

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 10th DAY OF SEPTEMBER, 2002, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

James G. Kennedy, Chairman, Stonehouse District
Jay T. Harrison, Sr., Vice Chairman, Berkeley District
John J. McGlennon, Jamestown District
Michael J. Brown, Powhatan District
Bruce C. Goodson, Roberts District

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

B. MOMENT OF SILENCE

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

C. PLEDGE OF ALLEGIANCE

Ms. Christina Weber, a student at Jamestown High School, led the Board and citizens in the Pledge of Allegiance.

D. PUBLIC COMMENT

1. Mr. Steven Hicks, Resident Engineer, Virginia Department of Transportation (VDOT), stated that an agreement is being finalized between VDOT and an independent contractor for improvements to the Route 199 Jamestown Corridor that includes: Route 199 from below Route 637 (Quarterpath Road) to Route 700 (Brookwood Drive), Route 199 and Route 31 intersection, and the realignment of Route 359 in front of Jamestown Settlement.

Mr. Hicks also stated that an update on the schedule for the Route 199 Jamestown Corridor improvements would be provided to the Board at its next meeting on September 24.

Mr. McGlennon stated that three local firms will undertake the Route 199 Jamestown Corridor improvements on behalf of VDOT and inquired about the process for the improvements.

Mr. Hicks stated that the work will be completed in four segments and that the second segment will include a parallel bridge along Route 199 over College Creek, as well as the realignment of Route 359 in front of Jamestown Settlement.

Mr. Harrison inquired if the Jamestown 1607 causeway will be apart of the corridor improvements.

Mr. Hicks stated that it was not included as part of the proposed agreement.

Mr. Goodson requested VDOT study the intersection of Route 199 and Route 637 (Quarterpath Road) to alleviate traffic confusion at the intersection from vehicles exiting Route 637.

Mr. Kennedy recognized members of Boy Scout Troops 414 and 180 in the audience as well as George Billups, the Planning Commission representative.

2. Mr. Tony Dion, 102 Fairmont Drive, stated that he had sent two e-mails to the Board earlier this week regarding the Governor's Executive Order 33 and the proposed third high school, and requested the Board initiate an independent consultancy on the proposal of a third high school to include a report to the public with justification for the proposed third high school and other alternatives.

3. Ms. Elaine Arczynski, 505 Fairfax Way, stated concern regarding an unsecured access way between the James River Community Center and James River Elementary School as well as the glass window permitting strangers the opportunity to observe children, and requested the County arrange continued police presence at the site for the protection of children.

Mr. Ed Oyer, 139 Indian Circle, stated that Calpine stock prices have dropped and the County should not count on any tax revenues from the company, stated that the local Government Channel has been airing inappropriate music, commented on nearby jurisdictions' school enhancement costs vs. the County's proposal for a third high school, and stated concern about the shortage of bus drivers in an area that needs additional routes.

Mr. Wanner stated that the energy company the County is dealing with is Standish Energy and not Calpine.

E. PRESENTATIONS

1. Resolution of Remembrance, September 11, 2002

Mr. Kennedy and Mr. Brown presented Resolutions of Remembrance for September 11, 2001, to the James City County Fire and Police chiefs.

2. Family Day – September 23, 2002

Mr. Harrison presented Ms. Jill Russett, the Historic Triangle Substance Abuse Coalition Coordinator, with a resolution designating September 23, 2002, as Family Day in James City County.

3. Recognition of the Williamsburg Youth League 11 Year Old All-Stars

Mr. McGlennon and Mr. Goodson presented the Williamsburg Youth League 11 Year Old All-Stars with a resolution to honor its success in its Southeast Regional Finals.

Ron Montgomery introduced the members of the team.

4. Pre-School Taskforce

Ms. Corinne Garland, member of the Pre-School Taskforce, presented the Board with the Community of Excellence Award from the Federal Interagency Coordinating Council and “Communities Can!” for the County’s efforts in blending early childhood services.

Ms. Garland also introduced members of the Taskforce.

F. CONSENT CALENDAR

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

Mr. Brown requested Item number 10, Appropriation of funds – Operating Equipment, Grounds Maintenance, be pulled.

Mr. McGlennon requested Item number 13, Chesapeake Bay Preservation Ordinance Violation – Civil Charges – Boyd Corporation, be pulled.

Mr. Harrison requested Item number 11, School Resource Officer Program, be pulled.

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

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

1. Resolution of Remembrance, September 11, 2001

RESOLUTION

REMEMBRANCE OF SEPTEMBER 11, 2001

WHEREAS, one year ago, tomorrow, Tuesday, September 11, 2001, there were sudden, unprovoked attacks by terrorists on the United States of America; and

WHEREAS, over 3,000 innocent individuals were killed or injured as a result of these attacks, including the passengers and crew of four civilian aircraft, workers in the World Trade Center and in the Pentagon, fire fighters, law enforcement officers, and other emergency personnel and bystanders; and

WHEREAS, these attacks were the deadliest ever launched against the United States and were clearly intended to intimidate and weaken our national resolve; and

WHEREAS, it is important that we always remember September 11, 2001, to take time to recall the tragic events of that day, the loss of life, and those who continue to fight terrorism throughout the world.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby call on all citizens to remember the tragic events of September 11, 2001, and to honor all those who were killed or injured as well as the families of those parties and all those who defend America in the War on Terrorism by:

- Observing a moment of silence at 8:46 a.m., Wednesday, September 11, 2002; and

- Participating in community service projects, as they deem appropriate.

2. Family Day – September 23, 2002

RESOLUTION

FAMILY DAY - SEPTEMBER 23, 2002

WHEREAS, strong families are the basis of neighborhoods and communities throughout the nation and are the foundation of our just and peaceful society, and every child across James City County, the Commonwealth, and the nation needs and expects parental love and guidance; and

WHEREAS, Colonial Court Appointed Special Advocate (CASA) conducted teen surveys in 1998, 1999, and 2000 that found teens who ate dinner with their parents six or seven times a week were 20 percent to 30 percent less likely to smoke cigarettes, use illegal drugs, and consume alcohol; and

WHEREAS, eating dinner as a family enhances family unity, involvement, communication, and support, and children from families that regularly eat dinner together are dramatically less likely to use tobacco, alcohol, or illegal drugs.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby proclaim Monday, September 23, Family Day and encourages all citizens to eat dinner with their families.

3. Recognition of the Williamsburg Youth League 11 Year Old All-Stars

RESOLUTION

RECOGNIZING THE WILLIAMSBURG YOUTH

LEAGUE 11 YEAR OLD ALL-STARS

WHEREAS, in 2000, the Williamsburg Youth League Baseball, co-sponsored by the James City County Parks and Recreation, joined Cal Ripken Baseball, a division of Babe Ruth Baseball for ages 5-12, which currently has over 500,000 participants; and

WHEREAS, in June and July 2002, the 11 year old Williamsburg Baseball All-Star Team finished second in the Virginia State Cal Ripken Division Tournament; and

WHEREAS, the Williamsburg All-Star Team competed in the Southeast Regional Finals, held at the District Park Sports Complex, the farthest a team can advance; and

WHEREAS, during the Southeast Regional Finals the Williamsburg All-Stars defeated State champions from five states coming in second out of ten State champions.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby congratulate the Williamsburg Youth League 11 Year Old All-Stars for its accomplishments during the 2002 season and recognizes the honors it has brought to the

Williamsburg Youth League and the community.

4. Dedication of Street at Stonehouse Elementary School

RESOLUTION

DEDICATION OF STREET AT STONEHOUSE ELEMENTARY SCHOOL

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

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

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

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

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

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

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

5. Housing Development Agreement Amendment

RESOLUTION

HOUSING DEVELOPMENT AGREEMENT AMENDMENT

WHEREAS, Housing Partnerships, Inc., and Stonehouse, Inc., entered into a Real Estate Purchase Agreement dated November 1, 1991, for the purchase of land or the payment of \$187,500 for affordable housing; and

WHEREAS, in 1996 and 1997 Housing Partnerships, Inc., received \$187,500 from Stonehouse, Inc., under the Real Estate Purchase Agreement; and

WHEREAS, the County and Housing Partnerships, Inc., entered into a Development Agreement dated November 1, 1991, to determine how to use the land or cash to provide affordable housing in James City County; and

WHEREAS, the County and Housing Partnerships, Inc., wish to disburse the principal and interest from the proceeds to promote affordable housing in James City County and settle all obligations between the parties.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to execute the First Amendment to Development Agreement with Housing Partnerships, Inc.

6. Appointment of Deputy and Assistant Fire Marshals – Authorization of Fire Prevention Powers and Authorization of Police Powers

RESOLUTION

APPOINTMENT OF DEPUTY AND ASSISTANT FIRE MARSHAL:

AUTHORIZATION OF FIRE PREVENTION POWERS AND

AUTHORIZATION OF POLICE POWERS

WHEREAS, Section 27-34.2 of the Code of Virginia, 1950, as amended, provides that James City County may authorize the local Fire Marshal to arrest, to procure and serve warrants of arrest, and to issue summons in the manner authorized by general law for violation of local fire prevention and fire safety and related ordinances; and

WHEREAS, Section 27-34.2:1 of the Code of Virginia, 1950, as amended, provides that James City County may authorize the local Fire Marshal to have the same law enforcement powers as a Police Officer for the purpose of investigation and prosecution of all offenses involving fires, fire bombings, attempts to commit such offenses, false alarms relating to such offenses, and the possession and manufacturing of explosive devices, substances, and fire bombs; and

WHEREAS, Section 27-34.3 of the Code of Virginia, 1950, as amended, provides that James City County may authorize the local Fire Marshal to exercise the powers authorized by the Fire Prevention Code; and

WHEREAS, Section 27-36 of the Code of Virginia, 1950, as amended, provides that James City County may appoint Assistant Fire Marshals, who, in the absence of the Fire Marshal, shall have the powers and perform the duties of the Fire Marshal; and

WHEREAS, Mark H. Hill, Brian R. Harriss, Gregory M. Thompson, and Melvin H. Tomes, III, have completed all applicable minimum training and certification requirements of the Department of Criminal Justice and the Department of Fire Programs.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby appoints Mark H. Hill as a James City County Deputy Fire Marshal with all such powers as authorized in Virginia Code Sections 27-34.2 and 27-34.3; Melvin H. Tomes, III, as an Assistant Fire Marshal as authorized in Virginia Code Sections 27-34.2, 27-34.2:1, and 27-34.3; Brian R. Harriss as an Assistant Fire Marshal as authorized in Virginia Code Sections 27-34.2 and 27-34.2:1; and Gregory M. Thompson as an Assistant Fire Marshal as authorized in Virginia Code Sections 27-34.2 and 27-34.2:1.

7. Appointment of Assistant Fire Marshal Rescinded

RESOLUTION

APPOINTMENT OF ASSISTANT FIRE MARSHAL RESCINDED

WHEREAS, Miles B. Pettengell has been reassigned to an operational assignment and no longer serves as an Assistant Fire Marshal.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby rescinds the appointment of Miles B. Pettengell as an Assistant Fire Marshal, as provided in Virginia Code Section 27.30 et. seq.

8. Authorization for Erosion and Sediment Control Program Deputy Administrator

RESOLUTION

AUTHORIZATION FOR EROSION AND SEDIMENT CONTROL PROGRAM

DEPUTY ADMINISTRATOR

WHEREAS, Article 4, Erosion and Sediment Control Law of Chapter 5, Soil and Water Conservation of Title 10.1, Conservation of the Code of Virginia authorizes the appointment of a Deputy Administrator of the Erosion and Sediment Control program; and

WHEREAS, having a Deputy Administrator of the Erosion and Sediment Control program will assist in the administration, enforcement, and prosecution of violations of the erosion and sediment laws.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the appointment of two Deputy Administrators of the Erosion and Sediment Control program for all purposes necessary to administer, enforce, and prosecute violations of the erosion and sediment control laws.

9. Award of Contract – Ambulance Replacement

RESOLUTION

AWARD OF CONTRACT - AMBULANCE REPLACEMENT

WHEREAS, funds are available in the Capital Improvement Program budget for purchase of a replacement ambulance; and

WHEREAS, bids for purchase of the ambulance was received on April 15, 2002, with Performance Speciality Vehicles, LLC, submitting a responsive bid of \$119,461; and

WHEREAS, the bid included a contract extension provision for future purchases.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes the County Administrator to execute a contract between James City County and Performance Speciality Vehicles, LLC, in the amount of \$119,461.

12. Peninsula Disability Services Board Grant

RESOLUTION

PENINSULA DISABILITY SERVICES BOARD GRANT

WHEREAS, the Peninsula Disability Services Board, which is funded through the Commonwealth of Virginia Department of Rehabilitative Services, has made funds available for the purchase of adaptive equipment; and

WHEREAS, funds are needed to provide more accessible fitness equipment for patrons of the James City/Williamsburg Community Center who have special needs.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, accepts the \$7,299 grant awarded by the Peninsula Disability Services Board to help with the purchase of identified equipment.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following appropriation:

Revenues:

From the Commonwealth \$7,299

Expenditures:

Operating Equipment \$7,299
(001-155-0420)

14. Contribution to the Williamsburg Youth League

RESOLUTION

CONTRIBUTION TO THE WILLIAMSBURG YOUTH LEAGUE

WHEREAS, the Williamsburg Youth League (WRL) has taken the initiative to contract for certain improvements to Baseball Field No.4 at the County’s District Sports Park Complex (DSPC) in preparation for the “Cal Ripkin 2003 10 years and under World Series” next August; and

WHEREAS, the fund-raising efforts of the WRL are not yet mature enough to fully fund the needed improvements.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to negotiate an agreement with the WRL with a contribution of up to \$45,000 to assist the WRL in making the needed improvements at the District Sports Park Complex and authorizes the following budget transfer to fund that agreement:

Capital Projects Fund Expenditures:

From: Little Creek Reservoir Improvements	<u>\$45,000</u>
To: Contribution to Williamsburg Youth League (District Sports Park Improvements)	<u>\$45,000</u>

10. Appropriation of funds – Operating Equipment, Grounds Maintenance

Mr. William Porter, Assistant County Administrator, stated that the Board entered into an agreement with the Williamsburg-James City County Public Schools for the maintenance of School grounds and staff is requesting \$80,00 be moved from the FY03 Operating Contingency to the Grounds Maintenance budget for the purchase of vehicles and equipment that were included in the FY 03 Operating Budget.

Mr. Brown requested clarification on the line-item source for the \$80,000 transfer.

Mr. Porter stated that the funding was placed in a subline of the Operating Contingency with the expectation of it being transferred to the Grounds Maintenance budget upon entering into an agreement.

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).

RESOLUTION

APPROPRIATION OF FUNDS - OPERATING EQUIPMENT, MAINTENANCE GROUNDS

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

WHEREAS, \$80,000 was budgeted in the FY 2003 Budget to provide for the purchase of operating equipment and vehicles.

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

hereby authorizes the following appropriation amendment:

Transfer to:

Ground Operating Equipment \$80,000

Transfer from:

Operating Contingency \$80,000

11. School Resource Officer Program

Mr. Harrison inquired if the City is providing School Resource Officers.

Mr. McGlennon stated that the agreement between the partners is that the County will provide one full-time officer each at the Lafayette and Jamestown High Schools, and one part-time officer at Berkeley Middle School and one part-time officer at Toano Middle School and the City will provide a part-time officer to James Blair.

Mr. Harrison made a motion to adopt the resolution.

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

RESOLUTION

SCHOOL RESOURCE OFFICER PROGRAM

WHEREAS, during the fiscal year 1996 budget process, the Board of Supervisors of James City County approved a School Resource Officer (SRO) Program partnership between James City County and the Williamsburg-James City County Public Schools; and

WHEREAS, the most recent agreement between James City County and the Williamsburg-James City Public Schools governing operation of the SRO Program expired June 30, 2002, and must be renewed for the 2002/2003 school year; and

WHEREAS, the agreement for 2002/2003 contains changes from the previous year in that it now includes the City of Williamsburg, as a partner, and the use of part-time SRO positions in the middle schools.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the Chairman to execute, on its behalf, a new agreement with the City of Williamsburg and the Williamsburg-James City County Public Schools.

13. Chesapeake Bay Preservation Ordinance Violation – Civil Charge – Boyd Corporation

Mr. McGlennon requested an explanation of the Ordinance violation and penalty.

Mr. Cook stated that this case involves the unauthorized removal of vegetation from the Resource Protection Area (RPA) and that the property owners and staff agreed to the recommended civil charge of \$3,000 based on the Chesapeake Bay Preservation Ordinance Civil Penalty Procedures Policy adopted by the Board in August 1999.

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).

RESOLUTION

CHESAPEAKE BAY PRESERVATION ORDINANCE VIOLATION -

CIVIL CHARGE - BOYD CORPORATION

WHEREAS, Boyd Corporation is the owner of certain parcels of land, commonly known as 2804 Durfey’s Mill Road, designated as Parcel No. (10-7) on James City County Real Estate Tax Map No. (47-4); and 2808 Durfey’s Mill Road, designated as Parcel No. (10-6) on James City County Real Estate Tax Map No. (47-4); hereinafter referred to as the (“Properties”); and

WHEREAS, on or about June 5, 2002, understory vegetation consisting of 40 trees and shrubs were removed from the Resource Protection Area on the Properties; and

WHEREAS, Boyd Corporation agreed to a Restoration Plan to replant 80 trees and shrubs, on the Properties in order to remedy the violation under the County’s Chesapeake Bay Preservation Ordinance and Boyd Corporation has provided surety to the County to guarantee the completion of the restoration for the Resource Protection Area on the Properties; and

WHEREAS, Boyd Corporation has agreed to pay \$3,000 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 in full 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 \$3,000 civil charge from Boyd Corporation as full settlement of the Chesapeake Bay Preservation Ordinance Violation.

G. PUBLIC HEARINGS

1. Tax Increase – Real Property

Mr. John E. McDonald, Manager of Financial and Management Services, stated that the real estate land book has been completed and property owners have been notified where a change in assessment has occurred.

Mr. McDonald stated that at the Board's meeting on May 14, 2002, the Board adopted a resolution of intent to revisit the tax rate, and indicated the intent to reduce the tax rate if "incremental additional revenues" are expected.

Staff recommended that in light of the State Budget cuts and that staff cannot confirm that the budget will realize "incremental additional revenues," the Board affirm the adopted tax rate of \$0.87 per \$100 of assessed value.

The Board and staff held a brief discussion comparing and contrasting the adopted FY 2003 Budget and the actual FY 2003 Budget and the impact of the County's growth on the numbers.

Mr. Kennedy opened the Public Hearing.

1. Mr. Tony Dion, 102 Fairmount Drive, stated that the property tax rate has only increased by an average of 3.7 percent. However, over the last three years, his assessment has increased by 14 percent, and he stated concern that although the tax rate is steady with the increasing reassessments, the amount of tax a citizen is paying increases each year.

2. Mr. Mike Halpin, 1203 Penniman Road, President, Williamsburg/James City County PTA Council, stated that it would not be prudent for the Board to reduce the tax rate from \$0.87 per \$100 of assessed value to \$0.85 per \$100 of assessed value.

3. Mr. Robert Dunn, 3318 Running Cedar Way, stated that since 1995 the total assessed value of his property has increased by 26.6 percent, the quality of life in the County has improved also, and requested the Board defer action on this consideration until after the Governor's budget report is received.

4. Mr. Ed Oyer, 139 Indian Circle, stated that the Wall Street Journal reported that the rate of foreclosure is increasing and the housing market is taking a hit, stated that Board members supported reducing the tax rate during their campaigns, and requested the Board keep a positive cash flow by reducing the tax rate and reducing spending.

5. Mr. Ralph Bresler, 3028 John Vaughan Road, stated that the school situation needs to be addressed and that there is no rush for the Board to act on a tax cut.

6. Mr. John Agler, 102 Sunningdale, stated that his reassessment increased 7.4 percent last year and 7.6 percent this year; stated that the County has not outlined where and increase need for services justifies the increasing assessments; and recommended the Board not spend money it does not have in hand first.

7. Ms. Mary Conning, 103 London Company Way, inquired as to why taxes have increased for citizens, why the County is not attracting new industry rather than promoting new housing developments; stated that the County has an unsure water situation and water bills are high; and requested the County stop expanding and taking citizen's money through increasing taxes.

8. Mr. Roger MacGillivray, 166 The Main, requested justification of increased expenditures in the Budget for proposed increase cost to citizens, endorsed proposal for deferral of this item until after the

Commonwealth makes its financial report, and inquired as to what services could be cut to offset reassessments.

9. Mr. Bruce Schoch , 114 Discovery Lane, stated concern that the County turns away industry and then asks its citizens to pay for its misjudgments in economic development.

Mr. Kennedy stated that the Wal-Mart retail store did not apply for any permits in the County for development.

10. Mr. Thomas Mahone , 103 North Point Drive, stated that revenues have changed and requested the Board act accordingly; stated concern that assessment values have increased 370 percent on his property in the past 20 years and this year it increased 8-9 percent; and stated that this is a substantial increase for citizens.

Mr. Mahone also requested better barriers between the James River Community Center and the James River Elementary School; requested that since the citizens have to subsidize the County's growth, the Board limit growth; and requested the Board reduce the tax rate to \$0.85 per \$100 of assessed value.

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

The Board and staff held a discussion regarding the impact to staff and citizens if the Board chose to defer action on this until after the State budget cuts are known; requested the staff provide information about changing the tax rate after the land book is issued; and discussed the impact on the County if the Board is asked to cover the anticipated funding shortages of the Commonwealth contributions to local programs.

Without objection, Mr. Kennedy deferred this item to the Board's Work Session to be held at 4 p.m. on September 24, 2002.

2. Case No. SUP-18-01. Waltrip Communications Tower – deferred from June 11, 2002

Mr. Paul Holt, Senior Planner, stated that the applicants have requested a deferral of Case No. SUP-18-01 to allow the applicant to review the construction of a 133-foot-tall communications tower on Parcel No. (1-12) on James City County Real Estate Tax Map No. (48-2).

Staff recommends the Board defer and remand the case back to the Planning Commission in light of the proposed change in the application for moving the tower by over 700 feet on the site.

Mr. Brown inquired as to when the case would appear before the Board again if remanded to the Planning Commission.

Mr. Holt stated that if directed by the Board, staff could presented it again at the Board's meeting on October 22 through pre-advertisements.

Mr. Kennedy opened the Public Hearing.

1. Mr. Vernon Geddy, III, representing the applicant, stated that he would answer questions from the Board.

Mr. Goodson inquired about staff's offer to pre-advertise the case for October 22.

Mr. Morton stated that it is staff's opinion that an entirely new application may be required based upon the applicant's changes and that the Board does not need to pre-advertise a case that may not exist.

2. Mr. Tim Murphy, Kingspoint Neighborhood Association, stated that the applicant has taken three opportunities to present three variations on the proposal and that the proposal has been ongoing for about 406 days; stated that when the application was presented for the first time to the Planning Commission, the Planning Commission requested documentation that is yet to be provided by the applicant; stated that this case is a burden to the citizens who have been attentive to this proposal over the last 406 days and now finds out that the case may have to start the process all over again; and requested that the Board direct the applicant to meet several informational requirements before it comes back before the Board in this form or as a new case.

3. Mr. Thomas Mahone, 103 North Point Drive, stated that the applicant has made changes to the application to mitigate impacts to the community and stated support for the application.

4. Mr. Lee Schmidt, 2412 Pates Creek, stated support for a communications tower for service coverage, and stated concern for this particular application in the handling of the case.

5. Mr. Ken Bradley, 127 North Point Drive, stated opposition for the proposal as it would have negative impacts on the visual appeals of the surrounding environment and would impact the property values, and stated concern that a second tower would be permitted by-right through the adoption of this application.

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

The Board and staff held discussions concerning the outstanding information requested by the Planning Commission to the applicant; the performance standards test that the second tower would have to meet before approval for construction on the site; concern regarding the visual impact; comments regarding the balloon tests; and the County's performance standards.

Mr. Harrison made a motion to remand the case back to the Planning Commission.

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

3. Case No. SUP-15-02. Jamestown 4-H Educational Center Preschool

Mr. David Anderson, Planner, stated that Charles Burr has applied on behalf of Jamestown 4-H for a special user permit for the Jamestown 4-H Educational Center for the leasing of an existing building to the Williamsburg School, Inc., for the operation of a Preschool/Kindergarten on 15.96 acres zoned R-8, Rural Residential, at 3751 4-H Club Road, further identified as Parcel No. (1-3) on James City County Real Estate Tax Map No. (46-3).

Mr. Anderson stated that staff found the proposal to be consistent with the surrounding residential zoning and development and the Comprehensive Plan.

The Planning commission voted 5-0 to recommend approval of the permit at its meeting on August 5, 2002.

Staff recommends the Board approve the permit with conditions.

Mr. Kennedy opened the Public Hearing.

Charles Burr, 706 Capitol Landing Road, stated that this application will address some of the community's existing needs and would permit addressing other needs of the community in the future; and stated that this application requires no new development or construction.

Mr. McGlennon inquired about the expansion options of this application.

Mr. Burr stated that it is the ambition of the program to become a K-8 school, but would like to do so by growing into an existing facility.

As no one else 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).

RESOLUTION

CASE NO. SUP-15-02. JAMESTOWN 4-H EDUCATIONAL CENTER PRESCHOOL

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, Mr. Charles Burr has applied on behalf of Jamestown 4-H for a special use permit for the Jamestown 4-H Educational Center to permit the operation of a Preschool/Kindergarten; and

WHEREAS, the property is located on land zoned R-8, Rural Residential, and can be further identified as Parcel No. (1-3) on James City County Real Estate Tax Map No. (46-3); and

WHEREAS, the Planning Commission, following its public hearing on August 5, 2002, recommended approval of the application.

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.15-02 as described herein with the following conditions:

1. The school's operating hours shall be limited to half day, Monday through Friday, during the normal academic year, September through June.
 2. School population shall not exceed 20 students and two teachers.
 3. Construction on this project shall commence within 36 months from the date of approval of this special use permit or this special use permit shall be void. Construction shall be defined as the obtaining of permits for the construction of foundations and/or footings.
 4. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.
4. Sale of Property to James City Service Authority for Pump Station and Force Main at 3950 John Tyler Highway – Continued from August 13, 2002

Mr. Larry Foster, General Manager of the James City Service Authority, stated that a Public Hearing on August 13, 2002, regarding the proposed sale and at that time staff requested the Board defer action on the case until staff had time to evaluate additional information regarding the property value.

Staff has evaluated the information and recommends that the Board adopt the resolution authorizing the sale of the parcel to the James City Service Authority for \$14,700.

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).

RESOLUTION

SALE OF PROPERTY TO THE JAMES CITY SERVICE AUTHORITY FOR PUMP STATION AND FORCE MAIN AT 3950 JOHN TYLER HIGHWAY

WHEREAS, James City County owns 13.549 acres commonly known 3950 John Tyler Highway and designated as Parcel No. (1-7A) on James City County Real Estate Tax Map No. (46-1); and

WHEREAS, the James City Service Authority wishes to purchase 0.478± acres of land in fee simple for construction of a pump station and 0.224± acres of permanent easement and 0.301± acres for temporary construction easement to install a force main; and

WHEREAS, the James City Service Authority has offered to pay \$14,700, an amount determined by the County's Office of Real Estate Assessment, to acquire the property from the County; and

WHEREAS, the Board of Supervisors, following a public hearing, is of the opinion that it is in the public interest to sell the property to the James City Service Authority.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes and directs the County Administrator to execute such deed and other documents as may be necessary to sell the above-referenced property to the James City Service Authority for \$14,700.

5. Erosion and Sediment Control – Civil Penalties

Mr. Darryl E. Cook, Environmental Director, stated that to mitigate erosion or sediment damage to waterways and adjacent properties, staff has drafted an amendment to the Ordinance to allow for the issuance of a summons by the Erosion and Sediment Control Administrator or his deputy as provided for in Virginia Code Section 10.1-569(B).

Staff anticipated that this change will allow the issuance of a summons in a more timely manner than presently permitted and ensure a high degree of accountability, for the ability to issue a summons is being limited to supervisory personnel in the Environmental Division.

The Board and staff held a discussion regarding the anticipated amount of time save in issuing a summons through this proposal, and the process involved if a violation is observed.

Mr. Kennedy opened the Public Hearing.

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

Mr. Brown stated concern regarding the amendments to the Ordinance and requested deferral.

Without objection, Mr. Kennedy deferred the item until the Board's Work Session to be held at 4 p.m. on September 24, 2002.

6. Transfer of 0.01 Acres of Easement Area to the Colonial Pipeline Company

Mr. John T. P. Horne, Development Manager, stated that an easement area was needed by Colonial Pipeline Company for location of its utility pipeline in connection with the Monticello Avenue construction project.

Staff has prepared a resolution authorizing the transfer of 0.01 acres of easement area to Colonial Pipeline Company.

Mr. Kennedy opened the Public Hearing.

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

Mr. Harrison made a motion to adopt the resolution.

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

RESOLUTION

TRANSFER OF 0.01 ACRES OF EASEMENT AREA TO

THE COLONIAL PIPELINE COMPANY

WHEREAS, James City County acquired 0.01 acres of easement area, being a portion of Parcel No. (45-1) on James City County Real Estate Tax Map No. (1-19), from Torsion Inc., as part of acquiring the right-of-way for Monticello Avenue project; and

WHEREAS, the Colonial Pipeline Company needs the easement area for the location of its utility pipeline; and

WHEREAS, the Board of Supervisors, following a public hearing, is of the opinion that it is in the public interest to convey 0.01 acres of easement area to the Colonial Pipeline Company.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes and directs the County Administrator to execute such deed of easement and other documents necessary to convey the above-referenced property to the Colonial Pipeline Company for no consideration.

H. PUBLIC COMMENT

1. Ms. Penny Pulley, 20 Mile Course, spoke on behalf of the Williamsburg/James City Education Coalition to state concerns regarding the proposed bond referendum to finance the building of a third high school; stated that enrollment projections do not justify the proposed third high school, the proposal does not include cost estimates for the proposed programs to be held in the school; and requested the Board invest in an independent assessment of the need of a third high school.

2. Ms. Cecilia Firstenberg, 16 Ensigne Spence, requested that the County address citizen concerns regarding the easy access of citizens into the James River Elementary School through the James River

Community Center; requested the Board invest in an independent assessment of the need for a third high school; and requested that the independent assessment for the third high school involve community discussion and alternatives available.

3. Ms. Denise Koch, stated support for Ms. Pulley's comments and requested the Board invest in an independent study for the proposed third high school as well as obtain citizen input on the subject matter.

4. Mr. Ed Oyer, 139 Indian Circle, stated he received the requested information regarding the water table levels of the Chickahominy-Piney Point Aquifer.

I. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner recommended the Board go into Closed Session pursuant to Section 2.2-3711(A)(1) of the Code of Virginia to consider the appointment of individuals to the Historical Commission and Wetlands Board, and 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.

Mr. Wanner read a portion of the proclamation by the President of the United States of America dated September 4, 2002 regarding Patriot Day, 2002.

Mr. Wanner stated that the Governor has directed that the Flag be flown at half-staff and that citizens observe a moment of silence at 8:46 a.m. on September 11.

J. BOARD REQUESTS AND DIRECTIVES

Mr. Harrison thanked the local emergency service personnel for keeping citizens safe.

Mr. McGlennon recognized the passing of Mr. T. R. Vermillion

Mr. Kennedy recognized the passing of Mr. Joe Cottrell of Lombardy Farms.

K. CLOSED SESSION

Mr. Harrison made a motion to go into Closed Session at 10:06 p.m. pursuant to Section 2.2-3711 (A)(1) of the Code of Virginia to consider the appointment of individuals to the Historical Commission and the Wetlands Board, and 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.

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

Mr. Kennedy reconvened the Board into Open Session at 10:16 p.m.

Mr. Goodson made a motion to adopt the Closed Session Resolution.

On a roll call vote, the vote was: AYE: McGlennon, Brown, Goodson, Harrison, Kennedy (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 2.1-344.1 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)(1) to consider a personnel matter(s), the appointment of individuals to County boards and/or commissions; and Section 2.1-344(A)(3) to consider acquisition of parcels of property for public use.

Mr. Goodson made a motion to appoint Bernice Dorman to a three-year term on the Historical Commission, term to expire on August 31, 2005; and to reappoint David Gussman to a five-term on the Wetlands Board, term to expire on September 9, 2007.

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

Mr. Harrison made a motion to adopt the resolution authorizing the acquisition of a 25-year scenic easement for public use.

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

RESOLUTION

PURCHASE OF 25-YEAR SCENIC EASEMENT

ALONG THE SOUTH SIDE ROUTE 5 NEAR BRICK BAT ROAD

WHEREAS, James City County has designated Route 5 as a Community Character Corridor and desires to protect the scenic quality thereof; and

WHEREAS, Chuck Hollow, Inc., owns two parcels of land on the south side of and adjacent to Route 5 near Brick Bat Road and has sold the right to timber said parcels to Southern Resources Management, who assigned the rights to CHIP, Inc.; and

WHEREAS, the Williamsburg Land Conservancy and homeowners in the Governor's Land subdivision have agreed to participate with the County in the acquisition of a scenic easement to protect approximately a 100-foot wide stand of trees along Route 5 and to purchase the current timbering rights for such area.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes and directs Sanford B. Wanner, County Administrator, to purchase a 25-year scenic easement with terms acceptable to him for the above-described area within the parcels located on the south side of Route 5 near Brick Bat Road from Chuck Hollow, Inc., for a price not to exceed \$35,000 plus closing costs. The Board of Supervisors of James City County, Virginia, further authorizes and directs Sanford B. Wanner, County Administrator, to contribute no more than \$10,000 to the purchase of the current timbering rights for such area.

L. ADJOURNMENT

Mr. Kennedy requested a motion to adjourn until 4 p.m. on September 24, 2002.

Mr. McGlennon made a motion to adjourn.

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

Mr. Kennedy adjourned the Board at 10:17 p.m.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

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