

**AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 11TH DAY OF SEPTEMBER 2007, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.**

**A. ROLL CALL**

John J. McGlennon, Chairman, Jamestown District  
James O. Icenhour, Jr., Vice Chairman, Powhatan District  
Jay T. Harrison, Sr., Berkeley District  
Bruce C. Goodson, Roberts District  
M. Anderson Bradshaw, Stonehouse District

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

Mr. McGlennon recommended that the agenda be changed to hold the Williamsburg Area Transport Company's (WAT) meeting prior to the Board's Consent Calendar and to follow the WAT meeting with the Board Consideration regarding the creation of personnel positions for WAT.

**B. MOMENT OF SILENCE**

Mr. McGlennon requested the Board and citizens observe a moment of silence in remembrance of the events of September 11, 2001.

**C. PLEDGE OF ALLEGIANCE** - Desiree Minkins, an 11th grade student at Jamestown High School, led the Board and citizens in the Pledge of Allegiance.

**D. PUBLIC COMMENT**

1. Mr. Leonard Sazaki, 3927 Ironbound Road, commented on quality County employees and the status of illegal immigrants.

2. Ms. Kensett Teller, 126 Shore Drive, on behalf of James City County Citizens Coalition, requested that a pause be given to rezonings and SUP's to allow for the cumulative impact of currently approved cases to be evaluated.

3. Mr. Ed Oyer, 139 Indian Circle, commented on the number of citizens writing against the Hampton Roads Transportation Authority; decrease in enrollment in Williamsburg-James City County Schools; budget shortfall; RFP analysis on Colonial Williamsburg buses; and real estate tax rate indexing.

Mr. McGlennon recessed the Board at 7:12 p.m. for a meeting of the Williamsburg Area Transport Company Board of Directors.

Mr. McGlennon reconvened the Board at 7:29 p.m.

**E. BOARD CONSIDERATION**

1. Establishment of Positions for Service Expansion and Surry Employee Connector Service for Williamsburg Area Transport

Mr. Mark Rickards, Williamsburg Area Transport (WAT) Executive Director, stated that this resolution provided for two full-time drivers for the Surry service, two drivers for the new extended purple line to reduce the longest ride to one half-hour, four positions for relief breaks which are standard in public transportation, and one supervisor to oversee WAT's safety and training function. Staff recommended approval of the resolution.

Mr. Bradshaw made a motion to approve the resolution.

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

**RESOLUTION**

**ESTABLISHMENT OF POSITIONS FOR SERVICE EXPANSION AND SURRY EMPLOYEE**

**CONNECTOR SERVICE FOR WILLIAMSBURG AREA TRANSPORT**

WHEREAS, Williamsburg Area Transport desires to implement phased service improvements and Surry County Connector service through Fiscal Year 2008 Demonstration Assistance Grants approved by the Hampton Roads Planning District Commission and Department of Rail and Public Transportation.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby establishes eight full-time limited-term Bus Driver positions and one limited-term Road Supervisor position to meet service expansion, connecting service between James City County, and to ensure adequate driver relief.

**F. CONSENT CALENDAR**

Mr. Goodson asked to pull item 5 for separate consideration.

Mr. Harrison made a motion to adopt the remaining items.

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

1. Minutes - August 14, 2007, Regular Meeting

2. Erosion and Sediment Control Ordinance Violation – Civil Charge Agreement – Investment Properties of Virginia

**RESOLUTION**

**EROSION AND SEDIMENT CONTROL ORDINANCE VIOLATION – CIVIL CHARGE**

**AGREEMENT – INVESTMENT PROPERTIES OF VIRGINIA**

WHEREAS, on or about June 26, 2007, Investment Properties of Virginia, and Michael C. Brown, Manager, violated, or caused a violation of the County's Erosion and Sediment Control Ordinance by disturbing land without a permit at: 7840 & 7844 Richmond Road, designated as Parcel ID Nos. (1240200018) and (1240200017), and hereinafter referred to as the "Property"; and

WHEREAS, Investment Properties of Virginia has abated the violation at the Property; and

WHEREAS, Investment Properties of Virginia has agreed to pay \$1,000 to the County as a civil charge under the County's Erosion and Sediment Control Ordinance; and

WHEREAS, the James City County Board of Supervisors is willing to accept the civil charge in full settlement of the Erosion and Sediment Control Ordinance violation, in accordance with Section 8-7(f) 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 \$1,000 civil charge from Investment Properties of Virginia, as full settlement of the Erosion and Sediment Control Ordinance violation at the Property.

3. Creation of Administrative Secretary Position – Olde Town Medical Center Education, Prevention and Chronic Disease Program

**RESOLUTION**

**CREATION OF ADMINISTRATIVE SECRETARY POSITION -**

**WILLIAMSBURG AREA MEDICAL ASSISTANCE CORPORATION - OLDE TOWNE**

**MEDICAL CENTER EDUCATION, PREVENTION, AND CHRONIC DISEASE PROGRAM**

WHEREAS, the Williamsburg Area Medical Assistance Corporation (WAMAC) desires to fund a full-time Administrative Secretary position for the Education, Prevention and Chronic Disease Program (EPCDP) at Olde Towne Medical Center (OTMC); and

WHEREAS, the Board of Directors of WAMAC has approved the creation of the full-time Administrative Secretary position for the OTMC EPCDP; and

WHEREAS, James City County is the fiscal agent for WAMAC.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, creates a full-time (2,080 hours/year) other position of Administrative Secretary for the EPCDP effective September 12, 2007.

4. Appointment of Secondary Alternate to the Virginia Peninsulas Public Service Authority (VPPSA) Board of Directors

## **RESOLUTION**

### **APPOINTMENT OF SECONDARY ALTERNATE TO**

### **THE VIRGINIA PENINSULAS PUBLIC SERVICE AUTHORITY (VPPSA)**

### **BOARD OF DIRECTORS**

WHEREAS, the Virginia Peninsulas Public Service Authority (VPPSA) Board of Directors consists of one member from each participating jurisdiction; and

WHEREAS, there are occasions when the regular member and alternate designee are unable to attend VPPSA Board of Directors meetings.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby appoint Mr. Steven W. Hicks as its VPPSA Board of Directors secondary alternate designee.

5. Cool Counties Declaration

Mr. Bill Porter, Assistant County Administrator, stated King County, Washington, and Fairfax County, Virginia started an initiative to reduce greenhouse gas emissions 80-percent below their current levels by 2050. He stated there are milestones where goals would be evaluated and initiatives to work regionally with local governments. He stated this did not involve the Federal government or businesses.

Mr. McGlennon stated that this was an initiative he had brought forward during Board Requests and Directives.

Mr. Goodson asked what effect this would have on purchasing and County staff.

Mr. Porter stated the County, based on Board directives, would look at green building and supplies and the life-cycle costs for these materials.

Mr. Wanner stated the County was already being served by hybrid vehicles and noted that the General Services Department has been looking at green building design and that the Recycling Coordinator fulfills some of the initiatives listed in the resolution, such as checking building energy efficiency. He stated the initiative would not require additional staff.

Mr. Porter stated the Board has asked staff to follow green policies and this resolution strengthens that commitment.

Mr. Goodson commented that he did not agree with some of the scientific information in the resolution and stated the projections may not be realistic. He asked to revise the resolution to remove the first three paragraphs and remove the term "global warming" in favor of "emissions."

Mr. McGlennon asked that it come forward as a Board Consideration at the next meeting.

Mr. Goodson stated he supported the action items of the resolution, but he did not want to endorse some of the statements on the scientific background in the resolution that was presently up for consideration.

Mr. McGlennon stated he would prefer to have a resolution that explained why to pursue this initiative.

Mr. Goodson stated he disagreed with the statements related to the impact of human activity on global warming and the supposed consensus of leading scientists.

It was the request of the Board to defer action on this item until the September 25, 2007 Board meeting.

Mr. Wanner stated the item would come before the Board for consideration on September 25, 2007.

Mr. McGlennon recognized Shereen Hughes, Planning Commissioner, in attendance and asked that she come forward to highlight the community participation survey for the new Comprehensive Plan.

Ms. Hughes stated she would like to stress that the Planning Commission would like to take directives back from the Board and improve communication. Ms. Hughes outlined the process for applying to serve on the Community Participation Team for the upcoming Comprehensive Plan update. She noted that Jack Fraley was the Planning Commission coordinator for the update.

Mr. McGlennon commented on some ways to facilitate better communication, and noted that he would like to have the opportunity for a Planning Commissioner in attendance to update the Board on the Planning Commission's public meetings and allow the Board members to give directives or requests to the Planning Commissioner at that time.

Ms. Hughes stated she encouraged all interested citizens to get involved in process.

Mr. Harrison asked about proactive ways to get applications to citizens.

Ms. Hughes stated the Comprehensive Plan team would be actively communicating with community groups, and that the team would like to make the process as open as possible. She said they welcome any suggestions and encourage anyone involved in the last process to get involved because experience would be valuable.

Mr. Marvin Sowers, Planning Director, stated the Planning Commission has a website and mailing list through which staff would be sending notices of this opportunity. He stated if anyone would like to get involved, to please contact planning division.

## **G. PUBLIC HEARINGS**

1. Case No. SUP-0019-2007. King of Glory Lutheran Church

Mr. Jose Ribeiro, Planner, stated that Mr. Matt Burton, on behalf of King of Glory Lutheran Church, has applied for a Special Use Permit (SUP) to allow the replacement of an existing modular building of approximately 1,407 square feet with a larger modular building of approximately 2,800 square feet. The property is located at 4897 Longhill Road, further identified as Tax Map/Parcel No.: (32-4)(1-33) and consists of 5.96 acres. The property is zoned R-2, General Residential, and is designated by the Comprehensive Plan as Low-Density Residential.

Staff found that the proposed 2,800-square-foot modular building and 861 square feet of sidewalk are minor additions to the Church site and that impacts to traffic and to the environment will be minimal. Further, staff notes that the proposed addition will not disturb any of the natural wooded buffers, which surround the site and protects nearby residential uses and the character of the surrounding area.

At its meeting on July 11, 2007, the Planning Commission recommended approval by a vote of 7-0.

Mr. Ribeiro explained modifications to condition numbers six and seven. He stated condition number six did not totally address the reforestation issue and has been edited to address the applicant's purchase of the adjacent parcel, and condition number seven has been reworded for further clarity regarding construction on the project within 36 months, and definition of construction.

Staff recommended approval of the application with the modifications to conditions six and seven.

Mr. Icenhour asked if condition number six should waive the requirement for reforestation and return the surety provided by the applicant.

Mr. Ribeiro stated the applicant would need to either provide a landscape plan or provide a surety for reforestation.

Mr. Icenhour asked if this condition related to whether the property owner purchased the adjacent property and extinguished the boundary line.

Mr. Bradshaw stated it was a matter of timing whether a surety would be given or if an actual plan would be submitted for reforestation.

Mr. Rogers stated the bond guaranteed performance of the condition.

Mr. McGlennon opened the Public Hearing.

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

Mr. Bradshaw made a motion to adopt the alternative resolution with the amendments to condition numbers six and seven.

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

## **RESOLUTION**

**CASE NO. SUP-0019-07. KING OF GLORY LUTHERAN CHURCH**

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 (SUP) process; and

WHEREAS, Mr. Matt Burton of DJG, Inc., has applied on behalf of King of Glory Lutheran Church for a SUP to allow for the replacement of an existing modular building of approximately 1,407 square feet with a new modular building of approximately 2,800 square feet; and

WHEREAS, in addition to the proposed modular building, approximately 861 square feet of new sidewalk is also proposed; and

WHEREAS, the proposed modular building and sidewalk are shown on the master plan prepared by DJG, Inc., dated May 30, 2007, entitled "Master Plan-King of Glory Lutheran Church New Modular Building;" and

WHEREAS, the property is currently zoned R-2, General Residential District, and is designated Low Density Residential on the 2003 Comprehensive Plan Land Use Map; and

WHEREAS, the property is located at 4897 Longhill Road on property more specifically identified as Parcel No. (1-33) on the James City County Real Estate Tax Map No. (32-4); and

WHEREAS, on July 11, 2007, following a public hearing, the Planning Commission recommended approval of the application by a vote of 7-0; and

WHEREAS, the Board of Supervisors of James City County, Virginia, finds this use to be consistent with the 2003 Comprehensive Plan Use Map designation for this site.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, following a public hearing, does hereby approve the issuance of SUP-0019-07 as described herein with the following conditions:

1. Master Plan: This SUP shall be valid for the replacement of an existing modular building of approximately 1,407 square feet with another modular building of no more than 2,800 square feet and 861 square feet of new sidewalk located on JCC Tax Parcel No. 3240100033, more commonly known as 4897 Longhill Road (the "Property"). Development of the Property shall be generally in accordance with the Master Plan entitled "Master Plan-King of Glory Lutheran Church-New Modular Building," prepared by DJG Inc., dated May 30, 2007, (the "Master Plan") with such minor changes as the Development Review Committee determines does not change the basic concept or character of the development.
2. Lighting: All new exterior light fixtures, including building lighting, on the Property shall have recessed fixtures with no lens, bulb, or globe extending below the casing. In addition, a lighting plan shall be submitted to and approved by the Planning Director or his designee, which indicates no glare outside the property lines. All light poles shall not exceed 20 feet in height unless otherwise approved by the Planning Director prior to final site plan approval. "Glare" shall be defined as more than 0.1 footcandle at the boundary of the Property or any direct view of the lighting source from the adjoining properties.
3. Water Conservation: The applicant shall be responsible for developing water conservation standards to be submitted to and approved by the James City Service Authority (the "JCSA") and subsequently for enforcing these standards. The standards shall address such

- water conservation measures as limitation on the installation and use of approved landscaping design and materials to promote water conservation and minimize the use of public water resources.
4. **Engineering Study:** Prior to final site plan approval, an engineering study shall be submitted to and approved by JCSA showing the adequacy of the water meter and capacity of the grinder pump station, and any required upgrades, if required by JCSA.
  5. **Building Materials:** The colors, design, and building materials for the modular building shall be similar to the picture of a modular building submitted by the applicant as part of this application, titled "Exhibit 1" and date stamped May 30, 2007. Any variations in color, design, and building materials for the new modular building shall be submitted and approved by the Planning Director.
  6. **Landscaping:** A landscaping plan shall be approved by the Planning Director or his designee prior to final site plan approval. The landscaping plan shall, at a minimum, include a reforestation plan approved by the Virginia Department of Forestry and designed to supplement the existing vegetation along the northern property line. No certificate of occupancy for the proposed modular building shall be issued until all landscaping, including that proposed within the reforestation plan, has been installed in accordance with the approved landscape plan or surety is posted in an amount and form satisfactory to the County Attorney. Should the applicant purchase the adjacent parcel located at 4881 Longhill Road, and extinguish the common property line between the two parcels, the requirement to submit and implement the reforestation plan shall be waived by the Planning Director or the amount of surety posted for the reforestation plan shall be returned to the applicant.
  7. **Commencement of Construction:** Construction on this project shall commence within 36 months from the date of approval of this special use permit or this permit shall be void. Construction shall be defined as obtaining all the permits necessary for the construction of the modular unit, the placement of the modular unit on a foundation, and the construction and installation of the sidewalk.
  8. **Severance Clause:** This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

2. Case No. SUP-0017-2007. Wireless Tower – Longhill Road

Mr. Matt Smolnik, Planner, stated that Ms. Diane Borchardt on behalf of Thomas Wells, Andrew Cronan and Donald Agett, Trustees of Christian Life Center, has applied for a special use permit (SUP) to allow for an existing 128-foot-tall monopine telecommunications tower located at 4451 Longhill Road, further identified as Tax Map/Parcel No.: 3230100003. He stated the parcel consisted of 18.87 acres and was zoned R-8, Rural Residential, and designated by the Comprehensive Plan as Low-Density Residential. Mr. Smolnik explained that Section 24-354(3) of the Zoning Ordinance administratively permits camouflaged wireless communication facilities (WCF's) to be erected up to a height of 120 feet above grade. On December 19, 2006, SP-130-05 was administratively approved to allow for the construction of a 120-foot-tall camouflaged communications tower at 4451 Longhill Road behind the Christian Life Center. A detail sheet from SP-130-05 dated November 30, 2005, is included as an attachment to the staff report indicating the approval was for a camouflaged monopole telecommunications tower extending 120 feet above grade. However, due to an engineering error the camouflaged WCF was erected on the property to a height of 128 feet, which is in excess of the permitted by-right height for structures of this nature in the R-8, zoning district. Staff became aware of this issue during the spring of 2006 when an article was published in the *Virginia Gazette* highlighting the engineering error. The article in the local newspaper included a picture of the plaque at the base of the tower indicating a total tower height of 123 feet; however, on August 1, 2007, staff was notified by the applicant that

the current tower height is 128 feet above grade, not 123 feet as previously indicated. In May 2006, the County contacted SBA Properties and informed them that the tower would have to be reduced in height or SBA Properties would have to apply for a SUP to bring the tower into compliance with the Zoning Ordinance. Ms. Diane Borchardt has applied for a SUP to allow for the existing 128-foot-tall tower.

Staff asked the applicant if the tower could be reduced in height to bring it into conformance with a by-right use in accordance with the Zoning Ordinance. While reducing the height of the structure is possible, it would result in a reduction in the overall height of the tower by 12 feet resulting in lower antenna heights. The antenna mounting locations for the carriers on the modified structure would be reduced to 108 feet, 98 feet, 88 feet, and 78 feet respectively. SBA Properties, Inc. has received feedback from those carriers considering the bottom two spots on the tower stating that a reduction in height would limit coverage from the site to the point that the use of the tower would no longer be feasible from a technology standpoint. SBA Properties, Inc. believes that reducing the tower by 12 feet would ultimately limit this facility to only two users. Currently, Nextel Communications of the Mid Atlantic, Inc. is operating antennas on the camouflaged WCF. T-Mobile Northeast, LLC has leased the second available spot and has submitted plans to James City County for review. Richmond NTELOS has submitted an application to lease the third spot but has expressed concerns about its ability to accept the third spot if the height of this spot is reduced any further. The last spot on the tower is likely to be reserved in the near future and the applicant indicates that it is unlikely that any carrier would be able to provide service at or below 78 feet.

Staff found the structure was compatible with the Comprehensive Plan.

At its meeting on July 11, 2007, the Planning Commission recommended approval of the application by a vote of 4-3.

Staff recommended approval of the application with amended conditions.

Mr. Harrison asked for clarification that the tower is already there and this SUP would bring it into compliance with County Code.

Mr. Smolnik stated this was correct.

Mr. Harrison asked if the camouflage branches were already on the structure.

Mr. Smolnik stated this was correct.

Mr. Icenhour asked if all by-right towers needed a placard installed denoting the height.

Mr. Smolnik stated it was not required and the tower in question had one at the request of the designer.

Mr. Icenhour asked how this issue could be prevented in the future and asked what checks were in place to prevent engineering problems such as this from happening again.

Mr. Smolnik stated in future cases staff would explain to the applicant that the County defined height as the highest point of elevation. He stated Code Compliance does not require as-built drawings, but this may be implemented for future permits or future towers.

Mr. Icenhour asked if the ordinance was unclear about requirements for the towers.

Mr. Smolnik stated height limitation of the zoning ordinance defines structure as any object erected that requires permanent location or anything attached to that object, so the attached rods were specifically defined.

Mr. Harrison asked if this would be a height waiver if it were five feet shorter.

Mr. Smolnik stated it could be administratively approved if the tower were 120 feet or below for a camouflaged tower.

Mr. Goodson asked if there was a document that was provided to applicants that spells out County policy.

Mr. Smolnik stated there was a pre-application process with the applicant and the site plan process is typically administrative approval, then the plan goes to Code Compliance for building approval.

Mr. Goodson stated they should give documentation for clarification.

Mr. Harrison questioned the accountability of tower owners if this was allowed.

Mr. McGlennon opened the Public Hearing.

1. Ms. Lisa Murphy, on behalf of the applicant SBA Properties, gave a brief overview of the wireless tower and use of the services; the need for three different networks for the area; and the idea to minimize towers that are co locatable. She stated this was an error during construction and that the facility has been up for over a year with no complaints to the church. She stated there was one person with concerns about the tower and noted that a community meeting led to painting the antennae. She emphasized the tree buffer which camouflaged the structure and the need for maximum collocation. She further stated the applicant agreed with the conditions and requested approval with amended conditions.

2. Mr. Marc Cornell, Site Development Manager for NTELOS Wireless, which has contracted for the third designed slot of existing tower, stated if the tower was reduced in height, his company would no longer be able to use it and may need to place a new facility on Longhill Road.

3. Mr. Nelson Scott, Technical Administrator, Christian Life Center, stated his support for the application, having never received any complaints about the height of the tower.

4. Mr. John F. Hayes, 8324 Baron's Court, stated the tower overlooks his property and requested that the regulations for the tower be enforced.

5. Ms. Ina Friedman, 213 Frances Thacker, stated the Board should deny the application and use technology other than towers for cellular phones.

6. Ms. Virginia Kory, 145 Roger Smith, stated the Board should deny the application not to set a precedent, and stated that cellular towers would soon be obsolete since DAS would become the more widely-used technology.

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

Mr. Harrison stated that the Board needed to evaluate the ordinance, and until vendors of DAS technology come forward, cellular phone towers would be an issue. He stated concern about a past resolution

to allow homeowner's associations to put up cell phone towers for revenue, as he did not wish to have a similar incident again. He stated he could not support this application since it did not go through the proper SUP process.

Mr. Icenhour asked about the feasibility of adjusting the top section only to the proper height, rather than adjusting the tower so that the lower portions are unusable.

Ms. Murphy stated from an engineering perspective, to modify the tower the top would have to stop at 113 feet with the branches coming in from above. She stated the applicant cannot take off a section, but would have to modify the design. She stated the last two spots on tower would become unusable and these two other carriers would need to find another structure nearby to install antennas.

Mr. Goodson asked why they cannot adjust the height of the base and replace the tower.

Ms. Murphy stated there was concrete below and the tower structure is bolted to the ground.

Mr. Goodson stated SBA could afford to rectify its mistake and put up temporary towers to accommodate its providers until the tower is fixed.

Ms. Murphy commented that temporary facilities allowed only one carrier on each and she was not sure how the ordinance addressed temporary facilities. She stated that the engineering response was modifying the top of the tower, and that it could not be cut from the bottom. She stated that most jurisdictions do not require surveys for these towers, and if they measured them all, there would be some that are taller than the ordinance allowed. She stated her client was trying to fix the issue with maximum co-location.

Mr. McGlennon stated there was good reason to allow this tower through an SUP process, but he was displeased with doing it after the fact. He stated he was not happy with not knowing how tall the towers are when they go up and he felt it was clear in the ordinance that the structure height included everything. He stated that if the tower came down or was modified, an additional tower would be required. He further stated the towers should be camouflaged to look like native evergreen trees and stated that staff should seek vendors for an alternative to the towers rather than waiting for vendors to come to the County.

Mr. Harrison stated companies and citizens are given civil penalties for violations of the Code and said he thought it would apply to this kind of incident.

Mr. McGlennon stated there was no penalty in place for this, but perhaps it could be established if necessary.

Mr. Bradshaw stated the margin of error is roughly 3 percent and the certificate tells how high the tower is, accurate within 20 feet. He asked with a 20-foot margin of error what the significance of three feet was.

Mr. McGlennon stated there is a process that would have allowed a taller tower, less keeping than if we wanted a higher standard of scrutiny. He said the Board may have granted an approval at that height, but if the applicant had come in for an SUP they would likely have asked for a higher tower.

Mr. Bradshaw asked to evaluate the issue as an SUP so four providers can collocate on the tower. He stated that minimizing tower structures was a reason to do allow the tower until new technology comes forward.

Mr. Harrison stated this was not a good business practice. He made a motion to deny the application.

Mr. Goodson stated that denying this application would encourage future by-right towers to be built within the required height.

Mr. McGlennon stated they should measure all the towers to ensure they are the proper height.

Mr. Goodson commented that they may have to bring in a contractor to do that.

Mr. McGlennon commented that they may have to certify towers to ensure the proper height.

Mr. Icenhour stated he was struggling with the idea of putting up another tower, but also with the idea of allowing a non-compliant tower to come forward and be approved after the fact.

Mr. McGlennon stated this tower is already in use, the number of feet proposed would not be materially different in its impact, and he was inclined to allow it on the basis that it would preclude the need for an additional tower.

Mr. Wanner clarified that the motion was to deny the application.

On a roll call vote, the vote was: AYE: Harrison, Goodson. (2). NAY: Bradshaw, Icenhour, McGlennon. (3). The motion to deny the application failed.

Mr. Bradshaw made a motion to approve the resolution.

On a roll call vote, the vote was: AYE: Bradshaw, Icenhour, McGlennon. (3). NAY: Harrison, Goodson. (2).

Mr. McGlennon asked that further technologies be explored for this matter.

Mr. Goodson asked to look at the ordinance to adjust the by-right height. He asked staff to look into co-location standards for other localities.

Mr. Rogers stated there needed to be an objective measurement for administrative approval. He stated that the higher towers allow more collocation, but there was no longer an objective measurement for administrative approval.

Mr. McGlennon stated this was an unusual instance of collocation of four carriers with marginal difference in height beyond the by-right need. He said he felt this was not normally how an SUP for wireless tower height would come forward. He said he felt that a normal tower SUP application would request a higher tower with a more intrusive visual impact.

Mr. Icenhour asked staff to look at what can be done to determine how many similar cases there may be in the County and how to certify the height of other towers.

## **RESOLUTION**

**CASE NO. SUP-0017-2007. WIRELESS TOWER ON LONGHILL ROAD**

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 (SUP) process; and

WHEREAS, the applicant has requested an SUP to allow for a 128-foot-tall monopine communications tower in the R-8, Rural Residential zoning district, located at 4451 Longhill Road, further identified as Parcel No. (1-3) on James City County Real Estate Tax Map No. (32-3);

WHEREAS, a public hearing was advertised, adjoining property owners notified, and a hearing was held on Case SUP-0017-2007; and

WHEREAS, the Board of Supervisors, following a public hearing, are of the opinion that the SUP to allow for the above mentioned monopine communications tower should be approved.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-0017-2007 as described herein with the following conditions:

1. This SUP shall be valid for a total of one camouflaged monopine telecommunications tower on the property as depicted on the "Elevation and Antenna Schedule" dated November 14, 2006. The maximum height of the tower shall not be greater than 128 feet.
2. All antennas shall be painted the same color as the tower's branches as approved by the Planning Director.
3. No advertising material or signs shall be placed on the tower.
4. The elevation on the tower between 123 feet above grade and 128 feet above grade shall be comprised of only camouflaged branches, with the exception of the existing antennas, which shall extend no higher than 125 feet above grade.
5. At a distance of 20 feet from said equipment, the heating ventilation and air conditioning (HVAC) unit is to be no larger than five ton in size, and the enclosed generator associated with this structure shall produce sound no greater than 70 decibels.
6. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

3. Case No. Z-0006-2007. Public Land District

Ms. Leanne Reidenbach, Planner, stated that during the past two months, staff along with the County Attorney's office, has undertaken steps involved with establishing the Public Land District. The first step in the process was creating a Zoning Ordinance district, which was adopted on July 10, 2007, by the Board of Supervisors.

The purpose of this district is to establish a special classification for all significant publicly owned land, which is used for a public purpose. Currently, publicly owned parcels are spread throughout all of the established zoning districts as either permitted or specially permitted uses. The Public Land District is more restrictive than the other districts in which these parcels are currently located. No use that was specially permitted in another district is now permitted in the Public Land District. In fact, many of the previously permitted uses would now require special use permits under the new designation.

Staff has identified all publicly owned parcels and has grouped them into three categories: 1) land over five acres; 2) land under five acres that has a significant public impact; and 3) land that does not constitute a notable impact, or land that is not meant for public purpose. Lands from the first two groups are included in this report to be rezoned into the Public Land District. Staff does not propose to rezone the parcels in the third group. The latter group includes uses such as well lots and pump stations that are accessory to residential or commercial uses and undeveloped parcels either under five acres in size or otherwise meant for economic development purposes, such as the parcel the County owns in the James River Commerce Center Industrial Park. No use changes or development plans will be filed for any parcel as a part of this rezoning; this process is only meant to initially place all relevant land into the Public Land District. During this rezoning, the only changes to the parcels will be changing its underlying zoning to populate the newly created Public Land District with lands that are consistent with its purposes. Additionally, there are no new requirements that adjacent property owners must comply with if they are adjacent to a parcel zoned to Public Land. The only new restrictions would be to the Public Land parcel itself.

Staff found that with the adoption of the Public Land District Ordinance, staff believes it is necessary to rezone these 122 parcels to bring them into compliance with the new Public Land District that was established for publicly owned parcels, which are used for a public purpose.

At its meeting on August 1, 2007, the Planning Commission voted 7-0 to approve the application.

Staff recommended approval of the rezoning of 122 parcels.

Mr. Icenhour asked what was meant by a zoning with an airport overlay.

Ms. Reidenbach said the overlays are conditions that are already on the parcels and staff needed to include the airport overlay with the rezoning. She clarified that it was for property adjacent to the airport, but not for the airport itself.

Mr. McGlennon opened the Public Hearing.

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

Mr. Icenhour made a motion to adopt the resolution

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

## **RESOLUTION**

### **CASE NO. Z-0006-2007. PUBLIC LANDS DISTRICT**

WHEREAS, in accordance with § 15.2-2204 of the Code of Virginia, and Section 24-15 of the James City County Zoning Ordinance, a public hearing was advertised, and a hearing scheduled on Zoning Case No. Z-0006-2007, for rezoning 13,011.642 acres from A-1, General Agricultural; R-1, Limited Residential; R-2, General Residential; R-4, Residential Planned Community; R-8, Rural Residential; B-1, General Business; LB, Limited Business; M-1, Limited Business Industrial; M-2, General Industrial; PUD, Planned Unit Development; and MU, Mixed Use to PL, Public Land; and

WHEREAS, the properties are located at the following James City County Real Estate Tax Map No. and addresses:

1. JCC Tax Map No. 5610100002, 1801 Treasure Island Road
2. JCC Tax Map No. 4520100002, 3501 Centerville Road
3. JCC Tax Map No. 4520100001, None
4. JCC Tax Map No. 5610100001, 541 Neck-O-Land
5. JCC Tax Map No. 5510100001, 1368 Colonial Parkway
6. JCC Tax Map No. 4930100002, None
7. JCC Tax Map No. 5510300036, 4764 Captain John Smith
8. JCC Tax Map No. 5510300037, 2001 Back River lane
9. JCC Tax Map No. 5510300038, 2005 Back River Lane
10. JCC Tax Map No. 5510300039, 2009 Back River Lane
11. JCC Tax Map No. 5510300040, 2013 Back River Lane
12. JCC Tax Map No. 5510300041, 2015 Back River Lane
13. JCC Tax Map No. 5510300042, 2019 Back River Lane
14. JCC Tax Map No. 5510300043, 2023 Back River Lane
15. JCC Tax Map No. 5510300044, 2027 Back River Lane
16. JCC Tax Map No. 5510300045, 2031 Back River Lane
17. JCC Tax Map No. 5510300046, 2037 Back River Lane
18. JCC Tax Map No. 5510300047, 2041 Back River Lane
19. JCC Tax Map No. 5510300048, 2045 Back River Lane
20. JCC Tax Map No. 5510300049, 2049 Back River Lane
21. JCC Tax Map No. 5520200030, 4792 Captain John Smith
22. JCC Tax Map No. 5520200031, 4784 Captain John Smith
23. JCC Tax Map No. 5520200032, 4780 Captain John Smith
24. JCC Tax Map No. 5520200033, 4776 Captain John Smith
25. JCC Tax Map No. 5520200034, 4772 Captain John Smith
26. JCC Tax Map No. 5520200035, 4768 Captain John Smith
27. JCC Tax Map No. 5520200001a, 4788 Captain John Smith
28. JCC Tax Map No. 5510200011a, 544 Neck-O-Land Road
29. JCC Tax Map No. 4610100013, 2751 Greensprings Plantation Drive
30. JCC Tax Map No. 6220100001, None
31. JCC Tax Map No. 5240100001, None
32. JCC Tax Map No. 1640100004, None
33. JCC Tax Map No. 6010100012, 9340 Merrimac Trail
34. JCC Tax Map No. 4630100015, 1348 Colonial Parkway
35. JCC Tax Map No. 3910100152, 4601 Ironbound Road
36. JCC Tax Map No. 3910100151, 4545 Ironbound Road
37. JCC Tax Map No. 3910100004, 4451 Ironbound Road
38. JCC Tax Map No. 0830100002, 5526 Riverview Road
39. JCC Tax Map No. 0840100001, None
40. JCC Tax Map No. 1510100005, 8501 York River Park Road
41. JCC Tax Map No. 1410100037, 8528 Croaker Road
42. JCC Tax Map No. 6010100011, 9320 Merrimac Trail
43. JCC Tax Map No. 2120100001, 7090 Church Lane
44. JCC Tax Map No. 6010100003, 9451 Merrimac Trail
45. JCC Tax Map No. 0310100005, 9551 Diascund Reservoir Road
46. JCC Tax Map No. 5920100046, 8901 Pocahontas Trail

47. JCC Tax Map No. 4710100058, 3131 Ironbound Road
48. JCC Tax Map No. 3210100012, 5700 Warhill Trail
49. JCC Tax Map No. 4610100009, 2900 Greensprings Road
50. JCC Tax Map No. 4620100033, 2915 John Proctor Way
51. JCC Tax Map No. 4620100021, 4315 John Tyler Highway
52. JCC Tax Map No. 3130100049, 5380 Centerville Road
53. JCC Tax Map No. 3040100003, 5370 Centerville Road
54. JCC Tax Map No. 5010100009, 101 Mounts Bay Road
55. JCC Tax Map No. 3830100010, 3793 Ironbound Road
56. JCC Tax Map No. 3830100027, None
57. JCC Tax Map No. 4420100016b, 2620 Two Rivers Road
58. JCC Tax Map No. 4610100007a, 3950 John Tyler Highway
59. JCC Tax Map No. 4510100018, 3100 John Tyler Highway
60. JCC Tax Map No. 2320100035, 7311 Richmond Road
61. JCC Tax Map No. 3230100001, 4460 Longhill Road
62. JCC Tax Map No. 3240100029c, 5237 Olde Towne Road
63. JCC Tax Map No. 3910100153, 5301 Longhill Road
64. JCC Tax Map No. 3820100002, 5231 Longhill Road
65. JCC Tax Map No. 4620100041, None
66. JCC Tax Map No. 4640500001a, None
67. JCC Tax Map No. 4610100011, None
68. JCC Tax Map No. 4620100039, None
69. JCC Tax Map No. 3220100047, 5417 Olde Towne Road
70. JCC Tax Map No. 4610100002d, 3751 John Tyler Highway
71. JCC Tax Map No. 1330100016, 225 Meadowcrest Trail
72. JCC Tax Map No. 3210100013, 6450 Centerville Road
73. JCC Tax Map No. 4520100012, 3493 John Tyler Highway
74. JCC Tax Map No. 1230100027, 3135 Forge Road
75. JCC Tax Map No. 3240100029a, 5249 Olde Towne Road
76. JCC Tax Map No. 3130100006, 5535 Centerville Road
77. JCC Tax Map No. 3840100038b, None
78. JCC Tax Map No. 3630100001, 4001 Brick Bat Road
79. JCC Tax Map No. 1310100020, 3651 Rochambeau Drive
80. JCC Tax Map No. 1240100051, 7817 Richmond Road
81. JCC Tax Map No. 2240100009, 597 Jolly Pond Road
82. JCC Tax Map No. 1340100023a, 7770 Croaker Road
83. JCC Tax Map No. 3010100004, 1204 Jolly Pond Road
84. JCC Tax Map No. 3030100001, None
85. JCC Tax Map No. 3010100007, None
86. JCC Tax Map No. 1120100001, 180 Leisure Road
87. JCC Tax Map No. 1120100003, 151 Leisure Road
88. JCC Tax Map No. 3010100009, 5537 Centerville Road
89. JCC Tax Map No. 3020100010, 5981 Centerville Road
90. JCC Tax Map No. 3430100002, 1350 John Tyler Highway
91. JCC Tax Map No. 2110100026, 180 Lakeview Drive
92. JCC Tax Map No. 1410100013a, None
93. JCC Tax Map No. 4510100016, 2860 John Tyler Highway
94. JCC Tax Map No. 4420100016e, None
95. JCC Tax Map No. 0740100015, 9200 Croaker Road
96. JCC Tax Map No. 3910100003, 105 Tewning Road

97. JCC Tax Map No. 5820100003, 300 Ron Springs
98. JCC Tax Map No. 4640100009a, 2080 Jamestown Road
99. JCC Tax Map No. 5920100048, 9300 Merrimac Trail
100. JCC Tax Map No. 3240100027, 5312 Olde Towne Road
101. JCC Tax Map No. 3630100023, 3201 Monticello Avenue
102. JCC Tax Map No. 5230100001, 8421 Pocahontas Trail
103. JCC Tax Map No. 3911300001b, 5304 Palmer Lane
104. JCC Tax Map No. 3911300001a, 5300 Palmer Lane
105. JCC Tax Map No. 3911300002b, 5324 Palmer Lane
106. JCC Tax Map No. 3911300003, 5320 Palmer Lane
107. JCC Tax Map No. 3911300004, 5340 Palmer Lane
108. JCC Tax Map No. 1240100013a, 187 Industrial Blvd
109. JCC Tax Map No. 3910100156, 149 Tewing Road
110. JCC Tax Map No. 4730100001, 1831 Jamestown Road
111. JCC Tax Map No. 4721500001, 5087 John Tyler Highway
112. JCC Tax Map No. 4720100001a, 5077 John Tyler Highway
113. JCC Tax Map No. 4610100012, 2881 Greensprings Road
114. JCC Tax Map No. 1920100018a, 990 Brickyard Road
115. JCC Tax Map No. 1240100017d, 7994 Richmond Road
116. JCC Tax Map No. 3820100002a, 5255 Longhill Road
117. JCC Tax Map No. 3210100001a, 5800 Seasons Trace
118. JCC Tax Map No. 3910100155, 5231 Longhill Road
119. JCC Tax Map No. 3810100003, 4951 Longhill Road
120. JCC Tax Map No. 3910100154, None; and

WHEREAS, in accordance with § 15.2-2204 of the Code of Virginia, and Section 24-15 of the James City County Zoning Ordinance, a public hearing was advertised, and a hearing scheduled on Zoning Case No. Z-0006-2007, for rezoning 212.6 acres from R-2, General Residential, AA, Airport Overlay and R-8, Rural Residential, AA, Airport Overlay to PL/AA, Public Land/Airport Approach Overlay; and

WHEREAS, the properties are located at the following James City County Real Estate Tax Map No. and addresses:

121. JCC Tax Map No. 4810600171a, 112 Laurel Lane, 12.6 acres
122. JCC Tax Map No. 4930100001, None, 200 acres; and

WHEREAS, the Planning Commission of James City County, Virginia, following its public hearing on August 1, 2007, recommended approval by a vote of 7 to 0.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-0006-2007.

4. Case No. SUP-0023-2007. Temporary Classroom Trailers at Eastern State Hospital

Mr. Jose Ribeiro, Planner, stated that Mr. Bruce Abbott of AES Consulting Engineers has applied on behalf of the Williamsburg-James City County Public Schools for an SUP to allow for the placement of four temporary school trailers to support the alternative education program know as the Academy for Life and Learning (i.e. "ALL" program) at Eastern State Hospital until July 1, 2012.

Eastern State Hospital is located at 4601 Ironbound Road on a parcel of land of approximately 540 acres. The site zoned Public Land, and according to the 2003 Comprehensive Plan it is designated Federal, State and County Land.

Staff found the proposed use consistent with the Comprehensive Plan, as they are accessory to a recommended land use and from a land use perspective, the request will have a minimum impact on the site and on adjacent properties.

Staff recommended approval of the application.

Mr. Goodson stated the resolution has been changed to reflect the rezoning to Public Land.

Mr. Harrison asked if there were any other public sites for the program.

Mr. Ribeiro stated there was discussion to relocate to some school sites, but deferred to the applicant for further information.

Mr. McGlennon opened the Public Hearing.

1. Mr. Bruce Abbot, AES Consulting Engineers, stated he would defer technical questions to Mr. Ed Qualtrough.

2. Mr. Ed Qualtrough, on behalf of Williamsburg-James City County Schools, stated the possibility of renting property in the City of Williamsburg and the County was considered and they also looked at York County, but were unable to obtain permission there. He said the State has provided the Schools with a lease to have the program on the Eastern State property, which was the only option that worked out.

Mr. Harrison asked if the program was in Building 10 at this time.

Mr. Qualtrough said since the trailers had not been approved the program was operating in temporary accommodations and not in Building 10.

Mr. McGlennon stated that he understood that until the trailers were approved, this was a home-based program.

Mr. Bradshaw said he believed this was correct also.

Mr. McGlennon stated the enrollment tended to increase as the school year goes on, so they had hoped to get the program open at Eastern State this month.

Mr. Qualtrough said they are working on obtaining a building permit from the State.

Mr. McGlennon asked the anticipated time for operation of the trailers.

Mr. Abbott stated he had hoped to have the building permit by the time final comments were sent to the State, and then it would take 30-45 days to set up the program at the trailers.

Mr. McGlennon stated the program may not be in operation until November. He asked about lighting around the site.

Mr. Abbott stated there is existing lighting along the road and on the trailers.

Mr. McGlennon asked if there was existing lighting to handle this particular use for evening classes.

Mr. Abbott stated there was.

Mr. McGlennon asked what kind of demolition would take place this year in the vicinity of the trailers.

Mr. Abbott stated that he was not aware of any this year but eventually all the buildings would be torn down and noted that the pool was still operating.

Mr. McGlennon asked why the SUP expired in 2012.

Mr. Abbott stated it was tied to the length of the lease, and there was a study about the program which may take five years, so the schools are trying to maximize what they can.

Mr. Harrison stated the schools might not take the total time, and may have the study completed earlier.

Mr. Qualtrough stated Dr. Steve Chantry was steering a Task Force for alternative education and they would have the study to the School Board by the second semester. He said the School Board will decide a direction and then the facility would have to go into the CIP cycle for 2008-2009. He said two new schools would be opening in 2009-2010 so it would be likely that the School Board would not want to do anything with the program in order to focus on the new schools. He said the plan for design could begin in 2010-2011 with completion in 2011-2012.

Mr. McGlennon stated he was disappointed to hear that the report would not hear the report until late January and that it was going to be at least a four-year process for a permanent facility. He stated this was an issue that will need to be addressed with the schools, but he did not want to delay the trailers. He stated this was a land use decision related to the need for the service.

Mr. Icenhour asked what the current enrollment was for the program.

Mr. Qualtrough said he did not know at this time.

Mr. Icenhour asked if the enrollment historically increases through the year.

Mr. Qualtrough said that was correct.

Mr. Icenhour asked the maximum enrollment over last year.

Mr. Qualtrough stated there was a maximum of 50 students last year.

Mr. Icenhour asked if since the trailers are made to accommodate 60 students, then they should be able to handle whatever enrollment the program has had in the past.

Mr. Qualtrough stated that was correct.

Mr. Icenhour said this is a land use issue and the County needed to provide the program, but he felt there needed to be more of a sense of urgency to establish a permanent location for the program.

Mr. Harrison stated this was a land use issue but he was concerned about forward motion in regard to the program. He expressed concern that the enrollment was unknown and questioned whether four trailers were needed. He urged that if there were any students in the program who had IEP's or 504's but were not evaluated prior to enrollment in the program would constitute breaking Federal law since they were sent to school offsite. He stated that the Schools should look at who is in the program to see what the real need is.

3. Ms. Beth Haw, Powhatan Crossing, commented that the Eastern State property was inappropriate for students and stated that the alternative education students needed a facility of their own.

4. Mr. Ed Oyer, 139 Indian Circle, commented that he felt it was inappropriate to have the students at the Eastern State Hospital property.

As no one else wished to speak to this mater, Mr. McGlennon closed the Public Hearing.

Mr. Goodson made a motion to adopt the resolution and stated that this was an acceptable proposal from a land use perspective.

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

## **RESOLUTION**

### **CASE NO. SUP-0023-2007. TEMPORARY CLASSROOM TRAILERS AT**

### **EASTERN STATE HOSPITAL**

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 (SUP) process; and

WHEREAS, all the conditions for the consideration of this SUP application have been met; and

WHEREAS, temporary classroom trailers, accessory to an existing school may be permitted upon the issuance of an SUP by the Board of Supervisors; and

WHEREAS, Mr. Bruce Abbott of AES Consulting Engineers has applied on behalf of Williamsburg-James City County Public Schools for an SUP to allow for the placement of four temporary classroom trailers at Eastern State Hospital on property owned and developed by the Commonwealth of Virginia located at 4601 Ironbound Road, and further identified as Parcel No. (1-152) on James City County Real Estate Tax Map No. (39-1); and

WHEREAS, in addition to the proposed classroom trailers, approximately 460 linear feet of new sidewalk and a flag pole of approximately 25 feet are also proposed; and

WHEREAS, the proposed school trailers are shown on the site layout prepared by AES Consulting Engineers, dated June 07, 2007, and entitled "Site Trailers-Commonwealth Site"; and

WHEREAS, the property is located on land zoned PL, Public Land District, and is designated Low Density Residential on the 2003 Comprehensive Plan Land Use Map; and

WHEREAS, the Board of Supervisors of James City County, Virginia, finds this use to be consistent with the 2003 Comprehensive Plan Use Map designation for this site.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUPs for the placement of four temporary classroom trailers and associated additions as described above and on the attached site layouts with the following conditions:

1. At the Eastern State Hospital site, four temporary classroom trailers shall have permits valid until July 1, 2012.
2. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

5. Amendment to the Concealed Weapon Permit Procedure and Adoption of Regulations of the Use of Pneumatic Guns

Mr. Adam Kinsman, Deputy County Attorney, stated the ordinance amendments brought County Code up to State Code requirements, Section 15-34, change reference of nomenclature, 15-35, eliminate current code requirement to fingerprint an existing and valid concealed weapon permit to reflect Virginia Code, 15-36, discharge of firearms in certain areas, changing air or gas operated to pneumatic gun, definition included in Code of Virginia, specifically including paintball guns. Consistently respond that it is, determination no longer necessary due to State Code, a preventative measure, 15-36 subsection E, minor restrictions for pneumatic guns, under 16, have to have supervision of parent or guardian, 16-18 must have written permission, all other laws apply, just saying parent has to be responsible for child, recommended adoption of ordinance.

Mr. McGlennon opened the Public Hearing.

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

Mr. Harrison made a motion to adopt the ordinance.

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

Mr. McGlennon asked Planning Commissioner Shereen Hughes to come forward for discussion about the public hearings to improve communications with the Planning Commission.

Ms. Hughes stated the Planning Commission echoed the concerns about cellular towers and would reflect these concerns in their judgments on these cases.

## H. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, commented on real estate property sales; gas prices; need for a loitering ordinance; unkempt properties; patching half of the holes on Route 60; 79 percent of all taxpayers in

the Commonwealth make under \$75,000 per year; and asked about advertisement of an RFP for the recent business study.

Mr. Bradshaw stated the process for the business study was an RFQ, Request for Qualifications, and there may be a difference on how it was advertised. He noted that he could get that information and stated the Business Climate Task Force members received RFQs from multiple applicants who were then interviewed by committee to make the determination of which firm would conduct the study.

## **I. REPORTS OF THE COUNTY ADMINISTRATOR**

Mr. Wanner stated that when the Board completed its business, he recommend that the Board go into Closed Session pursuant to Section 2.2-3711(A)(1) of the Code of Virginia for the consideration of a personnel matter, the appointment of individuals to County boards and/or commissions, specifically the Airport Feasibility Study - Community Airport Committee; and pursuant to Section 2.2-3711(A)(3) of the Code of Virginia for the consideration of the acquisition of parcels of property for public use for transportation improvements.

Mr. Wanner recommended that following the Closed Session the Board should adjourn to 4 p.m. on September 25, 2007, for a work session prior to the regular Board meeting at 7 p.m. He noted that Thursday, September 19, 2007, is United Way Day of Caring in which citizens work to improve the lives of those in need in the community, and that people should contact the United Way for information on those projects. Mr. Wanner stated that September 16-18, 2007, marked the last 2007 Signature Event, the World Forum on the Future of Democracy, which would be held in Williamsburg.

## **J. BOARD REQUESTS AND DIRECTIVES**

Mr. Icenhour asked when it would be appropriate to address a change in the land book cycle.

Mr. Wanner stated October 9, 2007, would be the next possible public hearing date and he noted that he provided the Chairman with information regarding changing the land book cycle and tax exemptions for the elderly and disabled.

Mr. Goodson stated at the time of January 20, 2007, Budget Retreat the Board was provided a staff report on the budget and at the time he was the only one who supported changing the cycle of the land book.

Mr. McGlennon distributed two memorandums regarding changing the timeline of the land book and tax relief for the elderly and disabled.

Mr. Wanner stated at the Board's direction, staff would advertise two public hearings for October 9, 2007, with one being for the exemption and one for the land book cycle.

Mr. Goodson stated in January, the Board gave direction not to change the cycle, and he wanted to make sure there was discussion about this change.

Mr. Wanner stated there was a work session scheduled for September 25, 2007, and the matter could be added to the work session, and staff would need to submit a public hearing ad for the public to come forward for discussion.

Mr. Harrison stated the public did not get to hear a lot of reasons why he chose not to support changing the land book cycle, and stated he was in favor of the change coupled with bi-annual assessments. He stressed a change in fiscal habits to accompany these changes.

Mr. Goodson stated there was support for bi-annual assessments and that he would like to move forward with that.

Mr. Wanner stated he had not been aware of that.

Mr. Harrison stated he has it as a recommendation not just to control spending, but also to have the land book in line with the market.

Mr. Goodson stated there needed to be bi-annual assessments and that the Board may need to consider both assessment changes at the same time.

Mr. Harrison stated he did not have a problem with considering the bi-annual assessment.

Mr. McGlennon stated there would be a public hearing on October 9, 2007, for these items.

Mr. Goodson asked how there could be consideration to bring bi-annual assessments forward.

Mr. Harrison stated he was in favor of bi-annual assessments with the land book cycle change.

Mr. Goodson stated the Board could advertise bi-annual assessments and choose not to do it on a vote.

Mr. McGlennon stated he did not see support to move to bi-annual assessments.

Mr. Goodson stated he was trying to get support for changing the land book cycle.

Mr. Wanner stated control of spending was addressed in the budget process.

Mr. Harrison stated his support for changing the land book cycle was tied to the County's spending habits, not reassessments.

Mr. Wanner stated the Board needed to move incrementally, but it cannot delay for land book cycle changes or exemption changes for the elderly or disabled. He stated within the next few days there needed to be direction to provide time to create another public hearing notice in a timely fashion on whether to move forward on exemptions over a three-year program, and developing the land book to get changes implemented.

Mr. McGlennon noted that the changes to the exemptions would increase the amount of income allowed and the value of property to be exempted for elderly and disabled citizens.

Mr. Harrison asked for an update on flooding and stormwater, runoff impacts on certain neighborhoods, also asked for feedback on timetable for pause or recess consideration on residential rezoning, maybe only symbolic, study cumulative effects and impacts on infrastructure with Comprehensive Plan update.

Mr. McGlennon stated there would be a neighborhood meeting for stormwater management and Mr. Harrison may be able to use that forum for his affected neighborhoods.

Mr. McGlennon recognized Mr. Wanner for the article in the Virginia Review which discussed his

selection as the Virginia Local Government Management Association president and his pivotal role in State and international conferences. Mr. McGlennon highlighted Governor Kaine's meeting with local government officials for his Pre-Kindergarten proposal and its benefits. He noted that Governor Kaine cited James City County as a pioneer in this area. He stated that it was the last day of the Virginia Recreation and Parks Society's annual conference in James City County which brought 600 delegates and roughly 1,000 attendees to the County.

Mr. Bradshaw made a motion to go into Closed Session pursuant to Section 2.2-3711(A)(1) of the Code of Virginia for the consideration of a personnel matter, the appointment of individuals to County boards and/or commissions, specifically the Airport Feasibility Study - Community Airport Committee; and pursuant to Section 2.2-3711(A)(3) of the Code of Virginia for the consideration of the acquisition of parcels of property for public use.

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

At 9:40 p.m. Mr. McGlennon recessed the Board into Closed Session.

**K. CLOSED SESSION**

At 10:06 p.m. Mr. McGlennon reconvened the Board into Open Session.

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

On a roll call vote, the vote was: AYE: Harrison, Bradshaw, Goodson, Icenhour, McGlennon. (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), to consider personnel matters, the appointment of individuals to County boards and/or commissions; and Section 2.2-3711(A)(3), to consider the acquisition of parcels of property for public use.

Mr. Harrison made a motion to appoint the following people to the Community Airport Feasibility Study Steering Committee: Steve Montgomery, Digby Solomon, Mark Willis, John Patton, Carl Gerhold, and Tucker Edmonds,

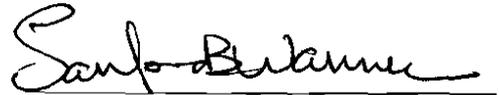
On a roll call vote, the vote was: AYE: Harrison, Bradshaw, Goodson, Icenhour, McGlennon. (5).  
NAY: (0).

**L. ADJOURNMENT** – to 4 p.m. on September 25, 2007

Mr. Icenhour made a motion to adjourn.

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

At 10:07 p.m. Mr. McGlennon adjourned the Board until 4 p.m. on September 25, 2007.



Sanford B. Wanner  
Clerk to the Board

SEP 11 2007

ORDINANCE NO. 56A-14BOARD OF SUPERVISORS  
JAMES CITY COUNTY  
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 15, OFFENSES-MISCELLANEOUS, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING SECTION 15-34, WEAPONS-FIREARMS NOT TO BE CARRIED, OR IN VEHICLE, WHEN LOADED; ENFORCEMENT PROVISIONS; SECTION 15-35, CARRYING CONCEALED WEAPONS; AND SECTION 15-36, DISCHARGE OF FIREARMS, ETC., IN CERTAIN AREAS; EXCEPTIONS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 15, Offenses - Miscellaneous, is hereby amended and reordained by amending Section 15-34, Weapons-Firearms not to be carried, or in vehicle, when loaded; enforcement provisions; Section 15-35, Carrying concealed weapons; and Section 15-36, Discharge of firearms, etc., in certain areas; exceptions.

Chapter 15, Offenses - Miscellaneous

**Sec. 15-34. Weapons-Firearms not to be carried, or in vehicle, when loaded; enforcement provisions.**

(b) It shall be unlawful for any person to transport, possess or carry a loaded shotgun or loaded rifle in any vehicle on any public street, road or highway within the county. ~~Game wardens~~ *Conservation police officers*, sheriffs and all other law enforcement officers shall enforce the provisions of this subsection.

The provisions of this subsection shall not apply to duly authorized law enforcement officers or military personnel in the performance of their lawful duties, nor to any person who reasonably believes that a loaded rifle or shotgun is necessary for his personal safety in the course of his employment or business.

**State law references**-Power of county to regulate the carrying of loaded firearms on public highways, Code of Va., § ~~18.2-287~~ *15.2-1209.1*; transporting a loaded rifle or shotgun, Code of Va., § ~~18.2-287~~ *15.2-915.2*; ~~Uniform Machine Gun Act, Code of Va., § 18.2-288 et seq.; Sawed-off Shotgun Act, Code of Va., § 18.2-299 et seq.; general law as to other illegal weapons, Code of Va., § 18.2-308 et seq.~~

**Sec. 15-35. Carrying concealed weapons.**

(d) Any person wishing to obtain a permit to carry a concealed handgun must apply pursuant to Section 18.2-308D of the Code of Virginia. In order to determine the applicant's suitability for a concealed handgun permit, the applicant shall be fingerprinted; *however, any person applying for renewal of an existing permit, validly issued by any locality in the commonwealth, shall not be fingerprinted.* The fingerprints and descriptive information shall be forwarded through the Virginia State Police to the Federal Bureau of Investigation for a national criminal history record check. Fingerprints taken pursuant to this section shall not be copied, held, or used for any other purposes.

**State law references**-For state law as to the carrying of concealed weapons, see Code of Va., § 18.2-308; *requiring fingerprints, Code of Va., § 15.2-915.3.*

**Sec. 15-36. Discharge of firearms, etc., in certain areas; exceptions.**

(a) It shall be unlawful for any person to discharge any firearms or ~~air-operated or gas-operated weapons~~ *pneumatic gun* in the county in or within 300 feet of any dwelling, commercial building or shelter for animals, except with the prior written permission of owner or tenant, in or within 50 feet of the boundaries of any recorded subdivision, or in a manner which causes ammunition to cross such areas.

(b) For purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them below:

*Pneumatic gun. Any implement, designed as a gun, that will expel a BB or a pellet by action of pneumatic pressure. Pneumatic gun includes a paintball gun that expels by action of pneumatic pressure plastic balls filled with paint for the purpose of marking the point of impact.*

(e) *It shall be unlawful for any minor under the age of 16 to use a pneumatic gun on private or public property unless such minor is under the supervision of a parent, guardian, or other adult supervisor approved by a parent or guardian of such minor. Minors above the age of 16 may, with the written consent of a parent or guardian, use a pneumatic gun on private property with the consent of the owner. Any minor, whether permitted by a parent or guardian to use a pneumatic gun or not, shall be*

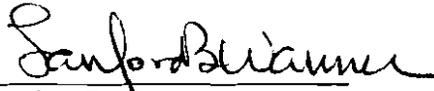
*responsible for obeying all laws, regulations, and restrictions governing such use. Pneumatic gun offenses shall be punishable as a Class 3 misdemeanor.*

**State law references**-General powers of counties, Code of Va., § 15.2-1200; shooting of firearms, *or arrows from bows, ~~compound bows, crossbows, longbows, recurve bows, or air or gas-operated weapons~~* in certain areas prohibited, Code of Va., § 15.2-1209; hunting in certain areas prohibited, Code of Va., § 15.2-1200; *regulation of pneumatic guns, Code of Va., § 15.2-915.4; regulation of compound bows, crossbows, longbows, and recurve bows, Code of Va., § 15.2-916.*



John J. McGlennon  
Chairman, Board of Supervisors

ATTEST:



Sanford B. Wanner  
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
HARRISON	AYE
BRADSHAW	AYE
GOODSON	AYE
ICENHOUR	AYE
MCGLENNON	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of September, 2007.