

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 23RD DAY OF JULY, 2002, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

James **G. Kennedy**, Chairman, Stonehouse District
Jay **T. Harrison, Sr.**, Vice Chairman, Berkeley District

John J. **McGlennon**, Jamestown District
Michael J. Brown, Powhatan District
Bruce C. Goodson, Roberts District

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

B. MOMENT OF SILENCE

MI. Kennedy requested the Board and citizens observe a moment of silence.

C. PLEDGE OF ALLEGIANCE

Ms. Cassandra Da-Costa, a student at D. J. Montague School, led the Board and citizens in the Pledge of Allegiance.

D. PRESENTATIONS

1. Volunteer Recognition – Donald Greenhow

Mr. Kennedy **recognized** Donald **Greenhow** for his extraordinary voluntary service to the County as a member of the James City County **Fire** Department Auxiliary for more than 20 years.

2. 2001 Historic Preservation Awards

Mr. Brown and MI. John Labanish, Chairman of the Historical Commission, **recognized** members of the Historical Commission and presented three Historic Preservation Awards to individuals that have made a significant contribution to the preservation of historic resources in the County.

The recipients were: Dr. **Marley R. Brown**, for his direction in the preparation of the **first** archaeological preservation plan on the Peninsula and his continued advocacy for archaeological ordinances and policies for local government; Mr. Paul B. Tubach, **Jr.**, for his **Williamsburg** Historic Necklace concept linking 13 historical and interpretive sites between the James City County District Park and Yorktown, his **creation** of the Greensprings **Greenway** Interpretive History Trail, and his interest in the preservation effort to

save 217-acres of Mainland Farm; and Ms. Doris Benson **Wildenberger**, for her life-long devotion to the assimilation and preservation of local history as the primary historian of Our Saviour's Lutheran Church in Norge, Virginia, for which she has accumulated a comprehensive written and pictorial **history** comprising a 100th anniversary history **book**.

3. Resolution of **Appreciation** – Marie E. **Sheppard**

Mr. **McGlennon** presented a posthumous Resolution of Appreciation for Marie E. Sheppard for her contributions as a charter member of the **Historical** Commission and her contributions to the community in the awareness of historical information available about the African-American experience in **James** City County during the Colonial period.

Mr. Arthur Mallory and Ms. Marie E. **Reed** accepted the award on behalf of the family.

Mr. John **Labanish**, Chairman of the Historical Commission, stated that a special exhibit **honoring** Ms. Sheppard will be displayed in February.

4. 2002 National Association of Counties Achievement Awards

Mr. Harrison presented a 2002 National Association of Counties Achievement (**NACo**) Award for the program titled, *Youth Sports Expo Program* and a 2002 NACo Achievement Award **for the program entitled, District Park Sports Complex** to Mr. Ned Cheely, Director of **Parks** and Recreation.

5. **Williamsburg** Land Conservancy Award for Commitment to Conservation

Mr. Kennedy stated that **the County** was the first recipient of the *Commitment to Conservation Award* from the **Williamsburg** Land Conservancy.

E. **PUBLIC COMMENT**

1. Mr. Michael **Hipple**, P. O. Box 85, **Lightfoot**, provided the Board with an overview of the **James** City-Bruton Fire Department and Fire Station No. 1, provided the Board with **an update** on renovations to the **fire** station and estimates of savings in renovation costs through volunteer work, and invited citizens to visit the station.

2. Mr. Ed Oyer, 139 Indian Circle, inquired about the current level of the **Chickahominy Piney-Point** Aquifer, stated that the revenue stream from the State is weaker each day and encouraged the Board to put on hold all Capital Projects not already committed, and requested the second shell building be put on hold until the **John Deere** issue is resolved.

3. Mr. Arthur C. Hilstrom, 3724 **Brick Bat** Road, requested assistance with the replacement cost for a new pump and deeper well, stated **concern** about water restrictions without controlling growth and development, stated concern about the County allocating water resources to the Primary Service Area (PSA) customers and not considering the impacts upon those outside the PSA, and requested the County stop new development.

F. HIGHWAY MATTERS

Mr. Jim Brewer, Acting Resident Engineer for the Virginia Department of Transportation (VDOT), was available to answer questions from the Board

Mr. Harrison **requested that** VDOT continue to maintain the causeways of Route 31 (**Jamestown Road**) and monitor the causeways of Route 5 (John Tyler Highway).

Mr. **Goodson** inquired about the process for the renaming a road.

Mr. Brewer stated that renaming of a road **begins** at a local government level and the Board forwards a recommended name to the Virginia Department of Transportation

Mr. **McGlennon** requested that the missing stop sign be replaced at the intersection of Route 1330 (Rolling **woods** Drive) and Route 617 (Lake Powell Road).

Mr. **McGlennon** requested the intersection of Route 612 (**Longhill Road**) and Route 614 (**Centerville Road**) be reviewed for traffic **pattern concerns**.

Mr. Brewer stated that a **meeting has been** scheduled with County staff and designer to review the intersection.

Mr. **McGlennon** requested that VDOT alert motorists of that intersection

G. CONSENT CALENDAR

Mr. Kennedy asked if a member wished to pull an item from the Consent Calendar.

Mr. Wanner withdrew the item pertaining to the Lease Agreement with the James **City-Bruton** Volunteer Fire Department from the agenda

Mr. Brown made a motion to adopt the remaining items on the Consent Calendar.

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

1. Minutes

a. June 25, 2002, Work Session

b. July 9, 2002, Regular Meeting

2. Chesapeake Bay Restoration Fund GrantRESOLUTIONCHESAPEAKE BAY RESTORATION FUND GRANT

WHEREAS, ~~the~~ Chesapeake Bay Restoration Fund, which is funded through the sale of Chesapeake Bay license plates, has made ~~funds~~ available for the restoration ~~and education~~ of the Bay; and

WHEREAS, funds are needed to provide an **enriching** and SOL based environmental component to the Division's Total Rec Camp **Program**.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, **Virginia**, accepts the \$4,340 grant awarded by the Chesapeake Bay Restoration Fund to help with the additions to the summer camp program.

BE IT FURTHER RESOLVED that this resolution hereby authorizes the following appropriation:

Revenues:

From the Commonwealth	\$4,340
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Expenditures:

Contractual Services (001-161-0335)	\$3,840
Supplies (001-161-0318)	<u>500</u>
Total	<u>\$4,340</u>

3. Resolution of ~~Appreciation~~ – Marie E. SheppardRESOLUTIONMARIE E. SHEPPARD

WHEREAS, Marie E. Sheppard was a charter member of the James City County Historical Commission appointed by the Board of Supervisors on August 26, 1985, and passed away on **June** 27, 2002; and

WHEREAS, Ms. Sheppard ~~was~~ a lifelong member of the First Baptist Church, where she ~~served~~ as Chairperson of the Church History Committee, and also served ~~as~~ Chairperson of the Friends of African-American History; and

WHEREAS, Ms. Sheppard's tireless efforts have resulted in the awareness of historical information available about the African-American experience in James City County during the colonial period; and

WHEREAS, the Board of Supervisors and the Historical Commission express their deepest sympathy to Ms. **Sheppard's** family.

NOW, THEREFORE, BE IT RESOLVED by the Board of **Supervisors** of James **City** County, Virginia, that **Marie E. Sheppard** is hereby **recognized** as an exemplary member of the James City County **community** and honors her for her contribution in **preserving** the history of James **City** County.

BE IT FURTHER RESOLVED that this **resolution** be recorded in the **minutes** of the **Historical Commission** to be preserved in perpetuity and that a copy of this **resolution** be presented to the descendants of **Marie E. Sheppard**

4. **Agreement to Maintain Dam for Warhill Trail Road**

RESOLUTION

AGREEMENT TO MAINTAIN DAM FOR WARHILL TRAIL ROAD

WHEREAS, the County **built Warhill Trail** Road as the entrance to the **District Sports Park**; and

WHEREAS, the County will receive certain grant funds to **reimburse** the cost for **building Warhill Trail** Road once **it is** accepted in the **Virginia** Department of Transportation (VDOT) Secondary Roads System; and

WHEREAS, prior to acceptance of **Warhill Trail** Road into the Secondary Roads System, VDOT **requires** the County to assume certain **responsibilities** to **maintain** the dam over **which Warhill Trail** Road is situated.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of **James** City County, Virginia, that the County **Administrator** is hereby **authorized** and **directed** to execute a Dam Maintenance Agreement **with** VDOT to **insure maintenance** of a **dam** for **Warhill Trail** Road

5. **Microsoft Desktop Licensing Expenditure**

RESOLUTION

MICROSOFT DESKTOP LICENSE ENTERPRISE AGREEMENT

WHEREAS, funds are available in Operating Expense Accounts for the purchase of Microsoft desktop software **licenses**; and

WHEREAS, the purchase of these **licenses** is necessary for continued **cost-effective operation** and the licenses are only **available** and must be purchased from **Microsoft Corporation**; and

WHEREAS, Commonwealth of **Virginia Enterprise-wide** contract licensing is available to the County only through July 31, 2002, and based on the number of County computers to be included under the **license** the cost **will** not exceed \$140,000.

NOW, THEREFORE, BE IT RESOLVED that the Board of **Supervisors** of James **City** County, **Virginia**, hereby **authorizes** the County **Administrator** to execute a contract with **Microsoft Corporation** not to exceed **the** amount of \$140,000.

H. PUBLIC HEARINGS

1. An Ordinance to Amend Chapter 11, Section 11-65, Restrictions on Outdoor Watering and Section 11-66, Violation of Article

Mr. Larry Foster, General Manager of the James City Service Authority, stated that in follow up to ~~the~~ adopted Emergency Ordinance on June 11, 2002, staff **has** prepared ~~the~~ Ordinance for the Board's consideration with modifications including an effective period from May 1 through September 30 of each year, that violations constitute a Class I misdemeanor; and stated that through the Ordinance, staff will try to manage water demands to reduce water system pressure losses during peak demand periods.

The Board and staff discussed ~~the~~ seasonal limitations for the restrictions, new turf establishment exemptions, water restrictions for **public safety concerns** vs. conservation of water due to **drought**, benchmarks under which water restrictions are implemented, shallow wells drying up, and the Well Mitigation Program

Mr. **Kennedy** opened the Public Hearing.

1. Mr. John **Streeter**, 4709 Yarrow Court, stated that **reseeded lawns** need only one **inch** of water, which is about five to ten minutes of **irrigation** per day - once weekly; stated support for ~~the~~ irrigation restrictions as mentioned in the Ordinance and requested that other outdoor watering activities be permitted within the Ordinance.

2. Mr. Tony Dion, 102 **Fairmont** Drive, stated concern about the unrestricted residential development with water limits, and requested ~~the~~ Board implement a parallel ban limiting new residential building in the County with ~~the~~ limitations on **outdoor** water use.

3. Mr. Garrett E. Duncan, 104 **Windstar**, stated concern that only a limited number of residents of the County will be impacted by ~~the~~ Ordinance not those commercial portions of ~~the~~ County or residential well users, stated concern about ~~the~~ **enforcement** of the Ordinance, and requested **a moratorium** on new housing developments until **2003** at which **time** the County can review ~~the~~ water situation **and issue** another moratorium if warranted

4. Mr. Jay **Everson**, 103 **Branscome** Boulevard, stated support for the Ordinance, concern regarding the enforcement, and stated concern that with no **outdoor** watering on Mondays, that ~~the~~ Monday water demand levels have not dropped to levels experienced in February.

5. Mr. **Arthur C. Hilstrom**, 3724 Brick Bat Road, recommended the Board poll the residents of the County for a consensus on continued development, and stated that continued development negatively impacts ~~the~~ growing water issues.

6. Mr. Richard Costello, 10026 Sycamore Landing Drive, recommended ~~the~~ Board review the Ordinance's impact on the water levels in October and adjust the Ordinance as warranted.

As no one else wished to speak, Mr. Kennedy closed the Public Hearing.

Mr. Kennedy requested Mr. Morton explain the County's ability to implement a moratorium on development.

Mr. Morton stated that localities are not permitted by the Attorney General and ~~the~~ General Assembly to enact moratoriums, however, if staff and ~~the~~ County Administrator felt that there is an emergency of such

consequence that water is inadequate to meet public safety and sanitation needs, then move forward to take whatever actions are necessary to protect the citizens.

The Board and staff held a discussion concerning water demands, benchmarks for water restrictions, and ability of the system to **keep** up with seasonal demands.

Mr. Kennedy requested water demand readings in February for the **past** few years to gauge growth impacts on the demands.

The Board and staff held a discussion regarding growth impacting the increasing demands for water, weather conditions impacting water demands, development demands on water, citizen concerns about well levels dropping, and the **enforcement** of the Ordinance.

Mr. Wanner stated that Police has been directed to be more diligent in enforcing the Ordinance in areas where known warnings have been issued, and if citizens observe a violation and wish to report the violation, they are encouraged to contact the Service Authority.

Mr. **McGlennon** proposed the Board consider changing the morning cutoff watering time from 8:00 a.m. to 9:00 a.m. and that he could support reducing the evening watering hours by an hour to compensate.

Mr. **Goodson** made a motion to adopt the resolution with the proposed amendment by Mr. **McGlennon** to change the morning watering cutoff time to 9 a.m.

Mr. **Goodson** then made a motion to further amend the Ordinance by permitting outdoor watering by hose with an automatic turnoff nozzle that is continuously attended.

Mr. **Goodson** then made a second motion to amend the Ordinance to have a sunset date of September **30, 2002**, at which time the Board could reevaluate the Ordinance and water issue.

Mr. **Goodson** requested independent votes on each amendment.

The Board held a discussion concerning the proposed amendments and concentrated most of the discussion on the issue of water demand's correlation to the County's development.

Mr. Morton asked that if the Board would like to authorize hand watering, then eliminate the **odd/even** aspect of the Ordinance.

The Board continued discussion concerning **non-irrigation outdoor** watering uses and came to a consensus on the modified watering times.

Mr. **Goodson** removed his motion to amend the resolution concerning a sunset clause of September **30, 2002**.

Mr. Kennedy requested a roll call vote on the **motion** to adopt the Ordinance with a 9:00 a.m. cutoff watering time and permissibility for utilizing a hose with an automatic shutoff nozzle that is continuously attended.

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

2. An Ordinance to Amend Chapter 20. of the James City County Code to Provide a Tax on Local Telecommunication Service

Mr. John E. McDonald, Manager of Financial and Management Services, stated that Section **20-25** of the Code of James City County, Virginia, as authorized by the Code of Virginia, would establish a Consumer **Utility Tax**, per month, not to exceed **\$1.20** on telecommunications services and that the amendment to Sections **20-70** and **20-71** of the Code of James City County, Virginia, would reduce the current **E-911** tax from **\$2.20** per month to **\$0.75** per month to compensate for the establishment of the Consumer Utility **Tax**.

Mr. **Harrison** inquired about the revenue neutral aspect of the proposed amendment.

Mr. McDonald stated that gathering information regarding the number of cell phones in the County has been difficult, therefore, the estimation on revenue generated from the proposal may not be accurate, and if the Ordinance **needs** to be adjusted after implementation of the Consumer Utility Tax to remain revenue neutral, staff will bring an amendment before the Board

Mr. Kennedy requested information regarding an estimate number of cell phones in the County.

Mr. McDonald stated that there appears to be about **10,000** cell phones in the County and about **47,000** land-line phones, both residential and commercial.

Mr. **Goodson** inquired if the tax is a percentage of the customer's service so those with less expensive phone services would pay less.

Mr. McDonald stated that the tax will be a percentage of the customer's service, but not based on long distance charges.

Mr. **McGlennon** inquired if the **E-911** tax to assist localities in recovering costs for providing **911** service would be met with this proposal.

Mr. McDonald stated that to provide emergency communications system costs about **\$1.4** million, and with the old **E-911** tax about **\$960,000** would have been recovered

Mr. **McGlennon** stated that since this proposal is intended to be revenue neutral, the entire cost for providing the emergency communication system would not be covered.

Mr. McDonald stated that with State requirements for utilities to notify its customer of the change, the Ordinance is to take effect on January **1, 2003**.

Mr. Kennedy opened the Public Hearing.

1. Mr. Ed Oyer, **139** Indian Circle, requested clarification on the phrasing within the Ordinance, and inquired about the County **increasing** the tax after this adoption.

Mr. McDonald stated that the wording of the Ordinance comes from the State Code and that the County has the latitude to increase the tax up to the State ceiling after the Board follows the public hearing process.

As no one else wished to speak to this matter, Mr. Kennedy closed the Public Hearing.

Mr. Harrison made a motion to adopt the Ordinance.

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

3. **An Ordinance to Amend Section 16-7. Use of Public Park and Recreational Facilities by Children, of the James City County Code**

Mr. **Needham** S. Cheely, III, Director of the Division of Parks and Recreation, stated that there has been increase usage of County parks and facilities and the Department has been working to develop a park users guide to educate the public about the laws and regulation that govern the use of the parks for the safety and enjoyment of the patrons and the public facilities. Mr. Cheely stated that during the development of the guide, staff discovered an inconsistency related to the age of children being left **unsupervised** in the parks and recommends the Ordinance be amended to be consistent with policies and practices of the Division of Social Services and the Commonwealth's Attorney's Office.

The Board and staff held a discussion regarding the age of **12** as a benchmark, the role of a lifeguard at park facilities, the need to be consistent with the Division of Social Services and the Commonwealth's Attorney's Office, and the children's safety.

Mr. Kennedy opened the Public Hearing.

As no one wished to speak. Mr. **Kennedy** closed the Public Hearing.

Mr. Harrison made a motion to adopt the Ordinance.

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

I. BOARD CONSIDERATION

1. **FY 03 Annual Grounds Maintenance Agreement for Williamsburg-James City County School Division**

Mr. **Wanner** stated that an agreement has been developed that the School **Board unanimously** approved on July **16, 2002**. The agreement has been developed with the School Superintendent and upon entering into the agreement with the Schools, the County can transfer the funds in the County's Contingency for Schools Ground to the Williamsburg-James City County School Board Local Contribution by resolution.

Mr. Wanner recommended the Board approve the two resolutions.

The Board and staff discussed the ownership and purchase of grounds equipment, and desire to recover the County's costs to maintain grounds.

Mr. **McGlennon** made a motion to adopt the resolution to enter into the FY 03 Annual Grounds Maintenance Agreement for Williamsburg-James City County School Division, and to adopt the resolution to transfer funds from the County's Contingency for School Grounds account to the Local Contribution to the School Board account.

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

The Board held a brief discussion commending staff for working towards this Agreement, and other opportunities for consolidated services.

RESOLUTION

FY 03 ANNUAL GROUNDS MAINTENANCE AGREEMENT FOR WILLIAMSBURG-JAMES CITY COUNTY SCHOOL DIVISION

WHEREAS, the Board of Supervisors of James City County, Virginia, and the School Board of the **Williamsburg-James** City County School Division **desire** to **formalize** the arrangement for maintaining school grounds.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes **and directs** the County Administrator to execute **the FY 03** Annual Grounds Maintenance Agreement for Williamsburg-James City County **School** Division, by and between **the** County of James City and **the Williamsburg-James** City County School Division

RESOLUTION

CONTINGENCY TRANSFER-SCHOOLS GROUNDS MAINTENANCE

WHEREAS, the Board of Supervisors has entered into an agreement with the James City **County-Williamsburg** School Board to provide grounds maintenance services; and

WHEREAS, funds were budgeted in the FY **2003** budget to provide for this function.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby transfers **\$326,221** from the Contingency for School Grounds account to **the** Local Contribution to the School Board account.

J. PUBLIC COMMENT

1. Mr. Arthur C. **Hilstrom**, 3724 Brick Bat Road, stated concern for a neighbor who is without **running** water due to a well failure, concern for another neighbor who is experiencing difficulty replacing a burnt-out dwelling, and concern regarding his dried-up well, requested assistance with **the** cost to replace the pump and to dig a deeper well, and inquired if the well dried up as a result of the County providing water to residents with in the Primary Service Area.

Mr. Wanner stated that he will direct staff to **look** into assistance for the neighbor with the **fire** damaged structure, assistance for **the** elderly woman without water, and requested Mr. **Hilstrom** submit his bill for the replacement of the pump and digging a deeper well to **the** James City Service Authority for consideration in the Well Mitigation Program.

2. Mr. Garrett E. Duncan, 104 Windstar, requested the County develop ground **rules** for next year in anticipation of further water concerns associated with continued growth in the County.

K. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. **Wanner** recommended that at the conclusion of the agenda, the Board recess until 1 p.m. on July 29, 2002, for a County-hosted tour of James City County for the **Daily Press Editorial** Team.

Mr. Wanner **reminded** citizens that the **only** August Board meeting will be held on August 13, 2002.

Mr. Wanner recapped the appointments made during the Board's Work Session earlier:

Alan Bennett and Kathleen Lindsay were reappointed to three-year terms on the Clean County Commission; **Tammy Baber**, Mary Bates, Dwight **Beamon**, Andy **Bradshaw**, **Richard Bradshaw**, **Jim Bradsher**, David **Daigneault**, Norman **Danuser**, Lois Danuser, AM Davis, Loretta Garrett, Sylvia **Hazelwood**, Doris Heath, Ken **Jacovelli**, Katie Jones, **Lynn Miller**, **Richard Miller**, **Margaret Mondul**, Ed **Overton**, Diana **Perkins**, Bill Porter, Ellen Powell, Brad **Rinehimer**, Charlie **Rupe**, **Angie Sims**, Sandy Wanner, Shirley **Webster**, and **Allen E. Wolverton** were appointed to the 2002 James City County Fair Committee; Sterling Nichols and **Skip Campana** were reappointed to four-year terms on the Industrial Development Authority; Dwight Dansby was reappointed to a three-year term on the Peninsula Alcohol Safety' Action Program; and Bonnie Winston was reappointed to a four-year term on the **Williamsburg** Regional Library System Board

L. BOARD REQUESTS AND DIRECTIVES

Mr. Harrison requested the Board and staff look at **benchmarks** for limiting new **growth** in the County.

Mr. Brown requested **information** regarding the County's ability to enact moratoriums on growth.

Mr. Morton stated that a memorandum will be provided to the Board on **moratoriums** after the Board meeting.

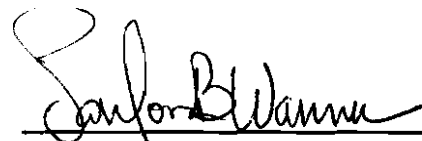
Mr. **McGlennon** congratulated the local baseball team of **11-year-olds** that are playing in the playoffs for entry into the championship playoffs.

M. ADJOURNMENT

Mr. Kennedy recessed the Board until 1 p.m. on July 29, 2002, for a tour of the County for the Daily Press Editorial Board

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

Mr. Kennedy recessed the Board at 9:30 p.m.


 Sanford B. Wanner
 Clerk to the Board

ADOPTED

JUL 23 2002

ORDINANCE NO. 116A-33

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND **REORDAIN** CHAPTER 11, **HEALTH** AND SANITATION, OF THE CODE OF THE COUNTY OF JAMES CITY, **VIRGINIA**, BY ADDING ARTICLE VII, OUTDOOR WATERING, SECTION **11-65**, RESTRICTIONS ON OUTDOOR WATER USE, AND SECTION **11-66**, VIOLATIONS OF ARTICLE.

BE IT ORDAINED by the Board of Supervisors of the County of **James** City, Virginia, that Chapter 11, Health and Sanitation, is hereby amended and **reordained** by adding Article **W**, Outdoor Water Use, Section **11-65**, Restrictions on **outdoor** water use; and Section **11-66**, Violations of article.

Chapter 11. Health and Sanitation

Article W. Outdoor Watering Use

Sec. 11-65. Restrictions on Outdoor Watering Use

In order to protect ~~the~~ public health, safety and welfare and insure the integrity of the James City Service Authority water system, ~~use of the James City Service Authority water for outdoor watering~~ during the period beginning May 1 and ending September 30 of each year, **outdoor** use of James City Service Authority water is prohibited, except ~~that~~ **properties** with even-numbered street addresses can ~~perform use~~ ~~water outdoors watering~~ on Tuesdays, Thursdays and Saturdays **and** properties with odd-numbered street addresses can ~~perform use water outdoors watering~~ on Wednesdays, Fridays and Sundays provided that ~~no watering shall occur~~ ~~outdoor water use occurs~~ between the hours of ~~midnight and 8:00 a.m.~~ **8:00 a.m.** and **5:00 p.m.** ~~and midnight~~. No outdoor **watering use** shall occur on Mondays ~~except as provided below~~ ~~subparagraph~~ ~~(a)~~. For the purpose of this section, the last whole number of a property address shall be used to determine

whether the property address is odd or even. ~~All street addresses on a lot or parcel which has one or more structures with both odd and even street addresses shall be deemed to be even, regardless of such units actual street address.~~ Open or common **areas** shall be deemed to have an odd **street** address regardless of whether such **areas** have a designated street address. Open or common **areas** shall consist of land in a multi-lot development, either commercial or residential, which is **owned** by a corporation or association **for the** beneficial use of the owners or tenants of land in the development. **Outdoor** watering ~~use~~ shall include, but is not limited to, the following:

(a) The watering of shrubbery, trees, lawns, grass, plants or other vegetation, except that the following **shall** be exempted **from** the prohibition on outdoor watering:

- (1) the watering of a new lawn or **turf** for a period of 60 days after installation **provided** the owner or tenant of a lot, piece or parcel of real property receives the one-time exception provided herein. In order to be eligible for this one-time exception, the property owner or tenant shall provide prior written notice to the **general** manager of the James City Service Authority identifying the property address and the date of lawn or turf installation. No notice shall be required for **watering** a new **lawn or** turf installed on property that has a certificate of occupancy pending for a structure;
- (2) the watering of plants **from** a bucket or other container not exceeding three gallons in capacity or;
- (3) the watering of nursery **stock** or plant material performed by a nursery business on property where it grows, cultivates or sells nursery stock or plants material and has a business license to perform such activities.

(b) The washing of automobiles, trucks, trailers, boat, ~~motor~~ bikes, airplanes or other ~~motor~~ vehicles, except this prohibition on washing vehicles shall not apply to any facilities **operating** a water recycling system approved by ~~the~~ general manager of the James City **Service** Authority, provided that such a ~~facility~~ prominently displays for public view a notice stating that such a water recycling system is in operation; and

(c) The washing of streets, driveways, parking lots, sidewalks, service station aprons, the exterior of **homes**, apartments, office building or commercial establishments, or other ~~outdoor~~ surfaces, except that such activities may be performed by **businesses** which are regularly engaged in these activities as a service for **hire** and have a business license to perform such activities.

~~(d) Exempt is outdoor water use by means of a hose with an automatic shutoff nozzle which is continuously attended.~~

~~(e) In the event the County Administrator declares a water shortage, the provisions of this section shall be superceded by Article VI, Drought Management, of Chapter 11, Health and Sanitation.~~

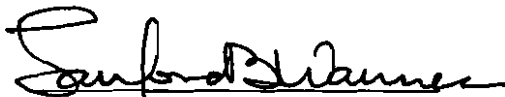
Sec. 11-66. Violations of article.

A violation of any provision of this article shall **constitute** a misdemeanor punishable by a fine of up to \$2,500.00, each day that a violation exists shall constitute a separate offense.

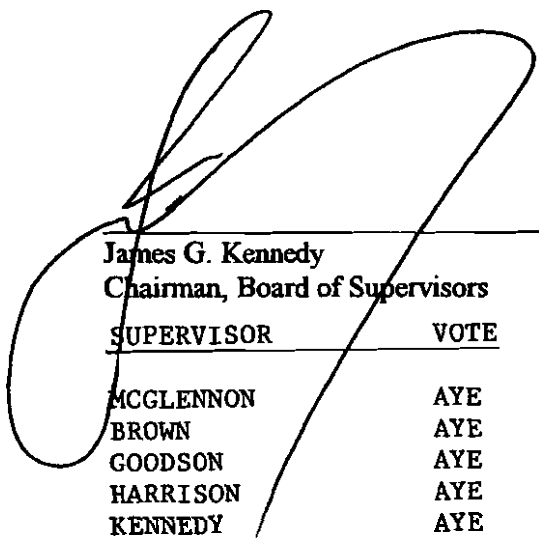
This Ordinance repeals the Emergency Ordinance adopted on June 11, 2002.

Ordinance to Amend and Reordain
Chapter 11. Health and Sanitation
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ATTEST:



Sanford B. Wanner
Clerk to the Board



James G. Kennedy
Chairman, Board of Supervisors

<u>SUPERVISOR</u>	<u>VOTE</u>
MCLENNON	AYE
BROWN	AYE
GOODSON	AYE
HARRISON	AYE
KENNEDY	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 23rd day of July, 2007.

ADOPTED

JUL 23 2002

**BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA**

ORDINANCE NO. 107A-40

AN ORDINANCE TO AMEND AND **REORDAIN** CHAPTER 20, TAXATION, OF **THE** CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE V, SPECIAL TAX FOR ENHANCED **911** EMERGENCY TELEPHONE SYSTEM, SECTION **20-25**, TAX IMPOSED; AND BY ADDING ARTICLE X, TAX ON LOCAL TELECOMMUNICATION SERVICE, SECTION **20-70**, DEFINITIONS; AND SECTION **20-71**, LEVY, AMOUNT OF TAX ON LOCAL TELECOMMUNICATION SERVICE.

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 V, **Special Tax** for Enhanced **911** Emergency Telephone System, Section **20-25**, Tax imposed; **and** by adding Article X, Tax **on** Local Telecommunication Service, Section **20-70**, Definitions; and Section **20-71**, Levy; Amount of **tax on** local telecommunication service.

Chapter **20**. Taxation

Article V. Special Tax for Enhanced **911** Emergency Telephone Service

Sec. **20-25**. Tax imposed.

Pursuaot to the provisions of Section **58.1-3813.1** of the Code of **Virginia**, there is hereby imposed a special tax of ~~\$2.20~~ **\$0.75** per month **on** each consumer of telephone service for each telephone **line** provided by any corporation subject to ~~the~~ provisions of **chapter 26** of title **58.1** of the **Code** of Virginia;

provided however, that this tax is not imposed on federal, state or local government agencies. The definitions provided in article 4, chapter 38 of title 58.1 shall apply to this article.

*Article X. Tax on Local Telecommunication Service**

Sec. 20-70. Definitions

(a) Local telecommunication service. Subject to the exclusions stated in this article, includes without limitation, the two-way local transmission of messages through use of switched local telephone services; telegraph services; teletypewriter; local cellular mobile radio telecommunication services; specialized mobile radio; stationary two-way radio; or any other form of two-way mobile and portable communications.

(b) Local telephone service. Subject to the exclusions stated in this article, includes any services subject to federal taxation as local telephone service as that term is defined in section 4252 of the Internal Revenue Code of 1986, as amended, or any successor statute. As it applies to an E-911 system, "local telephone service" shall mean switched local exchange access service.

(c) Mobile local telecommunication service. Any two-way mobile or portable local telecommunication service, including cellular mobile radio telecommunication service and specialized mobile radio.

**State law reference - Authority of county to impose and regulate a tax on local telecommunication service.*

Code of Va., § 58.1-3812.

(d) *Mobile service consumer.* A person having a telephone number for mobile local telecommunications service who has made a taxable purchase of such service or on whose behalf another person has made a taxable purchase of such service.

(e) *Mobile service provider.* Every person engaged in the business of selling mobile local telecommunication services to consumers.

(f) *Public safety agency.* A functional division of a public agency, which provides firefighting, police, medical or other emergency services or a private entity, which provides such services on a voluntary basis.

(g) *Public safety answering point.* A communications facility operated on a 24-hour basis which first receives E-911 calls from persons in an E-911 service area and which may, as appropriate, directly dispatch public safety services or extend, transfer or relay E-911 calls to appropriate public safety agencies.

(h) *Residential consumer.* As it relates to local telecommunications service. Any person furnished service classified as "residential" under tariffs filed with the state corporation commission. A residential consumer shall not include any consumer of mobile local telecommunication service.

(i) *Service address.* The location of the telecommunication equipment from which the telecommunication is originated or at which the telecommunication is received by a consumer. However, if the service address is not a defined location, as in the case of mobile telephones, maritime systems, air-to-

ground systems and the like, "service address" shall mean the location of the subscriber's primary use of the telecommunication equipment within the licensed service area. A mobile service provider may obtain a signed statement from a consumer indicating which county, city or town within the licensed service area is the location of the consumer's primary use of the telecommunication equipment. A mobile service provider shall be entitled to rely absolutely on a consumer's signed statement and shall remit the taxes collected to the county, city or town identified by the consumer. In the absence of a signed statement by a consumer, a mobile service provider shall identify the county, city or town of the consumer's primary use and shall remit the tax to such county, city or town based on any other reasonable method, including, without limitation, the consumer's billing address, service address or telephone number within the licensed service area.

(j) **Service provider.** Every person engaged in the business of selling local telecommunication services to consumers or delivering electricity services to consumers.

(k) **Taxable purchase.** The acquisition of telecommunication services for consumption or use; however, "taxable purchase" does not include: (i) the provision of telecommunications among members of an affiliated group of entities by a member of the group for their own exclusive use and consumption and; (ii) the purchase of telecommunications for resale in the subsequent provision of telecommunications, including, without limitation, carrier access charges, right of access charges and charges for use of intercompany facilities; however, the acquisition of telecommunications by a provider of enhanced services is not the purchase of telecommunications for resale, even when the cost of the telecommunications is separately stated to the purchaser of the enhanced services, as long as the primary object of the purchase of the telecommunications by the provider is for the provision of enhanced services and not telecommunications. A person may make tax-free purchases of telecommunications for resale if the person

provides to the service provider a sworn affidavit indicating that the person's purchases are non-taxable sales for resale.

Sec. 20-71. Levy; Amount of tax on local telecommunication service.

(a) There is hereby imposed and levied by the county upon each and every taxable purchase by a consumer of local telecommunication service provided that the consumer's service address is located within the county a tax in the amount of ten percent of the gross charge made by the service provider against the consumer with respect to each and every taxable purchase; provided, however, that:

(1) In any case any monthly bill submitted by any service provider for residential, commercial, or industrial service shall exceed \$12.00 for a residential consumer, there shall be no tax computed on so much of such bill as shall exceed \$12.00; and

(2) In any case any monthly bill submitted by any service provider to a consumer for mobile local telecommunication service shall exceed \$12.00, there shall be no tax computed on so much of such bill as shall exceed \$12.00.

All such taxes shall be computed to the nearest whole cent. Bills shall be considered monthly bills if submitted 12 times per year for periods of approximately one month each.

(b) A service provider of local telecommunication services shall collect the tax from the consumer by adding the tax to the monthly gross charge for such services and the tax shall be paid by the consumer

to the service provider at the time the gross charge shall become due and payable under the agreement between the consumer and the service provider. The tax shall, when collected, be stated as a distinct item separate and apart from the monthly gross charge. Until the consumer pays the tax to the service provider, the tax shall constitute a debt of the consumer to the county. If any consumer refuses to pay the tax, the service provider shall notify the county. After the consumer pays the tax to the service provider, the taxes collected shall be deemed to be held in trust by the service provider until remitted to the county.

(c) Such reports and remittance, including those required under section 20-26 relating to the special tax for enhanced 911 emergency telephone service, shall be made on or before the twentieth day of each month, covering the amount of tax collected during the preceding month. The treasurer shall have the power and the duty of collecting the taxes imposed and levied hereunder and shall cause the same to be paid into the general treasury for the county. If any seller whose duty it is to do so shall fail or refuse to file any report required by this article or to remit to the treasurer the tax required to be collected and paid under this article within the time and in the amount specified in this article, there shall be added to such tax by the treasurer a penalty in the amount of ten percent thereof and interest thereon at the rate of ten percent per annum, which shall be computed upon the taxes and penalty from the date such taxes are due and payable. The treasurer shall forward a copy of the report to the commissioner of the revenue.


(d) Any consumer shall be entitled to a refund from the county equal to the amount of any tax the consumer paid to a jurisdiction outside of the state if such tax was legally imposed in such other jurisdiction; however, the amount of credit or refund shall not exceed the tax paid to the county on such purchase.

(e) Each service provider of local communication service shall keep complete records showing all purchases of such service in the county. Such records shall show the price charged to each purchaser, the

date thereof and the date of payment, and the amount of tax imposed under this article. Such records shall be kept open for inspection by authorized agents of the commissioner of the revenue during regular business hours. Authorized agents shall have the authority to make such copies or transcripts of these records as may be required. In the event the records are maintained outside the county, copies of the appropriate books and records shall be sent to the office of the commissioner of the revenue upon demand.

This ordinance shall become effective January 1, 2003.

ATTEST:


Sanford B. Wanner
Clerk to the Board


James G. Kennedy
Chairman, Board of Supervisors

SUPERVISOR	VOTE
MCGLENNON	AYE
BROWN	AYE
GOODSON	AYE
HARRISON	AYE
KENNEDY	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 23rd day of July, 2002.

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BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

ORDINANCE NO. 154A-3

AN ORDINANCE TO AMEND AND **REORDAIN** CHAPTER 16. PUBLIC PARKS AND RECREATION FACILITIES. OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY **AMENDING** ARTICLE II, REGULATIONS GOVERNING PUBLIC PARKS AND RECREATION **FACILITIES**, BY AMENDING SECTION 16-7, USE OF PUBLIC PARK AND RECREATION FACILITIES BY CHILDREN.

BE IT **ORDAINED** by the **Board** of Supervisors of the County of James City, **Virginia**, that Chapter 16, Public Parks and Recreation Facilities, is hereby amended and **reordained** by amending **Section 16-7, Use** of public **park** and recreation facilities by **children**.

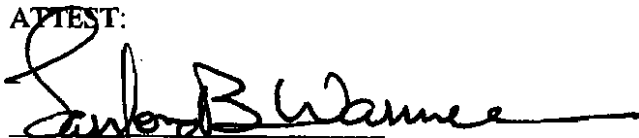
Chapter 16. Public Parks and Recreation Facilities

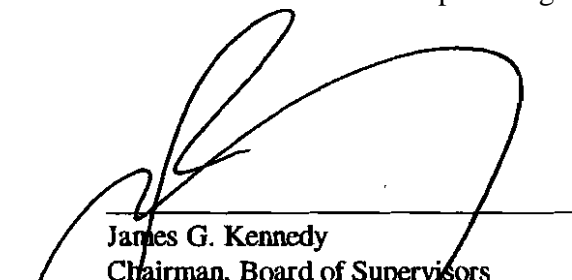
Article II. Regulations Governing Public Parks and Recreation Facilities

Sec. 16-7. Use of public park and recreation facilities by children

No parent or guardian shall permit a child under the age of ~~six twelve~~ years, or such other age as is specifically posted by the director, to make use of public park and recreational facilities without providing for direct supervision of the child

ATTEST:


Sanford B. Wanner
Clerk to the Board

	
James G. Kennedy Chairman, Board of Supervisors	
<u>SUPERVISOR</u>	<u>VOTE</u>
MCGLENNON	AYE
BROWN	AYE
GOODSON	AYE
HARRISON	AYE
KENNEDY	AYE

Adopted by the Board of Supervisors of James City County, **Virginia**, this 23rd day of **July**, 2002.