

ADOPTED

AUG 18 1986

ORDINANCE NO. 159

**BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA**

AN ORDINANCE TO AUTHORIZE THE ACQUISITION OF CERTAIN REAL PROPERTY IN JAMES CITY COUNTY, VIRGINIA, ALL AS SHOWN ON A PLAT ATTACHED HERETO FOR PUBLIC PURPOSES AND FOR CONSTRUCTING AND EXPANDING THE WATER SUPPLY SYSTEM OWNED BY JAMES CITY COUNTY, VIRGINIA.

WHEREAS, in the opinion of the Board of Supervisors of James City County, Virginia, a public necessity exists for the acquisition of certain real property hereafter more particularly described, in James City County, Virginia, as shown on a plat attached hereto, for construction and expansion of the water supply system owned by James City County, Virginia, for public purposes, and the preservation of the health, safety, peace, good order, comfort, convenience, morals and welfare of James City County, Virginia.

NOW, THEREFORE, James City County, Virginia hereby ordains:

Section 1. That the County Attorney and/or the law firm of Anderson, Emmett & Franck, P.C., be, and they are hereby authorized and directed to acquire in the manner provided by Title 15.1, Chapter 7, Article 1 of the Code of Virginia, 1950, as amended, and by Title 33.1, Chapter 1, Article 7 of the Code of Virginia, 1950, as amended, certain real property in James City County, Virginia, and shown on a plat attached hereto, together with all rights appurtenant thereto, for public purposes and for constructing and expanding the water supply system owned by the County of James City, the said property and ownership being more particularly described in Section 3 of this Ordinance.

Section 2. That the County Administrator is authorized and directed to act for and on behalf of the County in agreeing or disagreeing with the owner

of the property upon the compensation and damages, if any, to be paid within the limit of the funds provided as set out in Section 4 of this Ordinance, which has been authorized and appropriated.

Section 3. That the name of the present owner of the land to be acquired as provided in Section 1 of this Ordinance together with a substantial description of the parcel is as follows:

Alabama Company, a Virginia Limited Partnership

33.37 acres of land, more or less, in James City County, Virginia, shown as "PARCEL A - AREA WITHIN 50 FT. CONTOUR LINE: 33.37 ACRES" on a plat entitled "PLAT OF SURVEY, SHOWING PROPERTY OWNED BY ALABAMA COMPANY TO BE CONVEYED TO JAMES CITY COUNTY, STONEHOUSE DISTRICT, JAMES CITY COUNTY, VIRGINIA" prepared by G. T. Wilson, Jr., Certified Land Surveyor of Buchart-Horn, Inc. dated 1/10/86, revised 3/27/86.

Together with a perpetual easement for the protection of a public water supply reservoir, over and upon the following described property:

79.72 acres of land, more or less, in James City County, Virginia, shown as "PARCEL B - AREA WITHIN 200' SETBACK LINE: 60.99 ACRES" and "PARCELS C, D, E, F, G & H - AREA WITHIN 100' SETBACK LINE: 18.73 ACRES" on a plat entitled "PLAT OF SURVEY, SHOWING PROPERTY OWNED BY ALABAMA COMPANY TO BE CONVEYED TO JAMES CITY COUNTY, STONEHOUSE DISTRICT, JAMES CITY COUNTY, VIRGINIA" prepared by G. T. Wilson, Jr., Certified Land Surveyor of Buchart-Horn, Inc. dated 1/10/86, revised 3/27/86.

This easement shall include (a) the right to inundate the land within the easement to an elevation of FIFTY FEET above Mean Sea Level with backwaters caused by the construction of any future dam or other improvements on Ware Creek or any of its tributaries, (b) the right to clear, destroy, remove and dispose of any timber, undergrowth, brush, stumps, debris, trash, filth, or any other matter lying at or below the fifty foot elevation contour, provided that the Landowners shall be given a reasonable opportunity to remove any merchantable timber prior to such clearing, (c) the right to clear, destroy, remove and dispose of any timber, undergrowth, brush, stumps, debris, trash, filth, or other matter lying within the easement which would adversely affect the quality of any public water supply reservoir, provided that the Landowners shall be given a reasonable opportunity to remove any merchantable timber prior to such clearing, (d) the right to construct within the

easement sediment and/or erosion control basins, structures or other devices as necessary to control run-off into any public water supply reservoir, (e) a right of access over the lands within the easement for access to any public water supply reservoir and run-off control devices for the purpose of inspecting, operating, maintaining and protecting the same.

Within the easement the Landowners, their successors, heirs and assigns, shall be prohibited from (a) storing or producing any hazardous wastes as defined in Section 32.1-177 of the Code of Virginia, 1950, as amended, (b) storing any hazardous substances in reportable quantities as listed in 44 Federal Register 50777, et seq., (1979), (c) storing bulk quantities of petroleum or asphalt products or compounds, (d) conducting commercial livestock feeding operations, (e) applying any industrial wastes to the land, (f) constructing any permanent structure other than those expressly permitted by the terms of this document, (g) constructing or locating any temporary structure to be used for the housing of humans, animals, fowl, fish or reptiles, (h) constructing any septic tanks, drainfields, sewer lines or sewage treatment devices, (i) applying fertilizers, herbicides or pesticides except in accordance with plans approved by the County, (j) temporarily or permanently removing the vegetation cover or timber by cultivation, burning, clearing, cutting or any other means except in accordance with plans approved by the County which shall not be unreasonably withheld provided the plan provides for the prompt revegetation of the land in a manner that will not increase sediment runoff into any public water supply reservoir, (l) permitting public or commercial access to the reservoir, (m) using the land in any manner or for any purpose which would pollute any public water supply reservoir.

There is expressly reserved by the Landowners, their successors and assigns, the rights to (a) construct drainage, sediment and erosion control devices or structures within the easement in accordance with plans approved by the County, (b) fence their lands within the easement subject to the rights of access and rights to clear and inundate to the fifty foot elevation contour granted above, (c) construct and maintain all weather surface driveways over the easement from the public highway to each lot which may be subdivided from the Landowners' property, and (d) enjoy the use and possession of the lands within the easement for all purposes not inconsistent with nor in conflict with other provisions of this document.

Section 4. The funds estimated as necessary to compensate the owner of the above-described parcel for land and damages, if any, within the limits of which the County Administrator is authorized to agree with them is Seventy

Four Thousand Nine Hundred and no/100 Dollars (\$74,900.00).

Section 5. The County Attorney and/or the law firm of Anderson, Emmett & Franck, P.C. shall notify the property owner of the compensation and damages offered by the County forthwith on or before September 2, 1986.

Section 6. That in the event any of the property described in Section 3 of this Ordinance has been conveyed, the County Attorney and/or the law firm of Anderson, Emmett & Franck, P.C. are authorized and directed to institute proceedings against successors in title.



William F. Brown, Chairman
Board of Supervisors

ATTEST:



James B. Oliver, Jr.
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia,
this 18th day of August, 1986.

<u>SUPERVISOR</u>	<u>VOTE</u>
BROWN	AYE
DEPUE	AYE
EDWARDS	AYE
MAHONE	AYE
TAYLOR	NAY