

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 10TH DAY OF DECEMBER, 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, Chainnan, 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. Ed Oyer led the Board and citizens in the Pledge of Allegiance.

D. HIGHWAY MATTERS

Mr. Steven Hicks, Resident Engineer for the Virginia Department of Transportation (VDOT), stated that Mr. **Harrison's** request for a **meeting** with a VDOT representative will be scheduled, that traffic engineers will continue to monitor the traffic patterns at the intersection of Route 199 and Mounts Bay Road and that the Route 199 Jamestown Corridor Improvement Plan will be addressing the intersection as well; that traffic engineers are scheduled to review the intersection of Route 60 and Route 199 **traffic** patterns for better levels of **service** at the intersection; that the historical markers along Route 60 East, westbound lanes, are being made legible; and that the drainage issues raised at the last Board meeting are being addressed.

E. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, stated he has been chosen as the spokesman for the neighborhood Block Captains and reviewed some issues discussed at the Block Captains' **meeting**, and that the increasing cost of Cox cable exceeds his increased Social Security benefits.

F. PRESENTATIONS

1. 2002 Chairman's Awards

Mr. Kennedy presented the 2002 Chairman's Awards to Eric Peterson, Investigator James City County Police; the James City-Bruton Volunteer Fire Department; and Richard Lee, Video Engineer, for **outstanding** public service to the County and its citizens.

2. Cox Communications – Thom Privette

Mr. **Thom** Privette, Cox Communications, **congratulated** Richard Lee on receiving a Chairman's Award and for his work in providing successful local community programming.

Mr. Privette stated that over the past five years, Cox Communications has invested substantial fiscal resources to upgrade **service** for enhanced cable to the citizens of the County and that the increasing bills to Cox customers is largely due to the need to offer competitive cable programming and that the **costs** to secure programming has been increasing at a high rate.

Mr. Privette stated that Cox has been in negotiations with broadcasters to reach a fair agreement in consideration of bandwidths when aligning the programs and therefore customers will be seeing a change in the schedule lineup as of January 1, 2003.

Mr. Privette stated that **after** considering the results from a survey of 200 County Cox subscribers the Richmond channels **WRIC** and **WTVR** will be dropped and several channels will be relocated in the **lineup**.

Mr. Privette also stated that as part of Cox's enhanced service, Entertainment-On-Demand will be offered to customers above the Pay-Per-View and Sports packages already offered by Cox.

The Board addressed concerns to Mr. Privette **about the** increasing costs to subscribers **with decreasing** programming for basic services and unsatisfactory level of customer service.

Mr. McGlennon stated that Cox subscribers have seen an improvement in the service delivery and inquired about the increased cost of acquiring programming and how much of the increasing service fees to subscribers are related to programming costs and how much to other factors.

Mr. Privette stated that sports programming heavily impact the subscription fees and that programming acquisition accounts for about 25 percent of the cost structure and the increasing infrastructure costs are also reflected in the billings.

Mr. McGlennon stated that deluxe digital service to customers has increased 14 percent this year and that standard digital service has increase by 19 percent this year. Mr. McGlennon inquired as to how much of the rate increases can be attributed to programming vs. their cost.

Mr. Kennedy inquired about how much of the Cox cable television service revenue is utilized to subsidize the Cox internet and Cox telephone **service**.

Mr. Privette stated that the cable, internet, and telephone **services** are **priced** as stand-alone w/s t centers and one does not subsidize the other at the local level.

Mr. Brown stated that since 1999 there has not been a change in cable service yet the billing for the service has increased 32 percent and requested clarification on the usurious rate of increase for service that has not changed over three years.

Mr. Privette stated that the competition of Direct Broadcast is impacting Cox's customer base and Cox prices services as competitive as possible while providing local service, quality employees, and community programs.

Mr. Brown inquired how dropping two Richmond local channels is providing local **community** programs and why Cox feels justified in removing them from the lineup.

Mr. Privette stated that in the survey of 200 County subscribers it was demonstrated that the two channels **are not** heavily viewed and that Cox will still be providing Richmond local programming with **WRVA**.

Mr. McGlennon requested verification that the two Richmond channels were going to be replaced with **Univision** and a marketing channel; stated that many tiers of service are seeing increases with double fee impacts, such as Cox's service fees to install or move wiring which has a transaction fee, a per-hour service charge, installation one-time-charge, and a pre-wired fee.

Mr. Privette provided an **overview** of how the installation, transaction, and per-hour charges are assessed.

Mr. McGlennon stated that the County citizens paid significantly for pre-paid services and inquired about why the County is not seeing recognition of pre-payment by the shifting costs to installation fees.

Mr. Privette stated that Federal Regulation **of the** services had held installation fees artificially low and since deregulation those costs are reflecting the actual wst to provide the service. The training costs, health insurance premiums, and every other aspect of business is looked at to see that Cox does not undertake wst increases frivolously or without looking at the impacts **of those** increased on the customer base or relations **with** the County. Mr. Privette stated that Cox customers are moving to Direct TV and Cox needs to remain competitive to provide video service to the County.

The Board noted that analog programs are being shifted to digital **service** and inquired if the remainder of analog programming will be **shifting** as well.

Mr. Privette stated that as technology advances, many analog programming will move to digital

Mr. Kennedy stated concern that since deregulation, cable rates have increased 45 percent, cable providers are dropping local programming and replacing it with shopping networks, imposing additional equipment costs for converter and digital boxes to get service, and that the cost of services are increasing by the level of service is decreasing.

Mr. **Goodson** requested that Cox reconsider the removal of the two Richmond channels

Mr. McGlennon recognized the members of the Cable Advisory Committee in the audience and recommended that the Board send a letter to its congressional representative with a copy to U. S. Senator **McCain** to encourage readdress of the service provisions.

G. CONSENT CALENDAR

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

Mr. McGlennon made a motion to adopt the items on the Consent Calendar including the amended minutes.

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

1. Minutes

- a. October 28, 2002. Joint Meeting
- b. November 26, 2002. Work Session
- c. November 26, 2002. Regular Meeting

2. Award of Contract – Phase III of the District Park Sports Complex

R E S O L U T I O N

AWARD OF CONTRACT – PHASE III OF THE DISTRICT PARK SPORTS COMPLEX

WHEREAS, bids have been received for construction of four T- Ball fields, one baseball field, and additional parking at the District Park Sports Complex; and

WHEREAS, staff **has** reviewed all bids and determined that E. V. Williams, Inc., is the low bidder and qualified to complete project; and

WHEREAS, the bid is within the Capital Improvement Budget allocated for the **District** Park Sports Complex.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute the necessary **contract** documents for award of bid to E. V. Williams, Inc., the lowest responsive bidder, in the amount of \$722,025.

3. General Obligation Public **Improvement** Refunding Bond

RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF

\$3.180.200 GENERAL OBLIGATION PUBLIC IMPROVEMENT REFUNDING BOND,

SERIES 2002B, OF THE COUNTY OF JAMES CITY, VIRGINIA

AND PROVIDING FOR **THE** FORM, DETAILS, AND PAYMENT THEREOF

WHEREAS, the issuance of general obligation bonds by the County of James City, Virginia (the "County"), in the maximum **principal** amount of \$52,100,000 **was** approved by the qualified voters of the County in three referenda at a special election held on March 1, 1994, to finance a school construction program, library improvements, and park and recreation improvements (together the "Improvements"). On August 3, 1994, **the County** issued its \$9,500,000 General Obligation Public Improvement Bonds, Series of 1994 (the "1994 Bonds") to finance a portion of the costs of the Improvements. On December 5, 1995, the County issued its \$35,000,000 General Obligation Public Improvement Bonds, Series 1995 (the "1995 Bonds") to finance a portion of the costs of the Improvements; and

WHEREAS, on November 20, 2002, the County its \$4,280,000 General Obligation Public Improvement Refunding Bond, Series 2002Z (the "2002A Bond") to refund the Bonds maturing on December 15. The County's Board of Supervisors (the "Board") determines that it is in the best interests of the County to take advantage of lower interest rates now prevalent in the capital markets and to issue and sell general obligation public improvement refunding bonds to refinance the 1995 Bonds maturing on December 15, 2015. The Board has received a proposal from SunTrust Bank (the "Bank") to purchase such refunding bonds on substantially the terms set forth in Proposed Terms and Conditions (the "Proposal") delivered by the Bank to the Board.

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

Section 1. Authorization, Issuance and Sale. There is hereby authorized to be issued and sold, pursuant to the Constitution and statutes of the Commonwealth of Virginia, including the Public Finance Act of 1991, Chapter 26, Title 15.2, Code of Virginia of 1950, as amended (the "Act"), general obligation public improvement refunding bonds of the County in the principal amount of \$3,180,200 to refund the 1995 Bonds maturing on December 15, 2015 (the "1995 Refunded Bonds") and to pay the costs incurred in connection with issuing such refunding bonds. The Board hereby elects to issue such refunding bonds under the provisions of the Act.

Section 2. Bond Details. Such refunding bonds shall be issued as a single bond designated "General Obligation Public Improvement Refunding Bond, Series 2002B" (the "Bond"), shall be dated the date of its issuance (the "Issuance Date"), which be no later than December 31, 2002, shall be in registered form, registered initially in the name of the Bank, shall be in the principal amount of \$3,180,200, and shall be numbered RB-1. Interest on the Bond shall accrue at the rate per year of 3.75% and shall be payable on each June 15 and December 15, commencing June 15, 2003. Interest shall be calculated on the basis of a year of 360 days with twelve 30-day months. The Bond shall mature on December 15, 2015. Principal installments of the Bond shall be payable on December 15 in the years and the principal amounts set forth below:

<u>December 15</u>	<u>Principal Installment Payable</u>
2003	\$ 19,600
2004	19,600
2005	20,400
2006	21,100
2007	21,900
2008	22,700
2009	23,600
2010	24,500
2011	25,400
2012	26,300
2013	27,300
2014	28,400
2015	2,899,400

If not earlier paid, the aggregate principal amount outstanding under the Bond, together with all accrued and unpaid interest thereon, shall be due and payable on December 15, 2015.

The Board authorizes the issuance and sale of the Bond to the Bank on the terms set forth above, consistent with the Proposal, which Proposal is hereby accepted by the Board. The Bank shall purchase the Bond from the County for the purchase price of \$3,180,200.

The County Administrator is hereby designated as the Registrar for the Bond (the "Registrar"). Principal and interest shall be payable by check or draft mailed to the registered owner at its address as it appears on the registration books kept by the Registrar as of the close of business on the day preceding the principal or interest payment date. A "Business Day" is any day other than a Saturday, Sunday, legal holiday or other date on which banking institutions are authorized or obligated by law to close in the Commonwealth of Virginia. In case any principal or interest payment date is not a Business Day, then payment of principal and interest need not be made on such date, but may be made on the next succeeding Business Day, and if made on such next succeeding Business Day no additional interest shall accrue for the period after such principal or interest payment date. Principal and interest on the Bond shall be payable in lawful money of the United States of America.

Section 3. Prepayment Provisions. The Bond is subject to prepayment at the option of the County in whole or in part at any time or **from** time to time on or **after** December 15, 2008 at a prepayment price of 100% of the principal amount to be prepaid plus accrued interest to the prepayment date. Any such prepayment shall be applied to the principal installments due on the Bond in inverse chronological order.

The County shall cause notice of each prepayment to be sent to the registered owner by facsimile transmission, registered or **certified mail**, or overnight express delivery, not less than thirty (30) nor more than sixty (60) days prior to the prepayment date.

Section 4. Preparation and Delivery; Execution and Authentication. The Chairman or Vice Chairman and the Clerk or Deputy Clerk of the Board are authorized and directed to take all proper steps to have the Bond prepared and executed in accordance with its terms and to deliver the Bond to the Bank upon payment therefor.

The Bond shall be signed by the manual signature of the Chairman or Vice Chairman of the Board and the County's seal shall be **affixed** thereto and attested to by the manual signature of the Clerk or Deputy Clerk of the Board.

Section 5. Bond Form. The Bond shall be in substantially the form set forth in Exhibit A attached hereto.

Section 6. Pledge of Full Faith and Credit. The full faith and credit of the County are irrevocably pledged for the payment of principal of and interest on the Bond. Unless other funds are lawfully available and appropriated for timely payment

of the Bond, the County shall levy and collect an annual ad valorem tax, over and above all other taxes authorized or limited by law and without limitation as to rate or amount, on all locally taxable property in the County sufficient to pay the principal of and interest on the Bond, as the same become due.

- Section 7. is a er and (r of) The Registrar shall maintain
st ti books for th **registration of the Bond**. Upon surrender of the Bond at the designated office of the Registrar, together with an assignment duly executed by the registered owner or his duly authorized attorney or legal representative in such form as shall be satisfactory to the Registrar, the County **shall** execute a new Bond having an equal principal amount, of the same form and maturity, bearing interest at the same rate, and registered in names as requested by the then registered owner or its duly authorized attorney or legal representative. Any such exchange shall be at the expense of the County, except that the Registrar may charge the person requesting such exchange the amount of any tax or other governmental charge required to be paid with respect thereto.

The Registrar shall treat the registered owner as the person exclusively entitled to payment of principal and interest and the exercise of all other rights and powers of the owner.

- Section 8. **Refunding; Escrow Agreement.** The Board hereby irrevocably calls for the optional redemption of the 1995 Refunded Bonds on December 15, 2005 (the "Redemption Date") at a redemption price equal to 102% **of the** principal amount of the 1995 Refunded Bonds plus accrued interest to the Redemption Date.

To facilitate the defeasance of the 1995 Refunded Bonds and the payment of the principal of, premium and interest on the 1995 Refunded Bonds from the Issuance Date through the Redemption Date, the Board hereby authorizes the use of the Escrow Agreement dated the Issuance Date (the "Escrow Agreement") between the County and **SunTrust Bank, as** escrow agent (the "Escrow Agent"). The substantially final form of the Escrow Agreement has been made available to the Board prior to the adoption of this Resolution. The Escrow Agreement is hereby approved in substantially the form made available to the Board. There may, however, be changes, insertions, completions or omissions to the form of the Escrow Agreement to reflect the final terms of the Bond or other commercially reasonable provisions. **All** of such changes, insertions, completions or omissions will be approved by the Chairman or the Vice Chairman of the Board, whose approval shall be evidenced conclusively by the execution and delivery of the Escrow Agreement. The Board hereby authorizes the Chairman or the Vice Chairman of the Board to execute and deliver the Escrow Agreement on behalf of the County.

- Section 9. **Arbitraee Covenants.**

- (a) **No Composite Issue.** The County represents that there have not been issued, and covenants that there will not be issued, any obligations that **will** be treated **as** part of the same **issue** of obligations **as** the Bond within the meaning of the **Internal** Revenue Code of 1986, as amended, including regulations issued pursuant thereto (the "Code").

- (b) **No Arbitrage Bonds.** The County covenants that it shall not take or omit to take any action the taking or omission of which will cause the Bond to be an "arbitrage bond" within the meaning of Section 148 of the Code, or otherwise cause interest on the Bond to be includable in the gross income for federal income tax purposes of the registered owner thereof under existing law. Without limiting the generality of the foregoing, the County shall comply with any provision of law which may require the County at any time to rebate to the United States any part of the earnings derived from the investment of the gross proceeds of the Bond, unless the County receives an opinion of nationally recognized bond counsel that such compliance is not required to prevent interest on the Bond from being includable in the gross income for federal income ~~tax~~ purposes of the registered owner thereof under existing law. The County shall pay any such required rebate from its legally available funds.

Section 10. **Non-Arbitrage Certificate and Elections.** Such officers ~~of the~~ County ~~as~~ may be requested are authorized and directed to execute an appropriate certificate setting forth the expected use and investment of the proceeds of the Bond in order to show that such expected use and investment will not violate the provisions of Section 148 ~~of the~~ Code, and any elections such officers deem desirable regarding rebate of earnings to the United States, for purposes of complying with Section 148 of the Code. Such certificate and elections shall be in such form as may be requested by bond counsel for the County. The County shall **comply** with any covenants set forth in such certificate regarding the use and investment of the proceeds of the Bond.

Section 11. **Limitation on Private Use; No Federal Guaranty.** The County covenants that it shall not permit the **proceeds** of the Bond to be used in any manner that would result in (a) ten percent (10%) or more of such proceeds being used in a trade or business **carried** on by any person other than a state or local governmental unit, **as** provided in Section 141(b) of the Code, (b) five percent (5%) or more of such proceeds being used with respect to any output facility (other than a facility for the furnishing of water), within the meaning of Section 141(b)(4) of the Code, or (c) five percent (5%) or more of such proceeds being used directly or indirectly to make or **finance** loans to any persons **other** than a state or local governmental unit, as provided in Section 141(c) of the Code; provided, that if the County receives an opinion of nationally recognized bond counsel that any such covenants need not be complied with to prevent the interest on the Bond from being includable in the gross income for federal income tax purposes of the registered owners **thereof** under existing law, the County need not comply with such covenants.

The County represents and agrees that the Bond is not and will not be "federally guaranteed," as such term is used in Section 149(b) of the Code. No portion of the payment of principal of or interest on the Bond is or will be guaranteed, directly or indirectly, in whole or in part by the United States or an agency or instrumentality thereof.

Section 12. **Bank Qualification.** The Bond is hereby designated **as** a qualified tax-exempt obligation under Section 265(b)(3)(B) of the Code for the purpose of facilitating its sale to a financial institution. The County has not and will not designate more

than \$10,000,000 of obligations, including the Bond, as qualified tax-exempt obligations in calendar year 2002. The County has not issued more than \$10,000,000 of tax-exempt obligations in calendar year 2002, including the **2002A** Bond and the Bond. Neither the County, its industrial development authority nor any other entity which issues obligations on behalf of the County (together, the "County Entities") has issued any "private activity bonds" which are "qualified **501(c)(3)** bonds," within the meaning of Sections 141 and 145 of the Code during calendar year 2002. **Barring** circumstances unforeseen as **of the** date of delivery of the Bond, the County Entities will not issue tax-exempt obligations if the issuance of such tax-exempt obligations would, when **aggregated with** all other tax-exempt obligations theretofore issued by the County Entities in calendar year 2002, result in the County Entities having issued a total of more than \$10,000,000 of tax-exempt obligations in calendar year 2002, including the Bond but not including any private activity bonds other than qualified **501(c)(3)** bonds. The County **has** no reason to believe that it will issue such tax-exempt obligations in 2002 in an aggregate amount that will **exceed** such \$10,000,000 limit; provided, that if the County receives an opinion of nationally recognized bond counsel that compliance with any covenant set forth above in this paragraph is not required for the Bond to be a qualified tax-exempt obligation, the County need not comply with such covenant.

- Section 13.** Discharge upon Payment of Bond. The Bond may be defeased, as permitted by the Act. Any defeasance of the Bond, as permitted by the Act, shall not release the County or the Registrar from its obligations hereunder to register and transfer the Bond or release the County from its obligations to pay the principal of and interest on the Bond as contemplated herein until the date the Bond is paid in full, unless otherwise provided in the Act. In addition, such defeasance **shall** not terminate the obligations of the County under Sections 9 and 11 until the date the Bond is paid in full.
- Section 14. Other Actions. All other actions of the **Supervisors**, officers, staff, and agents of the County in conformity with the purposes and intent of this Resolution and in furtherance of the issuance and sale of the Bond and the **refunding** of the 1995 Refunded Bonds are approved and confirmed. The officers and staff of the County are authorized and directed to execute and deliver all certificates and instruments, including Internal Revenue Service Form 8038-G and to take all such further action as may be considered necessary or desirable in connection with the issuance, sale and delivery of the Bond.
- Section 15. Limitation of Liability of Officials of the County. No covenant, condition, agreement or obligation contained herein shall be deemed to be a covenant, condition, agreement or obligation of a Supervisor, officer, employee or agent of the County in his or her individual capacity, and no officer of the County executing the Bond shall be liable personally on the Bond or be subject to any personal liability or accountability by reason of the issuance thereof. No Supervisor, officer, employee, or agent of the County shall incur any personal liability with respect to any other action taken by him or her pursuant to this Resolution, provided he or she acts in good faith.
- Section 16. Contract with Reeregistered Owner. The provisions of this Resolution shall constitute a contract between the County and the registered owner of the Bond

for so long as the Bond is outstanding. Notwithstanding the foregoing, this Resolution may be amended by the County in any manner that does not, in the opinion of the County, materially adversely affect the registered owner of the Bond.

Each year, within thirty (30) days of such document becoming available, the County shall send to the registered owner of the Bond a copy of the County's Comprehensive Annual Financial Report.

Section 17. Repeal of Conflictine Resolutions. All resolutions or parts of resolutions in conflict herewith are repealed.

Section 18. Effective Date. This Resolution shall take effect immediately upon its adoption. The Clerk and any Deputy Clerk of the Board are hereby authorized and directed to see to the immediate filing of a certified copy of this Resolution with the Circuit Court of the County of James City, Virginia.

4. Chesapeake Bay Preservation Ordinance Violation – Civil Charge – Ifigenia Theodor

RESOLUTION

RIVERVIEW PLANTATION WATER RATES

WHEREAS, the Riverview Plantation neighborhood is provided water by Tidewater Water Company; and

WHEREAS, investments in the water system and ongoing maintenance of the system infrastructure have been minimal and inadequate; and

WHEREAS, the owner has filed a notice with the State Corporation Commission with the intent to increase the water rates of customers served by the Riverview Plantation water system; and

WHEREAS, this is the second time in recent years that the rates to customers have been increased without improvements to service; and

WHEREAS, the Board of Supervisors of James City County went on record opposing the last rate increase.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, directs its Chairman to forward correspondence to the State Corporation Commission opposing the rate increase proposed by Tidewater Water Company.

H. PUBLIC HEARINGS

1. Abandonment of Right-of-Way for Old Longhill Gate Entrance to Longhill Gate

Mr. Bernard M. Farmer, Jr., Capital Projects Administrator, stated that as part of an agreement with Longhill Gate Investment Company, L.L.C, the entrance to Longhill Gate was relocated to align with Warhill

R E S O L U T I O NCHESAPEAKE BAY PRESERVATION ORDINANCE VIOLATION -CIVIL CHARGE - IFIGENIA THEODOR

- WHEREAS, Ifigenia **Theodor** is the owner of the property, commonly known as 145 William **Richmond** Road, designated as Parcel No. (03-181) on James City County Real Estate Tax Map No. (49-4), hereinafter referred to as the ("Theodor Property"); and
- WHEREAS, Busch Properties, Inc., is the owner of 292± acres of common area near Halfway Creek located north of the **Theodor** Property, designated as Parcel No. (1-1) on James City County Real **Estate Tax** Map No. (50-3) ("Busch Property"); and
- WHEREAS, the **Theodor** Property and Busch Property are collectively referred to herein as "the Property"; and
- WHEREAS, on or about June 21, 2002, it was determined by County staff that vegetation was removed from approximately 22,000-square feet of area in the Resource Protection **Area** on the Property; and
- WHEREAS, Ifigenia **Theodor** and Busch Properties, Inc., agreed to a Restoration Plan to replant **trees** and shrubs on the Property in order to remedy the clearing violation under the County's Chesapeake Bay Preservation Ordinance and Busch Properties, Inc., has provided surety to the County to guarantee the survival of the vegetation in the Resource **Protection** Area on the Property; and
- WHEREAS, Ifigenia **Theodor** and Busch Properties, **Inc.**, have agreed to pay \$3,500 to the County as a civil charge under the County's Chesapeake Bay Preservation Ordinance; and
- WHEREAS, the James City County Board of Supervisors is willing to accept the restoration of the impacted areas and the civil charge as an interim settlement of the Chesapeake Bay Preservation Ordinance violation, in accordance with Sections 23-10 and 23-18 of the Code of the County of James City.
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to accept the \$3,500 civil charge from Ifigenia **Theodor** and Busch Properties, Inc., as a settlement of the **Chesapeake** Bay Preservation Ordinance Violation.

Trail to improve **traffic** flow, and the County agreed that **Longhill** Gate Investment Company, L.L.C., would receive the real property where the old entrance was located.

Staff recommended the Board adopt the resolution authorizing the abandonment of the right-of-way for the old **Longhill** Gate entrance that is no longer needed due to the relocation of the entrance.

Mr. Kennedy opened the Public Hearing

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

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

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

R E S O L U T I O N

ABANDONMENT OF RIGHT-OF-WAY FOR OLD ENTRANCE TO LONGHILL GATE

WHEREAS, on October 27, 1998, the County entered into an Agreement with The **Longhill** Gate Investment Company, L.L.C. to relocate the entrance to **Longhill** Gate so that it would be aligned with the new entrance to the District Park Sports Complex, **Warhill** Trail; and

WHEREAS, in exchange for new right-of-way for the realigned entrance to **Longhill** Gate, the County agreed to abandon, vacate, or otherwise convey the old right-of-way to **Longhill** Gate; and

WHEREAS, **Longhill** Gate Investment Company, L.L.C. conveyed the new right-of-way to the County and the new entrance to **Longhill** Gate has been constructed and been aligned with **Warhill** Trail, the entrance to the District Park Sports Complex; and

WHEREAS, the County posted notice of abandonment in three places along the old right-of-way for the entrance to **Longhill** Gate more than 30 days prior to the December 10, 2002, public hearing, posted notice of abandonment at the front door of the courthouse three days prior to the first day of the regular term of the Circuit Court, advertised for a public hearing to consider abandonment in two issues of the Virginia Gazette, a newspaper having general circulation in the County, and on November 20, 2002, the County sent notice to the Commonwealth Transportation Board of its intention to consider abandonment of the right-of-way for the old **Longhill** Gate entrance; and

WHEREAS, the Board of Supervisors following a public hearing is of the opinion that it is in the public interest to abandon the right-of-way for the old **Longhill** Gate entrance as shown on the plat entitled "PLAT OF RIGHT-OF-WAY ABANDONMENT & VACATION" dated September 6, 2002, by Mitchell-Wilson Associates, P.C.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby finds that:

1. The right-of-way for the old **Longhill** Gate right-of-way is located in a residence district as defined by **Virginia** Code Section 46.2-100; and
2. Continued operation of a public road on the right-of-way for the old entrance to **Longhill** Gate would constitute a threat to public safety and welfare; and
3. An alternative route for public use is **readily** available after the right-of-way for the old entrance to **Longhill** Gate is abandoned; and
4. **The** right-of-way for the old entrance to **Longhill** Gate does not have historic value; and
5. The new realigned entrance to Longhill Gate serves the same citizens as the right-of-way for the old entrance to **Longhill** Gate; and
6. The right-of-way for the old entrance to **Longhill** Gate is being abandoned only to the extent that it no longer serves a public need due to new alterations to the **Longhill** Gate entrance.

BE IT FURTHER **ORDERED** AND RESOLVED that the Board of Supervisors of James City County, Virginia, hereby declares the right-of-way for the old entrance to **Longhill** Gate is abandoned.

2. Case No. SUP-17-02. 112 Smokehouse Lane Accessory Apartment

Mr. David Anderson, Planner, **stated that** Mr. Vance **Elkins** applied for a special use permit (SUP) for an accessory apartment on .524 acres, zoned **R-1, Limited** Residential District, at 112 Smokehouse Lane, further identified as Parcel No. (7-40) on the James City County Real Estate Tax Map No. (47-3).

Staff **found the** proposed use compatible with the surrounding residential properties and **consistent** with the Comprehensive Plan.

The Planning Commission, at its meeting on November 4, 2002, voted 4-3 for approval of the SUP

Staff recommended approval of the SUP with conditions.

Mr. **McGlennon** inquired about the County Attorney's reservation **regarding** the time limit condition in the SUP.

Mr. Morton stated that it is not appropriate to have a condition that placed a time limit as part of a land-use designation.

Mr. **McGlennon** inquired if there had been other instances where a condition was included that required the owner to occupy the house.

Mr. Anderson stated that the condition has not been in other cases

Mr. **Goodson** inquired as to why a SUP is needed for the **accessory** apartment

Mr. Anderson stated that in the guidelines for land uses, an accessory apartment in an **R-1**, Limited Residential District requires a SUP.

Mr. Marvin Sowers, Director of Planning, stated that due to the kitchen in the accessory apartment, a SUP is required.

Mr. Anderson stated that only one person is permitted to occupy an accessory apartment.

Mr. Morton stated that without the observation and input from neighbors the item is not easily enforceable.

Mr. **McGlennon** inquired if through covenants this type of addition could be prohibited

Mr. Anderson stated that covenants could prohibit such additions.

Mr. Kennedy opened the Public Hearing.

1. Mr. Vance **Elkins**, applicant, stated that as outlined in the Comprehensive Plan, he is requesting the Board approve his application for a SUP for an accessory apartment that meets HUD standards so a potential HUD recipient could move into the site, stated that he has listened to the objections of his neighbors, and he finds his request to be in keeping with all County and Planning Commission requirements therefore requests the Board approve the SUP.

Mr. **Harrison** inquired if the possible tenant's HUD certificate has expired

Mr. **Elkins** stated that the certificate was about to expire, but the individual found housing out of the County prior to the expiration.

2. Ms. Ann **Lambert**, 115 Gatehouse Boulevard, stated that the neighborhood is peaceful, that the single-family homes are not intended to be apartments, and requested the Board deny the request.

3. Mr. **Mike** Hansen, 113 Smokehouse Lane, stated opposition to the permit, stated concern that the SUP would set a precedent for other accessory apartments, and requested the Board protect neighborhoods that do not have Homeowner Associations and covenants.

4. Mr. David Dudley, 102 Smokehouse Lane, requested the Board deny the SUP application that would lower the property values, change the character of the neighborhoods, and stated that a petition has been signed by neighbors in opposition to the application. Mr. Dudley requested those in opposition to the issuance of the SUP to stand.

Members of the audience opposed to the SUP stood

5. Mr. Jim **Connolly**, 6 Guesthouse Court, stated concern about the impact the approval of the SUP application would have on the character of the neighborhood.

6. Mr. David **Volz**, 4724 Williamsburg Glade, stated that the surrounding neighborhoods are concerned about the impact the proposed SUP application would have on their neighborhoods, and recommended that perhaps the Comprehensive Plan should be reviewed to protect neighborhoods.

7. Ms. Kim Morton, 2 Guesthouse Court, stated that the neighbors are not concerned about HUD tenants but rather they are concerned about the neighbors being responsible for **enforcing the SUP** conditions and that they are not prepared to police the permit, and requested the Board deny the permit and allow the neighborhood to remain single-family dwellings.

8. Mr. Kevin Cooke, 110 Smokehouse Lane, stated that he has worked hard for his vehicles, home, and family and is concerned only with preserving the character of the neighborhood.

9. Ms. Karen Little, 118 Smokehouse Lane, stated concern for the preservation of subdivisions with modest homes and **affordable neighborhoods**, and requested the Board not take affordable homes **off the** market for apartments.

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

The Board held a discussion regarding the short history the applicant has in the neighborhood, difficult to enforce conditions in the SUP, and desire to preserve affordable neighborhoods and not see them become apartments

Mr. **McGlennon** made a motion to deny the application,

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

Mr. Kennedy recessed the Board for a brief break at 8:40 p.m.

Mr. Kennedy reconvened the Board at **8:50** p.m.

3. **Case No. SUP-18-02. Wellspring United Methodist Church Adult Day Care Center**

Mr. Christopher M. Johnson, Planner, stated that **Linda Tompkins** has applied on behalf of Wellspring United Methodist Church, for a special use permit (SUP) for an adult day care center out of the **Wellspring** United Methodist Church located on approximately six acres zone R-2, General Residential, at 4871 **Longhill** Road, further identified as Parcel No. (1-31) on the James City County Real Estate Tax Map No. (32-4).

Staff found the proposed use consistent with surrounding **zoning** and development and consistent with the Comprehensive Plan.

At its meeting on November 4, 2002, the Planning Commission unanimously recommended approval of the application.

Staff recommended the Board approve the application with conditions

Mr. Harrison inquired if the enrollment capacity was adequate to accommodate future expansion of the Center.

Mr. Johnson stated that the applicant is expecting to enroll 30 people, so the capacity of 36 would allow for the program to grow.

Mr. Harrison inquired if the structure permitted expansion of the Center

Mr. Johnson stated that the Center has more than adequate space to expand above the 30 adults.

Mr. Kennedy opened the Public Hearing.

1. Rev. Margaret Kutz, 109 Lexington Drive, stated that the Center offers a ~~ministry~~ and partnership opportunity to provide educational space and meet the needs of the community in adult day care and hopes it will become a model for other groups to follow.

2. Ms. Lynne Warner, 3837 Cluster Way, stated that she will ~~run~~ the Center, which will be a place for seniors to visit while their caregivers tend to errands or other activities.

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

Mr. Harrison stated support for the assistance the Center will give to citizens.

Mr. Harrison made a motion to adopt the resolution

Mr. **McGlennon** stated support for the partnership initiative to address the needs of the County's citizens.

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

RESOLUTION

CASE NO. SUP-18-02. WELLSPRING UNITED METHODIST CHURCH

ADULT DAY CARE CENTER

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

WHEREAS, Adult day care centers are a specially permitted use in the R-2, General Residential, zoning district; and

WHEREAS, the Planning Commission of James City County, following its public hearing on November 4, 2002, recommended approval of Case No. SUP-18-02 by a vote of 7-0 to permit the operation of an adult day care center out ~~of the~~ existing church building at 4871 **Longhill** Road and **further** identified ~~as~~ Parcel No. (1-31) on James City County Real Estate **Tax** Map No. (32-4).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-18-02 ~~as~~ described herein with the following conditions:

1. This special use permit shall be valid only for the operation of an adult day care center, as defined by the zoning **ordinance**, within the existing church building, limited to the hours of operation of 7:00 a.m. - 6:00 p.m., and **limited** to ~~an~~ enrollment capacity of 36 adults maximum.

2. Operation of the adult day care center shall comply with all State and local codes, requirements and regulations.
3. This special use **permit** is not **severable**. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

4. **Case No. ZO-3-02. Chapter 24 Zoning Ordinance Amendment: Planning Commission Case Review Period**

Mr. Marvin Sowers, Planning Director, stated that under the current 90-day review period for **rezoning**, special use permit (SUP) cases, and ordinance amendments the number of monthly meetings the Planning Commission has to defer a specific case varies from month to month. The Commission recommended the review period be changed to 100 days to allow for each case to have three meetings for which the Planning Commission can consider a case.

Mr. Sowers stated that the Commission spoke with local attorneys, local engineering and planning firms, and the Peninsula Home Builders Association to get their opinion about the proposed change and received feedback that indicated they did not see a problem with the amendment.

At its meeting on November 4, 2002, the Planning Commission **recommended** approval of the **Ordinance** by a vote of 7-0.

Staff recommended approval of the amendment to Section 24-13 of the **Zoning** Ordinance increasing the Planning Commission's review period from 90 to 100 days.

Mr. Morton **stated** that the County was the initiator that took the provision for longer review periods to the State and met with no oppositions at that time.

Mr. Brown commented that by practice he could not support administrative delays, but did see justification in the equity of this consideration and would support this extension, however he cautioned against this action taking a precedent for other administrative delays.

Mr. Kennedy opened the Public Hearing.

1. Mr. Charlie **Crawford**, owner of Charlie's Antiques in Toano, **stated** concern regarding the proposal and **requested the** County first address the need to develop a guide or program to assist new applicants **through** the review process so there are less failures of new applications, then move forward with the administrative delay policy.

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

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

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

5. Case No. AFD-6-86. Cranston's Pond Agricultural and Forestal District – Marston Addition

Mr. David Anderson, Planner, stated that during the 1998 renewal period for the Cranston's Pond Agricultural and Forestal District, the property owner, Mr. George Marston chose not to renew a 14-acre parcel zoned R-1, Limited Residential, and located approximately 1,000 feet from the end of Bush Springs Road, further identified as Parcel No. (1-34) on the James City County Real Estate Tax Map No. (22-2) in the Agricultural and Forestal District (AFD).

Mr. Marston now wishes to place the property back into the AFD.

At its meeting on October 23, 2002, the Agricultural and Forestal District Advisory Committee voted 6-0 to recommend approval of the addition.

At its meeting on November 4, 2002, the Planning Commission voted 7-0 to recommend approval of the addition.

Staff recommended the Board approve the Marston addition in to the Cranston's Pond AFD subject to the conditions of the existing Cranston's Pond AFD.

Mr. Kennedy opened the Public Hearing.

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

Mr. Goodson made a motion to adopt the resolution for the Marston addition.

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

6. Case No. AFD-9-86. Gordon Creek Agricultural and Forestal District – Kane Addition

Mr. David Anderson, Planner, stated that during the 2002 renewal period of the Gordon Creek Agricultural and Forestal District (AFD), Mr. William Kane inadvertently withdrew 164.33 acres zoned A-1, General Agricultural, and R-6, Low-Density Residential, identified as Parcel Nos. (1-3), (1-7), (1-7), (1-1), and (1-2) on the James City County Real Estate Tax Map Nos. (29-4), (30-3), (35-2), (36-1), and (36-1) respectively, from the AFD. Upon realizing this mistake, Mr. Kane contacted the County and requested the addition of his property back into the AFD.

At its meeting on October 23, 2002, the AFD Advisory Committee voted 6-0 to recommend approval of the addition.

At its meeting on November 4, 2002, the Planning Commission voted 7-0 to recommend approval of the addition.

Staff recommended the Board approve the Kane addition into the Gordon Creek AFD subject to the conditions of the existing Gordon Creek District.

The Board and staff discussed the renewal notification papers for AFDs and need to review the documents to avoid such mistakes in the future.

Mr. Kennedy opened the Public Hearing.

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

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).

I. PUBLIC COMMENT

1. Mr. Richard Locke, 108 Clara Croker, stated that the County subscribers to Cox that are unhappy **with the service** or quality of signal levels are not powerless to get Cox's standards up to FCC regulatory levels and recommended the County and citizens should review the FCC regulations and take action through the FCC of enforcing the regulations.

2. Mr. Ed **Oyer**, 139 Indian Circle, stated that the focus for a new high school facility should not be on sports but rather on trade skills so graduates can be **successful in finding** a job.

J. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner recommended that the Board recess for a James City Service Authority Board of Directors meeting then reconvene to Open Session to go into Closed Session pursuant to Section 2.2-3711 (A) (3) of the Code of Virginia to consider the acquisition of a parcel of property for public use, then recess the Board until 4 **p.m.** on January 2, 2003, for a Public Hearing prior to the Organizational Meeting.

K. BOARD REQUESTS AND DIRECTIVES

The Board wished all happy holidays.

Mr. Kennedy thanked the Board and **staff** in supporting him as Chairman this year and stated that it was a good year and that it was a good experience.

Mr. Harrison requested citizens and **staff remember** those who will be away from their homes over the holidays as they protect our freedom.

Mr. **Harrison** commented that the Golden Corral located on By-Pass Road will be offering a free Christmas dinner on December 24 from noon to 2 p.m.

Mr. Kennedy recessed the Board at 9:23 p.m. for a JCSA Board of Directors meeting.

Mr. Kennedy reconvened the Board into Open Session at 9:26 p.m.

L. CLOSED SESSION

Mr. **McGlennon** made a motion to go into Closed Session pursuant to 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**, **Harrison**, Kennedy (5) NAY:

Mr. Kennedy convened the Board into Closed Session at 9:27 p.m

Mr. Kennedy reconvened the Board into Open Session at 9:36 p.m

Mr. Hanison made a motion to adopt the Closed Session resolution.

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

R E S O L U T I O N

CERTIFICATION OF CLOSED MEETING

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

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


NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's **knowledge**: i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies; and, ii) only such public business matters were heard, **discussed** or considered by the Board as were identified in the motion and Section 2.1-344(A)(3) to consider the acquisition of a parcel of property for public use.

M. ADJOURNMENT

Mr. **Goodson** made a motion to adjourn until 4 p.m. on January 2, 2003

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

Mr. Kennedy adjourned the Board at 9:37 p.m. until 4 p.m. on January 2, 2003.


Sanford B. Wanner
Clerk to the Board

DEC 10 2002

ORDINANCE NO. 31A-210

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND **REORDAIN** CHAPTER 24, **ZONING**, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, **BY AMENDING** ARTICLE I, IN **GENERAL**, SECTION 24-13, **AMENDMENT** OF CHAPTER.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, Article I, In General, is hereby amended and **reordained** by **amending** Section 24-13, Amendment of chapter

Chapter 24. Zoning.

Article I. In General

Section 24-13. Amendment of chapter.

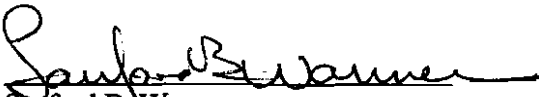
As provided for by section **15.2-2286(7)** of the Code of Virginia, the board of **supervisors** may from time to time amend, supplement or change by ordinance the **boundaries** of the districts or **the** regulations herein established; any such amendment may be initiated by resolution of the board of supervisors or by motion of the planning **commission** or by petition of any property owner, contract purchaser with the owner's written consent, or the owner's agent therefor of the property which is the subject of the **proposed** zoning map amendment, **addressed** to the board of supervisors. Petitions for change or amendment shall comply with the requirements of section **24-23**. These changes may be made, provided:

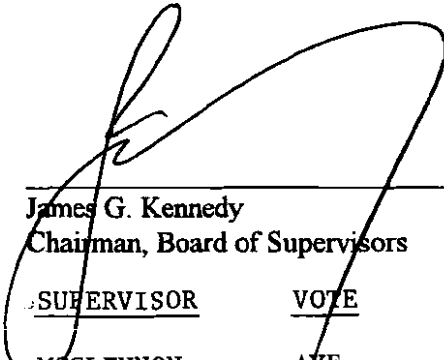
- (4) No plan, **ordinance** or amendment shall be enacted, amended or re-enacted unless the board of **supervisors** has referred the proposal to the **planning commission** for its **recommendation** or has received the **planning commission recommendation**. Failure of the **planning commission** to report ~~90~~ **100** days after the first **meeting** of the **commission** after the proposed plan, amendment or reenactment has been referred to the **commission for action** shall be deemed approval. After the

Ordinance to Amend and Reordain
Chapter 24. Zoning
Page 2

public hearing required in subsection (1) above, the board may make appropriate changes or corrections in the ordinance or proposed amendment.

ATTEST:


Sanford B. Wanner
Clerk to the Board


James G. Kennedy
Chairman, Board of Supervisors

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

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of December, 2002.

DEC 10 2002

ORDINANCE NO. 168A-8BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA**CRANSTON'S POND AGRICULTURAL AND FORESTAL DISTRICT -****MARSTON ADDITION (AFD-6-86)**

WHEREAS, an Agricultural and Forestal District has ~~been~~ established in the **Cranston's** Pond area; and

WHEREAS, in accordance with Section 15.2-4311 of the Code of Virginia, property owners have been notified, public notices have been **filed**, public **hearings** have been advertised, and public hearings have been held on the continuation of the Gordon Creek Agricultural and Forestal District; and

WHEREAS, the Agricultural and Forestal District Advisory Committee at its meeting of October 23, 2002, unanimously recommended approval of the application; and

WHEREAS, the Planning Commission following its public hearing **on November 4, 2002**, unanimously recommended approval of the application.

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

1. The **Cranston's** Pond Agricultural and Forestal District is hereby amended by the addition of the following parcel:

Mr. George Marston **(22-2)(1-34)** 14 acres

Total: 14 acres

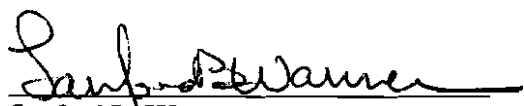
provided, however, that all land within 50 feet of the road rights-of-way of **Chickahominy Road (Route 631)** and **Centerville Road (Route 614)** shall be excluded from the District.

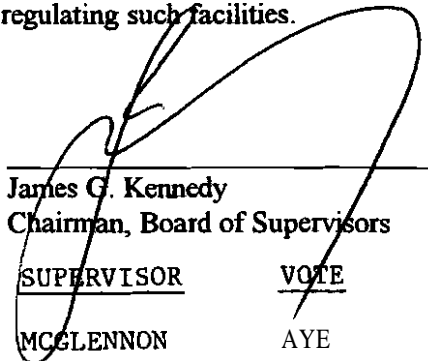
2. **That** pursuant to the Virginia Code, Sections 15.2-4312 and 15.2-4313, as amended, the Board of **Supervisors** requires that no parcel in the **Casey** Agricultural and Forestal District be developed to a more intensive use without prior approval of the **Board** of Supervisors. Specifically, the following restrictions shall apply:
 - a. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's **immediate** family. Parcels of up to five acres, including **necessary** access roads, may be subdivided for the siting of communications towers and related equipment, provided, a) The subdivision does not result in the total acreage of the District to drop below 200 acres; and b) The subdivision does not result in a remnant parcel of less than 25 acres.

- b. No land outside the Primary Service Area (PSA) **and** within ~~the~~ Agricultural and **Forestal** District (AFD) may be rezoned and no application for such rezoning shall **be** filed earlier than six months prior to the expiration of ~~the~~ District. Land inside the **PSA** and within the AFD may be withdrawn from the District in accordance with ~~the~~ Board of Supervisors' policy **pertaining** to Withdrawal of Lands from Agricultural and Forestal Districts Within ~~the~~ **Primary Service Area**, adopted September 24, 1996.

- c. No special use permit shall be issued except for agricultural, forestal, or other **activities** and uses consistent with the **State** Code Section **15.2-4301 et. seq.**, which are not in **conflict** with the policies of this District. The Board of Supervisors, **at its discretion**, may issue special use permits for wireless communications facilities on **AFD** properties which **are** in accordance with the County's policies and ordinances **regulating such facilities**.

ATTEST:


Sanford B. Wanner
Clerk to the Board


James G. Kennedy
Chairman, Board of Supervisors

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

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of December, 2002.

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DEC 10 2002

ORDINANCE NO. 170A-11BOARD OF SUPERVISORS
JAMES CITY COUNN
VIRGINIAKANE ADDITION (AFD-9-86)

WHEREAS, an Agricultural and Forestal District has been established in the Gordon Creek area; and

WHEREAS, in accordance with Section ~~15.2-431~~ I of the Code of ~~Virginia~~, property owners have been notified, public notices have been filed, public hearings have ~~been~~ advertised, and public ~~hearings~~ have been held on the continuation of ~~the~~ Gordon ~~Creek~~ Agricultural and Forestal District; and

WHEREAS, the Agricultural ~~and~~ Forestal District Advisory ~~Committee~~ at its meeting of October 23, 2002, unanimously recommended approval of the application; and

WHEREAS, the Planning Commission, following its public hearing on November 4, 2002, unanimously recommended approval of the application.

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

1. The Gordon Creek Agricultural ~~and~~ Forestal District is hereby amended by the addition of the following parcels:

Mr. William Kane	(29-4)(1-3)	4.00 acres
	(30-3)(1-7)	8.00 acres
	(35-2)(1-7)	131.00 acres
	(36-)(I-I)	8.33 acres
	(36-I)(I-2)	<u>13.00 acres</u>
Total:		<u>164.33 acres</u>

provided, however, that all land within 25 feet of ~~the~~ road rights-of-way of News Road, ~~Centerville~~ Road, John Tyler Highway, Bush Neck Road, Jolly Pond Road, ~~and~~ Brick Bat Road shall be excluded from the District.

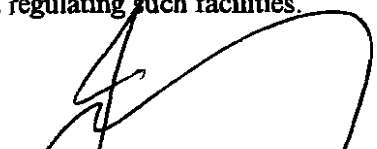
2. That pursuant ~~to the~~ Virginia Code, Section ~~15.2-431~~ 2 and 15.24313, as amended, the Board of Supervisors requires ~~that~~ no parcel in the Gordon Creek Agricultural ~~and~~ Forestal District ~~be~~ developed to ~~a more~~ intensive use without prior approval of the Board of Supervisors. Specifically, the following restrictions shall apply:
 - a. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of communications towers and related equipment, provided, a) ~~The~~ subdivision does not result in the total acreage of the District to ~~drop~~ below 200 acres; and b) The subdivision does not result in a remnant parcel of less than 25 acres.

- b. No land outside the Primary **Service** Area (PSA) and within the Agricultural and Forestal District (AFD) may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land inside the PSA and within the AFD may be withdrawn **from** the District in accordance with the Board of **Supervisors'** policy **pertaining** to Withdrawal of **Lands** from Agricultural **and** Forestal Districts **Within** the Primary **Service** Area, adopted September 24, 1996.
- c. No special use permit shall be issued except for agricultural, forestal, or other activities **and** uses consistent with the **State** Code Section 15.2-4301 et. seq., which are not in **conflict** with the policies of this District. The Board of **Supervisors**, at its discretion, may issue special use. permits for wireless communications facilities on AFD properties which are in **accordance** with the County's policies and ordinances **regulating such facilities**.

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 10th day of December, 2002.

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