

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 26TH DAY OF OCTOBER, 1999, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

Jack D. Edwards, Chairman, Berkeley District
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
Leo P. Rogers, Deputy County Attorney

B. PUBLIC COMMENT

1. Ms. Niki Lunsford, 3402 London Company Way, President of Jamestown 1607 Homeowners Association, stated that the flooding of Jamestown 1607 that occurred from Hurricane Floyd was caused by construction runoff into Powhatan Creek which could not handle the volume. She emphasized that flooding could happen again if another outlet for drainage to the James River was not created.

Mr. Edwards responded that information would be forthcoming and asked Ms. Lunsford to call for a report on progress being made.

2. Mr. Ed Oyer, 139 Indian Circle, read from a 1985 document stating that development must be controlled, and he summarized Board actions taken in the past.

C. HIGHWAY MATTERS

Mr. Quintin Elliott, Williamsburg Area Resident Engineer, Virginia Department of Transportation (VDOT), stated that the bridge on Monticello Avenue was open, but striping and some additional work was needed on portions of Monticello Avenue.

Mr. Elliott reviewed the washout of the bridge on Jamestown Road (Route 31) at Lake Powell, and explained the process of replacement and estimated length of time associated with the road work.

Board members and Mr. Elliott discussed a March 9, 2000, date of completion for bridge replacement; bridge would be a two-lane bridge; utilities would be located in an independent trestle outside roadway; bridge replacement and road work would occur simultaneously with an accelerated completion date if possible.

Mr. Nervitt reiterated that the businesses along Jamestown Road would suffer more with March date; questioned why right-of-way could not be acquired because of environmental disaster in light of the need to install a temporary bridge; and stated that he had problems with VDOT's mode of operation.

Mr. Bradshaw thanked Mr. Elliott for repair of the storm damage at Barlow's Pond on Newman Road (Route 646).

Mr. Larry Foster, General Manager, James City Service Authority, thanked Mr. Elliott for the positive response regarding the location of utilities alongside the bridge replacement on Jamestown Road (Route 31) at Lake Powell.

Mr. Edwards asked when Route 199 from Jamestown Road (Route 31) to Interstate 64 at Lightfoot would be completed.

Mr. Elliott responded completion very close with final dress up work and inspection remaining.

Mr. Edwards asked that timing of traffic signal be checked on entrance to Monticello Avenue (Route 321) when traveling towards Monticello Marketplace where cars clearing the intersection to access Route 199 cross in front of cars having the green light.

Mr. Elliott stated citizens should call VDOT with input regarding Monticello Avenue and leave their name and telephone number if response is desired.

Mr. Nervitt asked about why a cloverleaf interchange was not installed at Monticello Avenue.

Mr. Elliott responded that restrictions of right-of-way would not allow a cloverleaf at that intersection, and that the urban interchange was chosen as the next best option.

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

1. Minutes of October 7, 1999, Joint Meeting with Industrial Development Authority and October 12, 1999, Regular Meeting
2. Trash and Grass Lien, 117 Crescent Drive

RESOLUTION

CODE VIOLATION LIEN

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

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

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that in accordance with 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:	Paul N. Carrithers P.O. Box 512266 Newport News, VA 23612
DESCRIPTION:	117 Crescent Drive
TAX MAP NO.:	(23-1) (02-0-0035) James City County, Virginia
AMOUNT DUE:	\$300

3. Ratification of the Peninsula Alliance for Economic Development Board Member Appointments/Reappointments

RESOLUTION

RATIFICATION OF APPOINTMENTS/REAPPOINTMENTS OF

PENINSULA ALLIANCE FOR ECONOMIC DEVELOPMENT BOARD OF DIRECTORS

WHEREAS, the Peninsula Alliance for Economic Development bylaws require ratification of appointments/reappointments to The Alliance Board of Directors by a majority vote of the governmental members; and

WHEREAS, the following candidates have been nominated to fill expired terms by the Executive Committee approved by a majority vote of the Board of Directors and approved by a majority vote of the General Members with all terms expiring June 2003:

New Appointments

Kathleen M. Waltz	President and Publisher <u>The Daily Press</u> , Newport News
Alvin Anderson	Attorney Kaufman and Canoles, Williamsburg
Alfred Little, Jr.	Vice President Newport News Shipbuilding, Newport News

ReAppointments

John A. Munick, Jr.

President

Drucker and Falk, Newport News

Pat Phillips

Chairman

Greater Peninsula NOW

(Resident, Gloucester County)

Howard Waters

President/Owner

Waters Advertising, Newport News

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby ratifies the appointment/reappointment of individuals to The Alliance Board of Directors.

E. PUBLIC HEARINGS**1. Case Nos. Z-5-99 and SUP-15-99. Taylor/Armistead (Continued from 10/12/99)**

Ms. Tamara A. M. Rosario, Senior Planner, stated that these cases were continued at the request of the applicant at the October 12, 1999, Board of Supervisors meeting. She stated that a letter had been received from the applicant proposing a significant amendment to the proffers and a request that the cases be referred back to the Planning Commission for its November 1999 meeting.

Mr. Bradshaw made a motion to refer Case Nos. Z-5-99 and SUP-15-99 back to the Planning Commission as requested by the applicant.

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

2. Case No. SUP-14-99. James City Service Authority Water Main and Hampton Roads Sanitation District Force Main

Mr. Matthew Maxwell, Senior Planner, stated that Mr. Larry Foster, on behalf of James City Service Authority (JCSA), had applied for a special use permit to allow construction of approximately 8,600 linear feet of 12-inch water main, 3,600 linear feet of 20-inch JCSA sewer force main and 13,800 feet of 30-inch Hampton Roads Sanitation District (HRSD) sewer force main, a HRSD pressure reducing station (not to be built for ten to 20 years) and a replacement lift station, located within existing easements and public right-of-way parallel to Powhatan Creek (north of Route 5), along proposed Monticello Avenue, Indigo Dam Road, and private property between the end of Indigo Dam Road and Strawberry Plains Road, zoned R-2, General Residential; R-4, Residential Planned Community; R-8, Rural Residential; and B-1, General Business and Planned Unit Development - Residential (PUD-R), and to be operational by 2002.

Mr. Maxwell stated that the upgrades to the waterlines were critical in that they are a key link for the looped water distribution system to provide better service and fire suppression. He further stated that conditions in the resolution were added to address traffic impacts during construction, physical features and environmental and Comprehensive Plan considerations, historical and archaeological impacts, natural areas inventory, perimeter buffers and building architecture for the pressure reducing station.

In concurrence with staff, the Planning Commission, by a vote of 6-0, one absent, recommended approval of the special use permit with conditions listed in the resolution.

Mr. Edwards stated that he had questions for discussion: how would approval impact development; what are the options; what would be the effect on Indigo Dam Road for how long and what kind of access; how would it affect Mid-County Park, Bridgewater Drive, Powhatan Secondary; what was needed, the investment was large.

Board members and staff discussed the time frame with a decision being made that two weeks would not impact the project.

Mr. Edwards opened the public hearing, and continued the public hearing until the November 9, 1999, Board of Supervisors meeting.

3. Ordinance to Repeal and Replace Chapter 8, Erosion and Sedimentation Control

Mr. Darryl E. Cook, Environmental Director, stated that the Ordinance amendment was based on the State's model of the Erosion and Sediment Control Ordinance. He explained the changes on definitions, erosion and sediment control program, regulated land-disturbing activities, monitoring reports and inspections, penalties, injunctions. He stated that the appeals and judicial review section established the Board of Supervisors as the appellate body for administration actions taken by staff in application of the Ordinance as required by State Code.

Staff recommended approval of the Ordinance.

Mr. Bradshaw asked for clarification that Section 8-5 (h) states that "any approved erosion and sediment control plan shall become null and void 180 days after the date of approval issuance of the land-disturbing permit."

Mr. Cook responded in the affirmative.

Mr. Nervitt asked that the word "exceed" be added to the first sentence in Section 8-7 (f) after the words "not to."

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

4. Ordinance to Amend and Reordain Chapter 20, Taxation

Mr. Richard J. Sebastian, Director of Real Estate Assessments, stated that the proposed Ordinance would allow the County to abate tax levies for a building razed, destroyed or damaged due to a natural or accidental event, with the damage decreasing the value by \$500 or more and not being repaired in the same calendar year in which it occurred. He further stated that the scope of the tax abatement provided in the Ordinance was limited by the State authorizing legislation.

Staff recommended approval of the Ordinance amendment.

Board members and staff discussed time frame, procedures for applying, and whether the abatement would be of value to the property owner.

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

5. District Park Sports Complex Utility Easement

Mr. Leo Rogers, Deputy County Attorney, stated that the resolution authorized the County Administrator to convey a 15-foot utility easement to allow Virginia Power to install underground cable and associated equipment to provide electrical service to the District Park Sports Complex.

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

RESOLUTION

CONVEYANCE OF EASEMENT TO VIRGINIA POWER

WHEREAS, James City County owns 525.458± acres commonly known as the District Park Sports Complex (Warhill Tract) and designated as Parcel No. (1-12) on James City County Real Estate Tax Map No. (32-1); and

WHEREAS, Virginia Power requires a 15-foot utility easement in order to provide electrical service to the District Park Sports Complex; and

WHEREAS, the Board of Supervisors, following a public interest, is of the opinion that it is in the public interest to convey a utility easement to Virginia Power.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator, Sanford B. Wanner, to execute the Right-of-Way Agreement and such other documents necessary to convey a utility easement to Virginia Power.

F. BOARD CONSIDERATIONS

1. Salute the Military Special Event, July 1, 2000

Mr. Sanford B. Wanner, County Administrator, stated that he was requesting deferral of the item until discussion can be held by the Peninsula Mayors and Chairs.

Without Board objection, Mr. Edwards deferred the item.

2. Fire Department Boat Contract Award

Mr. Willie Howlett, Deputy Fire Chief, stated that a bid had been received from Boston Whaler for a boat with fire pump capability in the amount of \$103,758, and with negotiation of deletion of seven items, Boston Whaler reduced the amount to \$72,791.

Staff recommended approval of the resolution.

Mr. Bradshaw made a motion to approve the resolution.

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

RESOLUTION

AWARD OF FIRE DEPARTMENT BOAT CONTRACT

WHEREAS, funds are available in the Capital Improvement Program Budget for purchase of a rescue boat; and

WHEREAS, bids for purchase of fire equipment were received on September 22, 1999, with Boston Whaler submitting the only bid of \$103,758.00; and

WHEREAS, through negotiation, Boston Whaler agreed to reduce the bid to \$72,791.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize the County Administrator to execute a contract between James City County and Boston Whaler in the amount of \$72,791.

3. Award of Bid, New Fire Station

Mr. Richard Miller, Fire Chief, stated that bids were received for the James City County Fire Station to be constructed on Monticello Avenue with the lowest responsive bid of \$967,400 from Strickland & Wilson Construction Co., Inc. He further stated that additional costs of off-site water and sewer lines, additional road connection costs, independent plans review and analysis, construction of a fueling station and Phase I environmental studies were not known when the estimate was done for FY 98 budget. He requested a transfer of funds to allow for a five percent construction contingency amount and funding for the fueling station.

Staff recommended approval of the resolution.

Mr. Nervitt asked whether Strickland & Wilson Construction Co., Inc., was experienced.

Mr. Bernard Farmer, Capital Projects Administrator, stated the firm had done a number of projects, were financially responsible, and references were satisfactory.

Board members and staff discussed the additional costs that were not anticipated when FY 98 budget was approved in 1997.

Mr. Sisk made a motion to approve the resolution.

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

RESOLUTION

AWARD OF BID, BUDGET TRANSFER AUTHORIZATION FOR

JAMES CITY COUNTY FIRE STATION

WHEREAS, Competitive bids were advertised for the James City County Fire Station to be constructed on Monticello Avenue; and

WHEREAS, Sixteen (16) bids were received with the low bidder being Strickland and Wilson Construction Company, Inc., with a bid of \$967,400, base bid plus \$78,800, alternate bid; and

WHEREAS, an adjustment of the project budget is necessary and an additional allocation of funds from the Fire Training Center Capital Budget to the Fire Station Capital Budget had been identified as the fund source.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator or his designee to execute the necessary contract documents for the James City County Fire Station in the total amount of \$1,046,200 and authorizes a transfer of \$200,000 from the Fire Training Center Capital Budget to the Fire Station Capital Budget.

G. PUBLIC COMMENT - None

H. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Sanford B. Wanner, County Administrator, recommended a joint closed session of the Board of Supervisors and James City Service Authority Board of Directors pursuant to Section 2.1-344(A)(3) of the Code of Virginia to consider acquisition of parcels of property for environmental protection. He recommended adjournment to Wednesday, October 27, 1999, at 2:00 p.m., for work sessions on Water Conservation and Property Information System.

I. BOARD REQUESTS AND DIRECTIVES

Mr. Bradshaw expressed appreciation to Williamsburg City Council for its contribution to the Schools repair projects. He thanked staff for contacting CSX Railroad to remove and clear the overhead pole lines along the railroad tracks.

Mr. McGlennon asked for clarification of Halloween trick or treat schedule.

Mr. Wanner responded that the James City County schedule for trick or treat by youngsters twelve and under was Sunday, October 31, 1999, from 5:30 to 8:30 p.m.

Mr. Edwards recessed the Board for a James City Service Authority Board of Directors meeting at 8:37 p.m.

Mr. Edwards reconvened the Board into open session at 8:52 p.m.

Mr. Sisk made a motion to convene into closed session as recommended by the County Administrator, at 8:52 p.m.

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

Mr. Edwards reconvened the Board into open session, at 9:34 p.m.

Mr. Sisk made a motion to approve the Closed Session resolution.

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

RESOLUTION

CERTIFICATION OF CLOSED MEETING

WHEREAS, the Board of Supervisors of James City County, Virginia, (Board) has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

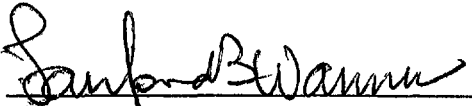
WHEREAS, Section 2.1-344.1 of the Code of Virginia requires a certification by the Board that such closed meeting was conducted in conformity with Virginia law.

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 closed 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)(3), acquisition of parcels of property for public use.

Mr. Edwards made a motion to adjourn.

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

The Board adjourned at 9:35 p.m.


Sanford B. Wanner
Clerk to the Board

OCT 26 1999

ORDINANCE NO. 85A-13

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 8, EROSION AND SEDIMENTATION CONTROL, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY REPEALING CHAPTER 8, EROSION AND SEDIMENTATION CONTROL, AND REPLACING IT WITH NEW CHAPTER 8, EROSION AND SEDIMENT CONTROL.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 8, Erosion and Sedimentation Control, is hereby repealed and replaced with new Chapter 8, Erosion and Sediment Control, Section 8-1, Title, purpose, and authority; Section 8-2, Definitions; Section 8-3, Erosion and sediment control program; Section 8-4, Regulated land-disturbing activities; Submission and approval of plans, contents of plans; Section 8-5, Permits, fees, bonding, etc.; Section 8-6, Monitoring, reports, and inspections; Section 8-7, Penalties, injunctions, and other legal actions; and Section 8-8, Appeals and judicial review.

*Chapter 8. Erosion And Sediment Control**Sec. 8-1. Title, purpose, and authority.**Sec. 8-2. Definitions.**Sec. 8-3. Erosion and sediment control program.**Sec. 8-4. Regulated land-disturbing activities; Submission and approval of plans, contents of plans.**Sec. 8-5. Permits, fees, bonding, etc.**Sec. 8-6. Monitoring, reports, and inspections.**Sec. 8-7. Penalties, injunctions, and other legal actions.**Sec. 8-8. Appeals and judicial review.**Section 8-1. Title, purpose, and authority.*

This chapter shall be known as the "Erosion and Sediment Control Ordinance of James City County." The purpose of this chapter is to conserve the land, water, air, and other natural resources of the county by establishing requirements for the control of erosion and sedimentation, and by establishing procedures whereby these requirements shall be administered and enforced.

State law reference-Code of Virginia, § 10.1- 560 et seq.

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Section 8-2. Definitions.

As used in the chapter, unless the context requires a different meaning:

Agreement in lieu of a plan. A contract between the plan-approving authority and the owner which specifies conservation measures which must be implemented in the construction of a single-family residence; this contract may be executed by the plan-approving authority in lieu of a formal site plan.

Applicant. Any person submitting an erosion and sediment control plan for approval or requesting the issuance of a permit, when required, authorizing land-disturbing activities to commence.

Board. The Virginia Soil and Water Conservation Board.

Certified inspector. An employee or agent of a program authority who (i) holds a certificate of competence from the board in the area of project inspection or (ii) is enrolled in the board's training program for project inspection and successfully completes such program within one year after enrollment.

Certified plan reviewer. An employee or agent of a program authority who (i) holds a certificate of competence from the board in the area of plan review, (ii) is enrolled in the board's training program for plan review and successfully completes such program within one year after enrollment, or (iii) is licensed as a professional engineer, architect, certified landscape architect or land surveyor pursuant to article 1 (Sec. 54.1-400 et seq.) of chapter 4 of title 54.1 of the Code of Virginia (1950).

Certified program administrator. The director of the environmental division who (i) holds a certificate of competence from the board in the area of program administration or (ii) is enrolled in the board's training program for program administration and successfully completes such program within one year after enrollment.

Clearing. Any activity which removes the vegetative ground cover including, but not limited to, root mat removal or top soil removal.

Conservation plan, erosion and sediment control plan, or plan. A document containing material for the conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory, and management information with needed interpretations and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions to assure that the entire unit or units of land will be so treated to achieve the conservation objectives.

County. James City County.

Department. The Department of Conservation and Recreation.

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Development. A tract of land developed or to be developed as a single unit under single ownership or unified control which is to be used for any business or industrial purpose or is to contain three or more residential dwelling units.

Director. The director of the department.

District or soil and water conservation district. Refers to the Colonial Soil and Water Conservation District.

Erosion impact area. An area of land not associated with current land-disturbing activity but subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into state waters. This definition shall not apply to any lot or parcel of land of 10,000 square feet or less used for residential purposes or to shorelines where the erosion results from wave action or other coastal processes.

Excavating. Any digging, scooping or other methods of removing earth materials.

Filling. Any depositing or stockpiling of earth materials.

Grading. Any excavating or filling of earth material or any combination thereof, including the land in its excavated or filled conditions.

Land-disturbing activity. Any land change which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the commonwealth, including, but not limited to, clearing, grading, excavating, transporting and filling of land, except that the term shall not include:

- (1) Minor land-disturbing activities such as home gardens and individual home landscaping, repairs and maintenance work;
- (2) Individual service connections;
- (3) Installation, maintenance, or repair of any underground public utility lines when such activity occurs on an existing hard-surfaced road, street or sidewalk provided such land-disturbing activity is confined to the area of the road, street or sidewalk which is hard-surfaced;
- (4) Septic tank lines or drainage fields unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system;
- (5) Surface or deep mining;
- (6) Exploration or drilling for oil and gas including the well site, roads, feeder lines, and off-site disposal areas;

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(7) *Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, or livestock feedlot operations; including engineering operations and agricultural engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the Dam Safety Act, Code of Virginia sections 10.1-604 et seq., ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Code of Virginia sections 10.1-1100 et seq. of this title or is converted to bona fide agricultural or improved pasture use as described in subsection B of Code of Virginia section 10.1-1163.*

(8) *Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of a railroad company.*

(9) *Disturbed land areas of less than 2,500 square feet in size; provided, that the environmental division can determine a land-disturbing permit shall be required if, in its discretion, it is deemed necessary to adequately safeguard the control of erosion and sedimentation.*

(10) *Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles.*

(11) *Shore erosion control projects on tidal waters when the projects are approved by local wetlands boards, the Marine Resources Commission or the United States Army Corps of Engineers; and*

(12) *Emergency work to protect life, limb or property, and emergency repairs; provided that if the land-disturbing activity would have required an approved erosion and sediment control plan, if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the plan-approving authority.*

Land-disturbing permit. A permit issued by county for the clearing, filling, excavating, grading, transporting of land or for any combination thereof or for any purpose set forth herein.

Local erosion and sediment control program or local control program. An outline of the various methods employed by the county to regulate land-disturbing activities and thereby minimize erosion and sedimentation in compliance with the state program and may include such items as local ordinances, policies and guidelines, technical materials, inspection, enforcement, and evaluation.

Owner. The owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a property.

Permittee. The person to whom the permit authorizing land-disturbing activities is issued or the person who certifies that the approved erosion and sediment control plan will be followed.

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Person. Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town or other political subdivision of the commonwealth, any interstate body, or any other legal entity.

Plan-approving authority. The environmental division responsible for determining the adequacy of a conservation plan submitted for land-disturbing activities on a unit or units of lands and for approving plans.

Program authority. The county which has adopted a soil erosion and sediment control program approved by the board.

Single-family residence. A noncommercial dwelling that is occupied exclusively by one family.

State erosion and sediment control program or state program. The program administered by the Virginia Soil and Water Conservation Board pursuant to the State Code including regulations designed to minimize erosion and sedimentation.

State waters. All waters on the surface and under the ground wholly or partially within or bordering the commonwealth or within its jurisdiction.

Transporting. Any moving of earth materials from one place to another place other than such movement incidental to grading, when such movement results in destroying the vegetative ground cover either by tracking or the buildup of earth materials to the extent that erosion and sedimentation will result from the soil or earth materials over which such transporting occurs.

Section 8-3. Erosion and sediment control program.

(a) The county adopts the regulations, references, guidelines, standards and specifications promulgated by the Virginia Soil and Water Conservation Board and the James City County Guidelines for Design and Construction of Stormwater Management BMPs for the effective control of soil erosion and sediment deposition to prevent the unreasonable degradation of properties, stream channels, waters and other natural resources. Said regulations, references, guidelines, standards and specifications for erosion and sediment control are included in but not limited to the "Virginia Erosion and Sediment Control Regulations" and the Virginia Erosion and Sediment Control Handbook, Third Edition, dated 1992.

(b) An erosion control plan shall not be approved until it is reviewed by a certified plan reviewer. Inspections of land-disturbing activities shall be conducted by a certified inspector. The Erosion Control Program of the county shall contain a certified program administrator, a certified plan reviewer, and a certified inspector, who may be the same person.

(c) The county hereby designates the environmental division as the plan-approving authority.

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Section 8-4. Regulated land-disturbing activities; submission and approval of plans, contents of plans.

(a) Except as provided herein, no person may engage in any land-disturbing activity until he has submitted to the environmental division for the county an erosion and sediment control plan for the land-disturbing activity and such plan has been approved by the plan-approving authority. Where land-disturbing activities involve lands under the jurisdiction of more than one local control program, an erosion and sediment control plan, at the option of the applicant, may be submitted to the Board for review and approval rather than to each jurisdiction concerned.

Where the land-disturbing activity results from the construction of a single-family residence, an "agreement in lieu of a plan" may be substituted for an erosion and sediment control plan if executed by the plan-approving authority.

(b) The standards contained within the "Virginia Erosion and Sediment Control Regulations", including the Minimum Standards, the Virginia Erosion and Sediment Control Handbook and the James City County Guidelines for Design and Construction of Stormwater Management BMPs (Guidelines) are to be used by the applicant when making a submittal under the provisions of this chapter and in the preparation of an erosion and sediment control plan. The plan-approving authority, in considering the adequacy of a submitted plan, shall be guided by these same standards, regulations and guidelines. When the standards vary between the publications, the State regulations shall take precedence except for the MS-19 two-year storm criteria, whereas James City County has adopted a one-year storm criteria as specified in the Guidelines.

(c) The plan-approving authority shall, within 45 days from receipt thereof, approve any such plan, if it is determined that the plan meets the requirements of the local control program, and if the person responsible for carrying out the plan certifies that he or she will properly perform the erosion and sediment control measures included in the plan and will conform to the provisions of this chapter. Any disapproval of a plan shall be in writing and any disapproval shall specify the reasons for such disapproval.

When the plan is determined to be inadequate, the plan-approving authority shall specify such modifications, terms and conditions that will permit approval of the plan. If no action is taken within 45 days, the plan shall be deemed approved and the person authorized to proceed with the proposed activity.

(d) An approved plan may be changed by the plan-approving authority when:

(1) The inspection reveals that the plan is inadequate to satisfy applicable regulations; or

(2) The person responsible for carrying out the plan finds that because of changed circumstances or for other reasons the approved plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of this chapter, are agreed to by the plan-approving authority and the person responsible for carrying out the plans.

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(e) In order to prevent further erosion, the county may require approval of a conservation plan for any land identified in the local program as an erosion impact area.

(f) When land-disturbing activity will be required of a contractor performing construction work pursuant to a construction contract, the preparation, submission, and approval of an erosion and sediment control plan shall be the responsibility of the owner.

(g) Whenever electric and telephone utility companies, interstate and intrastate natural gas pipeline companies or railroad companies undertake any of the activities included in subdivisions (1) and (2) of this subsection, they shall be considered exempt from the provisions of this chapter.

(1) Construction, installation and maintenance of electric, natural gas and telephone utility lines and pipelines; and

(2) Construction of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of the railroad company.

Projects not included in subdivisions (1) and (2) of this subsection shall comply with the requirements of the county erosion and sediment control program.

(h) State agency projects are exempt from the provisions of this chapter except as provided for in the Code of Virginia, section 10.1-564.

Section 8-5. Permits, fees, bonding, etc.

(a) Agencies authorized under any other law to issue grading, building, or other permits for activities involving land-disturbing activities may not issue any such permit unless the applicant submits with his application an approved erosion and sediment control plan and certification that the plan will be followed.

(b) No person may engage in any land-disturbing activity until he has acquired a land-disturbing permit, unless the proposed land-disturbing activity is specifically exempt from the provisions of this chapter, and has paid the fees and posted the required bond.

(c) Fees. The following administrative fee shall be paid to the county at the time of submission of the erosion and sediment control plan:

(1) Residential subdivisions shall pay \$25.00 per lot.

(2) All other land disturbing activities shall pay \$300.00 per acre of disturbance for the first 15 acres plus \$200.00 per acre for each additional acre over 15.

(d) No land-disturbing permit shall be issued until the applicant submits with his application an approved erosion and sediment control plan and certification that the plan will be followed.

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(e) *Performance Surety.* All applicants for permits shall provide to the county a performance bond, cash escrow, or an irrevocable letter of credit, any combination thereof, or other legal arrangements as is acceptable to the county attorney, to ensure that measures could be taken by the county at the applicant's expense should the applicant fail, after proper notice, within the time specified to initiate or maintain appropriate conservation measures required of him as a result of his land-disturbing activity.

The amount of the performance surety shall not exceed the total of the estimated cost to initiate and maintain appropriate conservation action based on unit price for new public or private sector construction in the locality and a reasonable allowance for estimated administrative costs and inflation which shall not exceed twenty-five percent of the cost of the conservation action. Should it be necessary for the county to take such conservation action, the county may collect from the applicant any costs in excess of the amount of the surety held.

Within sixty (60) days of adequate stabilization, as determined by the environmental division, in any project or section of a project, such performance surety, or the unexpended or unobligated portion thereof shall be either refunded to the applicant or terminated, based upon the percentage of stabilization accomplished in the project or project section.

(f) Any land-disturbing permit shall contain a right of entry to allow the manager or his designees access to the property until a final inspection determines that the land is adequately stabilized.

(g) These requirements are in addition to all other provisions relating to the issuance of permits and are not intended to otherwise affect the requirements for such permits.

(h) Any approved erosion and sediment control plan shall become null and void 180 days after the date of issuance of the land-disturbing permit, and no further work subject to this chapter shall be allowed unless and until an additional or updated erosion and sediment control plan has been submitted and approved in accordance with the provisions of this chapter or unless all requirements of the approved control plan have been completed in less than 180 days in accord with such plan and verified by the on-site inspection by the manager.

Section 8-6. Monitoring, reports, and inspections.

(a) The certified program administrator may require the person responsible for carrying out the plan to monitor the land-disturbing activity. The person responsible for carrying out the plan will maintain records of these inspections and maintenance, to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation.

(b) The environmental division shall periodically inspect the land-disturbing activity as prescribed in the Virginia Erosion and Sediment Control Regulations to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling

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erosion and sedimentation. The owner, permittee, or person responsible for carrying out the plan shall be given notice of the inspection.

If the environmental division determines that there is a failure to comply with the plan, notice shall be served upon the permittee or person responsible for carrying out the plan by registered or certified mail to the address specified in the permit application or in the plan certification, or by delivery at the site of the land-disturbing activities to the agent or employee supervising such activities.

The notice shall specify the measures needed to comply with the plan and shall specify the time within which such measures shall be completed. Upon failure to comply within the specified time, the permit may be revoked and the permittee or person responsible for carrying out the plan shall be deemed to be in violation of this chapter and shall be subject to the penalties provided by this chapter.

(c) Upon determination of a violation of this chapter, the environmental division may, in conjunction with or subsequent to a notice to comply as specified in this chapter, issue an order requiring that all or part of the land-disturbing activities permitted on the site be stopped until the specified corrective measures have been taken.

If land-disturbing activities have commenced without an approved plan, the environmental division may, in conjunction with or subsequent to a notice to comply as specified in this chapter, issue an order requiring that all of the land-disturbing activities be stopped until an approved plan or any required permits are obtained.

Where the alleged noncompliance is causing or is in imminent danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth, or where the land-disturbing activities have commenced without an approved plan or any required permits, such an order may be issued without regard to whether the permittee has been issued a notice to comply as specified in this chapter. Otherwise, such an order may be issued only after the permittee has failed to comply with such a notice to comply.

The order shall be served in the same manner as a notice to comply, and shall remain in effect for a period of seven days from the date of service pending application by the enforcing authority or permit holder for appropriate relief to the Circuit Court of James City County.

If the alleged violator has not obtained an approved plan or any required permits within seven days from the date of service of the order, the environmental division may issue an order to the owner requiring that all construction and other work on the site, other than corrective measures, be stopped until an approved plan and any required permits have been obtained. Such an order shall be served upon the owner by registered or certified mail to the address specified in the permit application or the land records of the county.

The owner may appeal the issuance of an order to the Circuit Court of James City County.

Any person violating or failing, neglecting or refusing to obey an order issued by the environmental division may be compelled in a proceeding instituted in the Circuit Court of James City County to obey same and to comply therewith by injunction, mandamus or other appropriate remedy.

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Upon completion and approval of corrective action or obtaining an approved plan or any required permits, the order shall immediately be lifted.

Nothing in this section shall prevent the environmental division from taking any other action authorized by this chapter.

Section 8-7. Penalties, injunctions, and other legal actions.

(a) Schedule of civil penalties

(1) Any person who violates any provision of this chapter shall, upon a finding of the District Court of James City County, be assessed a civil penalty. A civil penalty in the amount listed on the schedule below shall be assessed for each violation of the respective offenses:

a. Commencement of land disturbing activity without an approved Erosion control plan as provided in section 8-4 shall be \$1,000.00 per day.

b. Vegetative measures - failure to comply with items 1, 2, 3, 5, and 7 of the Minimum Standards shall be \$100.00 per violation per day.

c. Structural measures - failure to comply with items 2, 4, 6, 8, 9, 10, 11, 15, and 17 of the Minimum Standards shall be \$100.00 per violation per day.

d. Watercourse measures - failure to comply with items 12, 13, 14, and 15 of the Minimum Standards shall be \$100.00 per violation per day.

e. Underground utility measures - failure to comply with item 16(a), and/or (c) of the Minimum Standards shall be \$100.00 per violation/per day.

f. Failure to obey a stop work order shall be \$100.00 per day.

g. Failure to stop work when permit is revoked shall be \$100.00 per day.

h. All other violations of this chapter not specifically enumerated in items (a) through (g) of this section shall be \$100.00 per day.

(b) In no event shall a series of specified violations arising from the same operative set of facts result in civil penalties which exceed a total of \$3,000, except that a series of violations arising from the commencement of land-disturbing activities without an approved plan for any site shall not result in civil penalties which exceed a total of \$10,000.

(c) The environmental division, or the owner or property which has sustained damage or which is in imminent danger of being damaged, may apply to the Circuit Court of James City County to enjoin a violation or a threatened violation of this chapter, without the necessity of showing that an adequate remedy at law does not exist.

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However, an owner of property shall not apply for injunctive relief unless (i) he has notified in writing the person who has violated the local program, and the program authority, that a violation of the local program has caused, or creates a probability of causing, damage to his property, and (ii) neither the person who has violated the local program nor the program authority has taken corrective action within fifteen days to eliminate the conditions which have caused, or create the probability of causing, damage to his property.

(d) In addition to any penalties provided under this chapter, any person who violates any provision of this chapter may be liable to the county in a civil action for damages.

(e) Without limiting the remedies which may be obtained in this section, any person violating or failing, neglecting, or refusing to obey any injunction, mandamus or other remedy obtained pursuant to this section shall be subject, in the discretion of the court, to a civil penalty not to exceed \$2,000 for each violation. A civil action for such violation or failure may be brought by the county.

Any civil penalties assessed by a court shall be paid into the treasury of the county, except that where the violator is the locality itself, or its agent, the court shall direct the penalty to be paid into the state treasury.

(f) With the consent of any person who has violated or failed, neglected or refused to obey any regulation or condition of a permit or any provision of this chapter, the county may provide for the payment of civil charges for violations in specific sums, not to exceed \$2,000. Such civil charges shall be instead of any appropriate civil penalty.

(g) Compliance with the provisions of this chapter shall be prima facie evidence in any legal or equitable proceeding for damages caused by erosion, siltation or sedimentation that all requirements of law have been met, and the complaining party must show negligence in order to recover any damages.


Section 8-8. Appeals and judicial review.

(a) Any applicant under the provision of this chapter who is aggrieved by any action of the county or its agent in disapproving plans submitted pursuant to this chapter shall have the right to apply for and receive a review of such action by the board of supervisors provided an appeal is filed within 30 days from the date of the action. Any applicant who seeks an appeal hearing before the board of supervisors shall be heard at the next regularly scheduled board of supervisors' public hearing provided that the board of supervisors and other involved parties have at least 30 days prior notice. In reviewing the agent's actions, the board of supervisors shall consider evidence and opinions presented by the aggrieved applicant and agent. After considering the evidence and opinions, the board of supervisors may affirm, reverse or modify the action. The board of supervisors' decision shall be final, subject only to review by the Circuit Court of James City County.

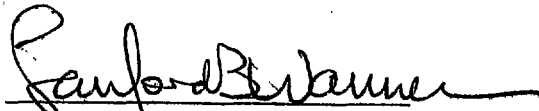
(b) Final decisions of the county under this chapter shall be subject to review by the James City County Circuit Court, provided an appeal is filed within 30 days from the date of any written decision.

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adversely affecting the rights, duties, or privileges of the person engaging in or proposing to engage in land-disturbing activities.


Jack D. Edwards
Chairman, Board of Supervisors

ATTEST:


Sanford B. Wanner
Clerk to the Board

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

Adopted by the Board of Supervisors of James City County, Virginia, this 26th day of October, 1999.

erosion.ord

ADOPTED⁶¹

OCT 26 1999

ORDINANCE NO. 107A-31

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 20, TAXATION, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL, BY ADDING SECTION 20-4.1, ABATEMENT OF LEVIES ON BUILDINGS RAZED, DESTROYED OR DAMAGED BY NATURAL OR ACCIDENTAL EVENTS.

BE IT ORDAINED, by the Board of Supervisors of the County of James City, Virginia, that Chapter 20, Taxation, is hereby amended and reordained by amending Article I, In General, by adding Section 20-4.1, Abatement of levies on buildings razed, destroyed, or damaged by natural or accidental events.

Chapter 20. Taxation

Article I. In General

Sec. 20-4.1. Abatement of levies on buildings razed, destroyed, or damaged by natural or accidental events.

Buildings which are razed, destroyed, or damaged due to a natural or accidental event and through no fault of the owner shall receive an abatement for tax levies computed according to the ratio which the portion of the year the building was fit for use, occupancy, or enjoyment bears to the entire year. No such abatement shall occur unless:

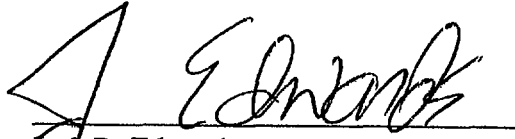
1. The destruction or damage to such building decreases its value by \$500 or more;

Ordinance to Amend and Reordain
Chapter 20. Taxation
Page 2

2. The destruction or damage to such building shall not be repaired during the same calendar year in which it occurred; and

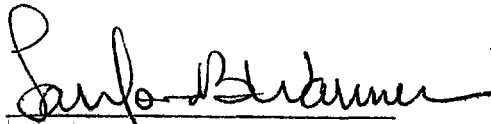
3. The owner of such building makes application for the abatement within six months of the date on which the building was razed, destroyed, or damaged.

State law reference - Va. Code §58.1-3222.



Jack D. Edwards
Chairman, Board of Supervisors

ATTEST:

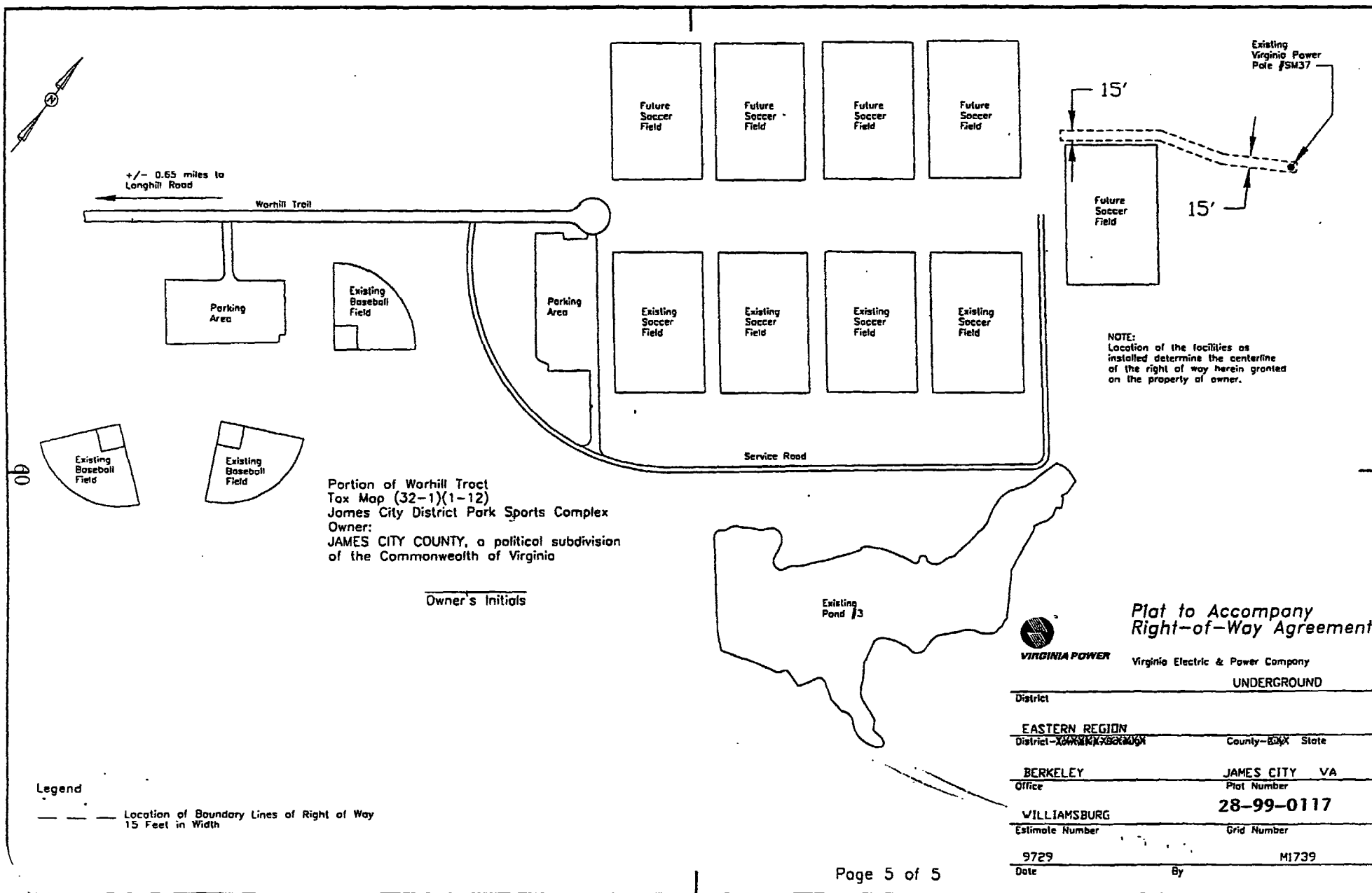


Sanford B. Wanner
Clerk to the Board

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

Adopted by the Board of Supervisors of James City County, Virginia, this 26th day of October, 1999.

bldgrazed.ord



VIRGINIA POWER

Plat to Accompany Right-of-Way Agreement

Virginia Electric & Power Company

UNDERGROUND

District

EASTERN REGION

District-~~XXXXXX~~ ~~XXXXXX~~

County-~~XXX~~ State

BERKELEY

Office

JAMES CITY VA

Plot Number

28-99-0117

WILLIAMSBURG

Estimate Number

Grid Number

9729

Date

By

M1739