MINUTES
BOARD OF SUPERVISORS
COUNTY OF YORK

Regular Meeting
January 17, 2006

6:00 p.m.

Meeting Convened. A Regular Meeting of the York County Board of Supervisors was called to order at 6:00 p.m., Tuesday, January 17, 2006, 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, Kenneth L. Bowman, James S. Burgett, and Thomas G. Shepperd, Jr.

Also in attendance were James O. McReynolds, County Administrator; J. Mark Carter, Assistant County Administrator; and Melanie B. Economou, Assistant County Attorney.

Invocation. Reverend Gene Cornett, Seaford Baptist Church, gave the Invocation.

Pledge of Allegiance to the Flag of the United States of America. Chairman Zaremba led the Pledge of Allegiance.

HIGHWAY MATTERS

Mr. Jim Brewer, Residency Administrator, Virginia Department of Transportation (VDOT), appeared to discuss highway matters with the Board of Supervisors. He covered some upcoming projects that he said might affect York County even though the projects are not in the County. He stated that in answer a previous question by the Board, the completion date on the Richmond Road project was December 2006. He said that in addition to the Richmond Road project there was a project at Treyburn Drive, in the City of Williamsburg, that would impact traffic before long because it would exit onto Monticello Avenue. Also at Monticello Avenue and Ironbound Road there would be an upcoming project that would go to ad in February and would probably start construction in May which will impact Fire and Rescue for ambulance service up until the time the hospital is moved. Concrete pavement repair of Interstate 64 at Cary's Chapel Road is about 35 percent complete, and Mr. Brewer noted that VDOT is hoping for completion by January. He also stated that the Fort Eustis extension was still on time and on budget and that the project was about 26 percent completed. Mr. Brewer stated that VDOT is continuing to patch potholes and work on drainage.

Mr. Shepperd asked about the status of the intersection at Big Bethel Road.

Mr. Brewer stated the project is still on schedule.

Mr. Shepperd asked if VDOT was going to do both parts of the project at the same time or if they would be staggered.

Mr. Brewer said the project would be done at one time.

Mr. Shepperd stated he would appreciate being given notice before the project started so that he could distribute the information to the citizens who use Big Bethel Road.

Mr. Brewer said VDOT would set up a web page to provide the citizens and Board members with information regarding Big Bethel Road.

Mr. Burgett asked when the Board would get the paving schedule for 2006.

Mr. Brewer stated he could give the Board a very preliminary schedule at this time, but VDOT is still looking at how to cut costs in order to continue with the paving program as it has in the past.

Mr. Burgett stated that he wanted to make sure Vine Drive was on the paving schedule.

Mr. Brewer said that Vine Drive was on the schedule.

Mr. Bowman asked if the Board could get an electronic copy of the VDOT quarterly report that gives an update of all the projects taking place on the Peninsula. He stated it would be very useful in getting the information out to the public.

PRESENTATIONS

COMMENDATION OF THE COMPREHENSIVE PLAN STEERING COMMITTEE

Chairman Zaremba acknowledged the accomplishments of the Comprehensive Plan Steering Committee, and he welcomed and introduced the members present.

Vice Chairman Bowman read aloud the commendation resolution while Chairman Zaremba presented a bound and sealed copy of the resolution to the following members of the committee:

Nicholas F. Barba, Chairman
Kenneth L. Bowman
John B. Christie
John R. Davis
Carole A. Ferro
R. Anderson Moberg
Alfred E. Ptasznik, Jr.
Ralph A. Smith

The following members were absent:

Alexander T. Hamilton
Ronald Kurz
Carl Loveland
Mark A. Medford

CERT NEIGHBORHOOD RECOGNITION PROGRAM

Stephen Kopczynski, Chief of Fire and Life Safety, recognized the Tabb Lakes neighborhood as the County's first certified Community Emergency Response Team (CERT) neighborhood.

Chairman Zaremba presented a CERT Neighborhood Recognition sign to members of the homeowner's association to be displayed in their neighborhood.

COMMONWEALTH'S ATTORNEY

Ms. Eileen Addison, Commonwealth's Attorney, gave a presentation to briefly update the Board on activities in the Commonwealth's Attorney Office during the last year. She spoke of the need for increased funding support in her budget due to the increased caseload and the increased complexity of the cases that are prosecuted which require more staff time. Also increasing is the number of domestic violence cases which has called for a designated prosecutor. Ms. Addison expressed her appreciation to the Board for its continued support of her office.

VICTIM-WITNESS PROGRAM

Ms. Carol Wilson, Victim-Witness Coordinator of the Commonwealth's Attorney Office, gave a presentation on the Victim-Witness Program. She said the Victim-Witness Program was designed to provide information, assistance, and support to crime victims and witnesses as they are processed through the criminal justice process. She noted that the victim-witness process is very unique in the State because it provides services to all crime victims regardless of the type of crime, and it is done from within the system. She gave an overview of the types of services they provide, and she thanked the Board for its support of the program.

BOY SCOUT TROOP 11. (Not on Agenda)

At this time Chairman Zaremba recognized members of Boy Scout Troop 11 from Newport News who were present to work on their Government Merit Badge by observing York County's governmental procedure.

CITIZENS COMMENT PERIOD

Mr. John Hartwiger, 200 Marl Ravine Road, addressed the Board on his concerns regarding the high rise in land values and high energy costs. He suggested that if the citizens have paid taxes in County for 35 years and they reach the age 70, the real estate taxes should be cut in half. He said he thought the tax rates should be lowered somewhere in the neighborhood of twenty cents. He also said that the County was given the property for the waterfront, and it had been turned into a business, and he wondered if the citizens could get a business report on the expenses and whatever profits are being recognized, and what was going to be done with the profits.

Mr. Zaremba noted that Mr. Hartwiger's comments might warrant being addressed in the quarterly County newsletter, and he said it would be taken up with County staff.

Mr. Tom Trebby, 200 Oak Point Lane, also addressed real estate assessment concerns and said that he is recently retired and on a fixed income. He stated he has the same concerns as Mr. Hartwiger regarding the real estate assessments, and he discussed the high cost of providing free education to York County's children. He stated he hoped the Board would lower the tax rate to ease the financial burden on the citizens.

COUNTY ATTORNEY REPORTS AND REQUESTS

Mrs. Economou had no report to make at this time.

COUNTY ADMINISTRATOR REPORTS AND REQUESTS

Mr. McReynolds reminded the Board of the January 24 work session to address the requests for New Personnel, Programs, and Equipment, and the 2007-2012 CIP. He stated this meeting would be to present the information to Board, and he noted there would be another work session during the February 7 Regular Meeting to answer any additional questions on the requests and to get guidance from the Board as to what it would like staff to include in the proposed budget for fiscal year 2007. He noted that February 21 was the Board's next regular meeting, when the public forum on the proposed 2007 budget would take place. He also reminded the Board of its retreat scheduled for February 11. Mr. McReynolds then asked Ms. Anne Smith, Community Services Director, to introduce Mr. Vaughn Poller, the new manager of the Division of Housing and Neighborhood Revitalization for the Community Services Department.

MATTERS PRESENTED BY THE BOARD

Mr. Burgett stated that in regards to the two gentlemen who spoke during Citizens Comment Period about the tax assessments, the Board works hard to educate everybody as to exactly how the assessments are accomplished and what drives them. He stated there has already been a strong proposal put forward for a ten-cent reduction, and he felt there was probably room for more of a reduction. He noted that he had seen a sign on Route 17 that looked like a payday lender type of firm, and he stated he would like for the Board to look at requiring a special use permit for that type of facility in York County. He also stated he would like for the Board to look at removing mini-storage facilities from general business and confine them to the two classifications of industrial property. He stated he felt there had been far too many people making application to put these types of facilities in the County's highest commercial zoning, and he hoped the Board would be interested in stopping this and putting them by right in industrial areas.

Mr. Zaremba stated that he felt Mr. Burgett had a couple of good ideas, and he looked forward to working with him on them.

Mrs. Noll noted that she had just gotten back from the Gulf Coast, and she was very proud of the County for holding the Katrina Day and for the amount of money that was raised in such a short period of time. She encouraged those who could to volunteer their time in these devastated areas to help them clean up.

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

Meeting Reconvened. At 7:08 p.m. the meeting was reconvened in open session by order of the Chair.

PUBLIC HEARINGS

CHARLES BROWN PARK WETLANDS MITIGATION PROJECT

Mr. McReynolds gave a presentation on proposed Resolution R06-9 to authorize the County Administrator to record a declaration of restrictions limiting the future use of property contained within a portion of Charles Brown Park as included within a wetlands mitigation project constructed by the County within the park boundaries.

Chairman Zaremba then called to order a public hearing on proposed Resolution R06-9 that was duly advertised as required by law and is entitled:

> A RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR TO RECORD A DECLARATION OF RESTRICTIONS LIMITING THE FUTURE USE OF PROPERTY CONTAINED WITHIN A PORTION OF CHARLES BROWN PARK, 1950 OLD WILLIAMSBURG ROAD, AS IS INCLUDED WITHIN A WETLANDS MITIGATION PROJECT CONSTRUCTED BY THE COUNTY WITHIN THE PARK BOUNDARIES

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

Mrs. Noll then moved the adoption of proposed Resolution R06-9 that reads:

> A RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR TO RECORD A DECLARATION OF RESTRICTIONS LIMITING THE FUTURE USE OF PROPERTY CONTAINED WITHIN A PORTION OF CHARLES BROWN PARK, 1950 OLD WILLIAMSBURG ROAD, AS IS INCLUDED WITHIN A WETLANDS MITIGATION PROJECT CONSTRUCTED BY THE COUNTY WITHIN THE PARK BOUNDARIES

WHEREAS, the Board of Supervisors previously authorized the creation of a wetlands demonstration area within the southern portion of Charles Brown Park as a means acceptable to the U. S. Army Corps of Engineers of wetlands mitigation for the purpose of mitigating the loss of wetlands caused by the construction of the Tabb Library; and

WHEREAS, the U. S. Army Corps of Engineers requires, as a condition of the wetlands mitigation project, that a declaration of restrictions be recorded against the property contained within the project, generally prohibiting the use of the property for purposes which are inconsistent with the continued existence of the newly created wetlands; and

WHEREAS, following a duly advertised public hearing, this Board has determined that it is in the public interest that such declaration of restrictions be recorded.

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 17th day of January, 2006, that the County Administrator is authorized on behalf of the County to record a declaration of restrictions against a portion of property contained within Charles Brown Park, located at 1950 Old Williamsburg Road, creating a conservation easement as is shown on a certain plat entitled "Easement Plat Showing Conservation Easement on the

Property of County of York, Virginia, Nelson District, York County, Virginia," made by Land-Mark Design Group, dated September 22, 2005, in accordance with the requirements of the wetlands mitigation program previously authorized by this Board and approved by the U. S. Army Corps of Engineers, any such declaration of restrictions or deed of easement to be approved as to form by the County Attorney.

On roll call the vote was:

Yea: (5) Noll, Bowman, Shepperd, Burgett, Zaremba
Nay: (0)

AMENDMENTS TO YORK COUNTY CODE: WETLANDS AND CHESAPEAKE BAY PRESERVATION AREAS

Mr. Carter gave a presentation on proposed Ordinance No. O06-1 to amend Chapter 23.1 of the York County Code to incorporate provisions authorized by the Code of Virginia regarding wetlands board membership, and Chapter 23.2 to establish fees for appeals applications, to establish the Board of Supervisors' right to appeal, and to clarify provisions related to civil penalties for violations.

Discussion followed regarding the ordinance and its impact on the County's enforcement of wetlands and Chesapeake Bay preservation laws.

Chairman Zaremba then called to order a public hearing on proposed Ordinance No. O06-1 that was duly advertised as required by law and is entitled:

> AN ORDINANCE TO AMEND CHAPTER 23.1, WETLANDS, OF THE YORK COUNTY CODE TO INCORPORATE PROVISIONS AUTHORIZED BY THE CODE OF VIRGINIA REGARDING WETLANDS BOARD MEMBERSHIP AND TO AMEND CHAPTER 23.2, CHESAPEAKE BAY PRESERVATION AREAS, OF THE YORK COUNTY CODE TO ESTABLISH FEES FOR APPEALS APPLICATIONS, TO ESTABLISH THE BOARD OF SUPERVISORS' RIGHT TO APPEAL, AND TO CLARIFY PROVISIONS RELATED TO CIVIL PENALTIES FOR VIOLATIONS

There being no one present who wished to speak concerning the subject ordinance, Chairman Zaremba closed the public hearing.

Mrs. Noll then moved the adoption of proposed Ordinance No. Ord. No. O06-1 that reads:

> AN ORDINANCE TO AMEND CHAPTER 23.1, WETLANDS, OF THE YORK COUNTY CODE TO INCORPORATE PROVISIONS AUTHORIZED BY THE CODE OF VIRGINIA REGARDING WETLANDS BOARD MEMBERSHIP AND TO AMEND CHAPTER 23.2, CHESAPEAKE BAY PRESERVATION AREAS, OF THE YORK COUNTY CODE TO ESTABLISH FEES FOR APPEALS APPLICATIONS, TO ESTABLISH THE BOARD OF SUPERVISORS' RIGHT TO APPEAL, AND TO CLARIFY PROVISIONS RELATED TO CIVIL PENALTIES FOR VIOLATIONS

WHEREAS, the York County Board of Supervisors has determined that it is necessary to amend the terms of Chapter 23.1, Wetlands, of the York County Code to incorporate provisions of the Code of Virginia relative to the composition of Wetlands Boards; and

WHEREAS, the Board has also determined that amendment of Chapter 23.2, Chesapeake Bay Preservation Areas, is necessary to establish an appropriate application fee for appeals to the Chesapeake Bay Board, to establish the Board's right to appeal a decision of the Chesapeake Bay Board, and to clarify and supplement the provision related to civil penalties for violations.

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this the 17th day of January, 2006, that Chapter Nos. 23.1, Wetlands, and 23.2, Chesapeake Bay

Preservation Areas, be, and they are hereby, amended to read as follows:

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Chapter 23.1 – Wetlands.

Sec. 23.1-3. Wetlands board—Generally.

(a) There is hereby continued a wetlands board, which shall consist of five (5) residents of the county appointed by the board of supervisors. All terms of office shall be for five (5) years each except that original appointments shall be made for such terms that the term of one member shall expire each year. The chair of the board shall notify the board of supervisors at least thirty (30) days in advance of the expiration of any term of office, and shall also notify the board of supervisors promptly if any vacancy occurs. Such vacancies shall be filled by the board of supervisors without any delay, upon receipt of such notice. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members may serve successive terms. A member whose term expires shall continue to serve until his/her successor is appointed and qualified. Members of the board shall hold no other public office in the county, except that they may be members of the local planning or zoning commission, members of a board established by the local governing body to hear cases regarding ordinances adopted pursuant to the Chesapeake Bay Preservation Act and regulations promulgated thereunder, directors of soil and water conservation boards, or local erosion commissions, or on the local board of zoning appeals. Where members of these local commissions or boards are appointed to a local wetlands board, their terms of appointment shall be coterminous with their membership on those boards or commissions. The board of supervisors shall also appoint at least one but not more than three alternate members to the wetlands board. The qualifications, terms, and compensation of alternate members shall be the same as those of members. Any member who knows that he will not be able to attend a board meeting shall notify the chairman at least 24 hours in advance of such meeting. The chairman shall select an alternate member to serve in place of the absent member at the board meeting, which shall be noted in the records of the board.

(b) Upon a hearing with at least fifteen (15) days notice thereof, any board member may be removed for malfeasance, misfeasance, or nonfeasance in office, or for other just cause, by the board of supervisors.

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Chapter 23.2 – Chesapeake Bay Preservation Areas.

Sec. 23.2-16. Appeals

(a) An owner of a property subject to an administrative decision, order or requirement under this chapter may appeal by submitting a written application for review to the Chesapeake Bay Board no later than 30 days from the rendering of such decision, order or requirement. The board shall hear the appeal as soon as practical after receipt of the application. A nonrefundable processing fee of $250.00 shall accompany each application for an appeal.

(b) In rendering its decision, the board shall:

(1) Examine the language of this chapter to determine whether the language is clear or is subject to more than one interpretation;

(2) If, in the opinion of the board, the language is clear, the board will require the applicant to show that his case is not within the intent of the regulation. In these cases, the board will assume that the administrative decision is correct and the applicant will bear the burden of proof;

(3) If the language of this chapter is unclear, the board will inquire as to whether the decision made by the official involved is consistent with previous administrative determinations in similar situations;

(4) If the administrative decision is consistent with prior decisions, the applicant will prevail only if the administrative decision is not within the intent and purpose of the ordinance and, therefore, so arbitrary or unreasonable that the board must substitute its own interpretation and overturn the administrative decision. If the administrative decision is both consistent and reasonable, the board will uphold it;

(5) If the administrative decision is inconsistent with prior decisions, the Board will carefully examine all factors involved to ensure that the appearance of an arbitrary decision is overcome by a legitimate attempt to further the intent and purpose of this chapter.

In applying these guidelines, the board will consider any pertinent factors that arise during the public hearing.

(c) An owner of a property subject to a board decision, order or requirement, or the County at the initiative of the Board of Supervisors, may appeal to the Circuit Court.

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Sec. 23.2-18. Civil penalties

(a) Without limiting the remedies which may be obtained under this section, any person who violates any provision of this chapter or violates, fails, neglects, or refuses to obey any county notice, order, rule, regulation, exception, or permit condition authorized under this chapter shall, upon such finding by an appropriate circuit court, be assessed a civil penalty not to exceed $5,000 for each day of violation. Such civil penalties may, at the discretion of the court assessing them, be directed to be paid into the treasury of the county for the purpose of abating environmental damage to or restoring the CBPA therein, in such a manner as the court may direct by order, except that where the violator is the county itself or its agent, the court shall direct the penalty to be paid into the state treasury.

(b) Without limiting the remedies which may be obtained under this section, and with the consent of any person who violates any provision of this chapter or violates, fails, neglects, or refuses to obey any county notice, order, rule, regulation, exception or permit condition authorized under this chapter, the county may provide for the issuance of an order against such person for the one-time payment of civil charges for each violation in specific sums, not to exceed $10,000 for each violation. Such civil charges shall be paid into the treasury of the county for the purpose of abating environmental damage to or restoring the CBPA, except that where the violator is the county itself or its agent, the civil charges shall be paid into the state treasury. Civil charges shall be in lieu of any appropriate civil penalty that could be imposed under subdivision (a) of this section. Civil charges may be in addition to the cost of any restoration required or ordered by the county.

(c) In addition to and not in lieu of the penalties prescribed in sections (a) and (b) hereof, the county may apply to the circuit court for an injunction against the continuing violation of any of the provisions of this ordinance and may seek any other remedy authorized by law.

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On roll call the vote was:

Yea: (5) Bowman, Shepperd, Burgett, Noll, Zaremba
Nay: (0)

APPLICATION NO. UP-688-05, SPRINTCOM, INC.

Mr. Carter gave a presentation on Application No. UP-688-05 requesting a use permit authorizing a 137-foot self-supporting communications tower with associated ground-mounted equipment located on a portion of the property located at 300 Dare Road, approximately 1,500 feet

east of its intersection with Route 17. The Planning Commission considered the application and forwarded it to the Board of Supervisors with a recommendation of approval, and staff recommended approval of the application through the adoption of proposed Resolution R06-10.

Mr. Burgett asked if the access road that ran all the way to the back of the site would be used for parking by parents attending ball games.

Mr. Carter stated that it would not, as there is a gate at the end of the main part of the driveway that stops short of any of the playfield areas, and the gate is kept locked so there would be no vehicular access by the public. He noted the area would only be accessible to public service vehicles operated by the School Board or County staff or the applicant when they needed to service the tower site.

A brief discussion followed concerning the location of towers in the county and the possibility of taking them out of the General Business zoning designation. Discussion was also held regarding the county-wide cell phone coverage as a result of the approval of this application.

Mr. Bowman asked what the coverage would be in the County for other carriers, and when does it get to the point where it is overlapping. He asked if there was a way for the Board to find out the coverage of the other cell companies in order to get a visual of the coverage in York County. He stated he felt there would come a time when the County would become saturated.

Mr. Carter stated that he would get with Mr. Hall in the Department of Fire and Life Safety to see if a visual can be assembled to help the Board understand the coverage of all the companies and where there may be gaps.

Mrs. Noll indicated she felt the citizens have a right to coverage as well as the right to choose the carrier they wish to use.

Mr. Curtis McMillan, representing the applicant, stated he along with Mr. Richard Hixson of the School Board, were present to answer any questions the Board might have. He said that Sprint concurs with the Planning Commission's recommendation to allow for the extension of the light pole at the ball field to support the use of cellular antennas for phone use. He stated Sprint has worked with the planning department, the utilities department, and the School Board to ensure that a proper location for the tower would follow the rules of the Comprehensive Plan and the York County telecommunication ordinance. He stated that following the guidelines Sprint picked a location that would blend in around with the surrounding communities and cause the least amount of disturbance. Sprint worked with the Planning Department to make sure that the location met all the requirements that would be necessary for site plan approval to be implemented. He said that the implementation would allow Sprint the opportunity to meet with the customer concerns given to Sprint about the quality of cell phone service in the area. Sprint has met all FCC guidelines, and the site is well within the coverage area. Sprint looked at other towers for collocation, and through its analysis determined that the other towers in the area could not meet the needs of the network. Mr. McMillan asked the Board to approve Application No. UP-688-05 so that Sprint could move along with the location. He stated Sprint did look into the Lakeside Drive tower to collocate, and found that it overlapped the tower at Wendy's.

Chairman Zaremba then called to order a public hearing on Application No. UP-688-05 that was duly advertised as required by law. Proposed Resolution R06-10 is entitled:

> A RESOLUTION TO APPROVE A SPECIAL USE PERMIT TO AUTHORIZE A 137-FOOT SELF-SUPPORTING MONOPOLE COMMUNICATIONS TOWER WITH ASSOCIATED GROUND-MOUNTED EQUIPMENT AT 300 DARE ROAD

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

Mr. Burgett stated that he had no argument against this tower being in left field of Dare Elementary, but the comments made by the Board were helping the Board focus in on the question of how many towers is enough. Everybody thinks they have to have their own wave and their own facility, but the Board needed to educate itself because there appears to be a proliferation of towers, and the Board needs to decide exactly what it can do, within the Federal

statues, to make sure the towers are placed right and not to let it get out of control.

Mr. Shepperd said the Board is very concerned about the towers; and when this issue comes up, the first thing that comes to his mind is the limitations put on the County by the Federal Government and the FCC ruling. He said he thought that there has to be some other solutions as technology improves to just having these poles sticking up all over the County.

Mrs. Noll agreed that eventually there will be some other technology, and maybe as telephone poles are now almost obsolete, so may be the towers.

Mr. Bowman said he just wanted to make the public aware of the number of towers that the Board was having to approve within the county.

Mr. Zaremba asked Mr. McReynolds see if Mr. Hall can bring together the different providers and show the current county cell coverage by provider. He said he suspected they already had this done individually and could show the Board where the strong coverage is, the not so strong coverage, and where the poor coverage is so the Board has some sort of hard data that it can weigh in or throw into the equation when saying yes or no to one of the applications.

Mrs. Noll then moved the adoption of proposed Resolution R06-10 that reads:

A RESOLUTION TO APPROVE A SPECIAL USE PERMIT TO AUTHORIZE A 137-FOOT SELF-SUPPORTING MONOPOLE COMMUNICATIONS TOWER WITH ASSOCIATED GROUND-MOUNTED EQUIPMENT AT 300 DARE ROAD

WHEREAS, SprintCom, Incorporated, has submitted Application No. UP-688-05, which requests a Special Use Permit, pursuant to Section 24.1-306 (Category 17, No. 7) of the York County Zoning Ordinance, to authorize construction of a 137-foot freestanding monopole communications tower with associated equipment on the parcel located at 300 Dare Road (Route 621) and further identified as Assessor's Parcel No. 30-2 (GPIN# S06b-2936-4399); 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 17th day of January, 2006, that Application No. UP-688-05 be, and it is hereby, approved to authorize construction of a 137-foot freestanding monopole communications tower with associated equipment on the parcel of land located at 300 Dare Road (Route 621) and further identified as Assessor's Parcel No. 30-2 (GPIN# S06b-2936-4399), subject to the following conditions:

1. This use permit shall authorize the construction of a freestanding monopole communications tower with associated equipment on the parcel of land located at 300 Dare Road (Route 621) and further identified as Assessor's Parcel No. 30-2.

2. The height of the tower shall not exceed 137 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 land clearing or any 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 "Sprint, Dare Elementary, 300 Dare Road, Yorktown, VA," Sheets T-1, Z-1, Z-1A, Z-2 and Z-3, dated 09/29/05 and revised 10/25/05 and 11/01/05, prepared by Fullerton Engineering Consultants, Inc., and received by the Planning Division November 8, 2005. As part of the site plan submittal, the appli-

cant 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, Sheriff's Office, 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. Construction and operation of the tower shall be in conformance with the performance standards set forth in Sections 24.1-493 and 24.1-494 of the Zoning Ordinance.

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. The access easement shown on the above referenced sketch plan shall be established 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.

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. Evergreen planting material shall be installed for screening surrounding the facility as shown on the above referenced sketch plan Sheet Z-2 and pursuant to Section 24.1-240 et. seq.

11. 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.

12. Accessory facilities shall not include offices, vehicle storage, or outdoor storage unless permitted by the district regulations.

13. Evidence shall be provided prior to receipt of a building permit that the Virginia State Corporation Commission has been notified that a communication facility is to be constructed.

14. The proposed 8-foot chain link fence surrounding the facility shall be outfitted with opaque material deemed acceptable for screening purposes by the Zoning Administra-

tor.

15. The communication tower shall be gray in color. Should Federal Aviation Administration requirements dictate special markings, tower lighting shall be used in lieu of multicolor 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. A Natural Resources Inventory, including a Perennial Stream Determination, must be performed in accordance with Section 23.2-6 of the County Code by the Developer prior to any land disturbance or development (construction of the cell tower and appurtenances). If a perennial stream is determined, then a 100-foot Resource Protection Area (RPA) buffer must be placed landward of the stream and any adjacent wetlands and installing the proposed tower and appurtenances within the RPA will require an exception from the York County Chesapeake Bay Board.

19. A written statement from Musco Lighting (the supplier of the baseball field lighting system) is required detailing that there will be no detrimental effects on Musco Lighting's manufacturer warranty for the lighting system prior to site plan approval.

20. Written verification and a lighting drawing from a Musco Lighting representative will be submitted before site plan approval showing that the same lighting levels (foot candles) are provided on the field upon completion of the proposed tower.

21. Construction of the proposed tower shall occur only during the following times: November 1st through February 28th or August 1st through 31st. Completion of the tower must take place during these time periods and all lighting must be working and approved by the York County Division of Parks and Recreation.

22. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this Special Use Permit 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.

On roll call the vote was:

Yea: (5) Shepperd, Burgett, Noll, Bowman, Zaremba
Nay: (0)

APPLICATION NO. UP-689-05, WANDA W. WALLS

Mr. Carter gave a presentation on Application No. UP-689-05 requesting a use permit to authorize a private kennel on property located at 114 Harrod Lane. The Planning Commission considered the application and forwarded it to the Board of Supervisors with a recommendation of approval, and staff recommended approval of the application through the adoption of proposed Resolution R06-11.

Mr. Shepperd said that he found it interesting that in the last two months two of these types of applications have come before the Board. He asked Mr. Carter if something unusual was happening that would cause this.

Mr. Carter stated that this application was prompted by a complaint that was referred to the County's animal control office and to the zoning office. It was investigated, and it was determined that the applicant had, in fact, been issued a private kennel use permit for the keeping of more than five dogs on the property, and the applicant promptly applied for the use permit.

It has been pointed out that the County needed to provide, and has since provided, some additional information on the County's website concerning the need for special use permit approval when an individual goes above the five dog limit, and that information is in place now, so it could very well be that there are more applications out there that will need to come before the Board, particularly at dog licensing time when people discover that keeping five or more dogs requires special permission in certain cases.

Mr. Shepperd asked if this was a business or just a person who wants more than five dogs.

Mr. Carter said that it was not a commercial business but a hobby. The applicant and her daughter keep the dogs for breeding and show purposes, and it is not a boarding operation.

Discussion followed regarding required inspections of these private kennels and insuring that there is no mistreatment of the animals.

Mr. Shepperd said that the County's big concern generally is the noise, the smell, and proper care for the animals.

Mr. Carter said that those are the reasons why the kennels are use permit activities in certain locations where the outdoor activity could be disruptive to the neighbors of the property. He also said that the current limit is five dogs; and if the Board felt the limit should be something other than five, is was within the Board's prerogative to change the text of the ordinance.

Mr. Burgett asked Mr. Carter if the applicant breeds the dogs and sells the puppies, or did she keep all the puppies.

Mr. Carter stated he did not know the details.

Mr. Bowman said he appreciated all the restrictions on the application, but he was curious about how the restrictions would be monitored and who would do the monitoring. He asked if he was clear in understanding that all the dogs were kept inside at night.

Mr. Carter said it was his understanding that the dogs would be kept indoors at night.

Discussion followed on the size of the indoor dog pen and the applicant's compliance with licensing requirements in the past. The Board also discussed previous kennel applications and their provisions.

Ms. Wanda Walls, stated she had made application for the use permit, and that her daughter would be making her presentation. She stated she would be glad to answer any questions afterwards.

Ms. Adrienne Isham, representing the applicant, said the application had been made in accordance with York County requirements. She said the breeds were Shetland Sheepdogs and a medium-sized breed of Australian Shepherds. She stated that she breeds and shows the dogs for her own private purpose according to American Kennel Club breeding standards. She stated she licensed each dog individually throughout 2005, including dogs that were four months old, as she wanted to be sure she was in compliance with all County regulations. She noted she only lets the dogs out for short periods and in small groups during book sale days at the library in order to give the library patrons respect of quietness. The dogs are housed indoors in a glass-enclosed porch so as not to disturb the neighborhood, and the dogs are never out unless someone is there to supervise and control any barking. The exercise area is cleaned daily and disinfected twice a week, more often in the summer months, and is treated at least twice a year for any pests. Ms. Isham indicated her mother never had a complaint concerning any dog until a disgruntled breeder in Norfolk recently made a complaint to York County zoning and animal control. She stated the individual's issue is over the ownership of three puppies that were acquired from her. The Planning Commission approved her request for a special use permit for a kennel with 15 dogs, and she stated her mother would be compliant with the hours stated in the resolution. She stated her mother was a responsible dog owner. She thanked County staff for their help with the planning and requirements necessary for this application and process, and she asked the Board approve the application.

Mr. Burgett asked Ms. Walls if she sells the puppies when she breeds them.

Ms. Walls stated she had sold a puppy several years ago, and she has given puppies to other people. She also said if she has any excess puppies that do not fit her breeding program, she does not having a problem giving a puppy away.

Mr. Burgett asked if she ever breeds one of her champions with someone else for the pick of the litter.

Ms. Walls stated she did.

Mr. Burgett asked her if she knew both of those were business activities.

Ms. Walls stated she did not.

Mr. Burgett asked if she did any Internet advertising of her breeding services.

Ms. Walls stated she did not do any breeding through the Internet, but she does have a website that is basically for the exhibition of her dogs. She stated she does not advertise stud service or puppies available.

Discussion followed concerning the proper operation of a private kennel and the number of animals that can be adequately kept in a private kennel. The Board also discussed with the applicant the size of the area that will be housing the kennel as to its adequacy.

Mr. Zaremba asked Mrs. Walls if she was in the business of selling dogs as she had mentioned selling one a while back.

Ms. Walls stated that it was years ago, and she had just given away a puppy to a lady in Gloucester.

Mr. Zaremba said that if the special use permit was approved, the applicant was limited to the 15 dogs, and it was her task to make sure that the numbers did not exceed 15. He noted that once a new litter of dogs reached 6 months of age, the applicant had to comply with the special use permit and reduce the number to 15.

Chairman Zaremba then called to order a public hearing on Application No. UP-689-05 that was duly advertised as required by law. Proposed Resolution R06-11 is entitled:

> A RESOLUTION TO APPROVE A SPECIAL USE PERMIT TO AUTHORIZE A PRIVATE KENNEL AT 114 HARROD LANE (ROUTE 678)

Mr. Charles Marshall stated he owned the piece of property next to Ms. Walls, and asked that the Board deny the application. He stated that lot 210 had been subdivided, and he would be building a house next door to Ms. Walls in the residential neighborhood. He stated that the real estate values had gone up extremely high, and he asked the Board members to ask themselves if they would like to have a neighbor who could have 15 dogs and an unlimited number of puppies living next door. Mr. Marshall stated he did not feel there should be more than 4 or 5 dogs in a neighborhood.

There being no one else present who wished to speak concerning the subject application, Chairman Zaremba closed the public hearing.

Discussion followed concerning County ordinances governing kennels.

Mr. Shepperd asked if there was any consideration given for any planting or anything that might reduce the noise between the houses.

Mr. Carter stated that the house would serve as the greatest noise buffer by being between the outdoor area and adjacent residential area.

Mr. Shepperd asked if the neighbors had a right to call and have the Sheriff come out and issue a citation if appropriate if noise became an issue.

Mr. Carter said that if there were noise to the point that it became an issue with respect to the

noise ordinance in the County, it would become something enforceable.

Mr. Burgett said he knew that this use should probably be classified as a commercial kennel or home occupation because anytime a dog is bred with another dog and a puppy is taken from the litter, it is a form of being paid. He stated if a puppy is sold and the seller does not have a business license, the County cannot track it. Mr. Burgett noted it could be carried a step further in that if a person is selling or trading dogs, then all the equipment associated with the dogs becomes taxable. He stated it becomes a business, and all associated materials are part of the business. Mr. Burgett stated that in listening to the various points made this evening, the applicant's operation sounds like a commercial operation.

Mrs. Noll stated the property was surrounded on three sides by commercial property. She also noted there are noise ordinances that can take care of the noise; and if the use became a nuisance, Mrs. Walls would have to get rid of the dogs.

Mr. Bowman stated that he had no problem with the lot size or the kennel, but it seemed like a lot dogs of that size to be maintained in a house.

Mr. Zaremba said this was a pretty tough issue as there have been other applicants before the Board who know what they are doing and have done it well. He stated he thought there were lots of areas in the County that would be very well suited for kennels, principally in the more rural areas of the County. He stated he thinks the proposed kennel is out of character with the area.

Mr. Burgett then moved the adoption of proposed Resolution R06-11 that reads:

A RESOLUTION TO APPROVE A SPECIAL USE PERMIT TO AUTHORIZE A PRIVATE KENNEL AT 114 HARROD LANE (ROUTE 678)

WHEREAS, Wanda W. Walls has submitted Application No. UP-689-05 requesting a Special Use Permit, pursuant to Section 24.1-306 (Category 2, Number 6) of the York County Zoning Ordinance, to authorize a private kennel on 1.52 acres of land located at 114 Harrod Lane (Route 678) and further identified as Assessor's Parcel No. 24-58 (GPIN# Q09D-3368-1325); and

WHEREAS, said application has been referred 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 17th day of January, 2006, that Application No. UP-689-05 be, and it is hereby, approved to authorize a private kennel on 1.52 acres of land located at 114 Harrod Lane (Route 678) and further identified as Assessor's Parcel No. 24-58 (GPIN Q09D-3368-1325) subject to the following conditions:

1. This use permit shall authorize the establishment of a private kennel on 1.52 acres of land located at 114 Harrod Lane (Route 678) and further identified as Assessor's Parcel No. 24-58 (GPIN# Q09D-3368-1325).

2. The private kennel shall be limited to a maximum of fifteen (15) dogs that are six (6) months or older in age and weigh less than fifty (50) pounds. No commercial kennel operation, such as overnight boarding, training, or renting shall take place on the property.

3. The fifteen (15) dogs shall be licensed according to York County requirements and confined to the property.

4. Outside activity by more than four (4) dogs at a time shall be limited to the designated run area specified in the applicants letter "October 16, 2005, Re: Request for Special Use Permit, Planning Division of York County" and on the sketch plan titled "Sketch Plan for Q09d-3368-1325" prepared by the applicant and submitted to the York County Planning Division on October 17, 2005. The designated run area will be cleaned daily to remove animal waste. The designated run shall be treated to control pests a minimum of twice a year.

5. Outside activity by more than four (4) dogs at a time shall be limited to Monday through Sunday only during the hours of 7:00 AM to 9:00 AM, 2:00 PM to 5:00 PM, and 6:00 PM to 8:00 PM.

6. The property owner shall admit, or cause to be admitted, to the property at any reasonable time, with or without prior notice, Zoning and Code Enforcement staff or any designee of the County Administrator for the purpose of monitoring compliance with the conditions of this permit.

7. This Special Use Permit shall expire upon the occurrence of either of the following:

   a. Transfer of ownership of the land by any means to anyone other than the applicant.

   b. Termination of residence by the applicant at 114 Harrod Lane, Yorktown, Virginia.

8. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this Special Use Permit 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.

On roll call the vote was:

Yea: (3) Noll, Bowman, Shepperd
Nay: (2) Burgett, Zaremba

MATTERS PRESENTED BY THE BOARD (Continued)

Mr. Shepperd expressed his appreciation to the members who volunteered their time on the Comprehensive Plan Steering Committee, and he encouraged other citizens to get involved in their communities and have an impact. He then noted that assessments went up, and the tax rate is coming down. He asked citizens not to compute their taxes based on the current tax rate. He said the local government could probably spend every penny because of the demand for services from the constituents, but logic and common sense dictates that the Board would be running people off their property and doing them an injustice to do so. He stated the Board balances the County budget based on the needs of the community, and the Board and staff are still working on the budget process and do not know exactly what the tax rate is going to be yet.

Mr. Bowman expressed his agreement with Mr. Shepperd and Mr. Burgett on the assessments and noted that one of the problems the Board has is making sure it educates the public on its budget process. He indicated the Board needs citizen input, and he encouraged citizens to contact the Board members by email, telephone, letters, or in person to discuss the process. Mr. Bowman then noted that as the Board's representative to the Comprehensive Plan Steering Committee he really appreciated the commendation tonight, and he knew it was meaningful to the folks who had received it. He said the members of the committee really gave their all to participate and that they felt like it was a worthwhile cause, and he challenged all citizens to participate with one of the volunteer agencies in the County and become involved and do some good things for York County. He noted that citizens should take a look at what is going on in Richmond with the General Assembly. He said the new Governor has already mentioned that transportation is at the top of his agenda, but the citizens need to read the fine print because there is going to be a lot of revenue coming in, and it will be coming in through different avenues which the citizens can influence by making sure they get in touch with their senator or

delegate representatives. He indicated the General Assembly is talking about putting tolls on the roadways; looking at taxing the fuel even more; raising the cost of drivers license applications; and a number of incentives on other increases in order to get the revenue to pay for transportation within the state. Mr. Bowman also noted that the inauguration in Williamsburg was a very nice historical event.

Mr. Zaremba stated that for those citizens who wanted to stay abreast of the tax issue, the Daily Press in its editorial page today had an interesting article with respect to increased taxes. Another article was in the Daily Press five or six days ago that discussed quality education and the increased cost of education, which stated that a dollar increase did not necessarily equate to a dollar increase in quality of education. Mr. Zaremba then noted he had just passed out to his fellow Board members a listing of several regional boards and committees on which a Board member represents the County, and he asked the Board members to let him know as quickly as possible which ones they wish to serve on. He noted that when the Board members take turns at being the Chairman of the Board, they generally make a comment on one of the things they would like to see done that was maybe not done the same way in the previous year. He stated the one desire he has is to see increased participation on the part of the citizens in 2006.

CONSENT CALENDAR

Mr. Zaremba stated that he had a question about the NACo Prescription Discount Drug Card given that Medicare part D has just hit the streets and no on understands what it is all about.

Ms. Minnie Sippio, Department of Community Services, stated the NACo Prescription Drug Benefit is a benefit for all citizens of York County and not specifically for Medicare beneficiaries only.

Mr. Zaremba asked what it provides for the citizens and how they receive the benefits.

Ms. Sippio said the program provides the citizens with a drug card that they can use at area drug stores, and it will give them a discount off prescriptions that are not covered by their regular insurance or if they do not have any prescription coverage.

Mr. Zaremba asked the County Administrator to get the information on this prescription drug benefit on Channel 46 and in the next issue of the York County citizen's newspaper.

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

On roll call the vote was:

Yea: (5) Noll, Bowman, Shepperd, Burgett, Zaremba
Nay: (0)

Thereupon, the following minutes were approved and resolutions adopted:

Item No. 5. APPROVAL OF MINUTES

The minutes of the January 3, 2006 meeting of the York County Board of Supervisors were approved.

Item No. 6. STREET NAME CHANGE: Resolution R06-2

A RESOLUTION TO APPROVE A REQUEST TO CHANGE THE NAME OF HUNDLEY DRIVE TO MID-ATLANTIC PLACE

WHEREAS, Paul Garman and Cowles M. Spencer, on behalf of Mid-Atlantic Commercial, have petitioned the County of York to change the name of Hundley Drive to Mid-Atlantic Place; and

WHEREAS, Hundley Drive was initially approved and recorded June 29, 1989, in the Tabb Lakes Subdivision; and

WHEREAS, Section 20.5-79 of the Subdivision Ordinance states that names of recorded streets shall not be changed except by resolution of the Board; and

WHEREAS, the proposed street name has been determined to be acceptable relative to applicable provisions of the York County Subdivision Ordinance;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 17th day of January 2006, that it does hereby approve a request to change the name Hundley Drive to Mid-Atlantic Place.

BE IT FURTHER RESOLVED that the County Administrator be, and is hereby authorized to transmit said approval to all property owners on Hundley Drive and to various County departments, the post master, public utilities, public service organizations, and private companies that may have an interest in this change.

Item No.7. PURCHASE AUTHORIZATION: Resolution R06-3

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR TO COMPLETE THE PURCHASE OF EMERGENCY GENERATORS

WHEREAS, it is the policy of the Board of Supervisors that all procurements of goods and services by the County involving the expenditure of $30,000 or more be submitted to the Board for its review and approval; and

WHEREAS, the County Administrator has determined that the following procurement is necessary and desirable, it involves the expenditure of $30,000 or more, and that all applicable laws, ordinances, and regulations have been complied with;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 17th day of January, 2006, that the County Administrator be, and hereby is, authorized to execute procurement arrangements for the following:

	AMOUNT
Emergency Generators	$164,732

Item No.8. DHCD DISASTER RECOVERY GRANT: Resolution R06-5

A RESOLUTION TO ADOPT POLICIES AND TO AUTHORIZE THE COUNTY ADMINISTRATOR TO SUBMIT THE NECESSARY DOCUMENTS FOR 2005 DISASTER RELIEF PROGRAM FUNDING FROM THE VIRGINIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, AND TO REQUEST, ACCEPT AND APPROPRIATE THESE FUNDS

WHEREAS, the Virginia Department of Housing and Community Development has made grant funding available through the 2005 Disaster Relief Program; and

WHEREAS, the County has applied for both individual assistance to assist 30 eligible households, and one public facility project; and

WHEREAS, the Virginia Department of Housing and Community Development requires a resolution whereby the Board of Supervisors authorizes the County Administrator to sign and submit all appropriate policies, assurances and certifications necessary to request, receive and appropriate funding; and

WHEREAS, the proposed project area will include scattered sites throughout the County, and relief totaling $800,000 is requested from the State; and

WHEREAS, the required local matching funds for public facilities projects are available

and individual households will either make the required match or use local disaster relief funding made available through Caritas; and terms of the grant agreement, and to take all necessary actions to accept and implement the grant.

BE IT FURTHER RESOLVED that the County Administrator is hereby authorized to accept any subsequent offer of funding that would not exceed available resources for any required matches and to increase amounts appropriated in the budget if and when funds become available and to advise the Board of all such actions in writing.

BE IT STILL FURTHER RESOLVED that the County Administrator be and is hereby authorized on behalf of the County to assume the status of a responsible official under the National Environmental Policy Act of 1969, and the regulations which implement such Act.

Item No.9. NACO PRESCRIPTION DRUG PROGRAM: Resolution R06-6

A RESOLUTION TO APPROVE PARTICIPATION IN THE PRESCRIPTION DRUG DISCOUNT CARD PROGRAM OFFERED BY NACO

WHEREAS, the Board of Supervisors has been made aware that the National Association of Counties (NACo) is offering a Prescription Drug Discount Card Program offering an opportunity for all citizens of York County to participate: and

WHEREAS, the Board desires to make the NACo Prescription Drug Discount Card available to County citizens at various locations throughout the County to assist them with obtaining prescription drugs as needed; and

WHEREAS, the Board desires that the County participate in the program;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 17th day of January, 2006, that the York County Board of Supervisors authorizes participation in the National Association of Counties Prescription Drug Discount Card Program and hereby directs the County Administrator to execute all documents necessary to enable York County to participate.

Meeting Recessed. At 8:59 p.m., Chairman Zaremba declared a short recess.

Meeting Reconvened. At 9:07 p.m. the meeting was reconvened in open session by order of the Chair.

NEW BUSINESS

APPLICATION NO. UP-669-05, CITY OF WILLIAMSBURG AND HERITAGE HUMANE SOCIETY

Mr. Carter gave a presentation on proposed Resolution R06-4 to amend the conditions of approval for a previously approved special use permit by authorizing minor modifications to the design and layout of an expanded animal shelter located by 430 Waller Mill Road.

Mrs. Noll moved the adoption of proposed Resolution R06-4 that reads:

A RESOLUTION TO AMEND THE CONDITIONS OF APPROVAL FOR A PREVIOUSLY APPROVED SPECIAL USE PERMIT BY AUTHORIZING MINOR MODIFICATIONS TO THE DESIGN AND LAYOUT OF AN EXPANDED ANIMAL SHELTER LOCATED AT 430 WALLER MILL ROAD

WHEREAS, the City of Williamsburg and the Heritage Humane Society submitted Application No. UP 620-03, pursuant to Section 24.1-115(d)(3) of the York County Zoning Ordinance, which requested authorization to expand a legally conforming special use by constructing a 14,000-square foot animal shelter building to replace an existing 2,720-square foot building on property located at 430 Waller Mill Road (Route 713) approximately 0.76-mile northeast

of the intersection of Waller Mill Road and Mooretown Road (Route 603) and further identified as Assessor's Parcel No. 6-4C and a portion of Assessor's Parcel No. 6-4 (GPIN# D16d-4258-0831 and GPIN# D17d-4411-0443); and

WHEREAS, on August 19, 2003, the York County Board of Supervisors approved said application through the adoption of Resolution No. R03-129; and

WHEREAS, pursuant to Section 24.1-115(d)(2) of the York County Zoning Ordinance, the City of Williamsburg and the Heritage Humane Society have submitted Application No. UP-694-06, which requests to amend the conditions of approval set forth in the above-referenced resolution by authorizing minor modifications to the design and layout of the approved animal shelter expansion;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 17th day of January, 2006, that Application No. UP 694-06, be, and it is hereby, approved to amend the conditions of approval set forth in the Resolution No. R03-129 by authorizing minor modifications to the design and layout of a previously approved animal shelter expansion located at 430 Waller Mill Road (Route 713) approximately 0.76-mile northeast of the intersection of Waller Mill Road and Mooretown Road (Route 603) and further identified as Assessor's Parcel No. 6-4C and a portion of Assessor's Parcel No. 6-4 (GPIN# D16d-4258-0831 and GPIN# D17d-4411-0443) subject to the following conditions:

1. Modifications to the design and layout of the animal shelter depicted on the plan Heritage Humane Society Tree Planting Plan prepared by Nelson Byrd Woltz, Landscape Architects and dated December 20, 2005 shall be permitted. Said modifications shall specifically include the relocation of the main parking lot and the creation of a second entrance on Waller Mill Road in the location depicted on the referenced plan.

2. Except as necessary to (a) reconstruct the existing entrance and construct a new second entrance to the site, (b) install an identification sign, and (c) open limited sight lines for the sign, no clearing shall occur within the required 20-foot front landscape yard along the street right-of-way for Waller Mill Road (in the area labeled "Undisturbed Woodland" on the reference conceptual plan). The landscape yard shall be left in an undisturbed natural state, shall be supplemented as necessary with additional plantings, consisting of a mix of deciduous and evergreen trees and shrubs, as depicted on the previously approved concept plan.

3. Except as specifically modified herein, the conditions set forth in Resolution No. R03-129 shall remain in full force and effect.

In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this Special Use Permit 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.

On roll call the vote was:

Yea: (5) Bowman, Shepperd, Burgett, Noll, Zaremba
Nay: (0)

APPLICATION NO. UP-695-06, MILES BURCHER

Mr. Carter gave a presentation on Application No. UP-695-06 requesting a two-year extension of the deadline for a previously approved accessory apartment.

Mrs. Noll moved the adoption of proposed Resolution R06-8 that reads:

A RESOLUTION TO APPROVE A TWO-YEAR EXTENSION OF THE DEADLINE FOR A PREVIOUSLY APPROVED ACCESSORY APARTMENT

WHEREAS, Miles C. Burcher submitted Application No. UP 626-03, pursuant to Section 24.1-407(b) of the York County Zoning Ordinance, which requested a Special Use Permit to

establish an accessory apartment in a detached structure on property located at 709 Patricks Creek Road and further identified as Assessor's Parcel No. 30J-1-1 (GPIN# U06a-0251-2823); and

WHEREAS, on January 20, 2004, the York County Board of Supervisors approved said application through the adoption of Resolution No. R04-2; and

WHEREAS, pursuant to Section 24.1-115(c)(1) of the York County Zoning Ordinance, use permits automatically expire two years after adoption if the special use has not been established; and

WHEREAS, Miles C. Burcher has submitted Application No. UP-695-06, which requests that the above-referenced Special Use Permit be amended, pursuant to Section 24.1-115(d)(2) of the York County Zoning Ordinance, to authorize a two-year extension of the deadline for establishing the special use;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 17th day of January, 2006, that Application No. UP 695-06, be, and it is hereby, approved to authorize a two-year extension of the January 20, 2006, deadline for establishing the accessory apartment.

BE IT FURTHER RESOLVED that failure to establish the accessory apartment in accordance with the provisions set forth in Section 24.1-115(c)(1) of the Zoning Ordinance on or before January 20, 2008, shall cause the Special Use Permit to terminate automatically.

On roll call the vote was:

Yea: (5) Shepperd, Burgett, Noll, Bowman, Zaremba
Nay: (0)

CLOSED MEETING. At 9:14 p.m. Mr. Bowman 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; (a)(5) to discuss a prospective business or industry of expansion of an existing business or industry where no previous announcement has been made.

On roll call the vote was:

Yea: (5) Burgett, Noll, Bowman, Shepperd, Zaremba
Nay: (0)

Meeting Reconvened. At 9:31 p.m. the meeting was reconvened in open session by order of the Chair.

Mr. Burgett 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 17th day of January, 2006, 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) Noll, Bowman, Shepperd, Burgett, Zaremba
Nay: (0)

APPOINTMENT TO THE COLONIAL GROUP HOME COMMISSION

Mr. Zaremba moved the adoption of proposed Resolution R06-7 that reads:

A RESOLUTION TO APPOINT A YORK COUNTY REPRESENTATIVE TO THE COLONIAL GROUP HOME COMMISSION

BE IT RESOLVED by the York County Board of Supervisors this 17th day of January, 2006, that Ann Jean F. White be, and is hereby, appointed as a York County representative on the Colonial Group Home Commission for a term of four years, such term to begin March 1, 2006, and expire February 28, 2010.

On roll call the vote was:

Yea: (5) Bowman, Shepperd, Burgett, Noll, Zaremba
Nay: (0)

APPOINTMENTS TO THE YORK COUNTY LIBRARY BOARD

Mr. Bowman moved the adoption of proposed Resolution R05-204(R) that reads:

A RESOLUTION TO APPOINT TWO REPRESENTATIVES TO THE YORK COUNTY LIBRARY BOARD

BE IT RESOLVED by the York County Board of Supervisors this 17th day of 2006 January, 2006, Barbara T. Henry be, and she is hereby, reappointed as a representative to the York County Library Board for a term of four years, such term to begin immediately and end December 31, 2009.

BE IT FURTHER RESOLVED that Penny L. Showalter be, and she is hereby, appointed as a representative to the York County Library Board for a term of four years, such term to begin immediately and end December 31, 2009.

Yea: (5) Shepperd, Burgett, Noll, Bowman, Zaremba
Nay: (0)

APPOINTMENT TO THE COLONIAL SERVICES BOARD

Mr. Bowman moved the adoption of proposed Resolution R05-209 that reads:

A RESOLUTION TO APPOINT YORK COUNTY REPRESENTATIVE TO THE COLONIAL SERVICES BOARD

BE IT RESOLVED by the York County Board of Supervisors this 17th day of January, 2006, that Jeanne Eickhoff be, and she is hereby, appointed as a York County representative to the Colonial Services Board to fill the unexpired term of Judith A. Cash, which expires June 30, 2006.

Yea: (5) Burgett, Noll, Bowman, Shepperd, Zaremba
Nay: (0)

Meeting Adjourned. At 9:35 p.m. Chairman Zaremba declared the meeting adjourned sine die.

James O. McReynolds, Clerk
York County Board of Supervisors

Walter C. Zaremba, Chairman
York County Board of Supervisors