

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 9TH DAY OF OCTOBER, 2001, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

John J. **McGlennon**, Chairman, **Jamestown** District
Bruce C. Goodson, Vice Chairman, **Roberts** District

Jay **T. Harrison**, Sr., Berkeley District
James G. **Kennedy**, **Stonehouse** District
Ronald A. **Nervitt**, **Powhatan** District

Sanford B. Wanner, County Administrator
Frank M. Morton, III, County Attorney

B. PLEDGE OF ALLEGIANCE

Ms. Flora **Lynn** Adams, a Sophomore at **Jamestown** High School, led ~~the~~ Board and citizens in the Pledge of **Allegiance**.

C. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, stated that the ship U. S. S. Enterprise is on the battle line; that we may deplete ~~the~~ **Chickahominy** Piney-Point Aquifer; suggested the disposal of salt from the desalinization plant be put back in the ground via **deep** wells; commented on the well **for** irrigation at **Cooley** Field and suggested it would be better **served** with **astro-turf**; suggested ~~the~~ proposed power plant should be equipped with scrubbers on the stack; and that ~~the~~ September 26, 2001, news stated that ~~the~~ golf courses in the area are hurting for revenue.

D. PRESENTATIONS

1. **FY 01 Strategic Management Plan Year-End Report**

Ms. Rona **J. Vrooman**, Training and Quality **Performance** Coordinator, provided ~~the~~ **Board and citizens** with an overview of the FY 01 Strategic Management **Plan** Year-End Report.

The Board and staff discussed items **where the** objectives **of the** Strategic Management Plan were met, **not** reached, and exceeded; and the steps staff is taking to maintain and improve performance.

2. Curbside Recycling Services

Ms. Jennifer **Privette**, James City County Recycling Coordinator, and **Mr. Stephen Geissler**, Executive Director of the Virginia Peninsulas Public Service **Authority (VPPSA)**, made a brief presentation to the Board and citizens regarding the new recycling agreement and the service changes under the agreement

E. CONSENT CALENDAR

Mr. **McGlennon** inquired if a Board member wished to pull an item from the consent calendar.

Mr. Kennedy requested Item Number 2, Code Violation – 89 Meadowcrest Trail, be pulled

Mr. Kennedy made a motion to approve the remaining items on the consent calendar.

On a roll call, the vote was: AYE: Harrison, Kennedy, **Nervitt, Goodson, McGlennon** (5). NAY: (0).

1. Bank Services Contract Changes

RESOLUTION

BANK SERVICES CONTRACT CHANGES

WHEREAS, the Treasurer of James City County currently uses a compensatory balance method to pay banks for County banking services; and

WHEREAS, improvements in investment procedures indicate that the County would generate more additional investment income than it would spend if it compensated banks for services directly.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of **James** City County, Virginia, hereby authorizes the County Treasurer to negotiate for banking services and compensate the banks either directly or through a compensatory balance, whichever is determined to be more advantageous for the County.

BE IT FURTHER RESOLVED, anticipating an amendment to the existing banking contract that would change the compensation for banking services for a compensatory balance to a direct billing, that the Board of Supervisors amend the FY 2002 Budget and appropriations, as follows:

Revenues

Investment Income	<u>+\$35,000</u>
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Expenditures

Office of the Treasurer Professional Services	<u>±\$35,000</u>
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3. Courthouse Maintenance Fund

RESOLUTION

COURTHOUSE MAINTENANCE FUND

WHEREAS, the Board of Supervisors of James City County and the City Council of **Williamsburg** have agreed to withdraw funds from the Courthouse Maintenance Fund for court-related improvements.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the FY 2002 Operating Budget be amended and the following funds be appropriated:

Revenues:

Courthouse Maintenance Fund	<u>\$182,000</u>
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Expenditures:

Court Support Services	<u>\$182,000</u>
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4. Clerk of Circuit Court - Technology Grant

RESOLUTION

CLERK OF CIRCUIT COURT - TECHNOLOGY GRANT

WHEREAS, the State Compensation Board has awarded \$231,849 in State funds to the Office of the Clerk of the Circuit Court for technology improvements.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, amends the FY 2002 Budget and appropriations as follows:

Revenue:

From the Commonwealth	<u>+\$231,849</u>
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Expenditure:

Clerk of the Circuit Court	<u>+\$231,849</u>
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5. Joint Resolution to Amend the Restated Contract for the Joint Operation of Schools

R E S O L U T I O N

JOINT RESOLUTION TO AMEND THE RESTATED CONTRACT FOR
THE JOINT OPERATION OF SCHOOLS. CITY OF WILLIAMSBURG AND
COUNTY OF JAMES CITY

WHEREAS, the City of **Williamsburg** and the County of James City deem it in the best interests of **their** citizens to amend the contract for the operation of the joint school system

NOW, THEREFORE, BE IT RESOLVED that the **Board of Supervisors** of James City County, Virginia, hereby authorizes and directs the Chairman and Clerk to execute that Joint Resolution dated October 12, 2001.

2. Code Violation – 89 Meadowcrest Trail

Mr. **Kennedy** inquired if the parcel in violation is the open community lot.

Mr. **Horne** stated that staff would research the parcel and bring the information back before the Board.

Mr. **Kennedy** requested the Board defer action on this item until staff identifies the ownership of the lot in question.

F. PUBLIC HEARINGS

1. & 2. AFD-06-86. Cranston's Pond – Ware Property Withdrawal (deferred from August 14, 2001) a Case No. Z-04-00/MP-01-01. Colonial Heritage at Williamsburg (deferred from August 14, 2001)

Mr. **Ben Thompson**, Planner, stated that the applicant has requested a deferral of these items to November 13, 2001, and recommends the Board approve the deferral request.

Mr. **McGlennon** inquired if the Board had any questions.

Mr. **McGlennon** opened the public hearing.

As no one wished to speak, Mr. **McGlennon** continued the cases to November 13, 2001.

3. Subdivision 74-01. Inverness Lane Right-of-Way Vacation

Mr. **Paul Holt**, Planner, stated that Ms. Michelle Proffitt and Mr. Chang Mug Kim have applied to extinguish the 50-foot-wide Inverness Lane right-of-way, as originally shown on the plat of the subdivision for the Hamlet Subdivision, Section **I**, dated April 1965, zoned R-2, General Residential, between 110 and 112 Centerbury Place, further identified as Parcel Nos. (3-51) and (3-52) on the James City Real Estate Tax Map No. (324).

Staff found the vacation proposal acceptable, that the vacation would not negatively impact or irreparably damage any adjacent property or land owner, and **recommended the Board** adopt the Ordinance which would sell the right-of-way to the two adjacent property owners for an amount of 25 percent of the assessed value of the land.

The Board and staff held a brief discussion regarding the adjacent subdivision and **the lack** of impact this vacation will have on it, and the size of the right-of-way will not permit additional homes to be built.

Mr. **McGlennon** opened **the** public hearing.

As no one wished to speak, Mr. **McGlennon** closed the public hearing

Mr. **Goodson** made a motion to adopt the Ordinance.

On a roll call, the vote was: AYE: Harrison, Kennedy, Nervitt, **Goodson, McGlennon** (5). NAY: (0).

4. Case No. Z-2-01/MP-2-01/Design Guidelines. Virginia United Methodist Homes, Inc.

Ms. Jill **Schmidle**, Planner, stated that Mr. Alvin Anderson has applied **on behalf** of C. C. Casey Limited Company to rezone approximately nine acres from R-8, Rural Residential, and approximately 102 acres from R-8 with proffers, to MU, Mixed Use, for a continuing care retirement community consisting of 30 dwelling units and 119 continuing care beds located at 4692,4694,4740,4710,4704 and 4700 News Road and 144 Jester's Lane, further identified as Parcel Nos. (1-34), (1-7), (1-2), (1-5), (1-6,), (1-8), and (2-18) on the James City County Real Estate Tax Map No. (38-3); and Parcel No. (1-8) on the James City County Real Estate Tax Map No. (38-1).

Staff found the proposed use to be consistent with surrounding zoning and land use, consistent with the Comprehensive Plan, and consistent with the intent of the New Town Master Plan, Design Guidelines, and proffers.

The Planning Commission voted 6-0 to recommend to project for approval on September 5, 2001.

Staff recommends the Board approve the rezoning, master plan and design guidelines, and accept the voluntary proffers.

The Board and staff discussed the use of Jester's Lane as an emergency access only, the **size of** the public square, time of day for the operation of construction traffic, the density of New Town, and expansion of the stormwater facility.

Mr. **McGlennon** opened the public hearing.

1. Mr. Alvin Anderson, applicant, provided the Board with a history of the property, mission statement and goals of the Virginia United Methodist Homes, Inc., construction steps for building, water consumption and conservation, fiscal impacts, and requested the Board support the rezoning.

The Board, **staff**, and applicant discussed revenue patterns before and after build-out, type and size of buffering along Route 199, utilization and access to Jester's Lane, aspects of the public square, density allocation, **marketing proposal targeting County** residents, employment needs **and skill** levels, and **hosing for those** who will be working in New Town.

2. Ms. Faye Burbedge, District Manager of **Windsor Meade**, stated that there are many local residents who are interested in living in **Windsor Meade**.

Mr. **Goodson** inquired about what the targeted market area is of this development.

Ms. **Burbedge** stated that the primary marketing **area is** within a ten mile radius and **advertisements** have been placed in **local** magazines, at the College of William and Mary, as well as on the web.

3. Mr. **Ken Axtel**, 483 Fairway Lookout, stated support for the rezoning to Mixed Use for the project and that this project will be a magnificent addition to the region, County, and New Town.

4. Mr. **Richard Boggs**, 105 Butler, requested the Board approve the **Windsor Meade** proposal, stated support for the excellent programs and desire to be apart of the life care system, and that this will be a controlled growth in New Town with positive influence of **Windsor Meade**.

5. Mr. **Jack Corbur**, 3099 Nathaniel Green, stated support for the project, has put forth a **deposit** in support of the project, that the Virginia United Methodist Homes, Inc., will provide competent healthcare, and address the needs of the growing number of elderly in community.

6. Dr. **Mitchel Byrd**, stated support for the project and requested the Board approve the project, the outstanding records to show quality of service and business, the senior segment of the population is growing faster, and that investing in this project is a purchase of the concept of life, not a home.

7. Mr. **Ed Oyer**, 139 Indian Circle, requested **the** Board focus on the New Town concept and deny all rezoning until the water problem is solved.

As no one else wished to speak, Mr. **McGlennon** closed the public hearing.

The Board and staff discussed a water policy of "first come, first serve" and concern of a walking community with so many lanes of traffic.

Mr. **Nervitt** made a motion to adopt the resolution.

The Board discussed a proposal to **defer** the case to allow the material to be reviewed in full, concerns that holding up projects until draft permits received when water is available for project, concerns about the gated community aspect of the project, and the **Powhatan** Creek Water Shed impacts from the project.

Mr. **McGlennon** made an amendment to the motion to move for deferral of the case until October 23, 2001.

On a roll call, the vote was: AYE: Harrison, **Kennedy**, **Nervitt**, **McGlennon** (4). NAY: **Goodson** (1).

Mr. **McGlennon** recessed the Board for a brief break at 9:34 p.m.

Mr. **McGlennon** called the Board back to order at 9:43 p.m.

G. BOARD CONSIDERATION

1. Cash Proffers

Mr. **John T. P. Horne**, Manager of Development Management, stated that the Board requested a resolution for consideration for the establishment of a systematic cash proffers policy in James City County. The policy includes proffer guidelines as examples under which the actual proffers could be expected, and provisions to deal with the costs of providing public water.

The Board and staff discussed the process to get the resolution to this point.

Mr. Goodson moved for this case to be sent back to the Planning Commission for formal public hearing.

Mr. McGlennon invited public comment.

1. Mr. Larry Summers, Williamsburg Association of Realtors, reviewed a Board of Realtors letter to Mr. McGlennon concerning cash proffers and stated opposition to the use of mandatory cash proffers what will have an inflationary impact on developments.

2. Mr. Skip Morris, 107 Edward Wyatt, stated that a cash proffer policy will increase the cost of average homes, requested the policy be considered after public input via a public hearing, and stated opposition of the "Californization" of the County.

3. Mr. Norman Mason, Landmark Design Group, stated that in the October 6, 2001, The Virginia Gazette article that states that cash proffers will slow growth is inaccurate and stated that cash proffers will increase housing costs throughout the County.

4. Mr. Stan Karens, 109 John Fowler, stated opposition to the cash proffers and the negative impacts it would have on single-family homes as well as the potential to put small builders out of business.

5. Ms. Deborah PUI, resident of the City of Virginia Beach and member of the Virginia Peninsula Homebuilders, requested the Board hold a public hearing on this item, stated that cash proffers were not the answer to funding shortages, that this will be a hidden "growth tax" passed on to the new homeowners, stated that the County is open to new businesses, but not welcoming to employees; and requested the Board plan growth, not limit it.

6. Mr. Richard Costello, 10020 Sycamore Landing Road, stated that cash proffers sound good, but hurt residents, and the residents were willing to pay more for better quality of life offered here in the County.

7. Mr. Mark Elsworth, resident of Newport News, stated the appropriateness of public hearings and requested the Board get citizen input by sending the item to the Planning Commission and defer action this evening.

8. Mr. Lawrence Beamer, local developer and landowner, stated that there is no such thing as affordable housing in James City County, that impact fees do not control growth, suggested the County control growth with quality, and the message being sent to new residents is that County taxes do not pay for anything.

9. Mr. Drew Mulhare, 124 Henry Tyler Drive, stated that development should pay for itself, suggested public policy is necessary for affordable housing in the County, that cash proffers for residential are skewed to cover "County" expenses, and requested the County use economic proffers not cash proffers.

Mr. Goodson made a motion to refer the policy to the Planning Commission for a recommendation and a public hearing.

The Board discussed the desire for flexibility of applying policy guidelines case-by-case, need for public comment, the number of times this issue has been before the Board and if the Board desires to take action on a policy or just continues to deal as in the past.

On a roll call, the vote to refer the policy to the Planning Commission was: AYE: Harrison, Kennedy, Nervitt, Goodson, McGlennon (5). NAY: (0).

H. PUBLIC COMMENT - None**I. REPORTS OF THE COUNTY ADMINISTRATOR**

Mr. Wanner stated that a County telephone survey will be conducted by **Virginia** Tech to get input from County citizens for the upcoming Comprehensive Plan update.

Mr. Wanner stated that the Board has been provided a *draft* of the Health Care Study Request for Proposal and requested feedback within the week to provide staff with guidance concerning the pursuit of an outside consultant to review the area's health care services.

The Board **and** staff briefly discussed inviting the City of **Williamsburg** into the project to share costs, and speaking with citizens for input.

Mr. Wanner stated that an article in The Virginia Gazette mentioned the County's interest in the acquisition of riverfront property. The parcel of property mentioned in the article is not owned by a single holder, but rather upwards of 200 people invested in the parcel.

Mr. Wanner **recommended** that the Board act on the appointments of individuals to County Boards and Commissions while in open session if the Board concurs with staffs recommendations.

Mr. Wanner recommended that upon completion of the Board's agenda this evening, the Board adjourn until 7 p.m. on October 23.

Mr. **Goodson** made a motion to reappoint Madelyn Hermann to the Colonial Services **Board** for a **three-** year term, term to expire on June 30, 2004; and to appoint June **Hagee** to the Colonial Services Board for a **three-** year term, term to expire on June 30, 2004.


On a roll call, the vote was: AYE: Harrison, Kennedy, Nervitt, **Goodson, McGlennon** (5). NAY: (0).

J. BOARD REQUESTS AND DIRECTIVES - None**K. ADJOURNMENT**

Mr. Kennedy made a motion to adjourn until 7 p.m. on October 23, 2001.

On a roll call, the vote was: AYE: **Harrison, Kennedy, Nervitt, Goodson, McGlennon** (5). NAY: (0).

Mr. **McGlennon** adjourned the Board at 10:47 p.m.


 Sanford B. Wanner
 Clerk to the Board

OCT 9 2001

ORDINANCE NO. 175A-1BOARD OF SUPERVISOR
JAMES CITY COUNTY
VIRGINIAAN ORDINANCE TO VACATE A PORTION OF THAT CERTAIN SUBDIVISION PLATENTITLED "THE HAMLET, SECTION ONE" AND MORE PARTICULARLYDESCRIBED AS THE VACATION OF INVERNESS LANE ANDTHE ADJUSTMENT OF CERTAIN LOT LINES

WHEREAS, application has been made by Ms. Michelle **Proffitt** and Mr. Chang Mug Kim to vacate **certain lines**, words, numbers, and symbols on a plat **more particularly described below**; and

WHEREAS, notice that the Board of Supervisors of **James** City County would consider such application has been given pursuant to Sections 15.2-2272 and 15.2-2204 of the **Code** of Virginia of 1950, as amended; and

WHEREAS, the Board of Supervisors held a public hearing and considered such application on the 9th day of October, 2001, pursuant to such notice and **the** Board of Supervisors was of the opinion that the vacation would not result in any inconvenience and is in the interest of the public welfare.

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

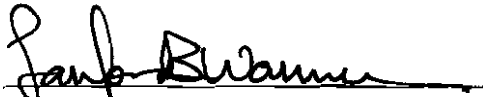
1. That a portion of that certain subdivision plat, entitled "**The** Hamlet, Section One," be so vacated so as to permit the recordation of a new plat that will serve to remove certain lines, words, numbers, and symbols as more specifically set forth in the above-mentioned plat and thereby vacating the right-of-way for **Inverness** Lane and extinguishing and adjusting certain lot lines.
2. That a new plat, entitled "Boundary Line Adjustment of property standing in the name of Michelle **Proffitt** and Chang Mug Kim and Soon Hwa **Kim** being Lot 51 and 52 The Hamlet, Section One and Right-of-way Vacation of **Inverness** Lane located: James City County, **Virginia**" dated August 2, 2001, and revised September 6, 2001, prepared by **Mitchell-Wilson** Associates, P.C., and approved by James City County, be put to record in the **Clerk's** Office of the Circuit Court for the City of **Williamsburg** and County of James City, Virginia.
3. That said vacation shall be conditioned upon the purchase of the right-of-way by Michelle **Proffitt**, owner of Parcel No. (32-4)(3-52), and Chang Mug Kim and **Soon** Hwa Kim, owners of Parcel No. (32-4)(3-51), for the sum of \$2,275, such value being agreed upon by the applicants and James City County.

This Ordinance shall be in full force and effect from the date of its adoption.



John J. McGlennon
Chairman, Board of Supervisors

ATTEST:



Sanford B. Wanner
Clerk to the Board

SUPERVISOR VOTE

HARRISON	AYE
KENNEDY	AYE
NERVITT	AYE
GOODSON	AYE
MCLENNON	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of October, 2001.

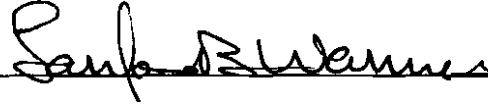
SubD-74-01.res

In the County of James City

By resolution of the governing body adopted October 09, 2001

The following Form SR-5A is hereby **attached and incorporated as part of the governing body's resolution for changes in the secondary system of state highways**

A Copy Testee Signed (County Official):



Report of Changes in the Secondary System of State Highways

Form SR-5A
Secondary Roads Division 511199

Project/Subdivision

Pointe At Jarnestown, Sections 1A, 1B, 1C

Type of Change: **Addition**

The following additions to the **Secondary** System of State Highways, pursuant to the statutory provision or provisions cited, are hereby **requested**, the right of way for which, including **additional** easements for drainage as required, is guaranteed:

Reason for Change: Addition. New subdivision street

Pursuant to Code of Virginia Statute: **§33.1-229**

Route Number and/or Street Name

Prince Trevor Drive, State Route Number 1498

Description: **From:** Rt 1496, Sir Thomas Way
To: E to intersection of Rt 1497. Sir Gilbert Loop
A distance of: **0.16** miles.

Right of Way Record: Filed with the Land Records **Office** on 05/06/1999. Plat Book 73, Pg 11, with a width of 50

Description: **From:** Rt 1497. Sir Gilbert Loop
To: NE to end of cul-de-sac
A distance of: **0.06** miles.

Right of Way **Record:** Filed with the Land Records Office on 05/06/1999, Plat Book 73, Pg 11. with a width of 50

Sir Gilbert Loop, State Route Number 1497

Description: **From:** Rt 1496, Sir Thomas Way
To: Wand NE to intersection of Rt 1496, Sir Thomas Way
A distance of: **0.17** miles.

Right of Way **Record:** Filed with the Land Records Office on 03/27/2000. Plat Book 77. Pg 2, with a width of 50

Description: **From:** Rt 1496. Sir Thomas Way
To: E and S to **intersection** of Rt 1498, Prince Trevor Drive
A distance of: 0.20 miles.

Right of Way Record- Filed with the Land Records **Office** on 03/27/2000, Plat Book 77, **Pg 2**, with a width of 50

Report of Changes in the Secondary System of State Highways

Form SR-5A
Secondary Roads Division 5/1/99

Sir Thomas Way, State Route Number 1496

Description: **From:** Rt 680. 4-H Club Road

To: N to end of median

A distance of: 0.01 miles.

Right of Way Record: Filed with ~~the~~ Land Records Office on 05/14/1998, Plat Book 69, Page 41, with a width of

Description: **From:** Rt 1496. Sir Thomas Way. End Of Median

To: NE to intersection of Rt 1497. Sir Gilbert Loop

A distance of: 0.29 miles.

Right of Way Record Filed with the Land Records Office on ~~05/14/1998~~, Plat Book 69. Pg 41, with a width of 50

Description: **From:** Rt 1497. Sir Gilbert Loop

To: N to intersection of Rt 1498. Prince Trevor Drive

A distance of: 0.05 miles.

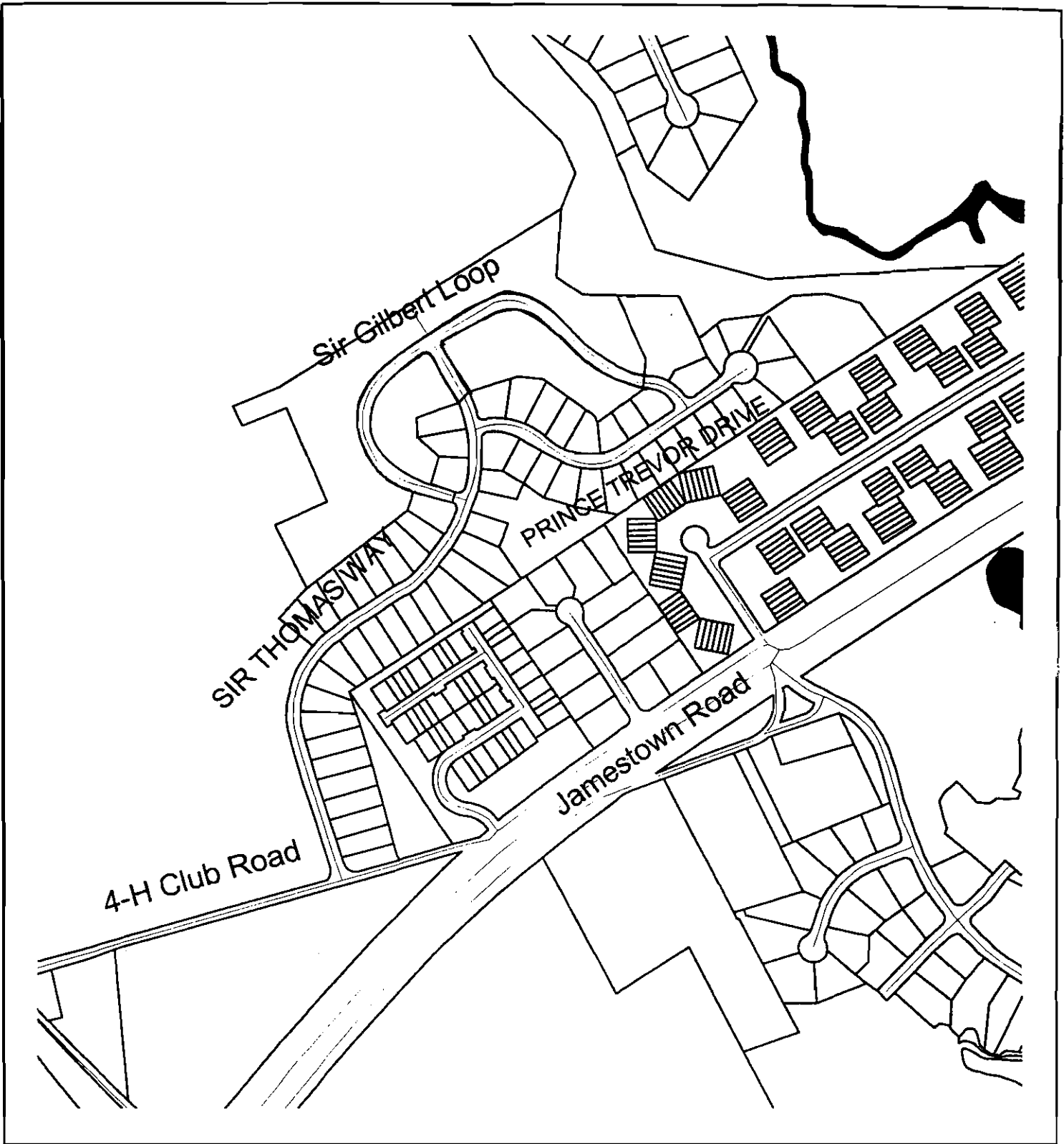
Right of ~~Way~~ Record: Filed with the Land Records Office on ~~05/06/1999~~, Plat Book 73, Pg 11, with a width of 50

Description: **From:** Rt 1498. Prince Trevor Drive

To: NW to intersection of Rt 1497. Sir Gilbert Loop

A distance of: 0.06 miles.

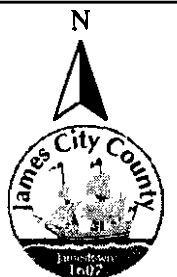

Right of Way Record: Filed with the Land Records ~~Office~~ on 05/06/1999. Plat Book 73. Pg 11. with a width of 50



DEDICATION OF STREETS IN THE POINTE AT JAMESTOWN, SECTIONS 1A, 1B, & 1C

 Streets Being Dedicated

200 0 200 400 600 Feet



RESOLUTION #6-96

JOINT RESOLUTION TO AMEND THE RESTATED
CONTRACT FOR THE JOINT OPERATION OF SCHOOLS,
CITY OF WILLIAMSBURG AND COUNTY OF JAMES CITY

DATE OF DOCUMENT: ~~JANUARY 15, 1996~~ **October 12, 2001**

PREAMBLE

By Agreement dated October 9, 1980, the County **School** Board of James City County, Virginia, and the County of James City, parties of the first part and the School Board of the City of **Williamsburg**, Virginia and the City of Williamsburg, Virginia, parties of the second part entered into a ~~restated~~ contract ~~for~~ the operation of a joint school system, hereinafter referred to as the "Restated Contract."

By Resolution dated October 9, 1980, ~~the~~ City of Williamsburg (hereinafter referred to as "City") and the County of James City (hereinafter ~~referred~~ to as "County") and their respective school boards amended the funding formula as set forth in the Restated Contract.

By **Resolution dated February 27, 1989, the City of Williamsburg and County of James City** and their respective school boards, further amended the Restated Contract to provide that James City County would fully pay all costs of constructing ~~three~~ schools as described therein and that the County would have all ownership equity in such schools.

By Resolution dated December 12, 1991, by the City, December 16, 1991, by the County, and December 17, 1991, by the School Boards, (hereinafter referred to as "1991 Resolution") the parties further amended the **Restated Contract** by repealing in its entirety the October 9, 1980, **Restated Contract** and substituting therefore new provisions for all aspects of the contract.

By Resolution dated April 11, 1996, by the City and April 30, 1996, by the County (hereinafter referred to as the "1996 Resolution"), the parties amended the Restated Contract.

RESOLUTION

NOW, THEREFORE, BE IT RESOLVED that by Resolution dated ~~January 15, 1996~~ *October 12, 2001*, commencing July 1, ~~1997~~ *2002*, the parties hereto do hereby ~~amend the 1991 Resolution~~ *Restated Contract* to read as follows:

1. Operational Costs. Beginning Fiscal Year ~~1992/1993~~ *2002/2003*, City's contribution toward **annual** operational costs of the joint school system shall be ~~the greater of:~~

a. A portion of ~~the~~ total operational costs jointly approved by County and City for such fiscal year which ~~portion~~ shall be equivalent to the percentage of City students enrolled in the joint system determined as hereinafter set forth ~~plus times~~ an add-on ~~of four (4) percentage points~~. ~~If, however, the percentage of City students enrolled in the system as of any determination date shall fall below eight percent (8%), then the add-on for the fiscal year next following such determination date (defined in 1b below) shall be reduced to one-half (1/2) of the City student percentage. (For example, if the City student percentage is 7.8%, the add-on for the following fiscal year shall be reduced from four percent (4%) to three and nine-tenths percent (3.9%); OR, factor that varies by year as follows:~~

<u>Year</u>	
<u>FY 2003</u>	<u>1.38</u>
<u>FY 2004</u>	<u>1.53</u>
<u>FY 2005</u>	<u>1.28</u>

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~~FY 2006~~~~1.23~~~~FY 2007~~~~1.18~~

~~b. The following percentage as here designated for the particular fiscal year which shall supplant both the percentage and add-on determined under (a) above:~~

~~FY 1993 18.72%; FY 1994 17.72%; FY 1995 16.72%;~~

~~FY 1996 15.72%; FY 1997 14.72%; FY 1998 13.72%;~~

~~FY 1999 12.72%; FY 2000 11.72%; FY 2001 10.72%.~~

~~b.~~ For the purposes of calculating the percentage of City students under ~~subparagraph~~ a above, the average school division daily membership shall be computed as of September 30 of the preceding fiscal year which date is here defined as the "determination date." The percentage thus obtained shall be used in applying the formula to the next fiscal year; provided certain **City/County** student populations will be excluded from the funding formula set forth in 1 a above as follows:

- Nonresidents (children living in other localities)
- Foreign students in exchange programs
- Residents of halfway houses, group homes, detention centers, mental hospitals, or other institutions with no home address in either the City or County.
- Children for whom the school division cannot assign a home address in City or County.

Both City and County shall be entitled to review all pertinent school enrollment records to verify such calculations. Should either City or County, after reviewing such records wish to contest the

accuracy of the calculation for any year, it must elect to do so by December 31 immediately following the September 30 calculation cutoff date. The contesting party shall give written notice to the other on or before December 31 specifying the basis of its disagreement. Upon receipt of such notice, the parties shall meet together as soon as is **reasonable** practicable and shall in good faith attempt to resolve the dispute. Should such efforts fail, each party shall appoint a certified public accountant as its arbitration representative. Such representatives shall **choose** an attorney at law duly licensed to practice in **Virginia** as a third arbitrator. The decision of the arbitrators shall bind both parties. Each party shall compensate its own accountant and the fees of the attorney shall be equally shared by the parties.

"Operational Costs" are all costs of operating the joint school system other than Capital Project Costs and shall include, but not be limited to: Administration, operation of school plants, routine maintenance of school plants, instructional costs, F.I.C.A. taxes and other employer funded employment benefits, repair and replacement of furnishing and equipment.

c. The School board shall be **permitted** to retain and determine the use of any year-end surplus funds *up to an amount equal to one-percent (1%) of the total school operating budget. Any funds that exceed that amount shall be dedicated to, and identified in, the Capital Budget for the following year.*

d. The City and County shall pass through any and all of their shares of the State Sales Tax for schools to the schools. The School Board shall determine how such funds shall be used.

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~~e. The City and County shall have a responsibility to their respective citizens to assure that funding provided to the school system is spent wisely and efficiently in achieving quality of education for the students.~~

~~2. Capital Project Costs. Over the term of the Contract Amendment (July 1, 1997–June 30, 2002), the County shall be solely responsible for all capital project costs for the joint school system; except that during such term, the City shall be responsible for all capital project costs related to and involving Matthew Whaley School renovation project in excess of One Million Eight Hundred and Twenty Thousand Dollars (\$1,820,000) to be contributed by the County during the contract amendment term. The County's contribution to the Matthew Whaley project shall be made in proportional amounts as expenditures are incurred.~~

~~—————The parties agree that the City, in its sole discretion, may begin the Matthew Whaley School project prior to July 1, 1997; it is understood and agreed, however, that should the City commence the project prior to July 1, 1997, no County payment shall be due until July 1, 1997.~~

~~The funding formula calculated for operational costs in Section 1 above, shall be used to decide the funding, City and County, for all Capital Project Costs approved by the governing bodies.~~

"Capital Project Costs" shall include: (a) All costs of land acquisition; all costs of landlease having a term of at least ten (10) years, including but not limited to rents and lease negotiation fees and costs; (b) all construction costs of new buildings including all architectural, engineering, consultation and other design and development costs related thereto; (c) all costs of equipping new buildings, building additions and renovations and other structures or facilities; (d) all construction costs for major renovations of and/or additions to existing buildings, structures and facilities, including all architectural, engineering,

consultation and other design and development costs related thereto ("major" being **defined** for purposes of ~~this subsections~~ (d), ~~(e), and (f) as an expenditure in~~ excess of \$50,000); (e) all major studies such as engineering, feasibility, etc., related to existing or proposed school facilities, sites, properties, equipment, etc., (~~"major being defined for purposes of this subsection (e) as in excess of \$20,000~~); (f) all costs for acquisition of major equipment and mechanical systems whether new or replacement; (~~"major" for purposes of this subsection (f) being defined as either unit or total system purchase price during a fiscal year in excess of \$50,000. Separate purchases of separate components shall be combined to determine purchase price~~); (g) expansion of existing school bus fleet.

3. Termination. Either the **Williamsburg** City Council ~~or~~ the James City County Board of Supervisors may elect to terminate this contract at any time by giving written notice to the other. Unless City and County shall agree otherwise, termination shall become effective at the close of the school year next following the school year during which notice was given.

In the event of termination, the City shall have one hundred percent (100%) equity in all school facilities located within the City's corporate limits and the County shall have one hundred percent (100%) equity in all school facilities located in the County; provided, however, that the non-situs locality shall have an equity interest in any real property located in the other locality which was used for school purposes, equal to all capital contributions made by the non-situs locality for the erection or improvement of buildings on such real property subsequent to July 1, 1997.

In event that any building previously used for educational purposes under this contract ceases to be used as such, and is declared **surplus** by a resolution of the School Board, then full ownership of such building, the land upon which it is located, together with all other related facilities, shall vest **in the** locality in which the building is located; provided, however, that the non-situs locality shall have an equity

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interest in such building and land, equal to all capital contributions made by the **non-situs** locality for the erection or improvement of such building subsequent to July 1, 1997.

"Facilities" shall include all real and personal property located at a school site. ~~All other property not identified with a specific school site shall be distributed Twenty-six percent (26%) to City and Seventy-four percent (74%) to County. School-owned real property not identified with a specific school site and owned as of June 30, 2002, shall be distributed 26% to City and 74% to County. Real property acquired after June 30, 2002, shall be distributed based on the proportional funding at the time the acquisition/construction is made. Personal property not identified with a specific school site shall be distributed between City and County on a formula that represents the average operating budget funding percentage as calculated using the five most recent annual budgets.~~ Such non school site property includes, but is not limited to, central **administration** and operations real and personal property, school buses, vehicles and equipment not used primarily at a particular school.

In applying the above percentages to non school site property, the **current** values of such properties shall be determined as follows:

Real Property - Fair market value based on
comparable sales and highest
and best use.

School Buses - **As** shown in most recent
issue of valuation booklet
for school buses, "Yellow
Book" published by Yellow

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School Buses P.O. Box 261
Los Angeles, CA 90078 or
 if out of publication, as
 determined by other mutually
 agreeable method

Other Personal - Acquisition cost depreciated
 over five (5) years with 10%
 salvage value.

4. School Board Membership. Effective July 1, 1993, **City's** School Board shall consist of two (2) members and County's School Board shall consist of five (5) members. The two School Boards shall serve as one Board for all decisions regarding operation of the joint school system including the hiring and **firing** of the superintendent.

5. Review of Contract. The **Restated Contract** as here amended shall be reviewed by City and County prior to fiscal year beginning July 1, 1997, and every fifth (5th) year thereafter. Each review shall commence not later than January of the previous fiscal year. The parties intend that any subsequent amendments to the Restated Contract shall result from the regularly scheduled reviews, and each party represents to the other its intent to withhold requests for further amendments until the time of such scheduled reviews unless urgent necessity dictates otherwise.

6. Effective Date of Amendments. All future amendments to the Restated Contract as here amended shall become effective on ~~the~~ July 1 following the calendar year in which the parties reach written agreement as to such amendment.

IN WITNESS WHEREOF, Pursuant to resolution duly adopted, the City of Williamsburg,
Virginia, on this 11th day of _____, ~~1996~~ ~~2002~~; the County of James City on
the 9th day of October _____ ~~1996~~ ~~2001~~

COUNTY OF JAMES CITY

By John J. Glennon
Chairman

ATTEST:

Sanford Warner
Clerk

CITY OF WILLIAMSBURG

By Stamm Zidd
Mayor

ATTEST:

Shelia G. Crist
Clerk