

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 22ND DAY OF OCTOBER, 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

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

C. PLEDGE OF ALLEGIANCE

Mr. Thomas Nichols, a sixth grader at James Blair Middle School, led the Board and citizens in the Pledge of Allegiance. a

D. PUBLIC COMMENT

1. Mr. **Ed Oyer**, 139 Indian Circle, **stated opposition** to the Transportation Referendum proposed on the November 5 Ballot.

E. PRESENTATIONS

1. Volunteer Recognition - James D. Dorsey

Mr. **Kennedy** recognized James **D.** Dorsey for his extraordinary voluntary service to the County as a member of the Parks and Recreation Advisory Commission for fourteen years.

Mr. Dorsey stated that he joined the Historical Commission, **Williamsburg** Land Conservancy, and the Parks and Recreation Advisory Commission to see land preserved and would like to see more conservation in the community.

2. Head Start Awareness Month - October 2002

Mr. Goodson presented a resolution recognizing October 2002 as Head Start Awareness Month to Ms. Patricia Banks, Head Start Director for the Williamsburg-James City County Community Action Agency.

Ms. Banks thanked the Board for the recognition.

3. Weatherization Day - October 30, 2002

Mr. Harrison presented a resolution designating October 30, 2002, as Weatherization Day in the County to Ms. Kathy McCoin, Housing Coordinator for the Community Action Agency.

Ms. McCoin thanked staff and the Community Action Agency for their support.

F. CONSENT CALENDAR

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

Mr. Goodson requested Item Number 6, Partnership - Eastern State Hospital Bathhouse, be pulled.

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

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

1. Minutes

a. October 8, 2002. Regular Meeting

2. Resolution Commending Dr. Thomas T. Shields, Sr.

R E S O L U T I O N

COMMENDING DR. THOMAS T. SHIELDS, SR.

WHEREAS, Dr. Thomas T. Shields was called as Pastor of the historic First Baptist Church, Williamsburg, in November 1982 and during his tenure, the Church has continued its role as a leader in the religious and civic life of the community; and

WHEREAS, Dr. Shields has served as President of the Williamsburg Clergy Fellowship, the Tri-County Pastors Association, President of Area 11 Ministers Council for the American Baptist Churches of the South, and member of the Board of Directors, Williamsburg Pastoral Counseling Center; and

WHEREAS, Dr. Shields is a past First Vice President of the local NAACP, former member of the Community Action Board of Directors, former local chair of the Southern Christian Leadership Council, former chair of the Schools Minority Achievement Committee, and served on the Board of Trustees of Thomas Nelson Community College; and

WHEREAS, he has been honored for his achievements and contributions to the community by the Kappa Alpha Psi Fraternity and The Williamsburg Men's Club, and has received the Public Schools Friends of Education Award and the Virginia Leadership Award from former Governor James Gilmore; and

WHEREAS, Dr. Shields will retire from the First Baptist Pastorate on December 31, 2002, after 20 years of service to the Church and after more than 37 years in the ministry.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby commend Dr. Thomas T. Shields, Sr., for his service to the First Baptist Church and to the community and does wish Dr. Shields a long and happy retirement.

3. Head Start Awareness Month - October 2002

R E S O L U T I O N

HEAD START AWARENESS MONTH - OCTOBER 2002

WHEREAS, established in 1965, Head Start is a national, Federally funded early childhood development program that serves children and families and whose purpose is to help children achieve their full potential; and

WHEREAS, Head Start provides comprehensive health, nutritional, educational, social services, family and community development, and meaningful parent involvement; and

WHEREAS, Head Start focuses on children's language development, early literacy, social skills, numeracy skills, and giving their parents the skills in becoming their child's first and best teacher; and

WHEREAS, Head Start is committed to the development of each child and provides preventative and early intervention of services to children and families regardless of their economic status; and

WHEREAS, the Williamsburg-James City County Community Action Head Start serves 147 diverse preschool children including children with special needs and their families.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby designate October 2002 as Head Start Awareness Month and encourage all parents of preschool-age children to participate in literacy activities, such as reading a book with your child, attending a play with your child, and going to the library with your child during the month of October.

4. Weatherization Day - October 30, 2002

R E S O L U T I O N

WEATHERIZATION DAY

WHEREAS, the County of James City, Virginia, has long recognized the plight of low-income families and individuals in meeting their home energy needs; and

- WHEREAS, low-income households spend a disproportionate percentage of their **annual** incomes on home energy bills; and
- WHEREAS, the United States Department of Energy developed the Weatherization Assistance Program in 1976 as the Federal government's cost-effective, permanent solution for reducing the heavy burden on low-income Americans; and
- WHEREAS, the Weatherization Assistance Program keeps jobs and dollars in local communities by operating through a network of well-trained program providers serving every community in Virginia.
- NOW, THEREFORE, BE IT RESOLVED that **the** Board of Supervisors of James City County, Virginia, does hereby proclaim October 30, 2002 as:

Weatherization Day

in James City County, Virginia, and encourages State and local weatherization professionals to deliver cost-effective, advanced technologies to increase energy savings in each home served, to leverage State, local, and private resources to get **the** most from every Federal dollar, and to heighten the awareness of energy **efficiency** in communities throughout the State.

5. Installation of "Watch for Children" Sign - Scott's Pond

R E S O L U T I O N

INSTALLATION OF "WATCH FOR CHILDREN SIGN - SCOTT'S POND

- WHEREAS, Section 33.1-210.2 of the Code of Virginia provides for the installation and maintenance of signs by **the** Virginia Department of Transportation, alerting motorists that children may be at play nearby, upon request by a local governing body; and
- WHEREAS, Section 33.1-210.2 **further** requires that the funding for such signs be **from the** secondary road system maintenance allocation for the County; and
- WHEREAS, the residents of Scott's Pond have requested that a "Watch for Children" sign be installed on Scott's Pond Road as illustrated on the attached drawing titled "Scott's Pond 'Watch for Children Sign'."
- NOW, THEREFORE, BE IT RESOLVED that the **Board** of Supervisors of James City County, Virginia, does hereby request that the Virginia Department of Transportation install and maintain one "Watch for Children" sign as requested with funds from the County's secondary road system maintenance allocation.

7. Dedication of School House Lane**RESOLUTION****DEDICATION OF SCHOOL HOUSE LANE**

WHEREAS, the street described on the attached Additions Form **SR-5(A)**, fully incorporated herein by reference, is shown on plats recorded in the Clerk's Office of the Circuit Court of James City County; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation advised the Board that the street meets the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation; and

WHEREAS, the County and the Virginia Department of Transportation entered into an **agreement on May 28, 2002**, for the crossing of a dam which applies to this request for addition; and

WHEREAS, the County and the Virginia Department of Transportation entered into an agreement on November 1, 1993, for comprehensive stormwater detention which applies to this request for addition.

WHEREAS, ~~the~~ County guarantees the necessary surety amount of \$7,500 to provide for all loss, cost, damage, or expense ~~incurred~~ to correct faulty **workmanship** or materials, associated **with** the construction of the street ~~and/or~~ related drainage facilities. The effective period of this surety obligation will last one calendar year from the day the street is added to ~~the~~ Secondary System of State Highways.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests the Virginia Department of Transportation to add the street described on the attached Additions Form **SR-5(A)** to the secondary system of State highways, pursuant to **§33.1-229**, of the Code of Virginia, and the Department's Subdivision Street Requirements.

BE IT FURTHER RESOLVED, the Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills and drainage.

BE IT FURTHER RESOLVED, this Board hereby rescinds the resolution adopted September 10, 2002, requesting dedication of this same street into the Secondary System of State Highways.

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Resident **Engineer** for the Virginia Department of Transportation.

6. Partnership - Eastern State Hospital Bathhouse

Mr. John E. McDonald, Manager of Financial and Management Services, stated that the Schools, Eastern State Hospital, and the **Williamsburg** Aquatics Club (WAC) have worked to make the Eastern State Hospital swimming pool user friendly to various community groups. The WAC installed a bubble over the pool and made other improvements to make the pool available for winter swimming. The partners proposed a new bathhouse to provide rest rooms, showers, and a dressing area for high school swimmers early in the morning. Additionally, Eastern State Hospital benefits from more flexibility in programming daytime use of

- 6 -

the pool for staff and residents, and the James City/Williamsburg Community Center benefits from the proposal through the elimination of the conflicting use of swim teams for early morning practices.

Although the County will be providing funding for the facility, it is otherwise not involved and no operating costs or maintenance responsibilities are assumed. Furthermore, the facility will be owned by the State.

Mr. McDonald stated that staff recommends the Board adopt the resolution authorizing the County Administrator to enter into an agreement with Eastern State Hospital and amends the FY 03 appropriation to allow that money to be used for reimbursement.

Mr. Goodson made a motion to adopt the resolution.

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

RESOLUTION

PARTNERSHIP - EASTERN STATE HOSPITAL BATHHOUSE

WHEREAS, the varsity swim teams of both Jamestown and Lafayette High Schools have early morning practices at the James City/Williamsburg Community Center (JCWCC) and it has proven difficult to allow both teams, as well as members of the JCWCC, unencumbered use of the pool; and

WHEREAS, an outdoor pool at Eastern State Hospital (ESH) has been converted, by the acquisition and installation of a bubble enclosure by the Williamsburg Aquatic Club (WAC) into a year-round swimming facility; and

WHEREAS, both ESH and WAC have agreed to work with the County to build a bathhouse at the ESH pool to allow one or both of the high school swim teams the ability to practice at the ESH pool and the ability to shower and dress before going to school; and

WHEREAS, the Board of Supervisors previously appropriated funds in the Capital Budget to build a bathhouse, which must, since it is located on ESH property, be owned by ESH with ESH responsible for all maintenance and utility bills; and

WHEREAS, WAC has agreed to facilitate the construction of the bathhouse for ESH through the use of parent volunteers.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute the needed agreements with both Eastern State Hospital (ESH) and the Williamsburg Aquatic Club to facilitate the construction of a bathhouse adjoining the ESH pool.

BE IT FURTHER RESOLVED that funds set aside for the capital construction of such a bathhouse, in the amount of \$150,000 in the FY 2003 Capital Budget, be available to execute such agreements.

H. PUBLIC HEARINGS

1. Case No. Z-5-01. Ford's Colony Proffer Amendment

Mr. Christopher M. Johnson, Senior Planner, stated that Mr. Vernon Geddy, III, has applied on behalf of **Realtec, Inc.**, to rezone property from R-4, Residential Planned Community, with proffers, to R-4, Residential Planned Community, with amended proffers. The applicant seeks to amend Proffer No. 4 of the amended and restated Ford's Colony Proffers dated September 29, 1995, to permit access from Ford's Colony onto Country Club Drive for the development of Section **XII, 70** lots on 45 acres.

Staff found that the proffers offered by the developer sufficiently address the issues and concerns identified by staff, the Virginia Department of Transportation (VDOT), and the Williamsburg West Civic Association.

Staff also found the development of Ford's Colony, Section **XII** to be consistent with surrounding zoning and development and the Comprehensive Plan.

The Planning Commission recommended approval of the application by a vote of **7-0** at its meeting on October 7, 2002.

Staff recommends approval of the application and acceptance of the voluntary proffers.

The Board and staff held a brief discussion on the traffic access into the remainder of Ford's Colony from the new Section.

Mr. Kennedy opened the Public Hearing.

1. Mr. Vernon Geddy, III, provided an **overview of the** proposal and stated support for the revised proffer granting access to Section XII.

2. Ms. Anna Garrett, 106 Country Club Drive, spoke on behalf of the **Williamsburg West** Homeowners Association in voicing support for the proposal. Ms. Garrett expressed concern that the Williamsburg West residents' landscaping concerns were not shown on the landscape plans yet. She wanted to ensure that maintenance of the road met the standards of the Williamsburg West residents.

The Board, applicant, applicant's landscaping engineer, and staff held a discussion regarding the landscaping expectations and resolved the issued with a planned review of the landscaping plan after VDOT provides a line-of-site report for the buildout.

3. Mr. Earnest **Bazzle**, 103 Country Club Drive, owner of **Bazzle** Apartments, stated that there was no objection to changing the access to the apartments and that the residents are concerned that the landscaping should not devalue properties in Williamsburg West.

The Board inquired if the representative of Williamsburg West is satisfied with the changes proposed to the entrance.

Ms. Garrett stated that there were no objections to changing the entrance.

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

Mr. Brown made a motion to adopt the Amendment

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

RESOLUTION

CASE NO. Z-5-01. FORD'S COLONY PROFFER AMENDMENT

WHEREAS, in accordance with § 15.2-2204 of the Code of Virginia, and Section 24-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled on Zoning Case No. **Z-5-01** for rezoning approximately **2,778** acres from **R-4**, Residential Planned Community, with proffers, to R-4, Residential Planned Community, with amended proffers; and

WHEREAS, the Planning Commission of James City County, following its public hearing on October 7, 2002, recommended approval of Case No. **Z-5-01**, by a vote of 7 to 0; and

WHEREAS, the property is identified as Parcel No. (1-11) on James City County Real Estate Tax Map No. (32-3).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. **Z-5-01** and accepts the voluntary proffers.

2. An Ordinance to Amend and Reordain Emergency Ordinance No. 196 Implementing the Governor of Virginia's Executive Order 33

Mr. Larry M. Foster, General Manager of the James City Service Authority, stated that on September 10, 2002, the Board approved an Emergency Ordinance in response to the Governor's Executive Order 33. Staff has prepared a permanent ordinance in accordance with the Emergency Provision adopted by the Board of Supervisors and recommended that the Board adopt the amended permanent Ordinance implementing Executive Order 33 in James City County.

The Board and staff held a brief discussion on the possibility of the Governor lifting Executive Order 33 and the process for rescinding this proposed Ordinance when the Governor lifts Executive Order 33.

Mr. Kennedy opened the Public Hearing.

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

Mr. McGlennon made a motion to adopt the Ordinance as presented.

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

3. Guest Register Ordinance

Mr. Leo P. Rogers, Deputy County Attorney, stated that staff has worked with the Williamsburg Hotel and Motel Association as well as with other jurisdictions to develop the proposed Ordinance, authorized by Virginia Code Section 35.1-9, to require places of lodging to maintain a guest register. The purpose of the Ordinance is to protect the public safety of local residents, guests to the area, and employees of the places of

lodging through the assistance of law enforcement personnel to research information pertinent to an investigation.

Lt. D. **Linhart**, James City County Police Department, presented the law enforcement position on the proposed ordinance.

The Board and staff held a discussion on the frequency of law enforcement officials accessing such records, the cooperation of local hotels and motels, and the legal process to establish probable cause.

Mr. Kennedy opened the Public Hearing

1. Mr. Ernie Young, President of the **Williamsburg** Hotel and Motel Association, stated support for the Ordinance and thanked the Police Department for working so closely with the Association.

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

Mr. Harrison made a motion to adopt the Ordinance as presented.

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

I. PUBLIC COMMENT

Mr. Kennedy recognized the Planning Commission representative, Mr. George **Billips**.

1. Mr. Ed Oyer, 139 Indian Circle, again stated opposition to the proposed referendum on transportation.

J. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner stated that the Community Conversation locations for the 2003 Comprehensive Plan are in flyers around the County, on the County web site, and will be located throughout the community in November and encouraged citizens to attend and voice their opinion on the County's **future**.

Mr. Wanner recommended that the Board recess while the James City Transit Company Board of Directors hold a brief meeting followed by a meeting of the James City **Service** Authority Board of Directors, then the Board should reconvene into Open Session to go into Closed Session pursuant to Section 2.2-3711(A)(1) of the Code of Virginia to consider the appointment of individuals to County boards **and/or** commissions and Section 2.2-3711(A)(3) of the Code of Virginia to consider the acquisition of a parcel of property for public use.

K. BOARD REQUESTS AND DIRECTIVES

Mr. **McGlennon** and Mr. **Harrison** introduced Mr. Andrew Johnson, Ms. Dara Young, and Ms. Annabelle Ombac, students **from** the local high schools, who are shadowing them to learn about local government through participating in a Board member's daily schedule.

Mr. **McGlennon** made a motion for the Board to adopt a resolution of endorsement of the referenda on higher education facilities and the State parks and recreation.

(2). On a roll call vote, the vote was: AYE: **McGlennon, Goodson, Kennedy** (3). NAY: Brown, Hanison

A RESOLUTION OF SUPPORT FOR CERTAIN REFERENDA ON THE
NOVEMBER 2002 ELECTION BALLOT

WHEREAS, the Governor and General Assembly of the Commonwealth of Virginia have authorized the following referenda for the November 5, 2002, Ballot:

1. Virginia Educational Facility Bonds not to exceed \$900,488,642. These General Obligation Bonds would provide funds for numerous higher education capital projects, including approximately \$61 million for the College of William and Mary and approximately \$17.7 million for development of the **Williamsburg** area campus for **Thomas Nelson Community College**.
2. Virginia Parks and Recreational Facility Bonds not to exceed \$119,040,000. These General Obligation Bonds would **provide** funds for numerous capital projects and State parks including the York River State Park located in James City County; and

WHEREAS, the Board of Supervisors of James City County finds that these two Bond programs are necessary and proper to meet capital needs in the areas of higher education and State parks for the good of the County, the Hampton Roads Region, and the Commonwealth of Virginia.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby endorse and support an affirmative vote for the November 2002 referenda on the Virginia Educational Facility Bonds and the Virginia Parks and Recreation Facilities Bonds.

Mr. **Goodson** stated that the ribbon cutting to celebrate the connection of the Williamsburg Area Transport and Hampton Road Transport services would be held at 3 p.m. on October 25 in Lee Hall.

Mr. Kennedy stated that on October 19 the Annual Fish Fry held at Fire Station No. 1 was well attended.

Mr. Kennedy recessed the Board at 8:12 p.m

Mr. Kennedy reconvened the Board at 8:26 p.m.

L. CLOSED SESSION

At 8:27 p.m., Mr. Hanison made a motion to go into Closed Session pursuant to Section 2.2-3711(A)(1) of the Code of Virginia to consider the appointment of individuals to County boards **and/or** commissions and Section 2.2-3711(A)(3) of the Code of Virginia to consider the acquisition of a parcel of property for public use.

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

Mr. Kennedy reconvened the Board into Open Session at 8:45 p.m.

Mr. **McGlennon** made a motion to adopted the Closed Session resolution.

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

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 2.2-3711 of the Code of Virginia requires a certification by the Board that such closed meeting was conducted in conformity with Virginia law.

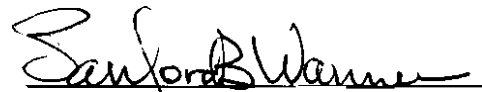
NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge: i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the **closed meeting** to which 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 2.2-3711(A)(3) to consider the acquisition of a parcel of property; and Section 2.2-3711(A)(1), to consider **personnel** matters, the appointment of individuals to County boards **and/or** commissions.

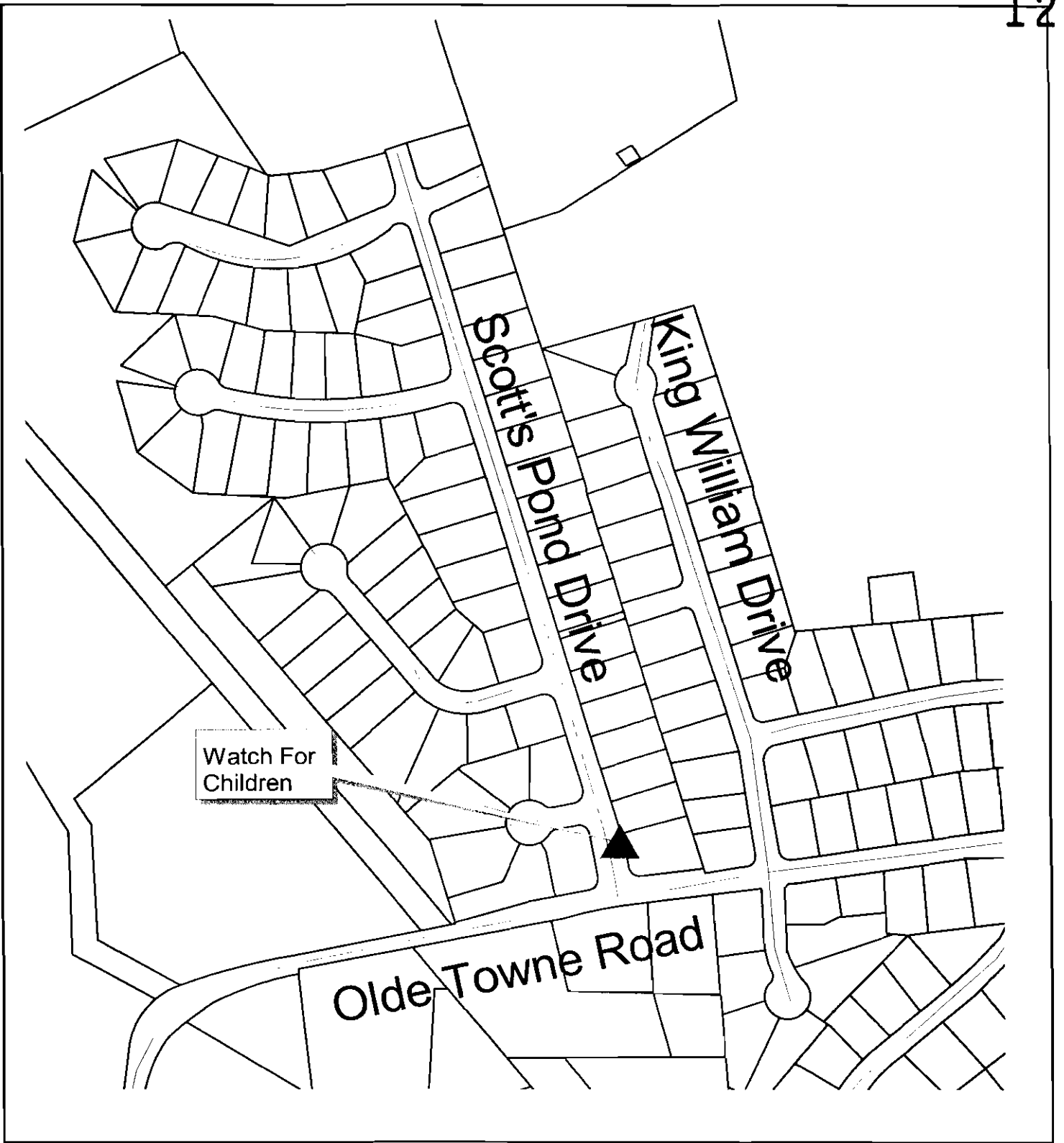
Mr. **Goodson** made a motion to appoint Mr. Brown to the Comprehensive Plan Steering Committee.

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

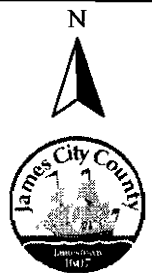
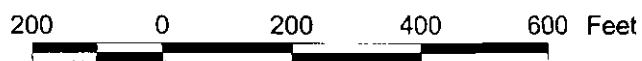
At 8:48 p.m., Mr. Kennedy recessed the Board until 3:30 p.m. on October 18, 2002.

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


Sanford B. Wanner
Clerk to the Board



SCOTT'S POND "WATCH FOR CHILDREN" SIGN



In the County of James City

By resolution of the governing body adopted October 22, 2002

The following Form SR-SA 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-SA
Secondary Roads Division 51199

Project/Subdivision

Stonehouse Elementary School

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

School House Lane, State Route Number 1155

Description: **From:** Rt 30 (Rochambeau Drive)

To: Rt 9652 (Bus Loop)

A distance of: 0.21 miles.

Right of Way Record Filed with the Land Records Office on 0712312002. Plat Book 87. Pages 5-6, with a width of Variable

Reason for Change: Addition. School Bus Road

Pursuant to Code of Virginia Statute: **§33.1-68**

Route Number and/or Street Name

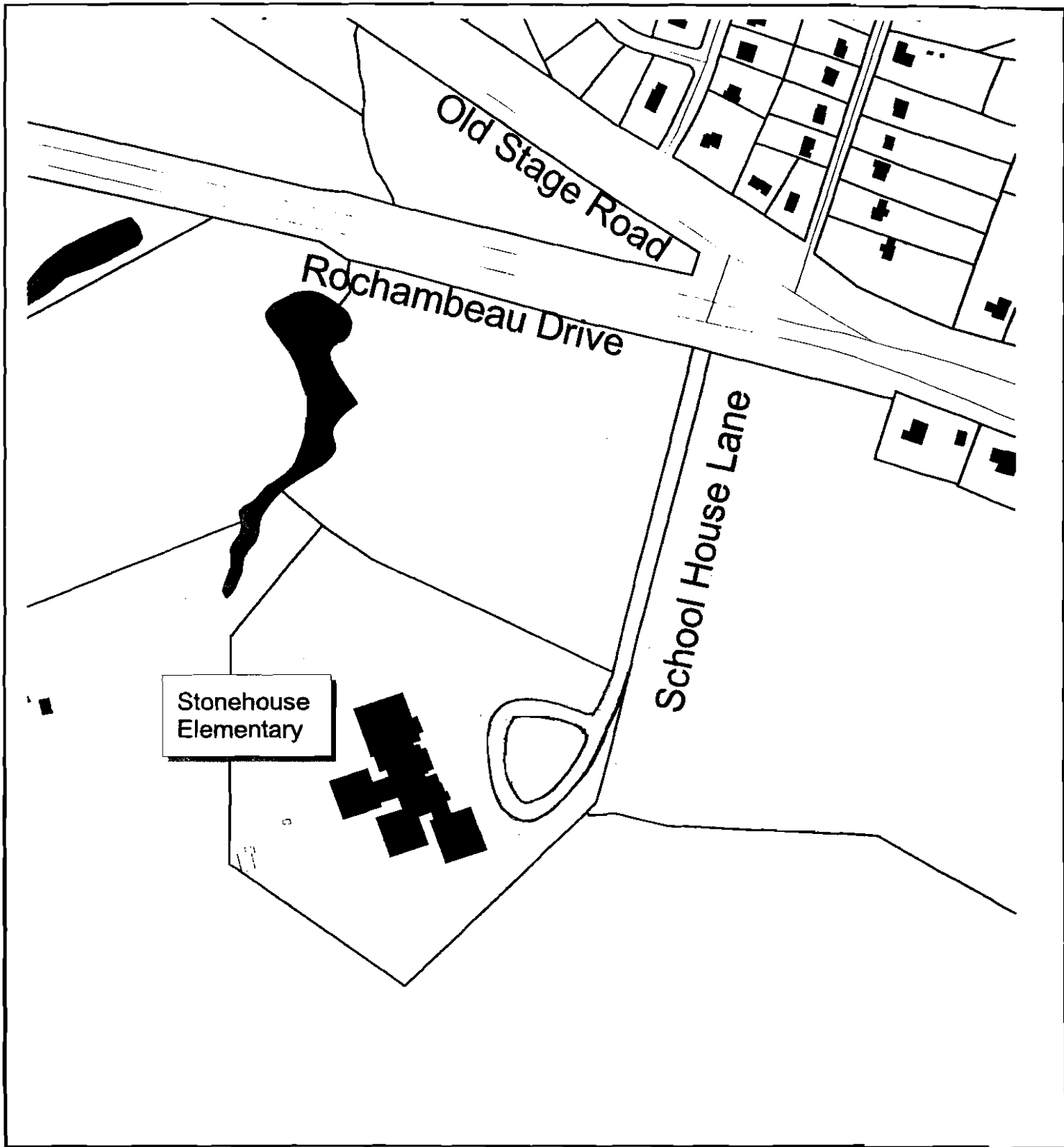
Bus Loop, State Route Number 9652

Description: **From:** Rt 1155 (School House Lane)

To: Rt 1155 (School House Lane)

A distance of: 0.24 miles.

Right of Way Record Filed with the Land Records Office on 0712312002. Plat Book 87, Pages 5-6, with a width of Variable



DEDICATION OF STREET AT STONEHOUSE ELEMENTARY SCHOOL

A



 Street Being Dedicated

200 0 200 400 600 Feet

020024840

AMENDED AND RESTATED FORD'S
COLONY PROFFERS

These AMENDED and RESTATED FORD'S COLONY PROFFERS are made this 20th day of September, 2002 by REALTEC INCORPORATED, a North Carolina corporation ("Owner").

RECITALS

A. Realtec is the owner and developer of the Ford's Colony at Williamsburg development which is zoned R-4, Residential Planned Community, with proffers, and subject to a Master Plan heretofore approved by James City County.

B. In connection with a prior Master Plan amendment, Realtec has entered into and James City County has accepted Amended and Restated Ford's Colony Proffers dated as of January 24, 1999 and recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City as Instrument No. 990002925 (together, the "Existing Proffers"). The Existing Proffers restate, among others, Amended and Restated Ford's Colony Proffers dated September 29, 1995 recorded in the aforesaid Clerk's Office in Deed Book 757 at page 526 containing Condition 4 reading as follows:

"Owner shall not provide access from Ford's Colony onto Lexington or Country Club Drive."

C. Realtec desires to amend and restate the Existing Proffers as set forth below. If the requested proffer amendment is not approved by James City County, these Amended and Restated

OCT 24 2004 86

Ford's Colony Proffers shall be void and the Existing Proffers shall remain unchanged, in full force and effect

RESTATEMENT AND AMENDMENTS

1. Amendment. Condition 4 of the Existing Proffers set forth above is hereby amended to read as follows:

"Owner shall not provide access from Ford's Colony onto Lexington or Country Club Drive, except as shown on the plans entitled "Proposed Intersection of Ford's Colony Section XII and Country Club Drive, Ford's Colony at Williamsburg, Section XII, made by AES Consulting Engineers and dated August 26, 2002 (the "Plans"). The final design of the intersection and related improvements, including the column locations and curbing locations and design, shall be generally as shown on the Plans as determined and approved by the Development Review Committee and constructed concurrently. All curbing shall be of a consistent material. The columns shall not exceed seven feet in height. Landscaping shall be installed as shown on a landscape plan to be submitted to and approved by the Director of Planning. Realtec and/or a homeowner's association in which lot owners in Section XII of Fords' Colony are members shall be responsible for maintenance of the intersection and related improvements, including the column, curbs and landscaping, shown on the Plans and the landscape plan."

2. Restatement. Except as specifically amended in Section 1, the Existing Proffers are hereby restated and incorporated herein by reference and remain in full force and effect.

WITNESS the following signatures.

REALTEC INCORPORATED

By: 

Title: *Vice President*

STATE OF VIRGINIA

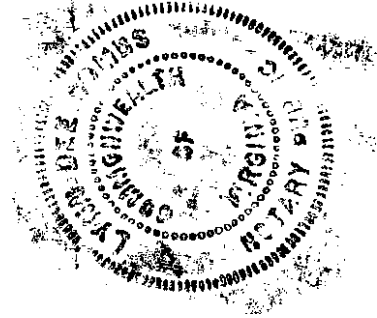
OCT 24 04 87

CITY/COUNTY OF James City

The foregoing instrument was acknowledged before me this 27th day of September, 2002, by Drew Mulharen Vice President of Realtec Incorporated.

Lynn R. Combs
NOTARY PUBLIC

My commission expires: November 30, 2003



001248 0488

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY
This document was admitted to record on 24 Oct. 02
at 3:46 ~~PM~~ PM. The taxes imposed by Virginia Code
Section 58.1-801, 58.1-802 & 58.1814 have been paid.

STATE TAX LOCAL TAX ADDITIONAL TAX
\$ \$ \$

TESTE: BETSY B. WOOLRIDGE, CLERK

BY: Betsy B. Woolridge Clerk

Prepared by:
Vernon M. Geddy, III, Esquire
Geddy, Harris, Franck & Hickman, LLP
1177 Jamestown Road
Williamsburg, VA 23185
(757) 220-6500

ORDINANCE No. 196A-1

OCT 22 2002

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN EMERGENCY ORDINANCE NO. 196 IMPLEMENTING THE GOVERNOR OF VIRGINIA'S EXECUTIVE ORDER 33, DECLARING A WATER SUPPLY EMERGENCY PURSUANT TO VIRGINIA CODE SECTION 15.2-924 AND TO ADOPT RESTRICTIONS FOR OUTDOOR WATER USE; TO PROVIDE PENALTIES FOR A VIOLATION THEREOF; AND TO REPEAL ORDINANCE NO. 116A-33 DEALING WITH OUTDOOR WATERING AND RESTRICTIONS ON OUTDOOR WATER USE.

Whereas, the Commonwealth of Virginia, the Hampton Roads Area and the County of James City have experienced an extended period of drought and the level of surface water impoundments, rivers, underground aquifers, and other drinking water sources have declined substantially; and

Whereas, August 30, 2002, the Governor of Virginia has issued Executive Order 33 (2002) which prohibits many uses of surface water and groundwater, including but not limited to watering lawns, washing vehicles, filling swimming pools, irrigating golf courses (with certain limited exceptions for each) and;

Whereas, the Governor's Executive Order 33 (2002) authorizes localities to "establish, collect and retain fines for violation of these restrictions"; and

Whereas, on July 23, 2002, the Board of Supervisors of James City County adopted Ordinance 116A-33 restricting outdoor water use; and

Ordinance to Amend and Reordain
Emergency Ordinance No. 196
Page 2

Whereas, pursuant to Virginia Code Section 15.2-924, the Board of Supervisors of James City County, Virginia, is empowered to declare that a water supply emergency exists and adopt restrictions on the use of outdoor water is necessary in order to protect the health, safety, and welfare of the citizens of the County of James City.

Now, therefore, be it ordained by the Board of Supervisors of James City County, that

Section 1. Declaration of emergency affecting water supply.

Due to the decreased level of above ground and underground water supplies affecting the public water systems serving county residents and the anticipated demand for water in the immediate future, and due to the Governor's Executive Order 33 (2002), the Board of Supervisors of James City County hereby declares and finds that a water supply emergency exists which necessitates the adoption of this ordinance mandating restriction on the use of water in the county under the terms and condition set forth herein.

Section 2. Definitions.

The following words and phrases, when used in this ordinance, shall have the meaning ascribed to them below, except in those instances where the context clearly indicates a different meaning:

Ordinance to Amend and Reordain
Emergency Ordinance No. 196
Page 3

Assessment date: The date of the notice imposing the fine for a violation of this ordinance.

Lawn: Grass areas of any property, including residential, commercial or industrial areas, but excluding agricultural fields and athletic fields.

New or refurbished lawn or fairway: a new lawn or fairway under construction or disturbing and overseding existing lawn area or fairway area.

Person: Any individual, corporation, partnership, association, company, business, trust, joint venture or other legal entity.

Vehicle: A motor vehicle or semi-trailer as defined in Virginia Code Section 46.2-100, which requires titling and registration pursuant to Virginia Code Section 46.2-600 et. seq.

Section 3. Mandatory surface and ground water use restriction measures.

All persons and households in the county shall limit their use of water, which includes water from the public water system, and ground water consistent with the Executive Order, and in accordance with this section:

I. Lawns. Watering of lawns is prohibited at all times. New or refurbished lawns may be watered for a period not to exceed 30 days.

Ordinance to Amend and Reordain
Emergency Ordinance No. 196
Page 4

2. **Vehicle Washing.** *Vehicle washing by persons other than commercial car washes is prohibited at all times. Commercial car washes, auto dealers, body shops and car rental agencies are permitted to operate under normal conditions.*

3. **Swimming Pools, Filling** *is prohibited at all times, with the exception of pools used by health care facilities for patient care and rehabilitation, which are permitted to operate under normal conditions. New or repaired pools may be filled as needed to maintain the structural integrity of the pool. Indoor pools may be filled as necessary to ensure swimmer health and safety.*

4. **Golf Courses.** *Watering of tees and greens is permitted daily between the hours of 8:00 p.m. and 8:00 a.m. All other watering is prohibited at all times, except that new and refurbished fairways may be watered for a period not to exceed 30 days and the hand watering of greens by means of a hose with an automatic shut-off nozzle which is continuously attended*

Section 4. When restrictions go into effect.

The water use restrictions set forth in this ordinance shall take effect immediately.

The water use restrictions shall remain in effect so long as the Executive Order remains in full force and effect.

Ordinance to Amend and Reordain
Emergency Ordinance No. 196
Page 5

Section 5. Violation.

It shall be a violation of this ordinance for any person to use water, or allow or cause the use of water, in violation of the provisions of this ordinance.

Section 6. Penalty.

- a. Any person who violates any provision of this ordinance shall be subject to the following fines:*
- 1) For the first offense, violators shall receive a written warning.*
 - 2) For the second offense, violators shall be fined \$50.00.*
 - 3) For the third offense, violators shall be fined \$100.00.*
 - 4) For the fourth offense and subsequent offense, violators shall be fined \$250.00.*
 - 5) Each violation by a person shall be counted as a separate violation by that person, irrespective of the location at which the violation occurs.*

Ordinance to Amend and Reordain
Emergency Ordinance No. 196
Page 6

- b. *The county, or its designee, shall serve the written warning or assessment of fine by either:*
- 1) *Hand delivering the document to the violator or other adult occupying or employed by a business on the property where the violation occurred; or*
 - 2) *Posting the document on the front door of the primary structure and mailing, by first class U.S. Mail, a copy of the document to the owner of record at the current mailing address contained in the county's real estate assessment records for the property where the violation occurred.*
- c. *Persons who have been assessed a fine shall have the right to challenge the assessment by providing a written notice to the county administrator within ten (10) days of the date of the assessment of the penalty. The county administrator or his designee shall determine whether the fine was properly assessed and notify the complaining person in writing of his determination. Should the county administrator or his designee determine that the fine was properly assessed, the person may challenge that determination within ten (10) calendar days of receiving the notice of determination by filing an action in court.*
- d. *The county administrator or his designee may waive the penalty if he determines that the violation occurred due to no fault of the person.*

Ordinance to Amend and Reordain
Emergency Ordinance No. 196
Page 7


Section 7. Supersede prior ordinance.

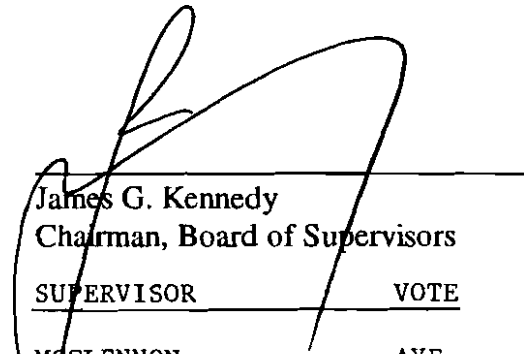
That this ordinance shall supersede and replace Ordinance No. 116A-33, adopted by the Board of Supervisors on July 23, 2002, for such time as this ordinance is effective.

Section 8. Severability.

That the provisions of this ordinance are severable, and the invalidity of any provision in the ordinance, as determined by a court of competent jurisdiction, shall not affect the validity of any other provision in the ordinance.

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 **22nd** day of October, 2002.

OCT 22 2002

ORDINANCE NO. 56A-11

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 15, OFFENSES - MISCELLANEOUS, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY ADDING SECTION 15-37, GUEST REGISTER GENERALLY; AND SECTION 15-38, FALSE REGISTRATION BY GUESTS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 15, Offenses - Miscellaneous, is hereby amended and reordained by adding Section 15-37, Guest register generally; and Section 15-38, False registration by guests.

Chapter 15. Offenses - Miscellaneous

Section 15-37. Guest register generally.

(a) Every person conducting any lodging place in the county shall at all times keep and maintain therein a guest register, in which shall be inscribed, electronically, or with indelible ink, the name and home address of each guest or person renting or occupying a room or camping space therein, as well as the guest's vehicle description and license plate information. Such register shall be signed by the person renting a room or camping space, or by someone signing by his or her authority or the person's identity is electronically verified. The proprietor of such lodging place, or his or her agent, shall thereupon enter or write, electronically, or with indelible ink, opposite such name so registered, the number of each room or camping space assigned to and occupied by such guest, together with the date(s) when such room or camping space is rented. Until all of the aforesaid entries have been made in such register, no guest shall be suffered or permitted to occupy any room in such lodging place. When the occupant of a room or camping space so rented vacates and surrenders the same, it shall be the duty of the proprietor of the lodging place, or his or her agent, to maintain for one year, a record of the date(s) when such room or camping space was vacated.

Ordinance to Amend and Reordain
 Chapter 15. Offenses - Miscellaneous
 Page 2

(b) *The register required by this section shall be subject to inspection at any and all reasonable times by any public safety officer in the performance of his or her duties.*

(c) *The guest vehicle parking area of every lodging place shall be accessible at any and all reasonable times to any public safety officer in the performance of his or her duties.*

(d) *Lodging place means any bed and breakfast, campground, condominium, hotel, inn, motel, rooming house, time share business, tourist cabin, tourist camp, tourist home, or similar establishment within the county which offers lodging, for compensation, to any transient.*

(e) *Any person violating the provisions of this section shall be guilty of a Class 1 misdemeanor.*

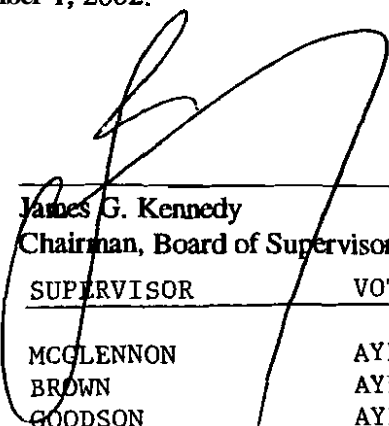
State law reference - Code of Va., §35.1-9

Section 15-38. False registration by guests.

It shall be unlawful for any person to write, or cause to be written, or knowingly permit to be written, in any guest register in any lodging place in the county, any other or different name or designation than the true name of the person registered therein, or the name by which such person is generally known, or to enter false information regarding any vehicle. Any person violating the provisions of this section shall be guilty of a Class 1 misdemeanor.

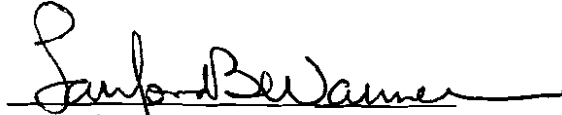
Ordinance to Amend and Reordain
Chapter 15. Offenses - Miscellaneous
Page 3

The effective date of this ordinance shall be December 1, 2002.



James G. Kennedy
Chairman, Board of Supervisors

ATTEST:



Sanford B. Wanner
Clerk to the Board

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

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of October, 2002.