made.
 8. Upon the request of the Panel, the County Administrator or the grievant, the Human Resource Manager shall insure that a record of the hearing is made and retained for not less than 12 months. The record may be in writing or by a taped recording. The grievant shall be entitled to a copy of such record upon payment of a reasonable fee, including the costs of labor in providing the record.
 9. The Human Resource Manager may be called upon by the Panel as a witness at any time to provide specific policy interpretation or clarification of applicable County policy and these procedures.
 10. In all matters not otherwise covered by this Section, the Panel shall determine the procedures to be followed.

Section 8.15 Decision of Grievance Panel

- A. The decision of the Panel shall be filed in writing on Grievance Form D by the Panel Chairperson with the department manager, the County Administrator and the grievant, not later than fifteen (15) days after the completion of the hearing. The decision shall state in full the reasons for the decision, and the remedy to be granted. Decisions shall be by majority vote of the entire Panel. The decision of the Panel shall be final and binding and shall be consistent with law and written policy.
- B. The question of whether the decision of the Panel is consistent with written policy shall be determined by the County Administrator, unless he has a direct personal involvement with the event or events giving rise to the grievance, in which case the decision shall be made by the Commonwealth Attorney of James City

County. He shall request the Grievance Panel to reconsider any decision which in his judgment is not consistent with the policies applicable to grievance resolution. He shall not disturb any decision consistent with the written policies.

- C. If the Panel determines that the grievant prevails on any grievable complaint or dispute, it may remedy the complaint by awarding all or some of the relief which the grievant has specifically requested. The Panel may not award relief beyond that requested by the grievant, nor may it increase the severity of any action taken by the County.
- D. If the Panel finds that a department manager failed to follow established procedures governing promotion, demotion, transfer, hiring or layoff, it shall remand the grievance to that department manager with the instruction that the action taken be rescinded, and proper procedures be followed.

Section 8.16 Implementation of Remedy

- A. The County Administrator shall implement any remedy which may be ordered by the Grievance Panel, provided that such decision is consistent with law and written policies.
- B. If the County Administrator finds that the Panel decision is not consistent, he shall inform the Panel and the grievant of his determination within seven (7) days of the filing of the decision. If the County Administrator finds the decision is not consistent, he shall not implement the decision of the Panel.
- C. The Grievant or the County Administrator may petition the Circuit Court for an order to implement the decision of the Panel.
- D. The review of the Circuit Court shall be limited to the question of whether the Panel's decision was consistent with provisions of law and written policy.
- E. If the Circuit Court finds the Panel's decision was consistent, the County Administrator will implement the decision.

Section 8.17 Positions Not Covered By the Grievance Procedure

In accordance with Section 8.2 C of the Grievance Procedure, the policy shall not apply to the following positions:

Appointees of Elected Groups or Individuals

Circuit Court Judge and employees of that office
County Administrator

County Attorney
 Commissioner of the Revenue
 Clerk of the Circuit Court and employees of that office
 Commonwealth Attorney and employees of that office
 Fire Marshal
 General Registrar
 Sheriff and employees of that office
 Treasurer

Deputies and Executive Assistants to the Chief Administrative Officer of James City County:

Assistant County Administrator

Agency Heads or Chief Executive Officers of James City County

Community Services Manager
 Development Manager
 Fire Chief
 General Manager- James City Service Authority
 Human Resource Manager
 Manager of Financial and Management Services
 Police Chief

Positions for Which the County Serves as Fiscal Agent, such as:

Employees of the Victim-Witness Assistance Program
 Employees of the Court Appointed Special Advocate (CASA) Program
 Employees of the Virginia Peninsula Regional Jail
 Employees of the Merrimac Juvenile Detention Center

Revised 9-8-98

THE AGREEMENT, made and entered into this 8th of September, 1998, by and between the County of James City, hereinafter referred to as "County," and the Office of the Treasurer, hereinafter referred to as "Officer,"

WHEREAS the County and the Officer are desirous of entering into an agreement setting forth their understanding as it pertains to pay plans and personnel policies as set forth in Section 15.2-1506, et seq of the Code of Virginia, 1950, as amended.

WITNESSETH

That for and in consideration of the mutual covenants set forth herein the parties agree as follows:

1. The County of James City agrees to place the employees in full- or part-time permanent positions, including deputies, of the Constitutional Officer executing this agreement on the County's pay plan and personnel policies (Personnel Policies and Procedures Manual). In addition, employees of this office who are classified and compensated by the State, shall follow the County Personnel Policies and Procedures Manual. Unless specifically stated, this agreement shall not apply to the Treasurer, herself, except in the provision of employee benefits.

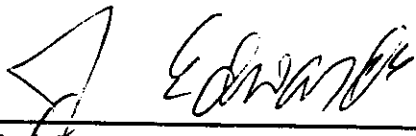
2. The County and the Officer agree that by virtue of the execution of this agreement all employees named in Paragraph 1 above shall be included under the County's pay plan and personnel policies. The pay plan shall include salary and all considerations relevant thereto and any and all benefits set forth thereunder. The personnel plan includes but is not limited to all rules, regulations,

policies, and safeguards involved with or pertaining to employee recruitment, selection, and discipline, including grievance procedure and terminations.

3. The County and Officer agree that all paychecks and all payroll deduction checks shall be issued through the County Finance Office with reimbursement by the State or the Officer, when appropriate, made to the credit of the County General Fund.

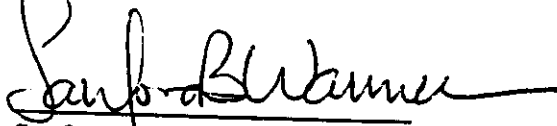
4. The term of this agreement shall commence from the date of execution of this agreement and shall terminate at the end of the Officer's elected term.

BOARD OF SUPERVISORS

by: 
Jack D. Edwards, Chairman

SUPERVISOR	VOTE
SISK	AYE
MCGLENNON	AYE
BRADSHAW	AYE
NERVITT	AYE
EDWARDS	AYE

ATTEST


Sanford B. Wanner, Clerk

CONSTITUTIONAL OFFICER

by: 
M. Ann Davis, Treasurer

SEP 8 1998

ORDINANCE NO. 31A-181

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE V, DISTRICTS, DIVISION 13, LIMITED INDUSTRIAL DISTRICT, M-3, BY RENAMING DIVISION 13, RESEARCH AND TECHNOLOGY DISTRICT, RT; BY AMENDING SECTION 24-460, STATEMENT OF INTENT; SECTION 24-461, PERMITTED USES; SECTION 24-462, USES PERMITTED BY SPECIAL USE PERMIT ONLY; SECTION 24-463, OUTDOOR OPERATIONS AND STORAGE; BY DELETING AND REPLACING SECTION 24-464, AREA REQUIREMENTS AND MINIMUM LOT WIDTH WITH NEW SECTION 24-464, DOCUMENTS REQUIRED FOR SUBMISSION; BY AMENDING AND RENUMBERING SECTION 24-465, SETBACK REQUIREMENTS WITH NEW NUMBER 24-472; BY DELETING AND REPLACING SECTION 24-466, SIDE AND REAR YARDS WITH NEW SECTION 24-466, PROCEDURES; BY DELETING AND REPLACING SECTION 24-467, SPECIAL PROVISIONS FOR THE WAIVER OF AREA, LOT WIDTH, YARD AND SETBACK REQUIREMENTS WITH NEW SECTION 24-467, DEVELOPMENT PLAN; BY AMENDING AND RENUMBERING SECTION 24-468, HEIGHT LIMITS AND HEIGHT LIMITATION WAIVERS WITH NEW NUMBER 24-473; BY AMENDING AND RENUMBERING SECTION 24-469, SIGN REGULATIONS AND PARKING REQUIREMENTS WITH NEW NUMBER 24-474; BY RENUMBERING SECTION 24-470, UTILITIES WITH NEW NUMBER 24-475; AND BY RENUMBERING SECTION 24-471, SITE PLAN REVIEW WITH NEW NUMBER 24-476; BY ADDING NEW SECTION 24-465, MASTER PLAN - ADMINISTRATIVE REVIEW FEES; SECTION 24-468, SAME - ADMINISTRATIVE REVIEW FEE; SECTION 24-469, MINIMUM AREA OF DISTRICTS; SECTION 24-470, REQUIREMENTS FOR IMPROVEMENTS AND DESIGN; AND SECTION 24-471, OPEN SPACE.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article V, Districts, Division 13, Research and Technology District, RT, Section 24-460, Statement of intent; Section 24-461, Permitted uses; Section 24-462, Uses permitted by special use permit only; Section 24-463, Outdoor operations and storage; by adding new Section 24-464, Documents required for submission; Section 24-465, Master plan - administrative review fee; Section 24-466, Procedures; Section 24-467, Development plan; Section 24-468, Same - administrative review fee; Section 24-469, Minimum area of districts; Section 24-470, Requirements for improvements and design; Section 24-471, Open space; by amending Section 24-472, Setback requirements; Section 24-473, Height limits and height limitation waivers; Section 24-474, Sign regulations and parking requirements; by renumbering Section 24-470 to Section 24-475, Utilities; and by renumbering Section 24-471 to Section 24-476, Site plan review.

Chapter 24. Zoning

Article V, Districts

Division 13, ~~Limited Industrial District, M-3~~: *Research and Technology District, RT*

~~DIVISION 13. LIMITED INDUSTRIAL DISTRICT, M-3. RESEARCH AND TECHNOLOGY DISTRICT, RT~~

Sec. 24-460. Statement of intent.

The primary purpose of the *Research and Technology District, RT*, ~~Limited Industrial District, M-3~~, is to establish an area where the principal use of land is for ~~limited industrial~~, *research and technology* operations which are not ordinarily compatible with residential and retail business development. The specific intent of this district is to accomplish the following:

- (1) Encourage the use of land for *research and technology* ~~limited industrial~~ purposes;
- (2) ~~Encourage large-scale, master-planned developments in a campus or park-like setting;~~
- (3) Prohibit residential and retail business developments on land reserved for *research and technology* ~~limited industrial~~ uses; and
- (34) Establish minimum requirements to protect the health, safety and welfare of the citizens of James City County from the effects of the development of *research and technology* ~~limited industrial~~ uses.

Sec. 24-461. Permitted uses.

In the ~~Limited Industrial District, M-3~~ *Research and Technology District, RT*, buildings to be erected on land to be used shall be for one or more of the following or similar uses:

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Accessory uses as defined in section 24-2.

Antennas and towers, self-supported (not attached to buildings), and tower mounted wireless communications facilities which are 60 feet or less in height.

~~An~~ Apartment or living quarters for a guard, caretaker, ~~proprietor~~ or other person employed on the premises which is clearly secondary to the ~~research and technology~~ industrial use of the property.

~~Automobile service station, if fuel is sold, then in accordance with section 24-38.~~

Banks and other similar financial institutions as an accessory use to other permitted uses.

~~Child day~~ Day care and child-care centers as an accessory use to other permitted uses.

Clinics as an accessory use to other permitted uses.

~~Contractor offices, equipment storage yards, shops and warehouses with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property.~~

Corporate offices.

Courier services.

Data processing centers as an accessory use to other permitted uses.

Fire stations.

~~Health clubs, exercise clubs and fitness centers as accessory use to other permitted uses.~~

~~Heavy equipment sales and service, with major repair limited to a fully enclosed building.~~

~~Industrial dry cleaners and laundry.~~

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Industrial ~~and technical~~ training schools.

Janitorial service establishments.

Laser technology production.

~~Machinery sales and service with major repair limited to a fully enclosed building.~~

~~Manufacture and assembly of musical instruments, toys, novelties and rubber and metal stamps.~~

~~Manufacture and bottling of soft drinks and wine.~~

~~Manufacture and processing of textiles and textile products.~~

~~Manufacture, compounding, assembly or treatment of products made from previously prepared paper, plastic, metal, textiles, tobacco, wood, paint, fiber glass, glass, rubber, leather, cellophane, canvas, felt, fur, horn, wax, hair and yarn.~~

~~Manufacture, compounding, processing or packaging of cosmetic, toiletry and pharmaceutical products.~~

~~Manufacture of carpets and carpet yarns.~~

~~Manufacture of pottery and ceramic products using kilns fired only by gas or electricity.~~

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

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

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

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~~Marine or waterfront businesses to include receipt, storage and transshipment of waterborne commerce, or seafood receiving, packing and distribution.~~

Nurseries.

Off-street parking as required by section 24-53.

~~Printing and publishing establishments.~~

Private streets within "~~qualing~~ qualifying industrial parks" in accordance with section 24-55.

Publicly owned solid waste container sites.

Radio and television stations ~~studios~~ and accessory antenna or towers, self-supported (not attached to buildings), which are 60 feet or less in height.

Research, development and design facilities or laboratories.

Restaurants as an accessory use to other permitted uses.

Telephone exchanges and telephone switching stations.

Timbering in accordance with section 24-43.

~~Fire, transmission, glass, body and fender and other automotive products service with major repair limited to a fully enclosed building and vehicle storage screened from adjacent property by landscaping and fencing.~~

~~Warehouse, storage and distribution centers with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property.~~

Water impoundments, new or expansion of, less than 50 acres and with dam heights of less than 25 feet.

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~~Water well drilling establishments.~~

~~Welding and machine shops with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property.~~

Wireless communications facilities that utilize alternative mounting structures, or are building mounted or are camouflaged, and comply with division 6, Wireless Communications Facilities.

Sec. 24-462. Uses permitted by special use permit only.

In the ~~Limited Industrial District, M-3~~ **Research and Technology District, RT**, buildings to be erected or land to be used for one or more of the following or similar uses shall be permitted only after the issuance of a special use permit, by the board of supervisors:

Antennas or towers (not attached to buildings) in excess of 60 feet in height.

Electrical generation facilities (public or private), steam generation facilities, electrical substations with a capacity of 5,000 kilovolt amperes or more and electrical transmission lines capable of transmitting 69 kilovolts or more.

Heliports and helistops and accessory uses.

~~Manufacture and storage of ice, including dry ice.~~

~~Manufacture, compounding, processing or packaging of food and food products, but not the slaughter of animals.~~

Manufacture of furniture.

Manufacture of glass products.

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~~Marinas, docks, piers, yacht clubs, boat basins, and servicing areas for same, if fuel is sold, then in accordance with section 24-38.~~

Petroleum storage.

Railroad facilities including tracks, bridges, switching yards and stations. However, spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad right-of-ways and track and safety improvements in existing railroad right-of-ways are permitted generally and shall not require a special use permit.

~~Resource recovery facilities.~~

~~Sanitary landfills in accordance with section 24-40 and waste disposal facilities.~~

Solid waste transfer stations.

Tower mounted wireless communications facilities in accordance with division 6, Wireless Communications Facilities, in excess of 60 feet in height.

Transmission pipelines (public or private), including pumping stations and accessory storage, for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids. However, extensions or private connections to existing pipelines, which are intended to serve an individual customer and which are accessory to existing or proposed development, are permitted generally and shall not require a special use permit.

~~Truck stops, if fuel is sold, then in accordance with section 24-38.~~

~~*Warehouse, storage and distribution centers to serve only uses permitted in the RT, research and technology district, with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property.*~~

~~*Waste disposal facilities.*~~

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Water facilities (public or private), and sewer facilities (public), including, but not limited to, treatment plants, pumping stations storage facilities and transmission mains, wells and associated equipment such as pumps to be owned and operated by political jurisdictions. However, ~~private connections to existing mains, with no additional connections to be made to the line, which are intended to serve an individual customer and which are accessory to existing or proposed development, and distribution lines and local facilities within a development, including pump stations, are permitted generally and shall not require a special use permit. However, the following are permitted generally and shall not require a special use permit:~~

- (a) ~~private connections to existing mains that are intended to serve an individual customer and that are accessory to existing or proposed development, with no additional connections to be made to the line, and~~
- (b) ~~distribution lines and local facilities within a development, including pump stations.~~

Water impoundments, new or expansion of, 50 acres or more or with dam height of 25 feet or more.

Sec. 24-463. Outdoor operations and storage.

Any commercial or industrial ~~research or technology~~ operation or storage conducted in whole or in part out-of-doors shall meet the requirements of section 24-41.

Sec. 24-464. Area requirements and minimum lot width: ~~Documents required for submission.~~

- (a) ~~Minimum lot size shall be 10,000 square feet.~~
- (b) ~~Minimum width of lots shall be 75 feet at the setback line.~~

(a) ~~Required documents. The applicant shall submit the following documents to the planning director for submission to the planning commission.~~

- (1) *Application for rezoning*
- (2) *Master plan, 30 copies, ten submitted with application for rezoning with balance of required copies submitted at the request of staff in preparation for planning commission review.*
- (b) *Master plan. The master plan shall be prepared by a licensed surveyor, engineer, architect, landscape architect, or planner. A scale may be used so that the entire parcel can be shown on one piece of paper no larger than 30 inches by 48 inches. It shall include:*
- (1) *An inset map at a scale of not less than one inch to one mile showing the property in relation to surrounding roads, subdivisions or major landmarks.*
- (2) *A north arrow.*
- (3) *The location of existing property lines, watercourses or lakes, wooded areas and existing roads which are within or adjoin the property.*
- (4) *The approximate location of proposed streets and rights-of-ways with an indication of whether public or private; the approximate location of common open space areas and all areas proposed for dedication to public use within the project.*

Each section or area of the master plan shall be designated as follows:

<i>Area Designation</i>	<i>Type of Development</i>
<i>F</i>	<i>Warehouse uses</i>
<i>G</i>	<i>Office uses</i>
<i>H</i>	<i>Light industrial, research or technology uses</i>
<i>I</i>	<i>Institutional or public uses</i>

<i>J</i>	<i>Areas of common open space</i>
<i>M*</i>	<i>Structures containing a mixture of uses</i>
<i>X</i>	<i>Other structures, facilities or amenities</i>

For purposes of this article, the term "common open space area" shall refer to any tract of land intended to be used in common primarily by users of the RT, research and technology district.

**Areas of a master plan designated M(structures containing a mixture of uses) shall indicate in parenthesis, following the M designation, the appropriate letter designations of the types of uses contained within the structure (e.g., M(HF)) in the order of their proportion in the structure.*

- (5) *Where applicable, the master plan shall contain a table which shows, for each section or area of different uses, the following:*
 - a. *The use;*
 - b. *Approximate development phasing;*
 - c. *Maximum square feet of floor space for office, industrial, research, or technology uses.*
 - d. *Maximum acreage of each use.*
- (6) *Schematic plans which shall indicate the phasing of development and master water, sewer, and drainage plans.*
- (7) *A statement satisfactory to the county attorney on the guarantees and assurances to be provided for the maintenance of common open space, sidewalks, parking, private streets, and other privately owned but common facilities serving the project.*

The master plan shall depict and bind the approximate boundaries and general location of all principal land uses, structure square footage, roads, rights-of-ways, accesses, open spaces, public uses, and other features located or to be located on the sites. The master plan shall be reviewed and upon approval by the board of supervisors shall become binding. Thereafter, all amendments to the master plan shall be in accordance with section 24-13 of this chapter. Approved development plans, provided for in section 24-467, shall supersede the master plan and schematic plans.

Sec. 24-465. Master plan - Administrative review fees.

Submittal of a master plan and subsequent revisions proposed by the applicant to the planning commission shall be accompanied by a fee as specified in section 24-7.

Sec. 24-466. Procedures.

(a) Report of the planning director. The planning director may refer copies of the master plan to other local public officials for their comments, and the planning director shall prepare a report with recommendations regarding the application. A copy of the report shall be sent to the applicant. When all materials necessary for application are complete and the application is deemed ready for planning commission review, the application, master plan, and report of the planning director shall be placed on the agenda of the planning commission at its next regularly scheduled meeting.

The report of the planning director shall include, but not necessarily be limited to, the following:

- (1) Evaluation of the proposed uses at the site in relation to the county's Comprehensive Plan.*
- (2) Evaluation and recommended changes in the design of land use and circulation shown on the master plan of the property.*
- (3) Impact of the proposal on surrounding property and the environment.*

- (4) *Final recommendation regarding approval of the application and master plan or changes which are necessary.*
- (b) *Consideration by the planning commission and board of supervisors. The procedures for public hearing and consideration by the planning commission and board of supervisors shall be as set forth in section 24-13.*
- (c) *Guarantees. The code compliance director shall not issue any certificate of occupancy until the applicant has guaranteed the completion of public improvements, including, but not limited to, public roads, public water and sewer facilities, shown on the development plan by providing either a letter of credit, certified check, cash escrow, cash payment or other surety, approved by the county attorney.*

Sec. 24-467. Development plan.

Development plans shall be submitted and reviewed in accordance with article III of this chapter or with the county's subdivision ordinance, whichever is applicable. Development plans may be submitted for review after approval of a master plan by the board of supervisors. All development plans shall be consistent with the master plan. Development plans may deviate from the master plan if the planning commission concludes, after reviewing written comments from the planning director, that the plan does not significantly alter the character of land uses or other features or conflict with any conditions placed on the approval of rezoning. A conceptual plan may be submitted to the planning commission for this purpose in a form sufficient to illustrate the proposed deviations. If the planning commission determines that a proposed change would significantly deviate from the approved master plan, the applicant may submit alternative proposed development plans or proceed with amendment of a master plan in accordance with section 24-13.

Sec. 24-468. Same - Administrative review fee.

Submittals of a site plan or preliminary subdivision plat implementing any portion of an approved master plan shall be accompanied by a fee in accordance with section 24-7 or section 19-15.

Sec. 24-469. Minimum area of districts.

Research and technology districts shall be located on a single parcel of land, or separate but contiguous parcels, which shall total not less than twenty-five acres.

Sec. 24-470. Requirements for improvements and design.

- (a) Water and sewer.*** All structures and uses within a research and technology district shall be served by publicly owned and operated water and sewer systems.
- (b) Parking.*** Off-street parking facilities shall be provided in accordance with the off-street parking requirements of sections 24-53 and 24-474.
- (c) Street.*** All streets shall meet the requirements of the Virginia Department of Transportation. The construction of streets, whether public or private, shall be guaranteed by appropriate surety, letter of credit, cash escrow or other form of guarantee approved by the county attorney and director of the environmental division. Private streets may be permitted within "qualifying industrial parks" in accordance with section 24-55.
- (d) Fire hydrants.*** Fire hydrants shall be at locations and of types approved by the service authority manager and county fire chief. No structure within the district shall generally be further than 400 feet from a hydrant.
- (e) Streetlights.*** Streetlights shall generally be provided at each intersection and adequately spaced in parking lots and other public areas. The lighting shall be directed so as not to produce objectionable glare on adjacent property within or near the development. No lighting fixture shall exceed a height of 30 feet in this district.
- (f) Drainage facilities.*** Facilities for the adequate control of stormwater drainage and erosion and sedimentation shall be provided in accordance with the Virginia Erosion and Sediment Control Handbook and the Virginia Department of Transportation Drainage Manual.

- (g) *Natural features and amenities. Existing features such as specimen trees, wildlife habitats, watercourses, historical sites, and similar irreplaceable assets shall be preserved to the maximum extent possible.*
- (g) *Landscaping. All landscaping and tree preservation shall be undertaken in accordance with section 24-86 and Chapter 23 of the county's Chesapeake Bay Preservation Ordinance.*

Sec. 24-471. Open space.

(a) *Development within the research and technology districts shall provide usable open space area to create a park-like setting. The amount of open space shall be not less than ten percent of the developable area of the site, and where possible shall be continuous open space. Nondevelopable area consisting of all stream beds, areas subject to flooding, wetlands and areas with slopes exceeding 25 percent gradient shall not be counted towards meeting the open space requirement. For the purposes of this article, open space shall not include any landscape area in parking lots or adjacent to structures. The requirements of this section shall supplement the requirements of the county's Chesapeake Bay Ordinance, section 24-86 (landscaping and tree preservation requirements) and other county requirements relating to open space. For the purposes of this article, open space may include, but is not limited to:*

- (1) *Perpetual easement(s) of no less than 50 feet in width dedicated to James City County or another group approved by the county adjoining any road designated as a community character corridor on the Comprehensive Plan which shall be left in a natural, undisturbed state.*
- (2) *Buffer area(s) of no less than 50 feet around an RMA wetland as measured from the landward edge of the wetland.*
- (3) *Preservation of any archaeological site, any landmark registered in the Virginia Landmarks Register, the National Register of Historic Places or National Historic Site register.*

- (4) *Preservation of any developable area demonstrated to be a habitat for any endangered, rare or threatened species of plant or wildlife so designated by the federal government, the State of Virginia (as referenced by the county's Natural Areas Inventory or listed in Virginia's Endangered Species, (Virginia Department of Game and Inland Fisheries, 1991)), where preservation of such area is not required by local, state or federal law.*
- (5) *Bikeways, bike paths, hiking trails, greenways or other similar amenity, excluding sidewalks.*
- (6) *Public or private picnic areas, parks, plazas or other gathering areas.*

Open space area shall be protected by easements, maintenance agreements and/or other assurances, satisfactory to the county attorney, that set forth the provisions made for the permanent care and maintenance of such property.

Sec. 24-465. 472. Setback requirements.

(a) Required perimeter setback from research and technology districts. For uses permitted in research and technology districts, the following setbacks are required and shall be left in its natural undisturbed state:

- (1) *A minimum landscaped setback of 100 feet shall be maintained from the right-of-way of any existing or planned public roads which abut the site; and*
- (2) *A minimum landscaped setback of 50 feet shall be maintained from all property lines adjoining a different zoning district. Where uses permitted in the research and technology district adjoin an existing residentially zoned district or an A-1 District that is designated low-density residential or rural lands on the Comprehensive Plan, the minimum landscaped setback shall be increased to 100 feet.*

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(b) *Lesser perimeter setback requirements for research and technology districts; criteria for determination. The development review committee may recommend approval of a reduction in the perimeter setback as specified in section 24-472 (a) (2) only if the following criteria are met:*

- (1) *The proposed setback, by substitution of technique or design, will achieve results which clearly satisfy the overall purposes and intent of the setback requirements of this section and the intent of section 24-86 (Landscaping and Tree Preservation Requirements);*
- (2) *The proposed setback shall have no additional adverse impact on adjacent properties or public areas;*
- (3) *The proposed setback will not result in detrimental impacts to the orderly development or character of the area, the environment, sound engineering or planning practice, or the goals, objectives, strategies and policies of the Comprehensive Plan; and*
- (4) *The setback serves to minimize the visual intrusion and other negative impacts of new development or redevelopment on adjacent development.*

(a) (c) *Location of structures.* Structures shall be located 50 feet or more from any street right-of-way which is 50 feet or greater in width. Where the street right-of-way is less than 50 feet in width, structures shall be located 75 feet or more from the center line of the street. The minimum setback of any portion of a structure which is in excess of 35 feet in height shall be increased one foot for each two feet of the structure's height in excess of 35 feet.

~~(b) The minimum setback shall also be increased to a minimum of 75 feet from any street with a right-of-way 50 feet or greater in width and 100 feet from any street with a right-of-way of less than 50 feet in width when the property immediately across the street is zoned residential. The minimum setback of any portion of a structure across the street from property zoned residential which is in excess of 35 feet in height shall be increased one foot for each two feet of the structure's height in excess of 35 feet.~~

(d) *Lesser setback requirements for research and technology area internal to research and technology districts; criteria for determination. The development review committee may recommend approval*

of a setback of less than 50 feet as specified in section 24-472 (c) above, for those areas of a research and technology district that are internal to a research and technology district. A setback reduction may be eligible for review by the development review committee only if the following criteria are met:

- (1) The proposed setback, by substitution of technique or design, will achieve results which clearly satisfy the overall purposes and intent of the setback requirement of this section and the intent of section 24-86 (Landscaping and Tree Preservation Requirements);*
- (2) The proposed setback shall have no additional adverse impact on adjacent properties or public areas; and*
- (3) The proposed setback will not result in detrimental impacts to the orderly development or character of the area, the environment, sound engineering or planning practice, or the goals, objectives, strategies and policies of the Comprehensive Plan.*

The development review committee may recommend approval of a reduction to section 24-472 (c) upon finding that one or more of the following criteria are met:

- (1) The proposed setback meets the intent of the master plan and is in keeping with the overall character of development that encourages open space; or*
 - (2) The proposed setback is for the purpose of integrating proposed research and technology development with adjacent development; or*
 - (3) The proposed setback substantially preserves, enhances, integrates and complements existing trees and topography; or*
 - (4) The proposed setback is due to unusual size, topography, shape or location of the property, or other unusual conditions, excluding the proprietary interests of the developer.*
- (d) Requests for modifications. Requests for modifications to the setbacks as specified in sections 24-472 (a) and (c) shall be filed in writing with the planning director and shall identify the reasons for such*

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requests together with the proposed alternative. The planning director shall make a recommendation to the development review committee to approve, deny or conditionally approve the request and shall include a written statement certifying that one or more of the above criteria are met.

(e) No minimum lot size or yard requirements. Except for required setbacks as stated in this section, there shall be no minimum lot size nor minimum side or rear yard requirements for any lot within a research and technology district other than as specified in approved development plans.

(e) Uses prohibited. Landscape setbacks shall not be used for streets or for parking except for entrances and driveways which may cross the setback at a perpendicular or near perpendicular angle as possible.

~~Sec. 24-466. Side and rear yards.~~

~~(a) Structures shall be located 20 feet or more from side or rear property lines. The side and rear yards for any section of a structure in excess of 35 feet in height shall be increased one foot for each two feet of height in excess of 35 feet.~~

~~(b) The minimum side yard shall be increased to 75 feet if the side yard adjoins property in a residential district or an agricultural district that is designated for residential use on the Comprehensive Plan and the minimum rear yard shall be increased to 75 feet if the rear yard adjoins property in a residential district or an agricultural district that is designated for residential use on the Comprehensive Plan. The minimum side and rear yards for any section of a structure in excess of 35 feet in height shall be increased one foot for each two feet of height in excess of 35 feet.~~

~~(c) Accessory structures may be located within the required side or rear yards upon approval of the planning commission; provided, however, that no structure shall be located within ten feet of any property line.~~

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~~Sec. 24-467. Special provisions for the waiver of area, lot width, yard and setback requirements:~~

~~To allow the subdivision of industrial property on which industrial units for sale, for sale in condominium or for lease are constructed as part of a multiunit structure in which the units share common walls or as part of a multiple-structure commercial development and the entire development has been planned and designed as a cohesive, coordinated unit under a single master plan, the planning commission may grant, at its discretion, a waiver from any part of section 24-464 through 24-466 upon finding:~~

- ~~(1) The overall complex or structure, if considered as a single unit, meets all of the requirements of section 24-464 through 24-466;~~
- ~~(2) Adequate parking is provided as per the requirements of this chapter, and, where determined necessary by the planning commission, adequate easements or other agreements are recorded to guarantee access and maintenance of the parking areas and other common areas;~~
- ~~(3) Adequate provisions are made to assure compliance with the requirements of this chapter with regards to signs, and, where determined necessary by the planning commission, adequate easements or agreements are recorded to allow grouping of signs on one standard, placement of signs in common areas or other appropriate arrangements made necessary because of the reduced frontage or yard area of the individual units, and~~
- ~~(4) The complex or structure is adequately designed and serviced from the standpoint of safety and that the county fire chief finds that the fire safety equipment to be installed is adequately designed and the County Building Official finds the complex is designed to conform to the Uniform Statewide Building Code, so as to offer adequate protection to life and property.~~

Sec. 24-468 473. Height limits and height limitation waivers.

(c) Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver upon finding that:

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- (1) Additional setbacks have been provided as required by section ~~24-465~~ and section ~~24-466~~ ~~24-472 (b)~~; however, the board may waive additional setbacks in excess of 60 feet;

Sec. 24-469 ~~474~~ Sign regulations and parking requirements.

(a) To assure an appearance and condition which is consistent with the purposes of the ~~Limited Industrial District, M-3~~ ~~Research and Technology District, RT~~, outdoor signs on the properties within the district shall comply with the regulations for exterior signs in article II, division 3 of this chapter.

(b) Off-street parking and off-street loading shall be provided as required in sections 24-53 and 24-54.

Sec. 24-470 ~~475~~ Utilities.

(a) All development shall be served by public water and sewer.

(b) The location of all utilities and utility easements shall be shown on the site plans and be approved as per article III, Site Plan of this chapter.

Sec. 24-471 ~~476~~ Site plan review.

All structures or complexes of structures erected, altered or restored within the district shall be subject to Site Plan Review in accordance with article III of this chapter.

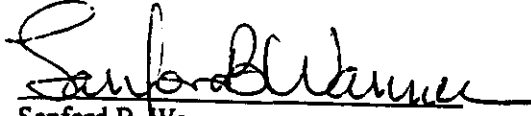
Secs. 24-472 ~~477~~ - 24-481. Reserved.

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Jack D. Edwards
Chairman, Board of Supervisors

ATTEST:



Sanford B. Wanner
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
SISK	AYE
MCGLENNON	AYE
BRADSHAW	AYE
NERVITT	AYE
EDWARDS	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of September, 1998.

zo-3-98.ord

SEP 8 1998

ORDINANCE NO. 31A-179

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL, SECTION 24-2, DEFINITIONS; BY AMENDING ARTICLE VI, OVERLAY DISTRICTS, DIVISION 3, FLOODPLAIN AREA REGULATIONS, BY DELETING SECTION 24-589, DEFINITIONS; BY AMENDING SECTION 24-590, DESIGNATION OF FLOODPLAIN DISTRICTS; AND SECTION 24-591, OFFICIAL MAP.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Section 24-2, Definitions; by deleting Section 24-589, Definitions; by amending Section 24-590, Designation of floodplain districts; and Section 24-591, Official map.

Chapter 24. Zoning

Article I. In General

Sec. 24-2. Definitions.

Base flood/100-year flood. A flood that, on the average, is likely to occur once every 100 years (i.e. that has a one percent chance of occurring each year although the flood may occur in any year).

Development. Solely for the purposes of Article VI, Overlay District, Division 3, Floodplain Area Regulations, this term shall mean any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, the placement of manufactured homes, streets and other paving, utilities, filling, grading, excavation, mining, dredging, drilling operations, storage of equipment or materials.

Floodplain. A relatively flat or low land area adjoining a river, stream, or watercourse which is subject to partial or complete inundation, and any area subject to the unusual and rapid accumulation or runoff of surface water from any source.

Floodway. The designated area of the floodplain required to carry and discharge floodwaters of a given magnitude. For the purposes of these regulations, the floodway shall be capable of accommodating a flood of the 100-year magnitude.

Recreational vehicle. A vehicle which is:

- (1) Built on a single chassis;*
- (2) 400 square feet or less when measured at the largest horizontal projection;*
- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and*
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel or seasonal use.*

Start of construction. The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site (such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation) or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, or filling; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration on any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

Article VI. Overlay Districts
Division 3. Floodplain Area Regulations

~~Sec. 24-589. Definitions:~~

~~The following definitions shall apply in the interpretation and enforcement of this division:~~

~~*Base flood/100-year flood.* A flood that, on the average, is likely to occur once every 100 years (i.e., that has a one percent chance of occurring each year although the flood may occur in any year).~~

~~*Development.* Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, the placement of manufactured homes, streets and other paving, utilities, filling, grading, excavation, mining, dredging, drilling operations, storage of equipment or materials.~~

~~*Floodplain.* A relatively flat or low land area adjoining a river, stream or watercourse which is subject to partial or complete inundation, and any area subject to the unusual and rapid accumulation or runoff of surface water from any source.~~

~~*Floodway.* The designated area of the floodplain required to carry and discharge floodwaters of a given magnitude. For the purposes of these regulations, the floodway shall be capable of accommodating a flood of the 100-year magnitude.~~

~~*Manufactured home.* A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."~~

~~*Recreational vehicle.* A vehicle which is:~~

~~(1) Built on a single chassis;~~

~~(2) 400 square feet or less when measured at the largest horizontal projection;~~

Ordinance to Amend and Ordain
Chapter 24. Zoning
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~~(3) Designed to be self-propelled or permanently towable by a light-duty truck, and~~

~~(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel or seasonal use.~~

~~*Start of construction.* The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site (such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation) or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading or filling, nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration on any wall, ceiling, floor or other structural part of a building, whether or not the alteration affects the external dimensions of the building.~~

Sec. 24-590. Designation of floodplain districts.

(a) The various floodplain districts shall include areas subject to inundation by waters of the 100-year flood. The minimum basis for the delineation of these districts shall be, but not limited to, the February 6, 1991, flood insurance study, since other flood-prone areas exist in James City which are not shown on the floodplain maps. To determine these areas, the 100-year flood elevations and floodways from federal, state and local sources may be used when available. Where the specific 100-year flood elevation cannot be determined for an area by using available sources of data, then the applicant for the proposed use, development and/or activity shall determine this elevation to the satisfaction of the ~~director of code compliance~~ **county engineer** in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall consider full development of the watershed and shall be submitted in sufficient detail to allow a thorough review by the county engineer.

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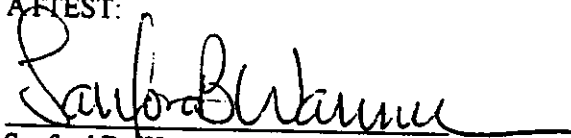
Sec. 24-591. Official map.

The boundaries of floodway, flood-fringe and approximated floodplain districts in section 24-590(b), (c) and (d) above are established as minimum areas, as shown on the flood insurance rate map, which is declared to be a part of these regulations and which shall be kept on file at the office of code compliance ~~the county~~ engineer.



Jack D. Edwards
Chairman, Board of Supervisors

ATTEST:



Sanford B. Wanner
Clerk to the Board

SUPERVISOR	VOTE
SISK	AYE
MCGLENNON	AYE
BRADSHAW	AYE
NERVITT	AYE
EDWARDS	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of September, 1998.

ADOPTED

SEP 8 1998

ORDINANCE NO. 31A-180

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE V, DISTRICTS, DIVISION 10, GENERAL BUSINESS DISTRICT, B-1, SECTION 24-390, PERMITTED USES; SECTION 24-391, USES PERMITTED BY SPECIAL USE PERMIT ONLY; SECTION 24-393, SETBACK REQUIREMENTS; SECTION 24-394, YARD REGULATIONS; SECTION 24-395, SPECIAL PROVISIONS FOR THE WAIVER OF YARD REQUIREMENTS; SECTION 24-397, HEIGHT AND BULK LIMITS AND HEIGHT LIMITATION WAIVERS; BY AMENDING AND RENUMBERING SECTION 24-398, SIGN REGULATIONS TO SECTION 24-399; BY ADDING NEW SECTION 24-398, BUILDING COVERAGE LIMITS; BY RENUMBERING SECTION 24-399, SITE PLAN REVIEW TO SECTION 24-400; BY ADDING SECTION 24-401, SIDEWALKS; AND SECTION 24-402, LANDSCAPING.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article V, Districts, Division 10, General Business District, B-1, Section 24-390, Permitted uses; Section 24-391, Uses permitted by special use permit only; Section 24-393, Setback requirements; Section 24-394, Yard regulations; Section 24-395, Special provisions for the waiver of yard requirements; Section 24-397, Height limits and height limitation waivers; by adding new Section 24-398, Building coverage limits; by amending and renumbering Section 24-398 to Section 24-399, Sign regulations and parking requirements; by renumbering Section 24-399 to Section 24-400, Site plan review; by adding Section 24-401, Sidewalks; and Section 24-402, Landscaping.

Chapter 24. Zoning
Article V. Districts
Division 10. General Business District, B-1

Sec. 24-390. Permitted uses.

~~Reference Section 24-11 for special use permit requirements for certain commercial uses and exemptions.~~

In the General Business District, B-1, structures to be erected or land to be used, shall be for one or more of the following uses:

~~An~~ Apartment or living quarters for a guard, caretaker, proprietor or the person employed on the premises which is clearly secondary to the commercial use of the property.

~~Barber and beauty shops.~~

~~Child day~~ Day care and child-care centers.

~~Department stores, wearing apparel, furniture, carpet, shoe, tailor, dressmaking, candy, ice cream, florist, furrier, locksmith, pet, picture framing, stamp and coin, travel bureau, upholstery, yard goods, toys, music and records, tobacco and pipes, jewelry sales and service, books, greeting cards and sporting goods stores.~~

~~Drug stores, barber shops and beauty shops.~~

~~Fire stations.~~

~~Gunsmith (excluding shooting ranges).~~

~~Houses of worship.~~

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~~Indoor sport facilities (excluding shooting ranges).~~

~~Libraries.~~

~~Indoor theaters, museums and public meeting halls.~~

~~Museums.~~

~~Office supply stores, secretarial and duplicating services.~~

~~Photography studios and sales, artist and sculptor studios, art and crafts and handicraft shops, antique shops, reproduction and gift shops.~~

~~Plants and garden supply, hardware and paint, and home appliance sales and service stores.~~

~~Post offices.~~

~~Public meeting halls.~~

~~Retail and service stores, including the following stores: antiques, arts and crafts, books, candy, carpet, coin, department, dressmaking, duplicating services, florist, furniture, furrier, garden supply, gift, greeting card, gunsmith (excluding shooting ranges), handicrafts, hardware, home appliance sales and service, ice cream, jewelry sales and service, locksmith, music and records, office supply, paint, pet, photography, picture framing, plant supply, secretarial services, shoe, sporting goods, stamp, tailor, tobacco and pipes, toys, travel bureau, upholstery, wearing apparel, and yard goods.~~

~~Schools, fire stations, post offices, houses of worship and libraries.~~

~~Veterinary offices hospitals.~~

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Sec. 24-391. Uses permitted by special use permit only.

In the B-1, General Business District, buildings to be erected or the land to be used for one or more of the following or similar uses shall be permitted only after the issuance of a special use permit by the board of supervisors:

~~Airports.~~

~~Design, research, development and design facilities or and evaluating laboratories.~~

~~Drive-in theaters.~~

~~Heliports and helistops, as an accessory use.~~

~~Hospitals and nursing homes.~~

~~Micro-breweries.~~

~~Nursing homes.~~

~~Sanitary landfills in accordance with section 24-40, waste disposal facilities and publicly owned solid waste container sites.~~

~~Waste disposal facilities.~~

Water facilities (public or private), and sewer facilities (public), including, but not limited to, treatment plants, pumping stations, storage facilities and transmission mains, wells and associated equipment such as pumps to be owned and operated by political jurisdictions. However, private connections to existing mains, with no additional connections to be made to the line, which are intended to serve an individual customer and which are accessory to existing or proposed development, and distribution lines and local facilities within a development, including pump stations, are permitted generally and shall not require a special use permit. ~~However, the following are permitted generally and shall not require a special use permit:~~

- (a) *Private connections to existing mains that are intended to serve an individual customer and that are accessory to existing or proposed development, with no additional connections to be made to the line; and*
- (b) *Distribution lines and local facilities within a development, including pump stations.*

Sec. 24-393. Setback requirements.

Structures shall be located 50 feet or more from any street right-of-way which is 50 feet or greater in width. Where the street right-of-way is less than 50 feet in width, structures shall be located 75 feet or more from the centerline of the street.

Setbacks may be reduced to 25 feet from any street right-of-way which is 50 feet or greater in width or 50 feet from the centerline of the street where the street right-of-way is less than 50 feet in width with approval of the development review committee.

A site shall not be considered for a setback reduction if it is located on a planned road that is designated for widening improvements. A planned road includes any road or similar transportation facility as designated on the Comprehensive Plan, Six-Year Primary or Secondary Road Plan, Peninsula Area Transportation Plan or any road plan adopted by the board of supervisors. The development review committee will consider a setback reduction only if the setback reduction will achieve results which clearly satisfy the overall purposes and intent of section 24-86 (Landscaping and Tree Preservation Requirements); if the setbacks do not negatively impact adjacent property owners; and if one or more of the following criteria are met:

- (a) *The site is located on a Community Character Corridor or is designated a Community Character Area on the Comprehensive Plan Land Use Map, and proposed setbacks will better complement the design standards of the Community Character Corridor.*

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- (b) *The adjacent properties have setbacks that are non-conforming with this section, and the proposed setbacks will better complement the established setbacks of adjacent properties, where such setbacks help achieve the goals and objectives of the Comprehensive Plan.*
- (c) *The applicant has offered extraordinary site design which better meets the Development Standards of the Comprehensive Plan.*

Sec. 24-394. Yard regulations.

(a) Buildings shall be located 20 feet or more from side or rear property lines, ~~except that~~ ~~However,~~ the minimum side yard shall be 50 feet if the side yard adjoins property in a residential district or an agricultural district that is designated for residential use on the Comprehensive Plan, ~~and the~~ minimum rear yard shall be 50 feet if the rear yard adjoins property in a residential district or an agricultural district that is designated for residential use on the Comprehensive Plan. The minimum side and rear yards shall be increased an additional one foot for each one foot of building height in excess of 35 feet.

Sec. 24-395. Special provisions for the waiver of yard requirements.

~~To allow the subdivision of commercial property on which commercial units for sale, for sale in condominium or for lease are constructed as part of a multiunit structure in which the units share common walls or as part of a multiple-structure commercial development, and the entire development has been planned and designed as a cohesive, coordinated unit under a single master plan, the planning commission may grant, at its discretion, a waiver from any part of section 24-394 upon finding:~~

The following may be eligible for a waiver from any part of section 24-394:

The subdivison of commercial property on which commercial units for sale, for sale in condominium, or for lease are both:

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- (a) ~~Constructed as part of a multiunit structure in which the units share common walls, or as part of a multiple-structure commercial development; and~~
- (b) ~~The entire development has been planned and designed as a comprehensive coordinated unit under a single master plan.~~

~~In these instances, the planning commission may grant, at its discretion, a waiver from any part of section 24-394 upon finding:~~

- (3) Adequate provisions are made to assure compliance with article ~~VII~~, division ~~143~~ of this chapter and, where determined necessary by the commission, adequate easements, or agreements are recorded to allow grouping of signs on one standard, placement of signs in common areas or other appropriate arrangements made necessary because of the reduced yard area of the individual units; and

Sec. 24-397. Height and bulk limits and height limitation waivers.

Structures may be erected up to 60 feet in height from grade to the top of the structure, including all church spires, belfries, cupolas, monuments, flagpoles, penthouse, electrical, plumbing, elevator, water tank or other accessory functions which are part of or on top of the structure and camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade, in accord with the following criteria:

- (1) ~~Building coverage shall not exceed 25 percent of the total lot area and the floor area ratio shall not exceed 0.6. However, the floor area ratio may be increased to 0.75 if the additional floor area is used to provide indoor parking.~~
- (2) A structure in excess of 60 feet in height but not in excess of 100 feet from grade to the top of the structure, including all church spires, belfries, cupolas, monuments, flagpoles, penthouse, electrical, plumbing, elevator, water tank or other accessory functions which are part of or on top of the structure and accessory and nonaccessory wireless communications facilities that utilize alternative mounting structure or are building mounted in accordance with division 6,

Wireless Communications Facilities in excess of 60 feet in height but not in excess of 120 feet in grade to the top of the structure, may be erected only upon the granting of a height limitation waiver by the board of supervisors. Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver upon finding that:

- a. The aforesaid regulations *of section 24-398* regarding building coverage, floor area ratio and open space are met;
- (32) Parapet walls may be up to four feet above the height of the building on which the walls rest.
- (43) No accessory structure which is within ten feet of any lot line shall be more than one story high. All accessory structures shall be less than the main structure in height.

Sec. 24-398. Building coverage limits.

Building coverage shall not exceed 25 percent of the total lot area and the floor area ratio shall not exceed 60 percent. However, the floor area ratio may be increased to 75 percent if the additional floor area is used to provide indoor parking.

Sec. 24-398 399. Sign regulations and parking requirements.

(a) To assure an appearance and condition which is consistent with the purposes of the General Business District, B-1, outdoor signs on the properties within the district shall comply with the regulations for exterior signs in article II, division 3 of this chapter.

(b) *Off-street parking and off-street loading shall be provided as required in sections 24-53 and 24-*

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Sec. 24-399400. Site plan review.

All buildings or complexes of buildings erected, altered or restored within the district shall be subject to site plan review in accordance with section 24-142.

Sec. 24-401. Sidewalks.

Sidewalks shall be required for all projects requiring site plan review in accordance with section 24-

35.

Sec. 24-402. Landscaping.

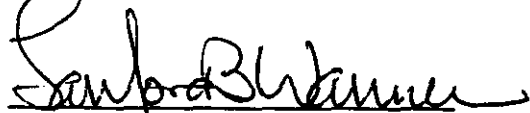
Landscaping shall be provided as required in article II, division 4.

Secs. 24-400403 - 24-409. Reserved.



Jack D. Edwards
Chairman, Board of Supervisors

ATTEST:



Sanford B. Wanner
Clerk to the Board

SUPERVISOR	VOTE
SISK	AYE
MCGLENNON	AYE
BRADSHAW	AYE
NERVITT	AYE
EDWARDS	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of September, 1998.