

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 25TH DAY OF NOVEMBER 2008, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. CALL TO ORDER

B. ROLL CALL

Bruce C. Goodson, Chairman, Roberts District
James G. Kennedy, Vice Chairman, Stonehouse District
James O. Icenhour, Jr., Powhatan District
John J. McGlennon, Jamestown District
Mary Jones, Berkeley District

Sanford B. Wanner, County Administrator
Leo P. Rogers, County Attorney

C. PLEDGE OF ALLEGIANCE – Riley Smith, a fourth-grade student at Clara Byrd Baker Elementary School, led the Board and citizens in the Pledge of Allegiance.

D. HIGHWAY MATTERS

Mr. Todd Halacy, Virginia Department of Transportation (VDOT) Williamsburg Residency Administrator, stated that a signalization on Richmond Road (Route 60) speed limit study is underway from Route 607, Croaker Road to Route 1020, Turlington Road to determine if the speed limit can be increased from 45 to 55 miles per hour (mph). He stated that VDOT was reviewing sign placement and speeds within Toano at the 35 and 45 mph zones to make sure these speeds were adequate for the placement. He addressed a citizen letter regarding concerns on the intersection of Rochambeau Drive, Old Stage Road, and Stonehouse Lane. He stated that the review of this intersection should be completed by mid-December.

Mr. Icenhour commented on signal synchronization on Monticello Avenue and asked for a report on the timeframe and studies required for sequencing these lights.

Mr. Kennedy asked for a similar report on the timing of stoplights through Lightfoot.

Mr. McGlennon thanked Mr. Halacy for the speed study on Lake Powell Road and noted concern about the decision not to adjust the speed on a segment that was curvy where many pedestrians and bicyclists frequented. He stated that there were in fact accidents in this area and that he would continue to monitor this area and asked for any other means of alerting people regarding the curves in this segment of the road.

E. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, commented on the size of Warhill High School; school budget issues in relation to a Daily Press editorial; need for a fourth high school; the recent Virginia Association of Counties (VACo) Annual Conference, travel expenses of the Board of Supervisors; and piracy.

F. CONSENT CALENDAR

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

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

- 1. Minutes – November 12, 2008, Regular Meeting
- 2. Grant Award – Kiwanis Club of Williamsburg – \$500

RESOLUTION

GRANT AWARD – KIWANIS CLUB OF WILLIAMSBURG - \$500

WHEREAS, the James City County Police Department has been awarded a grant in the amount of \$500 from the Kiwanis Club of Williamsburg; and

WHEREAS, the grant requires no match; and

WHEREAS, funds are to be used to augment the youth education services provided by the Department's Community Services Unit (CSU).

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of James City County, Virginia, hereby authorizes the acceptance of this grant and the following appropriation amendment to the Special Projects/Grants fund:

Revenue:

Kiwanis Grant – Police CSU	<u>\$500</u>
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Expenditure:

Kiwanis Grant – Police CSU	<u>\$500</u>
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3. Dedication of Streets in Scott's Pond – Sections 1b And 2

RESOLUTION

DEDICATION OF STREETS IN SCOTT'S POND - SECTIONS 1B AND 2

WHEREAS, the streets described on the attached Additions Form AM-4.3, fully incorporated herein by reference, are 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 (VDOT) advised the Board that the streets meet the requirements established by the Subdivision Street Requirements of VDOT; and

WHEREAS, the County and VDOT entered into an agreement on July 1, 1994, for comprehensive stormwater detention which applies to this request for addition.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests VDOT to add the streets described on the attached Additions Form AM-4.3 to the secondary system of State highways, pursuant to § 33.1-229 of the Code of Virginia, and VDOT'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 that a certified copy of this resolution be forwarded to the Resident Engineer for VDOT.

G. PUBLIC HEARINGS

Mr. Goodson recognized Planning Commissioner Chris Henderson in attendance.

1. An Ordinance to Amend James City County Code Chapter 8, Erosion and Sediment Control, Section 7, Penalties, Injunctions, and Other Legal Actions; to Bring the County Code into Compliance with the State Code

Ms. Angela King, Assistant County Attorney, stated that this item amends Chapter 8-7 of the County Code to increase the allowable range of civil penalties to bring the ordinance into compliance with the State Code. She recommended adoption of the ordinance amendment.

Mr. Goodson opened the Public Hearing.

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

Mr. McGlennon made a motion to adopt the ordinance.

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

2. An Ordinance to Amend James City County Code Chapter 20, Taxation, Section 2.1, Local Exemption of Certain Energy Sources; to Bring the County Code into Compliance with the State Code

Ms. Angela King, Assistant County Attorney, stated that this item changes the reference to State Code and deletes unnecessary language from the beginning of the ordinance. Staff recommended adoption of the ordinance amendment.

Mr. McGlennon stated that he did not know previously that the fuel items were exempted from sales tax.

Ms. King stated that this ordinance was already in place and the amendment only changed the Code reference.

Mr. Goodson opened the Public Hearing.

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

Mr. McGlennon made a motion to adopt the ordinance amendment.

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

3. Right-of-Way Easement Agreement, Dominion Virginia Power – 5300 Palmer Lane and 5304 Palmer Lane

Ms. Angela King, Assistant County Attorney, stated that this resolution authorized the County to enter into an agreement with Dominion Virginia Power to convey a right-of-way and utility easement of approximately 200 feet by 15 feet wide and running along County property, part of the Ironbound Road widening project administered by VDOT.

Staff recommended adoption of the resolution.

Mr. Icenhour asked if this was part of the Ironbound Square redevelopment area.

Ms. King stated that this was located just above the Ironbound Square redevelopment area, but that it was part of the Ironbound Road project.

Mr. Icenhour asked why underground utilities were not being implemented on this property.

Ms. King stated that an underground utility agreement was previously granted, but that it was not deemed financially feasible at this point and an overhead utility was now sought.

Mr. McGlennon asked if it was financially unviable on the part of Dominion Virginia Power.

Ms. King stated that it was deemed not financially feasible for Dominion Virginia Power in consultation with the County.

Mr. Leo Rogers, County Attorney, stated that it was determined that there was not sufficient funding to provide for all underground utilities in the area based on the cost of the project.

Mr. McGlennon asked if this impacted the whole Ironbound Road corridor.

Mr. Rogers stated that he was not aware at this time.

Mr. Goodson opened the Public Hearing.

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

Ms. Jones stated that she would like to understand if the overhead utilities would be done only on this portion of the corridor.

Mr. Rogers stated that the County is working with Dominion Virginia Power for underground utilities in other areas and that this item could be deferred to December if necessary.

Mr. Goodson asked if Mr. Halacy could speak regarding this.

Mr. Halacy stated that originally underground utilities were set from Longhill Road to Monticello Avenue, but the high costs of underground utilities have resulted in the project being half underground and half overhead utilities.

Mr. Icenhour asked the location of that portion of the road.

Mr. Wanner stated that it was located in front of the County buildings on Palmer Lane.

Mr. Icenhour stated that this was where the County parking lot was, and from there on forward it would be aboveground.

Mr. Wanner stated that he would recommend allowing him to get more information prior to executing the agreement.

Ms. Jones stated that would be a good solution to try to work toward more underground utilities.

Mr. Wanner stated that the road project has been delayed many times and that there was neither State nor County funds to support the underground utility lines.

Mr. Goodson asked if the recommendation was to move forward.

Mr. Wanner stated that he recommended the Board pass the resolution allowing the County Administrator to execute the agreement and that if he was unable to come to a reasonable agreement, it would come back before the Board.

Ms. Jones made a motion to adopt the resolution.

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

RESOLUTION

RIGHT-OF-WAY AND EASEMENT AGREEMENT, DOMINION VIRGINIA POWER –

5300 PALMER LANE AND 5304 PALMER LANE

WHEREAS, James City County (the “County”) owns property at 5300 Palmer Lane, designated as Parcel No. (13-1A) on the James City County Real Estate Tax Map No. 39-1, and 5304 Palmer Lane, designated as Parcel No. (13-1B) on the James City County Real Estate Tax Map No. 39-1, (together, the “Properties”); and

WHEREAS, Dominion Virginia Power requires a right-of-way and overhead utility easement from the Properties, approximately 200 feet in length and 15 feet in width along a portion of Ironbound Road as part of the Ironbound Roadway Project; and

WHEREAS, the Board of Supervisors, following a public hearing, is of the opinion that it is in the public interest to convey a right-of-way and overhead utility easement to Dominion Virginia Power.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute those agreements and other such documents necessary to convey the right-of-way and overhead utility easement to Dominion Virginia Power on the Properties.

4. **An Ordinance to Amend and Reordain, Chapter 3, Animal Laws of the Code of the County of James City, Virginia, by Amending Article III, Impoundment, Section 3-45, Impoundment Generally**

Mr. Leo Rogers, County Attorney, stated that this is a housekeeping item in the County Code. He stated that the requirements are repeated in the ordinance and one of them is deleted with this ordinance amendment. He recommended approval of the ordinance amendment.

Mr. Goodson opened the Public Hearing.

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

Mr. McGlennon made a motion to adopt the ordinance.

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

H. BOARD CONSIDERATIONS

1. **Abandonment of a Portion of Former Route 612, Longhill Road**

Ms. Angela King, Assistant County Attorney, stated that a portion of former Route 612, Longhill Road, needed to be abandoned and was identified as Section 13 on the sketch entitled *James City County, Changes in Secondary System Due to Relocation and Construction on Route 612, Project 0612-074-105,*

C-501, dated January 24, 1969, and provided by VDOT. She stated that Section 13 runs at a southwest angle off Longhill Road for approximately 0.10 miles, along the shared property line of James City County Real Estate Tax Map Parcel Nos. 3240100032 and 3240100033, as shown on the plat. She stated that Parcel No. 3240100033, more commonly known as 4897 Longhill Road, is owned by the King of Glory Lutheran Church (the "Church"). Parcel No. 3240100032, more commonly known as 4881 Longhill Road (the "Property"), is owned by the County, Gloucester County, York County, and the City of Williamsburg (collectively the "Crossroads Partners"). Ms. King noted that the Crossroads Partners desire to transfer ownership and the Church desires to obtain ownership of the Property. Transfer of the Property requires the abandonment of Section 13 in order to clear title issues.

Ms. King stated that at the request of the County, VDOT discontinued Section 13 in 1969 and the discontinuance of Section 13 removed it from the Secondary System; however, it remained a public road. She stated that the abandonment of Section 13 will extinguish the public road and that because Section 13 is a prescriptive easement, upon abandonment the easement will be extinguished and title to the right-of-way will be with the underlying property owner. She noted that the abandonment of Section 13 would not detrimentally affect the citizens of the County as a new road; Longhill Road has been built in its stead.

Staff recommended adoption of the attached resolution abandoning a portion of former Route 612, identified as Section 13.

Mr. Icenhour made a motion to adopt the resolution.

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

RESOLUTION

ABANDONMENT OF A PORTION OF FORMER ROUTE 612, LONGHILL ROAD

WHEREAS, the James City County (the "County") Board of Supervisors has been provided with a sketch, entitled *James City County, Changes in Secondary System Due to Relocation and Construction on Route 612, Project 0612-047-105, C-501*, dated January 24, 1969, and provided by the Virginia Department of Transportation (the "Sketch"), depicting various sections of Route 612; and

WHEREAS, as part of the relocation and construction on Route 612, the County, in 1969, abandoned Sections 1, 2, 3, 4, 5, and 6 of Route 612 from the Secondary System of State Highways; and

WHEREAS, as part of that same relocation and construction on Route 612, Sections 7, 8, 9, 10, 11, and 12 of Route 612 were added to and Section 13 of Route 612 ("Section 13") was discontinued from the Secondary System of State Highways; and

WHEREAS, the County, Gloucester County, York County, and the City of Williamsburg (collectively the "Crossroads Partners") own property located at 4881 Longhill Road, identified as James City County Real Estate Tax Map Parcel No. 3240100032 (the "Property"), upon which Section 13 is located; and

WHEREAS, the Crossroads Partners desire to transfer ownership of the Property, which transfer requires the abandonment of Section 13; and

WHEREAS, abandonment of Section 13 will not detrimentally affect the citizens of the County because a new road has been constructed and approved which serves the same citizens as Section 13.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby abandons as a public road, pursuant to Section 33.1-155 of the Code of Virginia (1950), as amended, that previously discontinued segment of Route 612, identified as Section 13, and shown on the Sketch.

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

2. Appropriation of Housing, Employment, and Linkages Project (HELP) – \$20,000

Mr. Doug Powell, Community Services Manager, stated that during the FY 2009 budget process, \$20,000 was reserved to assist with homelessness in the region. He stated that over an 18-month period, the organization hopes to collect funds from a variety of sources and that the current budget is \$250,000, but the purpose of the project is to help as many individuals as possible. Staff recommended adoption of the resolution. He noted that there would still be \$5,000 left to be used at a later date.

Mr. McGlennon thanked Mr. Powell for helping address a growing problem in the area.

Mr. McGlennon made a motion to adopt the resolution.

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

RESOLUTION

APPROPRIATION TO HOUSING, EMPLOYMENT, AND LINKAGES PROJECT (HELP) –

\$20,000

WHEREAS, homelessness is increasing in the community; and

WHEREAS, James City County has partnered with the City of Williamsburg, York County, the United Way, Salvation Army, and the faith community to develop a program to increase the community's capacity to assist the homeless.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby appropriates \$20,000 in the FY 2009 to the United Way for the Housing, Employment, and Linkages Project (HELP).

3. Agreement between the Virginia Peninsula Localities on Homelessness

Mr. Doug Powell, Community Services Manager, stated that the County has been participating on the Virginia Peninsula Mayors and Chairs task force on homelessness since its inception, that there were two actions that were recommended, including formalizing the commission on homelessness as a legal entity

through the draft agreement found in the reading file, which would allow the body to enter into an agreement with another entity to provide services for the homeless, and that the other action would be to appropriate the funding to the commission in order to contract with the planning council.

Staff recommended approval of the resolution.

Ms. Jones made a motion to adopt the resolution.

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

RESOLUTION

AGREEMENT BETWEEN THE VIRGINIA PENINSULA LOCALITIES ON HOMELESSNESS

WHEREAS, James City County has been an active participant on the Virginia Peninsula Mayors and Chairs Commission on Homelessness; and

WHEREAS, the County wishes to continue its involvement in the Commission to develop regional solutions to homelessness.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute an Agreement between the Virginia Peninsula Localities on Homelessness

BE IT FURTHER RESOLVED that the Board changes the appropriation of \$13,959 in the FY 2009 approved budget from the Planning Council to the Commission on Homelessness.

I. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, wished the Board a happy holiday and asked that everyone keep the troops in mind.

J. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner stated that County offices would be closed for the Thanksgiving holiday on November 27 and 28, 2008, and offices would reopen on Monday, December 1, 2008, at 8 a.m. He stated that a meeting of the James City Service Authority Board of Directors needed to be held prior to the Board's Closed Session and when the Board completed its business, it should adjourn to 7 p.m. on December 9, 2008.

K. BOARD REQUESTS AND DIRECTIVES

Mr. Goodson stated that earlier the Board recommended Mr. William T. Watkins, III to the Board of Zoning Appeals.

Mr. Goodson noted that it has been recommended to remove the fourth high school from planning documents and that the extra space at Warhill High School was intended for future programming.

Mr. McGlennon noted that he would recommend to his colleagues these on the history of piracy. He stated that the cost savings for construction of the schools is quite significant.

Ms. Jones gave an update on the Comprehensive Plan Steering Committee and stated that discussions would continue on Economic Development and Environment issues. She stated that the next meeting was scheduled for Monday, December 1, 2008, at 4 p.m. and asked that she be contacted with any input.

At 7:32 p.m. Mr. Goodson recessed the Board for a meeting of the James City Service Authority Board of Directors.

At 7: 38 p.m. Mr. Goodson reconvened the Board.

L. CLOSED SESSION

Mr. Kennedy made a motion to go into Closed Session for the consideration of the acquisition of parcel(s) of public property pursuant to Section 2.2-3711(A)(3) of the Code of Virginia.

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

At 7:39 p.m. Mr. Goodson recessed the Board into Closed Session.

At 8:13 p.m. Mr. Goodson reconvened the Board.

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

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

RESOLUTION

CERTIFICATION OF CLOSED MEETING

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

WHEREAS, Section 2.2-3711 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,

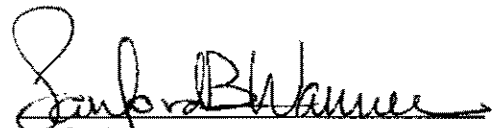
Section 2.2-3711(A)(1) of the Code of Virginia, to consider the acquisition of parcel(s) of public property.

M. ADJOURNMENT to 7 p.m. on December 9, 2008

Mr. McGlennon made a motion to adjourn.

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

At 8:14 p.m. Mr. Goodson adjourned the Board to 7 p.m. on December 9, 2008.


Sanford B. Wanner
Clerk to the Board

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ADOPTED

NOV 25 2008

ORDINANCE NO. 85A-18

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 8, EROSION AND SEDIMENT CONTROL, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING SECTION 8-7, PENALTIES, INJUNCTIONS, AND OTHER LEGAL ACTIONS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 8, Erosion and Sediment Control, is hereby amended and reordained by amending Section 8-7, Penalties, injunctions, and other legal actions.

Chapter 8. Erosion and Sediment Control


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

(a) Schedule of civil penalties

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

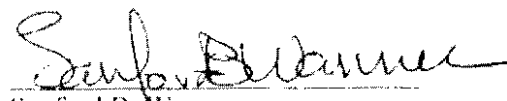
- a. Commencement of land disturbing activity without an approved erosion control plan as provided in Section 8-4 shall be \$1,000 per day.
- b. Vegetative measures - failure to comply with items 1, 2, 3, 5, and 7 of the Minimum Standards shall be *not less than \$100 nor more than \$1,000* per violation per day.
- c. Structural measures - failure to comply with items 2, 4, 6, 8, 9, 10, 11, 15, and 17 of the Minimum Standards shall be *not less than \$100 nor more than \$1,000* per violation per day.
- d. Watercourse measures - failure to comply with items 12, 13, 14, and 15 of the Minimum Standards shall be *not less than \$100 nor more than \$1,000* per violation per day.

- e. Underground utility measures – failure to comply with Item 16(a), and/or (c) of the Minimum Standards shall be *not less than \$100 nor more than \$1,000* per violation per day.
 - f. Failure to obey a stop work order shall be *not less than \$100 nor more than \$1,000* per day.
 - g. Failure to stop work when permit is revoked shall be *not less than \$100 nor more than \$1,000* per day.
 - h. All other violations of this chapter not specifically enumerated in Items (a) through (g) of this section shall be *not less than \$100 nor more than \$1,000* per day.
- (b) In no event shall a series of specified violations arising from the same operative set of facts result in civil penalties which exceed a total of ~~\$3,000~~ *\$10,000*, ~~except that~~ *including* a series of violations arising from the commencement of land-disturbing activities without an approved plan for any site shall ~~not result in civil penalties which exceed a total of \$10,000.~~



Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:



Sanford B. Wanner
Clerk of the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
ICENHOUR	AYE
MCGLENNON	AYE
JONES	AYE
KENNEDY	AYE
GOODSON	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of November, 2008.

ADOPTED

NOV 25 2008

ORDINANCE NO. 107A-55

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 20, TAXATION, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL, SECTION 20-2.1, LOCAL EXEMPTION OF CERTAIN ENERGY SOURCES.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 20, Taxation, is hereby amended and reordained by amending Article I, In General, Section 20-2.1, Local exemption of certain energy sources.

Chapter 20. Taxation

Article I. In General

Section 20-2.1. Local exemption of certain energy sources

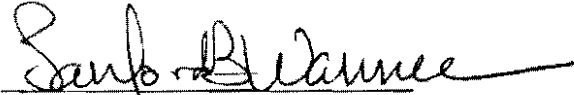
~~Notwithstanding the provisions of section 20-1, and notwithstanding the provisions of section 20-2, and pursuant to section 58.1-608(9) of the Code of Virginia, effective January 1, 1982, the board of supervisors~~ *The following are* hereby exempts from both the general retail sales tax and the use tax, ~~the following:~~ Artificial or propane gas, firewood, coal or home heating oil used for domestic consumption. "Domestic consumption" means the user of artificial or propane gas, firewood, coal or home heating oil by an individual purchaser for other than business, commercial or industrial purposes.

State law reference – Authority of County to enact this section, Code of Va., §58.1-609.13



Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:



Sanford B. Wanner
Clerk of the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
ICENHOUR	AYE
MCGLENNON	AYE
JONES	AYE
KENNEDY	AYE
GOODSON	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of November, 2008.

AmendCh20_ord

ADOPTED

NOV 25 2008

ORDINANCE NO. 7A-20

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 3, ANIMAL LAWS, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE III, IMPOUNDMENT, SECTION 3-45, IMPOUNDMENT GENERALLY.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 3, Animal Laws, is hereby amended and reordained by amending Section 3-45, Impoundment generally.

Chapter 3. Animal Laws

Article III. Impoundment.

Sec. 3-45. Impoundment generally.

(a) Any humane investigator, law-enforcement officer, or animal control officer, may lawfully seize and impound any animal that has been abandoned, has been cruelly treated, or is suffering from an apparent violation of this chapter that has rendered the animal in such a condition as to constitute a direct and immediate threat to its life, safety, or health. Before seizing or impounding any agricultural animal, such humane investigator, law-enforcement officer, or animal control officer shall contact the State Veterinarian or a State Veterinarian's representative, who shall recommend to such person the most appropriate action for the disposition of the agricultural animal, provided, however, that the seizure or impoundment of an equine resulting from a violation of subdivision (a) (iii) or subdivision (b) (ii) of section 3-9 may be undertaken only by the State Veterinarian or State Veterinarian's representative who has received training in the examination and detection of sore horses equivalent to that required by 9 C.F.R. Part 11.7 and that is approved by the State Veterinarian. The humane investigator, law-enforcement officer, or animal control officer shall notify the owner of the agricultural animal and the local attorney for the Commonwealth of the recommendation. The humane investigator, law-enforcement

officer or animal control officer may impound the agricultural animal on the land where the agricultural animal is located if:

- (1) The owner or tenant of the land where the agricultural animal is located gives written permission;
- (2) A general district court so orders; or
- (3) The owner or tenant of the land where the agricultural animal is located cannot be immediately located, and it is in the best interest of the agricultural animal to be impounded on the land where it is located until the written permission of the owner or tenant of the land can be obtained.

If there is a direct and immediate threat to an agricultural animal, the humane investigator, law enforcement officer, or animal control officer may seize the animal, in which case the humane investigator, law enforcement officer, or animal control officer shall file within five business days on a form approved by the State Veterinarian a report on the condition of the animal at the time of the seizure, the disposition of the animal, and any other information required by the State Veterinarian.

Upon seizing or impounding an animal, the humane investigator, law enforcement officer or animal control officer shall petition the general district court in the city or county wherein the animal is seized for a hearing. The hearing shall be not more than ten business days from the date of the seizure of the animal. The hearing shall be to determine whether the animal has been abandoned, has been cruelly treated, or has not been provided adequate care. ~~or is unfit for use within the county and shall petition any general district court in the county for a hearing which shall be in the nature of a criminal proceeding. The hearing shall be set not more than ten days from the date of the seizure of the animal to determine whether the owner, if known, is able to adequately provide for the animal and is a fit person to own the animal. The humane investigator, or animal control officer, shall cause to be served upon the owner, if known and residing within the county, written notice at least five days prior to the hearing of the time and~~

~~place of the hearing. If the owner is known but residing out of the county, written notice by any method of service of process as provided by the Code of Virginia shall be given. If the owner is not known, the humane investigator shall cause to be published in a newspaper of general circulation in the county notice of the hearing at least one time prior to the hearing and shall further cause notice of the hearing to be posted at least five days prior to the hearing at the place provided for public notices at the courthouse wherein such hearing shall be held.~~

(b) The humane investigator, law-enforcement officer, or animal control officer shall cause to be served upon the person with a right of property in the animal or the custodian of the animal notice of the hearing. If such person or the custodian is known and residing within the jurisdiction wherein the animal is seized, written notice shall be given at least five days prior to the hearing of the time and place of the hearing. If such person or the custodian is known but residing out of the jurisdiction where such animal is seized, written notice by any method or service of process as is provided by the Code of Virginia shall be given. If such person or the custodian is not known, the humane investigator, law-enforcement officer, or animal control officer shall cause to be published in a newspaper of general circulation in the jurisdiction wherein such animal is seized notice of the hearing at least one time prior to the hearing and shall further cause notice of the hearing to be posted at least five days prior to the hearing at the place provided for public notices at the city hall or courthouse wherein such hearing shall be held.

(c) The procedure for appeal and trial shall be the same as provided by law for misdemeanors; if requested by either party on appeal to the circuit court, trial by jury shall be as provided in Article 4 of Chapter 15 of Title 19.2 of the Code of Virginia, and the commonwealth shall be required to prove its case beyond a reasonable doubt.

(d) The humane investigator, law enforcement officer, or animal control officer, shall provide for such animal until the court has concluded the hearing. The owner of any animal held pursuant to this

section for more than 30 days shall post a bond in surety with the county for the amount of the cost of boarding the animal for a period of nine months. Such bond shall not prevent the animal's custodian from disposing of such animal at the end of the nine month period covered by the bond unless the person claiming an interest posts an additional bond in surety with the county to secure payment of the costs of caring for the animal for an additional nine months and does so prior to the expiration of the previous nine month period. At the conclusion of the case, the bond shall be forfeited to the county unless there is a finding that the owner is able to adequately provide for the animal and is a fit person to own the animal. If the animal is returned to the owner or other individual despite a violation of this section, the person posting the bond will be entitled to a return of the bond less the incurred expenses of boarding, medical care and impounding the animal.

If the court determines that the animal has been neither abandoned, cruelly treated, nor deprived of adequate care, the animal shall be returned to the owner. If the court determines that the animal has been abandoned, cruelly treated, deprived of adequate care as defined in section 3-1, or raised as a dog that has been, is, or is intended to be used, in dog fighting in violation of Section 3.1-796.124 of the Code of Virginia, then the court shall order that the animal be: (i) sold by the county; (ii) humanely destroyed, or disposed of by sale or gift to a federal agency, state-supported institution, agency of the commonwealth, agency of another state, or a licensed federal dealer having its principal place of business located within the commonwealth; (iii) delivered to any local humane society or shelter, or to any person who is a resident of the county or city where the animal is seized or an adjacent county or city in the commonwealth and who will pay the required license fee, if any, on such animal; or (iv) delivered to the person with a right of property in the animal as provided in subsection.

(e) In no case shall the owner be allowed to purchase, adopt, or otherwise obtain the animal if the court determines that the animal has been abandoned, cruelly treated, or deprived of adequate care;

however, the court shall direct that the animal be delivered to the person with a right of property in the animal, upon his request, if the court finds that the abandonment, cruel treatment, or deprivation of adequate care is not attributable to the actions or inactions of such person.

(f) The court shall order the owner of any animal determined to have been abandoned, cruelly treated, or deprived of adequate care to pay all reasonable expenses incurred in caring and providing for such animal from the time the animal is seized until such time that the animal is disposed of in accordance with the provisions of this section, to the provider of such care.

(g) The court may prohibit the possession or ownership of other companion animals by the owner of any companion animal found to have been abandoned, cruelly treated, or deprived of adequate care. In making a determination to prohibit the possession or ownership of companion animals, the court may take into consideration the owner's past record of convictions under this chapter or other laws prohibiting cruelty to animals or pertaining to the care or treatment of animals and the owner's mental and physical condition.

(h) If the court finds that an agricultural animal has been abandoned or cruelly treated, the court may prohibit the possession or ownership of any other agricultural animal by the owner of the agricultural animal if the owner has exhibited a pattern of abandoning or cruelly treating agricultural animals as evidenced by previous convictions. In making a determination to prohibit the possession or ownership of agricultural animals, the court may take into consideration the owner's mental and physical condition.

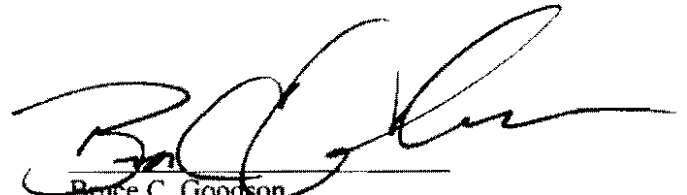
(i) Any person who is prohibited from owning or possessing animals pursuant to subsection (g) or (h) may petition the court to repeal the prohibition after two years have elapsed from the date of entry of

the court's order. The court may, in its discretion, repeal the prohibition if the person can prove to the satisfaction of the court that the cause for the prohibition has ceased to exist.

(j) When a sale occurs, the proceeds shall first be applied to the costs of the sale then next to the unreimbursed expenses for the care and provision of the animal, and the remaining proceeds, if any, shall be paid over to the owner of the animal. If the owner of the animal cannot be found, the proceeds remaining shall be paid into the Literary Fund of the state treasury.


(k) Nothing in this section shall be construed to prohibit the humane destruction of a critically injured or ill animal for humane purposes by the impounding humane investigator, law-enforcement officer, animal control officer, or licensed veterinarian.

State law reference-Similar provisions, Code of Va., § 3.2-6569.



Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:



Sanford B. Wanner
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
ICENHOUR	AYE
MCLENNON	AYE
JONES	AYE
KENNEDY	AYE
ICENHOUR	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of November, 2008.