

MINUTES
BOARD OF SUPERVISORS
COUNTY OF YORK

Regular Meeting
October 15, 2013

6:00 p.m.

Meeting Convened. A Regular Meeting of the York County Board of Supervisors was called to order at 6:01 p.m., Tuesday, October 15, 2013, in the Board Room, York Hall, by Chairman Walter C. Zaremba.

Attendance. The following members of the Board of Supervisors were present: Walter C. Zaremba, Sheila S. Noll, Donald E. Wiggins, George S. Hrichak, and Thomas G. Shepperd, Jr.

Also in attendance were James O. McReynolds, County Administrator; J. Mark Carter, Assistant County Administrator; Vivian A. Calkins-McGettigan, Deputy County Administrator; and James E. Barnett, County Attorney.

Invocation. Ashley Gailey, York County Youth Commission, gave the invocation.

Pledge of Allegiance to the Flag of the United States of America. Mrs. Noll led the Pledge of Allegiance

PRESENTATIONS

EMPLOYEE RECOGNITION PROGRAM

Chairman Zaremba congratulated Mrs. Carrie C. Crosby, Department of Community Services, for her 25 years of service with the County, and presented her with her service pin and certificate.

2013 VIRGINIA ASSOCIATION OF COUNTIES (VACO) ACHIEVEMENT AWARDS

Ms. Phyllis Errico, VACo General Counsel, presented Mr. McReynolds, on behalf of Ms. Hidrena Frances, York County E911 Communications, with the 2013 VACo Achievement Award for the County's "Virtual PSAP" program.

YOUTH COMMISSION QUARTERLY REPORT

Ms. Jess Chandrasekhar, Chairman of the Youth Commission, made the Commission's first quarterly report for FY2014. She stated the Commissioners began the year with a two-day orientation session in July and attended a half-day session at the Hampton Roads Academy Challenge Course in the gymnasium where they participated in group problem solving and team building exercises. The Commissioners met at the Tabb Library for a roundtable discussion and brainstorming. At the Commission's first official meeting, officers were elected with Alice Grace Cherry as Vice Chairman and Sophie Cienski as Secretary. Ms. Chandrasekhar noted the Public Relations committee was focused on publicizing the Commission's activities and initiatives in a variety of ways including an informational video. The Special Projects committee was focusing on service-related projects and County-wide social events, including the ski trip on January 24. The Student Relations committee planned to launch the first in-school surveys later this month, and they also planned to sponsor student focus groups to gain insight and more in-depth feedback on issues of importance to students. Finally, the Student Relations committee plans to help organize the annual Town Hall meetings in each of the high schools in late May. Ms. Chandrasekhar also noted the Commission's planned participation in VoteTeam Virginia and volunteering on election night to assist the Registrar's Office with receiving and storing supplies after the polls close.

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Mrs. Noll gave kudos to all the Youth Commissioners, stating they emitted great energy, and they were working hard to accomplish many goals this year.

Mr. Shepperd stated he wanted to reiterate to the Commissioners that they represent the government, and they have a pipeline to the Board of Supervisors. He suggested two subjects he would like the Commissioners to consider at some time, those being bullying in the schools and security of personal property in the schools.

HAMPTON ROADS ECONOMIC DEVELOPMENT ALLIANCE (HREDA)

Mr. Darryl Gosnell, President and CEO, Hampton Roads Economic Development Alliance (HREDA), made a presentation providing a brief overview of the history of the Alliance, noting its single focus was to market and promote Hampton Roads, nationally and internationally, to attract new companies to locate operations within the Hampton Roads region to provide tax revenue and employment. He noted the last few years had been challenging both locally, nationally, and globally in economic development, but the activity level had stayed good and this year had been very strong. During the first three quarters of the calendar year, 50 new projects had opened that were active searches with companies, and 28 companies were hosted that had visited the region through the first nine months. He noted that 38 marketing activities had been conducted which had generated 376 one-on-one appointments. Through September six new companies announced plans to locate operations in Hampton Roads. Mr. Gosnell stated those six new companies would invest just under \$30 million, create 230 jobs, and occupy over 380,000 square feet of space of commercial space. He also noted that of the 50 new projects, 30 percent of the companies were international and 70 percent were domestic. He stated 34 percent of the 50 projects came to HREDA through the Virginia Economic Development Partnership which, along with the port, were two of their strongest partners in marketing efforts. Mr. Gosnell thanked the Board for its support in the past, stating HREDA looked forward to continuing to work with York County in the future.

Discussion followed on the location of the new companies, workforce training, and economic growth of the region in comparison to other regions.

CITIZENS COMMENT PERIOD

Mrs. Jocelyn Roberts, 107 Forest Lane, addressed the Board regarding pasturing her horses on her property, and Chairman Zaremba asked that the following comments made by Mrs. Roberts be included in the record of this meeting:

Good Evening,

My name is Jocelyn Roberts. I reside at 107 Forest Lane. I have been working with the York County Code Enforcement staff to resolve certain issues pertaining to the pasturing of my horses on my property. Our discussion has focused on the terms of Section Nos. 4-20 and 24.1-414 (f) specifically.

Section 24.1-414 (f) states that a separation of 100 feet between an active well must be kept from the pasturing of horses. This ordinance dates back to 1975 and has been enforced to the present date. The staff at the Zoning Office was unable to locate any documentation as to the origin of the 100 foot spacing requirement that is currently being enforced.

Lance Gregory, Environmental Health Coordinator for Virginia states that there is no setback required for pasturing of horses. He advised that the state regulation P. 24, Table 3.1 of the Virginia State Private Well Regulation states that a minimum of 50' feet shall be enforced in regards to Sewage Disposal Systems, Drain fields, Hog lots, and Barnyards where there is a concentration of livestock. He stated pasturing of horses would not be considered as a concentration of livestock.

Environmental Health Supervisor for the Peninsula and Williamsburg Health Districts, Amy Pemberton states that they do not consider a horse pasture to be equivalent in waste concen-

tration to a barnyard and would not consider a horse pasture to pose any significant threat of contamination to our drinking well water or any neighboring wells.

Valerie Jordan with the Williamsburg Health Department inspected our property when our barn was being erected. She advised that we met all specifications regarding the set offs from the drain field. She inspected the fenced off area protecting the well from the horses and stated that all regulations were met.

Atlantic Onsite Soil Scientist, Brian Hancock states that it would take virtually 100 years or more for concentrated waste to reach a well depth of 289' feet, the depth of our well. He said that there would have to be a concentrated waste area and that the pasturing of horses would not pose such a concentration.

Our well is fenced off 20 feet from the pasture preventing the horses any contact with the well. The manure is picked up daily and deposited away from the well so there is no runoff or detriment to adjoining properties.

I would therefore ask that the County Code 4-20 be replaced. To read as follows:

- (a) All stables, pastures or other areas or facilities used to keep livestock shall comply with all applicable standards of the Virginia Administrative Code and the Department of Health concerning separation from active wells and the protection of wells from drainage or runoff from such areas.
- (b) And that no person shall permit the drainage from any animal yard, pasture or stable to contaminate or pollute any stream, watercourse or drainage way, natural or manmade.

And under Sec. 24-1-414 (f) Standards for Horse keeping and commercial stables

- (f) Horses shall be stabled, pastured or otherwise kept in compliance with all applicable standards of the Virginia Administrative Code and the Department of Health concerning separation from active wells and the protection of wells drainage or water runoff from the stable, pasture, or animal yard.

Thank you and I hope that you will consider changing these Codes as they are not in compliance with State Regulations. My horses would be especially be grateful if they were able to graze on this pasture again and I would love to be able to watch them enjoy the additional pasture to graze and run as they have done in the past.

Mr. Timothy E. Roberts, 107 Forest Lane, stated he and his wife's sole purpose for speaking this evening was to be allowed to turn their two horses loose in their front yard to graze. He asked the Board to grant them a time out until the ordinance could be amended or eliminated. From a pollution standpoint, he stated the area was picked up every day and kept clean. He stated the health inspectors that had been to their house had stated there were no problems. Mr. Roberts stated the ordinance was clearly old and had been on the books for a long time, and he thought it had been originally incorporated for the purpose of hog farming at a time when wells had been shallow and kept open. He stated with today's standards the wells were deep, and their well was 279 feet deep. Mr. Roberts asked the Board to change or eliminate the ordinance entirely.

COUNTY ATTORNEY REPORTS AND REQUESTS

Mr. Barnett had no report to give at this time.

Chairman Zaremba stated he had been out of area for about five days at a military reunion; and while trying to catch up on his emails this afternoon, he had noted there was an email about an upcoming hearing in Richmond.

Mr. Barnett noted the Supreme Court had scheduled oral arguments in the two oyster cases for Monday, October 28. He stated the two cases should be the first to be heard starting at 9:00 a.m. He stated he had been asked how long it takes for the Supreme Court to render a deci-

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sion, and he noted the Court did not render a decision that day. He assumed the Supreme Court would issue written opinions before the next week of scheduled oral arguments which would be the first full week of January. Mr. Barnett stated he would make inquiries before leaving the building that day to try and get a better idea of when the decisions would be rendered.

Chairman Zaremba stated that regardless of the outcome, it was a real privilege for any attorney who submitted an appeal to the State Supreme Court to have the appeal accepted for hearing. He congratulated Mr. Barnett for getting that far with the appeals.

COUNTY ADMINISTRATOR REPORTS AND REQUESTS

Mr. McReynolds reminded the Board members that they only have one meeting in November which would be on the 19th. He noted that Election Day was coming up on November 5, and he encouraged everyone to get out and vote.

Chairman Zaremba asked about the status of the Yorktown Day activities.

Mr. McReynolds stated his understanding was that staff was working with the Park Service, and the Yorktown Day Association was moving forward with its plans. He stated nothing had been announced at this point, but he was hopeful that the day would come off as scheduled and planned.

Mr. Wiggins stated he had received a copy of a letter from a gentleman who had unauthorized people go on his boat while it docked at the Riverwalk. He asked Mr. McReynolds what had been done about the situation.

Mr. McReynolds stated that through the years problems had been experienced from time to time and they had worked with various County departments to address that issue to the best of their ability. Cameras had been installed that focused on the gate when there was activity on the dock. Given the configuration of the piers and the gate, it was difficult for them to be 100 percent effective. Mr. McReynolds stated he had not yet found out why things had not worked the way they had in the past as they had caught a number of people with the latest security arrangement. He stated it was a bit of a recurring problem but staff was doing its best given the physical constraints and the available technology to address a very difficult situation 100 percent of the time.

Mr. Wiggins stated it was his understanding of the incident that the camera showed that the people had leaned over the fence and unlocked the gate somehow.

Mr. McReynolds stated the people had scaled the gate and the barrier that was between the gang plank and the pier. He stated once they had crossed the gate they were able to open the gate from the backside.

Discussion followed regarding the problems dealing with unauthorized individuals gaining entrance to the locked area of the dock.

Mr. Wiggins noted he had received a call from an individual who docks at the pier overnight or for several days at a time on a regular basis but cannot park his car in the garage because it was always being towed, so he had to park at the Administration Building. He asked if something could be done to include parking in the garage as part of the docking price.

Mr. McReynolds stated he would look into the matter, but his understanding was that the policy was in place mostly for the heavier peak periods because of the demand for the parking garage. If someone was going to be there for several days, it made more sense for them park a block or two away and walk rather than parking in the parking terrace and maintaining that presence for extended periods.

MATTERS PRESENTED BY THE BOARD

Mrs. Noll stated in follow-up regarding Mr. Zaremba's question about the status of Yorktown Day, she had received an email from the Yorktown Woman's Club stating they had received word from Superintendent Smith that they would be able to use Park Service property to serve the Brunswick stew lunches. She noted the parade would also take place, and everyone was looking forward to it. Mrs. Noll noted that October was Breast Cancer Awareness Month, and she stressed the importance of women having regular mammograms. She then spoke of the windshield tour of the shipyard she attended today with the Navy League group from the Yorktown and Williamsburg area, stating the USS Gerald R. Ford Carrier CVN 78 was to be commissioned on November 9. She stated over 5,000 applicants had applied to the Apprentice School last year because of the excellent training they offer, and she then spoke of the huge history of families that the shipyard has and how the employees take pride in building good ships.

Mr. Shepperd reminded the citizens he would be conducting the District 5 Town Meeting tomorrow evening at 7:00 p.m. at the Tabb Elementary School gymnasium. He reviewed the subjects that would be covered, stating it would be information specifically designed for District 5, and he invited the citizens to come out and participate.

Meeting Recessed. At 6:59 p.m. Chairman Zaremba declared a short recess.

Meeting Reconvened. At 7:09 p.m. the meeting was reconvened in open session as ordered by the Chair.

PUBLIC HEARINGS**APPLICATION NO. UP-830-13, BEACON TOWERS**

Mr. Carter gave a presentation on Application No. UP-830-13 to approve a Special Use Permit authorizing the establishment of a telecommunications tower up to 195 feet in height on a 3.32-acre parcel located at 1741 Penniman Road (Route 641). The Planning Commission considered the application and forwarded it to the Board of Supervisors with a recommendation of approval 4:1, and staff recommended approval of the application through the adoption of proposed Resolution R13-104. He noted the one dissenting vote at the Planning Commission meeting was a result of a concern expressed by the adjoining property owner and that property owner had since sent a letter to the County indicating their concerns had been addressed by the applicant, so staff was unaware of any opposition by surrounding property owners at this point and time.

Mr. Wiggins asked how far the tower would sit off Penniman Road.

Mr. Carter stated it would be around 280 feet. He noted the area between Penniman Road and the tower ground complex would remain wooded.

Mrs. Noll asked how far the tower would sit behind the back of the homes.

Mr. Carter stated the nearest home would be 140 feet away, and the second nearest home would be 170 feet away.

Mr. Shepperd noted the Board has had a lot of tower applications over the years and was familiar with some of the concerns. He stated most of the objections concerned the view of what the tower looked like from the base. He stated he could not see anything from the road and pretty much it would not be seen. He indicated Mrs. Noll had a cell tower in her district at the corner of Big Bethel Road and Hampton Highway that was about 170 feet, and it just disappears into the background. Mr. Shepperd stated the one concern that had come up occasionally was what would happen if the tower were to fall over.

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Mr. Carter stated the towers are designed to collapse in segments so that they do not fall in one big segment but fall in several segments. He noted the applicant was in the audience and could better address the engineering aspects of the tower.

Mr. Hrichak stated the tower would be adjacent to a residential home on the one side and when the trees drop their leaves it would make the tower more visible in the winter time. He asked if it would be possible to move the tower down on Diesel Road on the same piece of property so it would not be adjacent to the residential properties. He stated it would be the same property, but it could be moved back to have access from the rear of Diesel Road.

Mr. Carter stated the property sloped off significantly at the back; and beyond that 280 foot distance from the road, the topography was very severe dropping down and limiting the opportunities to locate the tower farther back on the property. He pointed out that the adjacent house Mr. Hrichak had referred to belonged to the lady who had spoken in opposition of the tower but whose concerns had since been addressed by the applicant.

Chairman Zaremba asked if there had been any concerns from the church or anyone other than the adjacent property owner.

Mr. Carter stated there had not been any other concerns.

Mrs. Noll stated the pictures in the presentation displayed lovely fall foliage, and she asked if all the foliage was deciduous or if there were any evergreens in the mix.

Mr. Carter stated he thought there were a few evergreens in the mix, but most of the trees were deciduous.

Further discussion took place regarding use of plantings to screen the tower.

Mr. Jonathan Yates, 145 King Street, Charleston, South Carolina, addressed the Board on behalf of the applicant. He introduced Mr. Bill Swartz, the AT&T design engineer, stating he would speak regarding coverage. Mr. Yates stated Beacon Towers had built numerous cell towers all over the southeast, and rarely had they encountered the professionalism and courtesy from a staff in helping them through the application. He noted the project had been a long time in the works for AT&T in trying to provide coverage where there was none. Part of the problem was the 3.6 square mile government property in the middle that had to be worked around. Mr. Yates stated they found this piece of property with incredible tree coverage to work with, and they had planned the facility as far off the road as possible before getting into the steep topography. He stated the tower would not be invisible, but the visibility had been limited as much as possible. The monopole design would accommodate AT&T and the colocation for at least three of their competitors; and since the tower would be less than 200 feet, there would be no need for lighting. Mr. Yates stated the applicant had accepted all recommendations made by staff, and he thought it had made a better project.

Chairman Zaremba asked how far the tower would be from the church.

Mr. Yates indicated he thought it was 170 feet from the residence before the church, so the church would be about 300 feet. He stated it would not be invisible from the church and they would be able to see the top portion of the tower.

Chairman Zaremba asked Mr. Swartz to address the current coverage.

Mr. Swartz reviewed the current coverage in the area with the current coverage map.

Mr. Wiggins stated it had always been hard to get coverage on the Parkway, and he asked if the proposed tower would eliminate that problem.

Mr. Swartz stated the proposed tower would only eliminate the problem on the Parkway in the area directly in front of the Cheatham Annex Base. He stated he had oriented the sectors to get the best coverage possible along the Parkway as well as the rest of Route 199 coming back to I-64. He stated the proposed site was the only piece of property they had found because everything else was federally owned.

Discussion followed on the limited coverage the tower would provide.

Chairman Zaremba asked when the applications for the other two proposed towers would be brought before the Board.

Mr. Swartz stated he had no idea and was waiting to hear back about the tower on the Williamsburg side. He stated he had two meetings scheduled on the Naval Base tomorrow to try and get some help to get into the Naval Weapons Station.

Mr. Carter stated if AT&T was successful with either the Navy or the Park Service, the applicant would not be coming back to the Board because those towers would be on federal property and would not be subject to local zoning.

Chairman Zaremba then called to order a public hearing on Application No. UP-830-13 which was duly advertised as required by law. Proposed Resolution R13-104 is entitled:

A RESOLUTION TO APPROVE A SPECIAL USE PERMIT TO AUTHORIZE A 199-FOOT SELF-SUPPORTING MONOPOLE COMMUNICATIONS TOWER WITH ASSOCIATED GROUND-MOUNTED EQUIPMENT AT 1741 PENNIMAN ROAD

There being no one present to speak regarding the subject application, Chairman Zaremba closed the public hearing.

Mrs. Noll moved the adoption of proposed Resolution R13-104 that reads:

A RESOLUTION TO APPROVE A SPECIAL USE PERMIT TO AUTHORIZE A 199-FOOT SELF-SUPPORTING MONOPOLE COMMUNICATIONS TOWER WITH ASSOCIATED GROUND-MOUNTED EQUIPMENT AT 1741 PENNIMAN ROAD

WHEREAS, Beacon Towers has submitted Application No. UP-830-13, which requests a Special Use Permit, pursuant to Section 24.1-306 of the York County Zoning Ordinance (Category 17, No. 7), to authorize the establishment of a freestanding monopole telecommunications tower up to 199' in height with associated ground-mounted equipment on approximately 3.32 acres of land located at 1741 Penniman Road (Route 641) approximately 400 feet north of its intersection with Springfield Road (Route 687) and further identified as Assessor's Parcel No. 11-140 (GPIN I14a-1125-3492); and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission recommends approval of the application; and

WHEREAS, the York County Board of Supervisors has conducted a duly advertised public hearing on this application; and

WHEREAS, the Board has carefully considered the public comments and Planning Commission recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors, this the 15th day of October, 2013 that Application No. UP-830-13 be, and it is hereby, approved for a Special Use Permit, pursuant to Section 24.1-306 of the York County Zoning Ordinance (Category 17, No. 7), to authorize the establishment of a freestanding monopole telecommunications tower, subject to the following conditions:

1. This use permit shall authorize the construction of a freestanding monopole telecommunications tower up to 199' in height with associated ground-mounted equipment on approximately 3.32 acres of land located at 1741 Penniman Road (Route 641) approximately 400 feet north of its intersection with Springfield Road (Route 687) and further identified as Assessor's Parcel No. 11-140 (GPIN I14a-1125-3492).

2. The height of the tower, including the lightning rod, shall not exceed 199 feet.
3. A site plan prepared in accordance with the provisions of Article V of the York County Zoning Ordinance shall be submitted to and approved by the County prior to commencement of any land clearing or construction activity on the subject property. Except as modified herein, said plan shall be substantially in conformance with the sketch plan submitted by the applicant titled "Beacon Towers, Proposed 195' Monopole, Water Park, Site Number VA238," prepared by BC Architects Engineers and dated 6-24-13. As part of the site plan submittal, the applicant shall prepare a frequency intermodulation study to determine the impact on current communication transmissions for the York County Departments of Fire and Life Safety and General Services, the York-Poquoson Sheriff's Office, the York County School Division, and the Intrac Sewer Telemetry System. Should any equipment associated with this facility at any time during the operation of the tower be found by the County to cause interference with County communications, the applicant shall be responsible for the elimination of said interference within twenty-four (24) hours of receipt of notice from the County.
4. Prior to site plan approval for construction of the proposed tower and installation of any future antennas, the applicant shall submit written verification to the Chief of Development and Compliance from the Commander, U.S. Naval Weapons Station Yorktown (NWS) indicating that the proposed tower facility and/or antennas shall not interfere with communication or other NWS transmission facilities and functions. Prior to the attachment of any antenna or equipment, receiving or transmitting, the same Commander shall be notified of the proposed antennas/equipment's purpose, manufacture, model, power, gain and frequency as appropriate. Should any equipment associated with this facility at any time during the operations of the tower be found by the NWS to cause interference with NWS communications or activities, the applicant shall be responsible for the elimination of said interference within twenty-four (24) hours of receipt of notice from the NWS or the County.
5. The applicant shall submit to the County a statement from a registered engineer certifying that NIER (nonionizing electromagnetic radiation) emitted from the tower does not result in a ground level exposure at any point outside such facility that exceeds the maximum applicable exposure standards established by any regulatory agency of the U.S. Government or the American National Standards Institute.
6. A report from a registered structural or civil engineer shall be submitted indicating tower height and design, structure installation, and total anticipated capacity of the structure (including number and types of users that the structure can accommodate). These data shall satisfactorily demonstrate that the proposed tower conforms to all structural requirements of the Uniform Statewide Building Code and shall set out whether the tower will meet the structural requirement of EIA-222E, "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures."
7. An access easement shall be established over the area called out as site access on the plan referenced in Condition #3 above for the benefit of tower users for purposes of ingress, egress, and installation and maintenance of utilities associated with the proposed telecommunications facility prior to site plan approval. The access drive shall be constructed with a curved design from Penniman Road in order to mitigate direct views of the tower base from the road right-of-way.
8. Advertising and signage on the tower shall be expressly prohibited, except for warning signs associated with the operation of the tower or its equipment.
9. Prior to site plan approval, the applicant shall submit written statements from the Federal Aviation Administration, Federal Communications Commission, and any other review authority with jurisdiction over the tower, stating that the proposed tower complies with regulations administered by that agency or that the tower is exempt from those regulations.

10. If at any time use of the communications tower ceases, the owner of the subject property on which the tower is located shall dismantle and remove it within six (6) months after ceasing to use it, unless:
 - (1) A binding lease agreement or letter of intent with another wireless communications provider has been executed in which case an additional six (6) months shall be granted. If a letter of intent is provided, the execution date for a binding lease agreement shall not extend more than (12) months beyond the time the use of the tower ceases, or
 - (2) The County requests, in writing, that the tower be reserved for County use.
11. Accessory facilities shall not include offices, vehicle storage, or outdoor storage unless permitted by the district regulations.
12. Evidence shall be provided prior to issuance of a building permit that the Virginia State Corporation Commission has been notified that a communication facility is to be constructed.
13. The proposed lease area shall be surrounded by an 8-foot chain link fence outfitted with opaque material deemed acceptable for screening purposes by the Zoning Administrator. Evergreen trees and shrubs having a planting size of no less than six (6) feet as shown on Sheet Number L-1 of the plan referenced in Condition #3 above shall be installed surrounding the exterior of the fence at a spacing of not more than ten (10) feet. Trees shall be of a species type that retains branching to ground level.
14. Evergreen trees and shrubs meeting minimum standards of a Type 35 Transitional Buffer shall be installed in the side landscape yard areas between the front face of the dwellings located on the adjacent properties and the rear (east) boundary of the lease area as shown on the plans referenced in Condition #3 above prior to issuance of a Certificate of Occupancy for the telecommunications tower.
15. The telecommunications tower shall be gray in color. Should Federal Aviation Administration requirements dictate special markings, tower lighting shall be used in lieu of multi-color painting. If painting is required, a tower maintenance plan shall be submitted to and approved by the County.
16. No microwave dishes, conical shaped antennae, or other dish shall be permitted on the tower.
17. The communications tower shall be structurally designed to accommodate no fewer than three (3) wireless users capable of supporting either PCS or cellular antenna arrays. If space is available, the County shall have the right of first refusal for leasing a space on the tower to place an antenna in support of operations consistent with the County's Department of Fire and Life Safety.
18. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of this resolution shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court prior to application for site plan approval.

BE IT FURTHER RESOLVED that this Special Use Permit is not severable, and invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

On roll call the vote was:

Yea: (5) Noll, Wiggins, Hrichak, Shepperd, Zaremba
 Nay: (0)

APPLICATION NO. UP-831-13, LANDSCAPES BY ERIC BAILEY

Mr. Carter gave a presentation on Application No. UP-831-13 requesting a Special Use Permit to authorize a contractor's shop with outdoor/exposed storage on approximately 1.4 acres of land located at 2901, 2903, 2907, 2911, and 2915 George Washington Memorial Highway. The Planning Commission considered the application and forwarded it to the Board of Supervisors with a recommendation of approval 5:0, and staff recommended approval of the application through the adoption of proposed Resolution R13-104.

Mr. Eric Bailey, 69 Zenith Loop, Newport News, the applicant, stated he moved his landscape business to York County from Newport News about three months ago looking for a good place to call home. He stated he had run into some obstacles, and the latest obstacle was the color of the awning. He stated they had branded their business as being in the green business with green being their signature color. He then spoke of the problems he had encountered trying to match a green paint to the approved York County color palette, as two of the three palettes were no longer in existence.

Mr. Shepperd asked Mr. Carter to explain the problem with the color palette.

Mr. Carter stated the Route 17 corridor has an overlay that applies which was established by the Board of Supervisors in 2005. Acceptable colors had been established by the Board for buildings and awnings. He stated staff had asked Mr. Bailey to provide an actual sample of the color that he proposed to use rather than a rendering which could appear very different, depending on the computer monitor on which it was viewed. He stated after staff received the color sample, they will try to match that color with any of the colors that are on the approved color palette. He noted staff has tried to be very flexible as applicants come to them with colors that are close but may not be exact matches.

Mr. Shepperd stated several of the Board members were taken aback by some of this, and he found it difficult to believe that they would deny a business because of the color of an awning.

Mr. Carter stated what they had said at this point and time was they could not make a determination based on the information that had been submitted on the rendering.

Mr. Shepperd stated staff should not make this any harder than it has to be.

Mr. Carter stated staff was not trying to make it harder but was just trying to enforce the ordinance that had been adopted by the Board. In order to do so, he stated the staff needed to see that the color would match what the Board had said needed to be used on Route 17.

Chairman Zaremba advised the applicant to get the actual sample of the color to the County; and if the ordinance needed to be revisited, the Board would do so. He stated the Board would work to get the color palettes so that they were acceptable. He noted the existing awning color that was shown in the rendering was horrible.

Mr. Bailey stated he was in the curb appeal business and wanted to make the business look really nice. He noted one of the goals was to have the York County Clean Business award out in front of the business one day. He stated the business catered to upscale residential clients, and they wanted the front of their building to look that way.

Chairman Zaremba then called to order a public hearing on Application No. UP-831-13 which was duly advertised as required by law. Proposed Resolution R13-105 is entitled:

A RESOLUTION TO APPROVE A SPECIAL USE PERMIT TO AUTHORIZE A CONTRACTOR'S SHOP WITH OUTDOOR STORAGE LOCATED AT 2901, 2903, 2907, 2911, AND 2915 GEORGE WASHINGTON MEMORIAL HIGHWAY (ROUTE 17)

There being no one present to speak regarding the subject application, Chairman Zaremba closed the public hearing.

Mr. Hrichak moved the adoption of proposed Resolution R13-105 that reads:

A RESOLUTION TO APPROVE A SPECIAL USE PERMIT TO AUTHORIZE A CONTRACTOR'S SHOP WITH OUTDOOR STORAGE LOCATED AT 2901, 2903, 2907, 2911, AND 2915 GEORGE WASHINGTON MEMORIAL HIGHWAY (ROUTE 17)

WHEREAS, Landscapes by Eric Bailey has submitted Application No. UP-831-13 to request a Special Use Permit, pursuant to Section 24.1-306 (Category 15, No. 4b) of the York County Zoning Ordinance, to authorize the establishment of a contractor's shop with outdoor storage on approximately 1.41 acres of land located at 2901, 2903, 2907, 2911, and 2915 George Washington Memorial Highway (Route 17), approximately 600 feet south of Darby Road (Route 613) on property further identified as portions of Assessor's Parcel Nos. 36A-3-1G (GPIN SO4d-2840-0173), 36A-2-38 (GPIN SO4d-2985-0212), 36A-2-39 (GPIN SO4d-2968-0269), 36A-2-40 (GPIN SO4d-2953-0327), and 36A-2-41 (GPIN SO4d-2948-0389); and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission recommends approval of the application; and

WHEREAS, the York County Board of Supervisors has conducted a duly advertised public hearing on this application; and

WHEREAS, the Board has carefully considered the public comments and Planning Commission recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 15th day of October, 2013 that Application No. UP-831-13 be, and it is hereby, approved a Special Use Permit, pursuant to Section 24.1-306 (Category 15, No. 4b) of the York County Zoning Ordinance, to authorize the establishment of a contractor's shop with outdoor storage, subject to the following conditions:

1. This use permit shall authorize establishment of a contractor's shop with outdoor storage on approximately 1.41 acres of land located at 2901, 2903, 2907, 2911, and 2915 George Washington Memorial Highway (Route 17), approximately 600 feet south of Darby Road (Route 613) on property further identified as portions of Assessor's Parcel Nos. 36A-3-1G (GPIN SO4d-2840-0173), 36A-2-38 (GPIN SO4d-2985-0212), 36A-2-39 (GPIN SO4d-2968-0269), 36A-2-40 (GPIN SO4d-2953-0327), and 36A-2-41 (GPIN SO4d-2948-0389).
2. A site plan prepared in accordance with the provisions set forth in Article V of the Zoning Ordinance shall be submitted to and approved by the Department of Environmental and Development Services, Division of Development and Compliance, prior to the commencement of any construction or land clearing activities on the site. Said site plan shall be in substantial conformance with the plan titled "Carland" dated April 12, 1999 and prepared by Davis & Associates, P.C. revised by the applicant, a copy of which shall remain on file in the office of the Planning Division.
3. A subdivision plat prepared in accordance with the provisions set forth in Chapter 20.5, Subdivisions, shall be submitted to and approved by the Department of Environmental and Development Services, Division of Development and Compliance, prior to commencement of any construction or land clearing activities on the site. Said subdivision plat shall vacate all interior property lines, combining the five individual lots into one single lot.
4. The contractor's shop with outdoor storage shall be established and operated in compliance with the performance standards set forth in Sections 24.1-378, *Route 17 Corridor overlay district*, 24.1-455, *Standards for all limited industrial uses*, and 24.1-486, *Standards home improvement and building contractors' shops and storage yards* of the Zoning Ordinance.

- 5. In accordance with the Virginia Department of Transportation (VDOT) *Access Management Regulations: Principal Arterials (24 VAC-30-72)*, the existing southern entrance shall be re-configured in accordance with VDOT design standards to function as an exit-only driveway. In conjunction with this re-configuration, the property owner shall establish revised access easement rights to ensure continued ingress/egress to the communications tower located on the adjoining parcel to the south.
- 6. The site shall meet or exceed the minimum landscaping standards as set forth in Section 24.1-240 et. seq. of the Zoning Ordinance, except as supplemented below. Planting areas shall not be located within any vehicular access/egress easements. A Type 25 (25-foot) transitional buffer shall be installed along the full length of the rear property boundary bordering the adjacent R20 (Medium Density Single Family Residential) district, provided however that the width may be reduced to 22.5 feet at the northern end of that boundary. Landscape plantings within the rear transitional buffer shall be planted to meet the requirements for a Type 50 transitional buffer. A 17.5-foot transitional buffer shall be installed along the northern property line where it abuts the R20 zoning on the mobile home park parcel. Landscape plantings within the 17.5-foot buffer area shall be sufficient to meet the Type 35 planting ratios. Any new and additional plantings necessary to meet the planting ratios within either of these buffer areas shall be evergreen species.
- 7. Opaque decorative style fencing of the type depicted in the applicant’s email dated August 27, 2013 having a height of not less than six (6) feet and approved by the Zoning Administrator shall be installed along the frontage of the storage and equipment parking areas. Evergreen shrubs planted at a maximum of 15-foot spacing shall be installed along the outside face of the portion of fencing facing and parallel to Route 17.
- 8. No stormwater detention/retention facilities serving the property’s development shall be allowed in Virginia Department of Transportation right-of-way.
- 9. In accordance with Section 24.1-115(b)(6) of the York County Zoning Ordinance, prior to site plan approval a certified copy of this resolution shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.

BE IT FURTHER RESOLVED that this Special Use Permit is not severable, and invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

On roll call the vote was:

Yea: (5) Wiggins, Hrichak, Shepperd, Noll, Zaremba
 Nay: (0)

ELECTRIC UTILITY EASEMENT – GOOSLEY ROAD PUMP STATION

Mr. Barnett gave a presentation on proposed Resolution R13-93 to execute a deed conveying an electric utility easement to Dominion Virginia Power at the site of the Goosley Road Pump Station located at 101 Leigh Road.

Chairman Zaremba then called to order a public hearing on proposed Resolution R13-93 which was duly advertised as required by law and is entitled:

A RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR
 TO EXECUTE A DEED CONVEYING AN ELECTRIC UTILITY
 EASEMENT TO DOMINION VIRGINIA POWER AT THE SITE OF
 THE GOOSLEY ROAD PUMP STATION LOCATED AT 101 LEIGH
 ROAD

There being no one present to speak regarding the subject resolution, Chairman Zaremba closed the public hearing.

Mr. Hrichak moved the adoption of proposed Resolution R13-93 that reads:

A RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE A DEED CONVEYING AN ELECTRIC UTILITY EASEMENT TO DOMINION VIRGINIA POWER AT THE SITE OF THE GOOSLEY ROAD PUMP STATION LOCATED AT 101 LEIGH ROAD

WHEREAS, Virginia Dominion Power is in the process of upgrading a service line and has requested that the County convey an easement on County property at the site of the Goosley Road pump station at 101 Leigh Road in order to set a new pole to transition a new electric line from overhead to underground; and

WHEREAS, this matter has been duly advertised for a public hearing pursuant to Code of Virginia § 15.2-1800; and

WHEREAS, this Board has determined that it is in the public interest that such easement be granted.

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 15th day of October, 2013, that the County Administrator is authorized to execute a deed conveying an electric power utility easement to Dominion Virginia Power in the location shown on the "Plat to Accompany Right-of-Way Agreement" dated September 3, 2013, attached to the County Administrator's memorandum of September 13, 2013, such deed to be approved as to form by the County Attorney.

On roll call the vote was:

Yea: (5) Hrichak, Shepperd, Noll, Wiggins, Zaremba
Nay: (0)

CONSENT CALENDAR

Mrs. Noll moved that the Consent Calendar be approved as submitted, Item Nos. 4, 5, 6, 7, 8, and 9, respectively.

On roll call the vote was:

Yea: (5) Shepperd, Noll, Wiggins, Hrichak, Zaremba
Nay: (0)

Item No. 4. APPROVAL OF MINUTES

The minutes of the September 17, 2013, Regular Meeting of the York County Board of Supervisors were approved.

Item No. 5. PURCHASE AUTHORIZATION: Resolution R13-108

A RESOLUTION TO AUTHORIZE THE EXECUTION OF A CONTRACT FOR THE YORKTOWN LIBRARY ROOF REPLACEMENT PROJECT

WHEREAS, it is the policy of the Board of Supervisors that all procurements of goods and services by the County involving the expenditure of \$50,000 or more be submitted to the Board for its review and approval; and

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WHEREAS, the County Administrator has determined that the following procurement are necessary and desirable, they involve the expenditure of \$50,000 or more, and comply with all applicable laws, ordinances, and regulations;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 15th day of October, 2013, that the County Administrator be, and hereby is, authorized to contract for the construction of the Yorktown Library Roof Replacement Project from Roof Services JGM Corporation, as follows:

	<u>AMOUNT</u>
Yorktown Library Roof Replacement	\$ 189,900

Item No. 6. PUBLIC SEWER EXTENSION AGREEMENT – PATRICK’S CREEK ESTATES: Resolution R13-109

A RESOLUTION TO AUTHORIZE AN EXTENSION OF THE COUNTY’S SANITARY SEWER SYSTEM TO A PROPOSED DEVELOPMENT KNOWN AS PATRICK’S CREEK ESTATES, AND AUTHORIZING EXECUTION OF THE NECESSARY PUBLIC SEWER EXTENSION AGREEMENT

WHEREAS, Patrick’s Creek Estates, LLC, has requested that the County enter into a public sewer extension agreement pursuant to § 18.1-53 (b) of the York County Code to serve nine residential lots; and

WHEREAS, the plan for the proposed project has been reviewed by the County; and

WHEREAS, prior to final approval of these plans and the initiation of any construction activity, it is necessary that a determination be made as to whether the Board will authorize the extension of the public sewer facilities of the County to serve the proposed development; and

WHEREAS, it has been determined that sufficient capacity exists in the County's existing sewer system to serve the proposed development, or will exist when the facilities proposed by the developer are constructed; and

WHEREAS, in accordance with the terms of Chapter 18.1 of the York County Code the total connection fee to be paid to the County for the proposed extension to serve this development has been determined to be \$55,800;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 15th day of October, 2013, that it does hereby approve the extension of the County’s public sewer system to serve the proposed development, Patrick’s Creek Estates, and that the County Administrator be, and he is hereby, authorized to execute a public sewer extension agreement with Patrick’s Creek Estates, LLC, for the proposed extension; such agreement to be approved as to form by the County Attorney.

Item No. 7. Video Services Agreement: Resolution R13-106

A RESOLUTION TO AMEND AND APPROVE THE VIDEO SERVICES AGREEMENT BETWEEN THE COUNTY BOARD OF SUPERVISORS AND THE COUNTY SCHOOL BOARD

WHEREAS, the Video Services Division was established by the Board by Resolution R00-121 on July 18, 2000, in order to form a single agency that would provide video and television services to both the County government and the School system; and

WHEREAS, York County received three government/education access channels as a result of its Cable Franchise Agreements with Cox Communications in August 1997 and August 2012 and with Verizon in February 2009; and

WHEREAS, a three (3) member Video Services Board was also established as a separate entity to oversee operations of the Video Services Division and is composed of a County Representative, a School Board representative, and a citizen representative; and

WHEREAS, the Video Services Board has completed a review of the Video Services Agreement and the County Administrator has submitted certain revisions and changes to the agreement for consideration by the Board, which are incorporated into the revised document;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 15th day of October, 2013, that the document identified in the County Administrator's memorandum to the Board of Supervisors dated October 3, 2013, as the Video Services Agreement be approved by the Board with an effective date of November 1, 2013.

Item No. 8. PARTICIPATION IN FEDERAL HOME LOAN BANK OF ATLANTA GRANT PROGRAMS: Resolution R13-118

RESOLUTION AUTHORIZING PARTICIPATION IN COMMUNITY INVESTMENT SERVICES PROGRAMS OF FEDERAL HOME LOAN BANK OF ATLANTA

I, the undersigned, being the duly qualified and acting Secretary (Deputy Clerk) of County of York (the "Participant") hereby certify that:

- a) the Participant is duly organized and existing, and has the power to take the actions called for by the following resolution (the "Resolution");
- b) no provision in the Articles of Incorporation, By-Laws or other governing documents of the Participant limits the power of the governing body of the Participant to adopt the Resolution;
- c) the Resolution is in conformity with the Articles of Incorporation, By-Laws and other governing documents of the Participant;
- d) the Resolution is a true copy of a resolution duly adopted by the governing body of the Participant and recorded in the minutes of a meeting of the governing body held on October 15, 2013; and
- e) the Resolution has not been rescinded or modified and is in full force and effect.

RESOLVED:

- 1 The Participant may participate in various community investment programs (the "Programs") offered by Federal Home Loan Bank of Atlanta (the "Bank") through its Community Investment Services department, including without limitation the Bank's Affordable Housing Program.
- 2 The Chairman, Vice Chairman, President, the Chief Executive Officer, the Chief Financial Officer and the Vice Presidents (including Executive Vice Presidents, Senior Vice Presidents, and any officers more senior than Vice President) or, if such titles or positions are not utilized by Participant then the Executive Director, General Partner, Managing Partner or similar title of Participant, and each of them (the "Authorized Persons"), is hereby authorized to execute any agreement or application governing or relating to Participant's involvement in any of the Programs.
- 3 The execution and delivery of that certain Access Form for Sponsor Web System Access and the Terms and Conditions for Sponsor Web System Access are hereby ratified and confirmed.
- 4 The Bank will be entitled to rely on this resolution until Participant provides the Bank with a resolution changing or rescinding this resolution. No change or rescission will be given effect until the Bank receives such certified copy and the Bank has been afforded

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a reasonable opportunity to act on such change or rescission, and no such change or rescission will affect any then-existing agreement between the Bank and the Participant, unless the Bank agrees to such effect, in each instance, in writing, Participant will indemnify and hold harmless the Bank from any loss suffered or liability incurred by the Bank prior to receipt of such certified copy as a result of the Bank acting as if such rescission or change had not occurred.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of the Participant this 15th day of October, 2013.

(CORPORATE SEAL)

Corporate Secretary
Deputy Clerk

Item No. 9. AMENDMENT TO YORK COUNTY ZONING ORDINANCE: Resolution R13-119

A RESOLUTION TO SPONSOR AN APPLICATION TO AMEND SECTION 24.1-710(b) OF THE YORK COUNTY ZONING ORDINANCE (CHAPTER 24.1, YORK COUNTY CODE) TO INCLUDE "PLACES OF WORSHIP" AS A LAND USE WHICH MAY UTILIZE ELECTRONIC CHANGEABLE MESSAGE OR IMAGE SIGNS FOR WHICH THE MESSAGE OR IMAGE MAY CHANGE AS FREQUENTLY AS EVERY EIGHT (8) SECONDS

WHEREAS, the York County Board of Supervisors has received a request asking that consideration be given to allowing Places of Worship to install electronic changeable message/image signs on which the message/image may change as frequently as every eight (8) seconds, which is the same opportunity accorded to Community, Regional, or Specialty Shopping Centers pursuant to the terms of Section 24.1-710(b) of the York County Zoning Ordinance; and

WHEREAS, in the interest of good zoning and land use practice, the Board wishes to sponsor an application to allow review and consideration of this issue in accordance with applicable procedures for Zoning Ordinance amendments;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 15th day of October, 2013, that it does hereby sponsor an application to allow consideration of the draft amendments set forth below.

BE IT FURTHER RESOLVED that the proposed amendment and application be, and it hereby is, referred to the York County Planning Commission for review, public hearing, and recommendation in accordance with applicable procedures.

Sec. 24.1-710. Prohibited signs.

Unless specifically stated otherwise, the following signs shall not be permitted in the county:

- (a) Signs with moving, revolving or rotating parts, optical illusions of movement, mechanical movement of any description, or other apparent movement achieved by electrical, electronic, mechanical or natural means, but not including time, temperature and date signs, and traditional barber poles.
- (b) Signs with lights which flash, move, rotate, blink, flicker, or vary in either intensity or color.

The above provisions notwithstanding, electronic changeable message or image signs shall be permitted on the freestanding signage otherwise allowed for places of worship and for community, regional, or specialty shopping centers, as defined in this chapter, provided that: each message or image shall remain fixed and unchanged for a minimum period of eight (8) seconds; that there is no appearance of movement, scrolling, dissolving or fading in which images or messages “move” or in which part of one message or image appears simultaneously with any part of a second or subsequent one; that any illumination intensity, contrast or coloration of the message text or image shall remain constant for each display period; and, provided further, that this special signage opportunity shall not be permitted for any place of worship or shopping center located in a TCM-Tourist Corridor Management Overlay district. Message or image changes on any other changeable message/image signs shall occur no more frequently than once every 24 hours.

CLOSED MEETING. At 7:57 p.m. Mr. Wiggins moved that the meeting be convened in Closed Meeting pursuant to Section 2.2-3711(a)(1) of the Code of Virginia pertaining to appointments to Boards and Commissions and the performance of a specific public employee.

On roll call the vote was:

Yea: (5) Noll, Wiggins, Hrichak, Shepperd, Zaremba
Nay: (0)

Meeting Reconvened. At 8:25 p.m. the meeting was reconvened in open session by order of the Chair.

Mrs. Noll moved the adoption of proposed Resolution SR-1 that reads:

A RESOLUTION TO CERTIFY COMPLIANCE WITH THE FREEDOM OF INFORMATION ACT REGARDING MEETING IN CLOSED MEETING

WHEREAS, the York County Board of Supervisors 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 2.2-3711.1 of the Code of Virginia requires a certification by the York County Board of Supervisors that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 15th day of October, 2013, hereby certifies that, to the best of each member’s knowledge, (1) 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 (2) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed, or considered by the York County Board of Supervisors.

On roll call the vote was:

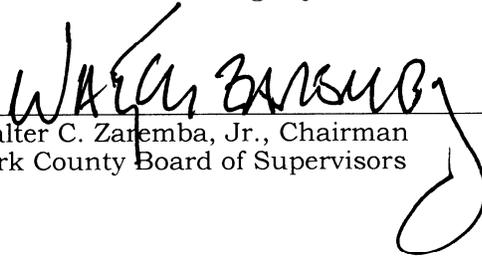
Yea: (5) Wiggins, Hrichak, Shepperd, Noll, Zaremba
Nay: (0)

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Meeting Adjourned. At 8:27 p.m. Chairman Zaremba declared the meeting adjourned sine die.



James O. McReynolds, Clerk
York County Board of Supervisors



Walter C. Zaremba, Jr., Chairman
York County Board of Supervisors