

MINUTES  
BOARD OF SUPERVISORS  
COUNTY OF YORK

Regular Meeting  
October 21, 2008  
6:00 p.m.

Meeting Convened. A Regular Meeting of the York County Board of Supervisors was called to order at 6:02 p.m., Tuesday, October 21, 2008, in the Board Room, York Hall, by Chairman Thomas G. Shepperd, Jr.

Attendance. The following members of the Board of Supervisors were present: Walter C. Zarembo, 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; and James E. Barnett, County Attorney.

Invocation. Mr. Josh Rivers, York County Youth Commission, gave the invocation.

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

**HIGHWAY MATTERS**

Mr. Todd Halacy, Residency Administrator, Virginia Department of Transportation, appeared to discuss highway matters of interest to the Board. He addressed the concerns Mr. Hrichak had last month regarding the left-turn movement into the Bank of America site on Lakeside Drive. He stated the two new proposed site plans had been extensively discussed with County staff during the site plan reviews, and VDOT had set up a meeting with Mr. Hrichak on what had been discussed with the County. He then addressed Mr. Wiggins' concern with 1730 Back Creek Road, stating VDOT had reviewed the drainage issue and had identified action to improve the drainage. He had submitted the appropriate environmental information so that they can have clearance to excavate and repair the culvert pipe as needed. He added once the environmental clearance was received, they would complete the necessary work. He noted the bush at the stop sign at the Route 60 ramp/199 west bound that had been interfering with site distance had been removed completely. He then introduced Mr. Bradley Weidenhammer, the new Assistant Residency Administrator for the Williamsburg Residency. Mr. Halacy then gave an update on the transportation budget and spoke about the potential impacts to VDOT. He stated that VDOT received most of its funding from state and federal gas taxes which have declined due to more efficient vehicles and the decrease in the purchase of gas because of the higher prices. He noted last week the Commissioner of the Virginia Department of Transportation had presented a high level plan outlining how VDOT would respond to the six-year revenue forecast and the position of the department to address long-term economic changes to transportation revenues. He stated the Williamsburg Residency had seen a reduction in its maintenance staff from approximately 100 to less than 60 employees. He explained VDOT would continue to prioritize its workload and ask for the County's assistance as it made difficult decisions over the next couple of months.

Mr. Hrichak indicated he had been asked why some motorcycles do not trip the lights on 17 and if something could be done to correct the problem.

Mr. Halacy stated he would check into it and asked if there was any particular light where this was occurring.

Mr. Hrichak noted it takes forever to trip the left turn light onto Dare Road from southbound Route 17, especially in the early morning and late night, and questioned if it would be eligible for a flashing turn.

Mr. Halacy stated VDOT would analyze the intersection.

Mr. Wiggins stated the intersection at Amory Lane and Route 17 has three lanes, but they are not properly marked, so they are not being used properly, which ties up traffic when the buses are leaving Grafton High School.

Mr. Halacy stated VDOT would review the intersection.

Mrs. Noll noted she had mentioned traffic calming measures at a Virginia Association of Counties' meeting, and stated they are looking for more flexibility with these measures.

Chairman Shepperd stated he greatly appreciates VDOT's response to all the emails, and he thanked them for their service.

## **PRESENTATIONS**

### **ZWEIBRÜCKEN STUDENT EXCHANGE PROGRAM**

Ms. Sandy Hespe, Instructional Specialist, York County School Division, stated this year's program was a huge success, and it was a pleasure to meet a wonderful group of students from Zweibrücken. She then introduced Sam Eure, the group's chaperone this year.

Mr. Sam Eure stated the 2007/2008 participants in the Zweibrücken Exchange program left a positive impression on all the families and government officials they met in Germany. He noted they are building relationships to bridge the gap between the two cultures. He stated the students found the experience to be a once-in-a-lifetime event that has laid the foundation for some very long-term friendships, and he asked the Board to maintain the program.

Miss Abby Moul and Mr. Calvin Winkowski, two of the exchange students, thanked the Board on behalf of the Yorktown-Zweibrücken Student Exchange Program for being able to participate in such an amazing and life-changing opportunity. They discussed their experiences with their German counterparts and how it had helped them expand their cultural knowledge. They expressed the hope that the program would continue in the future.

Ms. Hespe explained the Zweibrücken student exchange program is a joint effort between the School Division, the Board of Supervisors, and the York County Historical Committee, and she then introduced Ms. Lynn DiVito from the Historical Committee.

Ms. Lynn DiVito stated that the Historical Committee had banners made to commemorate the 30th anniversary of the Yorktown-Zweibrücken Student Exchange. She indicated the banners listed the four York County high schools, the three German high schools and the words "building friendships since 1978" in English and German. She noted banners had been given to all seven high schools, the Lord Mayor's office, and the York County school division, and she presented a banner to the Board along with a disc of photos.

Ms. Hespe offered thanks from the School Division for continued support of the program, and she asked the parents and students to stand and be recognized. She also thanked the parents of the students who hosted the students from Germany, as well as the Historical Committee members who were so supportive to both the American and German students. She noted student applications for the 2008/2009 exchange were in the schools and need to be submitted to the school guidance counselors as soon as possible but not later than November 7.

### **YORK COUNTY YOUTH COMMISSION**

Mr. Brennan Pritchard, Chairman of the York County Youth Commission, made the Commission's first quarterly report. He stated the Commissioners began the year with a 2-day orientation session. The next day the Commissioners participated in leadership building skills at Hampton Roads Academy. Mr. Pritchard said that at the Commission's first meeting, three subcommittees were established—Public Relations, Student Relations, and Special Projects. Officers were elected with Joey Voboril serving as Vice Chairman and Prakriti Verma as Secretary. He stated the Student Relations committee was already following up on ways to bring youth-friendly businesses to the County, and they had met with Mr. James Noel, Director of Economic Development, and Mrs. Melissa Dickens, Senior Business Development Representative. He indicated the Commission would also help coordinate the County's annual Town Hall

meetings in May. In late September, the Commission sponsored the VoteTeam Virginia promotion, a flyer distributed to high school government classes, and thanked Mr. Walt Latham for his assistance. Mr. Pritchard stated the Commissioners had helped with the annual Yorktown Day commemoration on October 19 and passed out flags. He asked the Commissioners' parents to mark their calendars for the upcoming Youth Week event that will take place in the public high schools from December 1 through 4.

Mr. Zaremba stated he looked forward to a challenging year as the Board representative to the Commission.

Chairman Shepperd expressed his appreciation for the report, stating the Board relies on the Commissioners to serve as the bridge between the Supervisors and the youth of York County.

### **CITIZENS COMMENT PERIOD**

Mr. Eddie Woodley, 1300 Penniman Road, spoke regarding the quality of the water on Penniman Road. He felt that it was unfair for anyone, especially senior citizens, to drink this water. He displayed a sample of water from his faucet, and he asked the Board to do something about the water.

Chairman Shepperd asked Mr. McReynolds to address the water issue after the meeting.

Ms. Virginia Hill, 1300 Penniman Road, addressed the Board regarding the quality of the water on Penniman Road, displaying several samples of the water. She said the water was turning their clothes colors, and Aqua Water had given them Red-Be-Gone to wash their clothes. Ms. Hill asked the Board to help the residents on Penniman Road with the water problems.

### **COUNTY ATTORNEY REPORTS AND REQUESTS**

Mr. Barnett stated he had no report but would be happy to answer any questions the Board might have. He noted he had attended an all-day seminar on stormwater quality issues which looked at not only current regulations but some new ones that would probably be showing up toward the end of next year.

Chairman Shepperd spoke on the stormwater regulations and restrictions that were forthcoming, stating the Board would need to discuss specific state regulations and guidelines. He also spoke regarding issues on sediment, and he encouraged the Board to receive gather information regarding these issues.

### **COUNTY ADMINISTRATOR REPORTS AND REQUESTS**

Mr. McReynolds reminded the Board of the joint meeting with the Economic Development Authority and Planning Commission on October 28, and the reception with the Chairmen of the County's Boards and Commissions on November 25. He noted the Board's next regular meetings were to be held on November 18, December 2, and 16.

### **MATTERS PRESENTED BY THE BOARD**

Mrs. Noll commended all the volunteers involved in Yorktown Day and all the staff involved in the Zweibrücken exchange program. She commented that the board would not meet until after the elections, and that it would be a very busy time for many people. She commended all those who have volunteered to work at the polls to keep things running smoothly. Mrs. Noll expressed the importance of voting, and noted that this election would be an important one.

Mr. Hrichak stated he would like to echo Mrs. Noll's comments on the Zweibrücken Exchange and Yorktown Day celebration and the excellent job that was done by everybody who was involved. He noted he would be on vacation for the next two weeks.

Mr. Zaremba informed the citizens of the Board's policy not to immediately respond to citizens' comments, but he provided some background information on the privately owned water system

in the Penniman Road area, and he noted that the County is working with the owner, Aqua Virginia, to get the system repaired. Mr. Zaremba then discussed the difficult economic times, stating it was being recognized at the local level. He stated York County was about to enter its budget cycle for fiscal year 2010, and he encouraged citizens to provide input on the budget because hard choices will have to be made. Mr. Zaremba also encouraged patronizing local businesses to help and keep those businesses operational.

Chairman Shepperd commented further on Mrs. Noll's statement on the importance of voting, and he encouraged the public to participate in the upcoming election. He reminded the citizens that the Voter Registration office was on Ballard Street and that absentee ballots could be cast now for the upcoming election. Mr. Shepperd also commented on Mr. Zaremba's statements regarding the economy and the fiscal impact it has on York County. He stated that the upcoming budget cuts from the State would impact York County, and he encouraged the public to speak out during the upcoming budget year.

Meeting Recessed. At 6:55 p.m. Chairman Shepperd declared a short recess.

Meeting Reconvened. At 7:05 p.m. the meeting was reconvened in open session by order of the Chair.

## **PUBLIC HEARINGS**

### **REQUEST FOR TAX EXEMPTION--LACKEY FREE CLINIC**

Mr. McReynolds gave a presentation on proposed Ordinance No. 08-15 to grant an exemption from real and personal property taxation to Olivet Medical Ministry, Inc., - Lackey Free Clinic.

Dr. James Shaw, Medical Director of the Lackey Free Clinic, representing the applicant, stated the Clinic has been providing free health services to the underinsured and poor in the area since 1995. He noted last year they served 5,500 patients and are expecting to have over 7,000 this year. He stated approximately 20 to 25 percent of the \$5 million of free services is provided to York County residents.

Mr. Wiggins expressed his appreciation for the tremendous job done by the Lackey Free Clinic.

Mrs. Noll stated the Clinic has been a shining star in the County that offers selfless service to others. She noted there had been other organizations that had come before the Board asking for tax exempt status, and she thought the Clinic was the most deserving one that has ever come before the Board.

Chairman Shepperd spoke of the tremendous service the Clinic was providing to the citizens, and he expressed his appreciation. He then called to order a public hearing on proposed Ordinance No. 08-15 that was duly advertised as required by law and is entitled:

AN ORDINANCE GRANTING EXEMPTION FROM REAL AND PERSONAL PROPERTY TAXATION PURSUANT TO CODE OF VIRGINIA SECTION 58.1-3651 TO OLIVET MEDICAL MINISTRY, INC.- LACKEY FREE CLINIC, A VIRGINIA NON-PROFIT CORPORATION

Mr. McReynolds stated he believed that each of the requirements included in the application had been satisfactorily responded to and that the Clinic would qualify either under the charitable or benevolent classifications for exemption.

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

Mr. Hrichak then moved the adoption of proposed Ordinance No. 08-15 that reads:

AN ORDINANCE GRANTING EXEMPTION FROM REAL AND PERSONAL PROPERTY TAXATION PURSUANT TO CODE OF VIRGINIA SECTION 58.1-3651 TO OLIVET MEDICAL MINISTRY, INC.- LACKEY FREE CLINIC, A VIRGINIA NON-PROFIT CORPORATION

WHEREAS, the Lackey Free Clinic has forwarded to the Board a request for real property tax exemption; and

WHEREAS, §58.1-3651 of the Code of Virginia addresses such exemptions and requires that the local governing body advertise and conduct a public hearing and consider a series of questions prior to adopting an ordinance supporting the requested exemption; and

WHEREAS, the required public hearing has been advertised and conducted and the Board of Supervisors has duly examined and considered the questions contained in §58.1-3651(B) of the Code of Virginia;

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this the 21st day of October, 2008, that Olivet Medical Ministry, Inc.,-Lackey Free Clinic shall be exempt from real property taxation by designation effective January 1, 2008.

BE IT FURTHER ORDAINED that it is recommended that the real property of the Olivet Medical Ministry, Inc. - Lackey Free Clinic be classified as property used for charitable and benevolent purposes in accordance with those tax exemption categories set out in Code of Virginia § 58.1-365.

BE IT STILL FURTHER ORDAINED that continuance of the real property tax exemption shall be contingent on the continued use of the properties for charitable and benevolent purposes in accordance with the purpose for which the exemption is granted.

BE IT STILL FURTHER ORDAINED that real property taxes assessed to and paid by the Olivet Medical Ministry, Inc., - Lackey Free Clinic during 2008 in the amount of \$1,522.78 be abated and refunded.

On roll call the vote was:

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

APPLICATION NO. ZM-121-08, JEANETTE J. KEENER

Mr. Carter made a presentation on Application No. ZM-121-08 to amend the York County Zoning map by reclassifying a 1.9-acre portion of the property located at 1807 George Washington Memorial Highway from Economic Opportunity to General Business. 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 Ordinance No. 08-14.

Mrs. Noll questioned if the fencing would be high enough to block the storage from sight.

Mr. Carter stated the storage was virtually impossible to see from Route 17, and from the north and the south there were other industrial users that all have outdoor storage associated with them. He noted the conversion of the property from the auto graveyard to the fence company was done under the premise of the nonconforming use provisions of the zoning ordinance where a property could be changed to a more conforming use at any time. He added the problem that the property owner was experiencing was that the back part is zoned EO and does not permit contractor storage. He stated that rezoning is key in order to do that under the nonconforming continuation of use provisions.

Chairman Shepperd stated that in this instance they would be going through a rezoning as opposed to a special use that would allow for storage. This would be a permanent capability that they have for the property.

Mr. Keith Collins, 305 Prior Road, representing the applicant, appeared to answer any questions the Board might have. He noted a representative from the Hercules Fence Company was also in attendance and would also be happy to answer any questions.

Chairman Shepperd called to order a public hearing on Application No. ZM-121-08 that was

duly advertised as required by law. Proposed Ordinance No. 08-14 is entitled:

AN ORDINANCE TO AMEND THE YORK COUNTY ZONING MAP BY RECLASSIFYING A 1.9-ACRE PORTION OF THE PROPERTY LOCATED AT 1807 GEORGE WASHINGTON MEMORIAL HIGHWAY (ROUTE 17) FROM EO (ECONOMIC OPPORTUNITY) TO GB (GENERAL BUSINESS)

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

Mrs. Noll then moved the adoption of proposed Ordinance No. 08-14 that reads:

AN ORDINANCE TO AMEND THE YORK COUNTY ZONING MAP BY RECLASSIFYING A 1.9-ACRE PORTION OF THE PROPERTY LOCATED AT 1807 GEORGE WASHINGTON MEMORIAL HIGHWAY (ROUTE 17) FROM EO (ECONOMIC OPPORTUNITY) TO GB (GENERAL BUSINESS)

WHEREAS, Jeanette J. Keener has submitted Application No. ZM-121-08, which requests to amend the York County Zoning Map by reclassifying from EO (Economic Opportunity) to GB (General Business) an approximately 1.9-acre portion of a 7.8-acre parcel located at 1807 George Washington Memorial Highway (Route 17) on the west side of Route 17 approximately 330 feet south of its intersection with Production Drive (Route 799) and further identified as a portion of Assessor's Parcel No. 37-9A (GPIN# S03d-2639-0209); 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 this 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 ORDAINED by the York County Board of Supervisors this the 21st day of October, 2008, that Application No. ZM-121-08 be, and it is hereby, approved to amend the York County Zoning Map by reclassifying from EO (Economic Opportunity) to GB (General Business) an approximately 1.9-acre portion of a 7.8-acre parcel located at 1807 George Washington Memorial Highway (Route 17) on the west side of Route 17 approximately 330 feet south of its intersection with Production Drive (Route 799), further identified as a portion of Assessor's Parcel No. 37-9A (GPIN# S03d-2639-0209) and more fully described as follows:

Commencing at a point, said point being the intersection of the southerly right of way of Production Drive (State Route 799) with the westerly right of way of George Washington Memorial Highway (State Route 17), thence in a southerly direction along the right of way of George Washington Memorial Highway a distance of approximately 457' to a point, being the left front corner of the J.J. Keener property being marked by an iron pipe, thence leaving the right of way of George Washington Memorial Highway along the line of York Auto Parts, Inc., N 85°44'56" W a distance of 8.33' to a point; thence continuing along the line of York Auto Parts, Inc. N 77°36'56" W a distance of 435.66' to the common corner of York Auto Parts, Inc., S.D. & B.D. Ashe, and J.J. Keener, being the point of beginning.

From the point of beginning thus established; thence continuing along the lines of S.D. & B.D. Ashe, Gibson Equipment Company, Inc. and J.J. Keener, Trustee, N 77°36'56" W a distance of 464.10' to a point; thence across the property of Jeanette J. Keener, N

10°11'46" E a distance of 180.07' to a point; thence along the line of Bethel Industrial Park, S 77°36'56" E a distance of 452.67' to a point; thence across the property of Jeanette J. Keener, S 06°34'36" W a distance of 180.96' to a point; which is the point of beginning, having an area of 82,052 square feet, 1.8940 acres, said zoning parcel being part of the property of Jeanette J. Keener, bounded on the south by York Auto Parts, Inc., S.D. & B.D. Ashe, Gibson Equipment Company, Inc., and J.J. Keener, Trustee, on the west by the remainder of the property of Jeanette J. Keener, on the north by Bethel Industrial Park, and on the east by J.J. Keener, and lying wholly within York County, Virginia.

On roll call the vote was:

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

APPLICATION NO. UP-750-08, MICHAEL W. AND CYNTHIA D. BURKETT

Mr. Carter made a presentation on Application No. UP-750-08 requesting a use permit authorizing a detached accessory apartment at 504 Tide Mill Road. 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 R08-116.

Mr. Wiggins stated it looked as if the building was already under construction, and he asked if it was built with the assumption the applicant would get an apartment there.

Mr. Carter stated he did not think the applicant automatically assumed it would be approved. He said the applicant was building the upstairs space; and if the application was not approved, it would become storage space that could not have the bathroom plumbed out.

Mrs. Noll asked if there were any objections from the flag lot house.

Mr. Carter stated none had been received. He added that all the standard notifications had been sent out, and they would have been an adjacent property owner.

Mr. Mike Burkett, 504 Tide Mill Road, the applicant, appeared to answer any questions the Board might have.

Mr. Wiggins asked who would live in the apartment.

Mr. Burkett stated his mother would live in the apartment.

Chairman Shepperd then called to order a public hearing on Application No. UP-750-08 that was duly advertised as required by law. Proposed Resolution R08-116 is entitled:

A RESOLUTION TO APPROVE A SPECIAL USE PERMIT TO AUTHORIZE A DETACHED ACCESSORY APARTMENT AT 504 TIDE MILL ROAD

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

Mr. Wiggins then moved the adoption of proposed Resolution R08-116 that reads:

A RESOLUTION TO APPROVE A SPECIAL USE PERMIT TO AUTHORIZE A DETACHED ACCESSORY APARTMENT AT 504 TIDE MILL ROAD

WHEREAS, Michael W. and Cynthia D. Burkett have submitted Application No. UP-750-08 to request a Special Use Permit, pursuant to Section 24.1-407(b) of the York County Zoning Ordinance, to authorize an accessory apartment on the second floor of a detached garage in

October 21, 2008

connection with an existing single-family home on a 0.40-acre parcel of land located at 504 Tide Mill Road (Route 600) and further identified as Assessor's Parcel No. 30-17-2-5 (GPIN# U04a-0954-2842); 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 this application; and

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

WHEREAS, the Board has given careful consideration to 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 21st day of October, 2008, that Application No. UP-750-08 be, and it is hereby, approved to authorize a Special Use Permit, pursuant to Section 24.1-407(b) of the York County Zoning Ordinance, for an accessory apartment on the second floor of a detached garage in connection with an existing single-family home on a 0.40-acre parcel of land located at 504 Tide Mill Road (Route 600) and further identified as Assessor's Parcel No. 30-17-2-5 (GPIN# U04a-0954-2842) subject to the following conditions:

This use permit shall authorize a detached accessory apartment in conjunction with a single-family detached home on a 0.40-acre parcel of land located at 504 Tide Mill Road (Route 600) and further identified as Assessor's Parcel No. 30-17-2-5 (GPIN# U04a-0954-2842).

1. The apartment shall be contained within a structure to be located behind the principal dwelling as depicted on the sketch plan and in accordance with the floor plans and elevations submitted by the applicant, copies of which shall remain on file in the office of the Planning Division.
2. Construction and occupancy of the accessory apartment shall be in compliance with the performance standards set forth in Section 24.1-407 of the Zoning Ordinance.
3. Not more than one (1) accessory apartment shall be permitted in conjunction with the principal dwelling unit.
4. The habitable floor area of the accessory apartment unit shall not exceed 400 square feet.
5. The accessory apartment unit shall contain no more than one (1) bedroom and no more than one (1) bathroom with tub and/or shower facilities.
6. Adequate provisions shall be made for off-street parking of motor vehicles in such a fashion as to be compatible with the character of the single-family residence and adjacent properties.
7. The accessory apartment shall not be rented separate from the principal dwelling and shall be occupied only by family members or guests of the occupant of the single-family dwelling.
8. Prior to issuance of a building permit for the home occupation, the applicant shall be responsible for recording with the Clerk of the Circuit Court, a copy of the resolution approving this use permit. A court-certified copy of the document shall be submitted to the County at the time of building permit application.

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

On roll call the vote was:

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

APPLICATION NO. UP-752-08, MI SUK HOLLAND

Mr. Carter made a presentation on Application No. UP-752-08 requesting a permit authorizing a barber shop as a home occupation at 200 Oak Lane. The Planning Commission considered the application and forwarded it to the Board of Supervisors with a recommendation of denial. He explained that staff recommended approval of the application, subject to several conditions added in response to the Planning Commission and citizen concerns, through the adoption of proposed Resolution R08-123.

Mr. Hrichak asked if the applicant had a business license when the business was operated out of the garage prior to this.

Mr. Carter stated it his understanding they did not have a license.

Mr. Hrichak asked if the applicant had petitioned their neighbors while they were going through this process to see what their thoughts were on the business.

Mr. Carter stated, from his recollection at the Planning Commission meeting, the neighbors indicated there had been no contact with them by the applicant.

Mr. Hrichak stated he knew from the Planning Commission meeting one neighbor did have a complaint about customers using his driveway.

Mrs. Noll stated she thought the additional chair would have to be removed and questioned how the parking was going to be handled.

Mr. Carter stated a proposed condition specifies appointments only. He further stated that it specifies the applicant needs to pay attention to the appointment scheduling to avoid there being more than two people there at the time. He noted staff would also recommend a condition requiring that the appointment book has to be open for inspection at any time by the County's zoning and code enforcement staff to insure the business was operated as specified.

Mr. Zaremba inquired how the six-month initial period would be monitored.

Mr. Carter stated it would be monitored the standard way with County's zoning staff conducting periodic inspections, and they would also depend on neighbors input as to what was going on. He stated that at the end of the six-month period, there would be a report to the Board prepared on how the initial six months had progressed.

Mr. Zaremba asked Mr. Carter to summarize the objections of the Planning Commission.

Mr. Carter stated the objections were mainly with traffic and potential for disruptions in the neighborhood. He noted there was great concern about the activity level coming from this home occupation.

Chairman Shepperd stated his interpretation would be that although the County would conduct enforcement through review of the applicant's log, it would really fall on comments from the citizens and neighbors to point out things that are a problem for them. He noted the six-month period would essentially be a trial period during which the permit could be terminated if the business became a nuisance. Mr. Shepperd asked Mr. Carter to give the intent behind the neighborhood business concept.

Mr. Carter explained to the Board that this concept was designed primarily for start-up businesses, enabling a business to grow until it reaches the activity level that can be moved into a commercially zoned location. He noted this application was different because the applicant was in a commercial space with loyal clientele, but was tired of paying rent in a commercial space. He also noted that while this was not unprecedented, many of the previous applicants had been downsizing to service friends and family at the home location.

Chairman Shepperd stated that when an applicant came to the Board seeking approval to have a neighborhood business, they should come with the expectation that the Board was not seeking to turn residential property into commercial property, and, therefore, there were going to be

October 21, 2008

some severe limitations on activities that occur within that business. He also noted that if this made the other neighbors uncomfortable or caused problems, the Board was going to deny the application.

Mrs. Noll stated she thought 30 customers per day provided a viable income as opposed to what was originally intended. She asked if the applicant was satisfied with the conditions that were proposed to be placed on the application.

Mr. Carter noted the applicant's application indicated they probably want to serve about twelve people a day on a weekday. He stated it was consistent with other approved beauty shops, and he felt it was a happy medium

Mr. Mike Holland, 200 Oak Lane, representing the applicant, stated that he and his wife had lived in Yorktown for almost 20 years and previously owned a business. Due to their age, they wanted to slow down, and they decided to open their home business. He stated his intent was never to anger or offend any of his neighbors, and he had spoken to a few neighbors, but had not publicly circulated this through the neighborhood which he now felt was wrong. Mr. Holland also explained to the Board that the reason to open the business early was due to his wife being evicted from her current place of business when her landlord had found out her intent to open a home-based business, which caused a financial hardship on the family, causing them to open the home-based barber shop early. He then addressed the reason for two barber chairs, stating barber chairs broke down frequently. He noted that since his wife had a business license in York County, they did not know it would be a problem to operate at Oak Lane. Mr. Holland stated they would be willing to agree to whatever stipulations the Board wanted to impose.

Mrs. Noll asked if the number of cuts per day that were suggested would be sufficient.

Mr. Holland stated they actually own other property, and he was retired from the Air Force so they have a retirement check.

Mr. Wiggins asked what they would do with the additional chair if the Board approved their application.

Mr. Holland stated the chair would be taken apart and put in storage.

Chairman Shepperd called to order a public hearing on Application No. UP-752-08 that was duly advertised as required by law. Proposed Resolution R08-123 is entitled:

A RESOLUTION TO APPROVE AN APPLICATION FOR A SPECIAL  
USE PERMIT TO AUTHORIZE A BARBER SHOP AS A HOME OC-  
CUPATION AT 200 OAK LANE

Mr. Herman Harsey, 218 Bayberry Lane, appeared before the Board to speak in opposition to the application. He stated he was opposed to the barber shop being installed in a home mainly because it was in a residential area, and the residents paid lot of money for their homes and did not want to have a commercial business where they live. He spoke of his other concerns including increased traffic, narrow streets, and a school bus stop directly across the street from the Holland's driveway. He noted this had been a residential area for over 30 years with a lot of retirees who have their lives' investment in their property. He urged the Board to deny the application.

Mr. Robert Brown, 309 Beechwood Lane, addressed the Board regarding his concerns with the application. He stated he owned property that backed up to Mr. Holland's property at 215 Beechwood Lane and having a barber shop at that location would make his property less desirable if he should decide to sell sometime in the future. He noted this was a quiet residential area with narrow roads. He spoke the applicant's disregard for the neighbors and the applicant opening the business prior to applying for a special use permit. He stated the Holland's had already proven they have no regard for the rules of the County, and he asked the Board to deny the special use permit.

Mr. H. P. Whitehurst, 208 Bayberry Lane, stated he was very concerned that the applicants had no dialogue with the neighbors prior to starting their business. He asked the Board to deny the application.

Ms. Marilyn Elliott, 211 Oak Lane, expressed her opposition to the barber shop, stating the neighborhood had narrow roads, deep ditches, and kids playing or walking along the road. She stated they had to have an approved permit before they could start building their barn, and she asked the Board to deny the permit.

Mr. Tim Britt, 212 Oak Lane, stated his family had lived in the neighborhood 41 years, and their residence was next door to the Holland's. He noted this was a small neighborhood with very small streets and deep ditches. He added he walks his 88-year old father up and down the streets and does not want the increased traffic in the neighborhood. He asked to Board to deny the application.

Mr. James Elliott, 211 Oak Lane, spoke in opposition of the barber shop, stating they have two pages of signatures against the application. He stated the applicant's customers have been using the neighborhood driveways as turn-a-rounds, and the residents do not want the safety hazards caused by increased traffic.

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

Mr. Hrichak asked if there were any other home businesses in this development.

Mr. Carter stated he did not know of any.

Mr. Hrichak asked if there was a homeowners' association covenant.

Mr. Carter stated he did not think there was a covenant, as this home was in the older section of this area.

Discussion followed regarding the anticipated traffic from the home occupation and the permitting process for the garage.

Mr. Wiggins stated there was no doubt in his mind that from what he had heard the applicant had built this garage with the intent of installing a barber shop. He stated he did not see any hardships that would necessitate the applicant having to work out of her home, and he saw no reason to approve the application.

Mrs. Noll stated it was obvious that mistakes had been made, but there were many home occupations throughout the County that had no problems. She stated the applicants had apologized for the mistakes they had made, and there was a cultural difference that needed to be taken into consideration. She said the County has beauty salons as home occupations and has never had problem with the traffic or anything like this. She stated if the County would put a limitation on the use permit of six months to try it, it would not be extended if after the six months there was indeed a real problem. She stated she felt the Board ought to the give people a chance.

Mr. Hrichak indicated it was a tough decision because he had gone through this process several years ago for his wife's business. He noted the applicant had done several things wrong, and they did not get the approval of their neighbors. He stated he thought the applicants were apologetic for what they did and how they went about doing it. He indicated he would be in favor of giving the applicant a six-month trial to see if it works out.

Mr. Zaremba stated he thought the arguments on both sides were very strong and quite persuasive. He stated that office space and barber chairs were readily accessible in the County, and he felt the house was an inappropriate place for this type of business.

Chairman Shepperd noted the Board had approved this type of home occupation in 15 locations in various subdivisions in the county. He also noted that a home business affects the neighborhood; and without the cooperation of the neighbors, home businesses will fail. He encouraged applicants for home businesses to speak with all their neighbors to get input from them. Mr. Shepperd stated he felt the applicants had created a business in their home deliberately without regard to County rules or regulations, and the zoning ordinance were created to separate residential areas from business areas. He encouraged the applicant to pay closer attention to the rules within the County.

Mr. Hrichak then moved the adoption of proposed Resolution R08-123 that reads:

A RESOLUTION TO APPROVE AN APPLICATION FOR A SPECIAL  
USE PERMIT TO AUTHORIZE A BARBER SHOP AS A HOME OC-  
CUPATION AT 200 OAK LANE

WHEREAS, Mi Suk Holland has submitted Application No. UP-752-08 requesting a Special Use Permit, pursuant to Section 24.1-283(b)(1) of the York County Zoning Ordinance, to authorize a barber shop as a home occupation within a single-family detached dwelling on a 0.97-acre parcel of land located at 200 Oak Lane (Route 1578) and further identified as Assessor's Parcel No. 38A1-3-M (GPIN# U02b-4371-3377); and

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

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

WHEREAS, the Board has given careful consideration to 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 21st day of October, 2008, that Application No. UP-752-08 be, and it is hereby, approved to authorize a Special Use Permit, pursuant to Section 24.1-283(b)(1) of the York County Zoning Ordinance, to establish a barber shop as a home occupation within a single-family detached dwelling on property located at 200 Oak Lane (Route 1578) and further identified as Assessor's Parcel No. 38A1-3-M (GPIN# U02b-4371-3377), subject to the following conditions:

1. This use permit shall authorize the establishment of a one (1)-chair barber shop as a home occupation within a single-family detached dwelling on property located at 200 Oak Lane (Route 1578) and further identified as Assessor's Parcel No. 38A1-3-M (GPIN# U02b-4371-3337).
2. The conduct of such home occupation shall be limited to an area within the existing home consisting of approximately 428 square feet as depicted on the floor plan submitted by the applicant, a copy of which shall remain on file in the Planning Division. Not more than one (1) barber chair shall be installed or present in the area used for the home occupation.
3. The home occupation shall be conducted in accordance with the provisions of Sections 24.1-281 and 24.1-283(b) of the York County Zoning Ordinance, except as modified herein.
4. No person other than individuals residing on the premises shall be engaged on the premises in the home occupation.
5. The days and hours of operation shall be limited to Mondays through Fridays from 9:00 AM to 6:00 PM and Saturdays from 9:00 AM to 2:00 PM.
6. No more than one (1) customer at any one time shall be served within the applicant's home, and customers shall be served by appointment only. The applicant shall schedule appointments at intervals sufficient to minimize the chance of two customers being on site at a time (e.g., one being served, one waiting) and to avoid the possibility of three being on site (e.g., one just finished, one being served and one waiting). The applicant's appointment book shall be made available for inspection by the Zoning and Code Enforcement Officer upon request. A maximum number of appointments/customers served shall be twelve (12) on weekdays and ten (10) on Saturdays.
7. Retail sales on the premises shall be limited to incidental sales of shampoo, conditioning, and other hair care products.
8. No signs or other forms of on-premises advertisement or business identification visible from outside the home shall be permitted.

9. In accordance with the terms of the Zoning Ordinance, at least two (2) off-street parking spaces shall be provided on the premises to accommodate clients. This space shall be in addition to the two (2) spaces that are otherwise required for the single-family residence. On-street parking by customers or the applicant shall be prohibited at any time that the establishment is open for business.
10. The provisions of Section 24.1-115(c)(2) notwithstanding, the initial term of this use permit shall be six (6) months. Renewal of the use permit shall require authorization by Resolution adopted by the Board of Supervisors. In the event the Board decides to renew the use permit, the term may be set, at the Board's discretion, at six (6) months or such longer period as deemed appropriate. In addition, at the Board's discretion, the process for renewal may be set to again require Board action or, alternatively, to allow renewals in accordance with the terms of Section 24.1-115(c)(2).
11. 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.

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

On roll call the vote was:

Yea:	(2)	Noll, Hrichak
Nay:	(3)	Zaremba, Wiggins, Shepperd

APPLICATION NO. UP-749-08, PEGASUS TOWER COMPANY

Mr. Carter made a presentation on Application No. UP-749-08 requesting a use permit authorizing a 199-foot self-supporting monopole communications tower with associated ground-mounted equipment at 2031 Old Williamsburg Road. 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 R08-115.

Mr. Zaremba asked what were the concerns of the Naval Weapons Station.

Mr. Carter stated the Naval Weapons Station was concerned there might be some interference with their communications system and that the proposed condition before the Board would require the applicant to go through the engineering analyses to insure that it did not happen. If there were interference, he stated there would be a requirement for the tower users to correct that situation.

Mr. Zaremba asked if the Pegasus propagation photo included all the towers used by other providers and would allow the Board to see overlapping coverage by other provider's towers.

Mr. Carter stated he believed it was just the coverage for AT&T since Pegasus was the company that was building the tower, and then they will accommodate other user providers.

Chairman Shepperd asked if the tower application came with FAA approval or a statement of approval.

Mr. Carter stated this was a standard condition, and the County requires the applicant to show that they have gone to the FAA, and for the FAA to indicate no permit was needed.

Mr. Wiggins asked if there was a way to test to see if the tower was going to interfere with the Naval Weapons Station before they actually built the tower.

Mr. Carter stated it was his understanding that there was some engineering way they could test.

October 21, 2008

Chairman Shepperd stated it was his understanding that it was not the altitude; it was the transmission of the frequency that would interfere with the Naval Weapons Station's radios, and so it would be a frequency issue.

Mr. Carter stated each provider would have their own unique frequency on which they transmit.

Chairman Shepperd then called to order a public hearing on Application No. UP-749-08 that was duly advertised as required by law. Proposed Resolution R08-115 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 2032 OLD WILLIAMSBURG ROAD

Ms. Febronia Christ, 999 Waterside Drive, appeared on behalf of the applicant. She stated Mr. Robbins, facility management director for Naval Facilities of Engineering Command, was also in attendance to answer any questions the Board might have in reference to the Naval Weapons Station. She indicated the Naval Weapons Station did not anticipate any interference, but the condition that was given to them was the ability to clear it before the application went forward. Then if there was any interference, the applicant has 24 hours to correct the problem. She then provided an industry overview and spoke of the need for coverage and site specifics. She explained that wireless communications were no longer a luxury; it was now a necessity, a critical link for government, emergency services, businesses, and now families. She stated the Lackey area did not have coverage, and the proposed tower would provide coverage for this area. Ms. Christ explained that the site was very challenged due to the Naval Weapons Station and the National Historic Park. She stated in order to get a site that was going to be a positive site and a working site, a property was needed that meets all of the County's requirements, a willing landlord, and property that will also meet with the radio frequency objectives. Ms. Christ requested that the Board approve the application.

Mr. Wiggins asked if there were any neighbors in attendance at the Planning Commission meeting who opposed the tower.

Ms. Christ stated there was no opposition to the tower.

Mrs. Noll asked if the applicant talked to other providers to see if there was interest in collocation on the tower.

Ms. Christ stated she could not answer that question. She indicated that Pegasus Tower was in the business of building towers that are for other PCS or industries to co-locate. She added they did not recoup their money unless other people came on those towers, and they were not in the business of denying applications.

Discussion followed regarding the goals to minimize towers, maximize the coverage, and collocation on other towers.

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

Mrs. Noll then moved the adoption of proposed Resolution R08-115 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 2032 OLD WILLIAMSBURG ROAD

WHEREAS, Pegasus Tower Company has submitted Application No. UP-749-08, 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 telecommunications tower up to 199' in height on property located at 2032 Old Williamsburg Road (Route 238) approximately 540 feet west of its intersection with Baptist Road (Route 660) and further identified as Assessor's Parcel No. 17-110 (GPIN# N11a-0657-3503); 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 this application; and

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

WHEREAS, the Board has given careful consideration to the public comments and Planning Commission recommendation with respect to this application;

WHEREAS, the Planning Commission has determined, pursuant to Section 15.2-2232 of the Code of Virginia, that the proposed communication tower location is substantially in accord with Charting the Course to 2025: The County of York Comprehensive Plan and the Board concurs;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 21st day of October, 2008, that Application No. UP-749-08 be, and it is hereby, approved to authorize a Special Use Permit, Section 24.1-306 of the York County Zoning Ordinance (Category 17, No. 7), to authorize the establishment of a telecommunications tower up to 199' in height on property located at 2032 Old Williamsburg Road (Route 238) approximately 540 feet west of its intersection with Baptist Road (Route 660) and further identified as Assessor's Parcel No. 17-110 (GPIN N11a-0657-3503), 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 2032 Old Williamsburg Road (Route 238) approximately 540 feet west of its intersection with Baptist Road (Route 660) and further identified as Assessor's Parcel No. 17-110 (GPIN# N11a-0657-3503).
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 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 "Pegasus Tower, Thirteenth Street," prepared by BC Architects Engineers and dated 6-30-08, revised to 8-20-08. 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, 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. 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 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. Should any equipment associated with this facility at any time during the operation of the tower be found by the NWS to cause interference with NWS communications, 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. 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, Standards for Utilities and Related Uses.
6. Construction and operation of the tower shall be in conformance with the performance standards set forth in Section 24.1-376, Watershed Management and Protection Area overlay district.

7. 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.
8. 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."
9. 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.
10. Advertising and signage on the tower shall be expressly prohibited, except for warning signs associated with the operation of the tower or its equipment.
11. 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.
12. 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.
13. Accessory facilities shall not include offices, vehicle storage, or outdoor storage unless permitted by the district regulations.
14. 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.
15. The proposed lease area shall be surrounded by a 7-foot chain link fence outfitted with opaque material deemed acceptable for screening purposes by the Zoning Administrator. Evergreen trees having a planting size of no less than six (6) feet 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.
16. The communication 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.
17. No microwave dishes, conical shaped antennae, or other dish shall be permitted on the tower.
18. 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.

19. 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.

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

On roll call the vote was:

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

APPLICATION NO. UP-746-08, DOMINION VIRGINIA POWER

Mr. Carter made a presentation on Application No. UP-746-08 requesting a use permit authorizing an electric substation on Route F-139 approximately 220 feet south of Penniman Road. 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 R08-106.

Mrs. Noll asked if she was correct that the substation would not contribute any additional EMF other than the amount already being emitted by the power lines.

Mr. Carter stated the field test conducted by Dominion at the Seaford substation confirmed the data in the research. He explained EMF levels had been taken at various locations, and it was determined there were no additional EMF levels attributable to the substation beyond the outside fence.

Chairman Shepperd asked Mr. Carter for clarification on the conservation easement, stating he wanted to understand the legal aspects of the commitment Dominion was making on the piece of property.

Mr. Carter stated Dominion was asking the Board to impose its commitment as a use permit condition. He noted the use permit condition would require Dominion to record a deed conveying a conservation easement over the property to the County of York. The terms of that easement would state the land could not be developed for any purpose, and the only activity that could occur would be the removal of any dead or diseased trees that might impose a danger to the power transmission lines adjacent to the parcel.

Chairman Shepperd asked if Dominion would keep the land.

Mr. Barnett stated Dominion would keep the land, but would be burdened by an easement enforceable by the County, which would allow no development of the land.

Discussion followed regarding eminent domain and the easement on the property.

Mr. Wiggins stated that he had spoken to some of the Dominion representatives several times, and they would have no objections to the neighbors using the area as a park, walking trail, or other uses. He asked if this would be an acceptable condition to allow this kind of use in the proffer.

Mr. Carter stated it was the Board's prerogative to add that condition or to modify it as it saw fit.

Mr. Max Bartholomew, Senior Manager of External Affairs for Dominion Virginia Power, appeared before the Board to request approval of the special use permit for the construction of a distribution substation project in the greater Penniman area of York County. He stated the substation would provide a critical infrastructure improvement to the existing transmission system network and would benefit every resident and area of York County. He explained the

October 21, 2008

site was purchased by Dominion in the 1990s and was strategically located in an electric load center between Dominion's existing Waller Mill and Kingsmill substations and was in an existing transmission corridor that currently contained four circuits which have been in operation since the 1940s. He noted that Dominion held three community meetings with the Penniman East Homeowners Association and the Greater Penniman Area Association, as well as an informational meeting for the surrounding businesses to provide a project overview and to address any questions. He stated the interaction at the above meetings and the discussion and dialogue resulted in the project team implementing significant modifications to the application in addressing the concerns of the community which were potential groundwater contamination, electric magnetic fields, property value impacts, noise, security, future plans for buffer area, eminent domain proceedings, tourism impact, landscaping plans, drainage and dust from F139. He stated also in attendance from Dominion's project team was Kenny Barker, Vice-President of Planning and Reliability, and Dominion's managing director of State and local affairs, Mr. Julis H. Williams, Jr., who are prepared to provide additional details on the overall scope of the Penniman Substation's critical need and to address questions. He emphasized that Dominion Virginia Power was dedicated and committed to its corporate core values to protect the health and safety of the public, its employees, and being good stewards for vigorous environmental protection of York County. Mr. Bartholomew stated they were also proposing the creation of an on-going community focus group with the Penniman neighborhood which would be modeled after the very constructive partnership which had been forged with the Watterview neighborhood adjacent to the Yorktown Power Station.

Mr. Hrichak expressed concerns regarding drainage around the property.

Mr. Jerry Jackson, project manager with Dominion Power, addressed the drainage concerns regarding the development of the site. He stated Dominion had worked extensively with the County regarding drainage designs and had resolved the drainage problems.

Mr. Zaremba asked what the power outage times would be if another hurricane occurred in the area with the addition of this substation.

Mr. Bartholomew stated that Dominion had done a model looking at the hypothetical situation if the Penniman area substation had been operating during Hurricane Isabel in 2003. He said the outage durations had varied anywhere from 10 to 14 days during Hurricane Isabel; however, if the new substation had been in place during Isabel, these outage times could possibly have been cut in half.

Discussion followed regarding substation landscaping, the total load capacity of the substation, stormwater control, and specific building foundations for the substation.

Chairman Shepperd then called to order a public hearing on Application No. UP-746-08 that was duly advertised as required by law. Proposed Resolution R08-106 is entitled:

A RESOLUTION TO APPROVE A SPECIAL USE PERMIT TO AUTHORIZE AN ELECTRIC SUBSTATION ON ROUTE F-139 APPROXIMATELY 220 FEET SOUTH OF PENNIMAN ROAD

Reverend Walter Hudson, 121 Druid Drive, Williamsburg, Pastor, St. John's Baptist Church, spoke in opposition to the electric substation in the community, stating it would create health risks for the church congregation and be an unsightly situation. He stated the concerns of the congregation regarding the dangers of electric and magnetic fields (EMF) and the unknown health risks are valid, and he asked that the Board deny the application.

Deacon Constantio Dumangane, Sr., 5431 William Ludwell Lee Drive, appeared in opposition to the application. He stated allowing Dominion to build the proposed substation would be at great social cost to the residents in the community. He noted building the substation would result in irreversible social and personal health impacts and would not promote the public good of the community. He asked the Board to deny the application.

Ms. Towana S. McKinney, 101 Bunche Drive, spoke in reference to several documents asserting safety and health concerns regarding transmission power lines and substations. She quoted from various documents regarding EMF and said that an increased risk of developing cancer is linked with living near power lines. She added that property values and quality of life would diminish, and she expressed concerns about possible terrorist attacks because of the proposed

substation's proximity to the Cheatham Annex military base. She asked the Board to deny the application to protect the community.

Ms. Charmaine Wallace, 219 Paynes Road, noted that her current residence was blocks away from the proposed substation site, but she previously lived one block from the Waller Mill Substation, and four of six families living closest to that substation, including hers, had cancer. She noted those residents attributed the cancer to having a substation at their backdoor. She then spoke of her concerns regarding EMF and urged to the Board not to allow the substation in the Penniman Road area.

Mr. Kevin McBurnette, 119 Low Ridge Road, stated his house was one of the closest houses to the proposed substation. He, as a husband and father of three, stated his objections to the proposed substation. He spoke of his concerns regarding EMF and their adverse physical effects on the human body, stating the health risks outweigh the value of erecting a substation on Penniman Road. He asked the Board to deny the substation.

Ms. Tammie R. Hicks, 1701 Penniman Road, asked that Dominion find an alternative site for the proposed substation. She stated that placing a substation near Penniman Road shows a lack of respect for the surrounding community. She noted reports about EMF that produced inconclusive results, and she referred to a 1996 study linking EMF exposure to illnesses. Ms. Hicks also cited a book in which the author warned that EMF could turn out to be a far worse environmental disaster affecting far more people than toxic water, radiation, or asbestos. She then spoke of her concerns regarding terrorism and the proximity of the proposed location to the military presence at Cheatham Annex. She urged the Board to deny the substation.

Ms. Ann Lee, 127 Cemetery Lane, spoke of the quality of life of the residents on Penniman Road and the surrounding community. She said the substation would be an eyesore and an unwanted imposition into the community, which has been in existence for at least 50 years. She stated that the substation could hurt tourism since visitors to the area turning off of 1-64 onto Route 199 might view the substation. She challenged Dominion to find a more suitable site, and she asked the Board to deny the proposed substation.

Ms. Stephanie Stoutingberg, 1508 Merrimac Trail, expressed opposition to the application, noting that her parents' home is adjacent to the site. She said stormwater runoff was already a problem in the Penniman Road area. She also expressed concern that the substation could possibly contaminate both the groundwater on which private wells rely and the soil in which the residents plant their gardens. Ms. Stoutingberg expressed concern about noise pollution during power failures while repairs are being made and about the possibility of heavy trucks parking on Penniman Road during emergencies. She also expressed concern about the possibility of property values decreasing as a result of the substation, and she asked that the Board consider the negative impact the proposal would have on thousands of residents in the area.

Reverend Princess Chapman, 1227 Penniman Road, addressed the Board in opposition to the application. She stated that the noise and other impacts from the development would be undesirable and said she was speaking for the whole community. She urged the Board to reject the proposal and let the community live in peace.

Ms. Irene Payne Johnson, 113 Paynes Road, spoke about her quality life, stating she has lived on Penniman Road 80 plus years. She asked the Board to deny the proposed substation.

Mr. Thomas Muse, III, 1166 Blalock Drive, spoke of the human health effects that could be caused by the close proximity of a substation and electric field. He stated if Dominion was as truly sensitive as it had implied to the public concerns over EMF levels, they would have found a more suitable location void of high density single family residences. He asked the Board to reject the proposed substation.

Ms. Grace Cheesman, 1319 Penniman Road, addressed the Board in opposition to the proposed substation. She spoke of her concerns regarding EMFs. She stated although Dominion claimed there were no risks involved to the community whether they be health or otherwise, many studies of childhood leukemia involving a large number of households by the National Institute of Environmental Health Sciences found that EMFs are a possible cause of cancer. She spoke of transformers arching and causing explosions. She stated the location of the substation did not seem to comply with the County's own policies, as substations are known to have high noise levels.

Ms. Karen Renee Mason, 102 Vineyard Lane, appeared in opposition to the proposed substation, noting that according to Dominion Power, the evidence that the EMFs would not cause cancer or other illnesses was inconclusive. She stated she was concerned about the health risks for the children in the neighborhood. She urged the Board to vote no to the special use permit.

Mr. Scott Garrett, 114 Old Hollow Road, addressed the Board regarding the proposed substation and thanked them for meeting with him. He also thanked Mr. Hrichak for asking about the capacity of substation. He expressed his concern with the conflicting stories the citizens had received from Dominion Power. He questioned how Dominion could predict how long it would take to recover from a natural disaster and restore power before the disaster happened. He stated the reason it took so long for power to be restored during Isabel was because the trees had to be removed from roads.

Reverend Alverita Mack, 105 Springfield Drive, spoke in opposition to the proposed substation and said that no overwhelming conclusive evidence had been provided to ensure safety to the citizens in the community. She noted there were too many unanswered questions regarding the link to unknown health problems. She urged the Board to consider the impact on the citizens of the County and deny the application.

Mr. Edgar Randall, 1447 Penniman Road, stated his house was the third closest house to the proposed site on Penniman Road. He spoke of his concerns with the water runoff and stated water could not go uphill. He also addressed his concerns with water contamination, stating he has well water. He asked to Board to vote no to the proposed substation.

Mr. Billy Johnson, 127 Springfield Drive, spoke in opposition to the proposed substation site. He stated Dominion had said the transformers were full of oil, and they were going to put a containment dike around the transformers. He questioned where the stormwater would go if there was an overflow during a storm.

Deacon Curtis Lassiter, 501 Tam-O-Shanter Blvd., stated that his neighborhood of Country Club Acres and surrounding communities such as Williamsburg Bluffs and Carver Gardens, which are less than one half-mile from the site, were not notified of the proposal. He asked the Board to listen to the concerns of the citizens and to do what was best for the community, stating the citizens do not want the eyesore in their community.

Reverend Quinzel Chestnut, 113 Ketch Court, stated it extremely important for the Board to look through the citizens' eyes tonight. He noted the Board had heard several cases tonight where people have been damaged and hurt throughout the years. He asked to Board to stand on behalf of the citizens and vote no the substation.

Mr. Richard Bennett, 1201 Wilkins Drive, spoke in opposition of the proposed application, stating a business in residential area should be invisible, and this would not be the case with the substation. He expressed his disappointment that Dominion had not bothered to look for an alternate location for the substation. He noted the citizens had a petition with 602 signatures asking the Board to reject the proposal.

Ms. Belinda Randall, 1447 Penniman Road, appeared before the Board asking them to vote no against the power station.

Mr. Johnny Jones, 1351 Penniman Road, spoke about the road conditions on Penniman Road and asked to Board to deny the application.

Mr. Paul Macklin, 107 Skimino Landing Drive, appeared to speak in opposition to the proposed substation, stating a price could not be put on a person's life.

Ms. Anita Lockley, 3010 Hollow Road, spoke in opposition to the proposed substation and asked the Board to deny the application.

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

Discussion followed concerning protection of substations, dealing with containment of leaking fluids in the transformers, EMF exposure, environmental and wetlands issues, and noise issues.

Mr. Hrichak thanked the citizens regarding the interest in the project and the information to educate him. He stated for the community to grow as a whole, this project was needed. He noted the issues addressed with safety, stating he felt that Dominion Power had addressed them with its safety precautions.

Mr. Wiggins stated that he had concluded due to various reports and extensive reading that no study was sufficient to provide evidence that this substation would cause cancer, and he supported the project.

Mrs. Noll commented on the turnout of neighbors from the Penniman Road area and expressed the importance of listening to what the public had to say. She commented that the Board had to look at the balance of service that would be provided to all of the citizens, and this was the best and most cost effective way to do so. She stated she supported the project.

Mr. Zaremba stated that he had not heard a persuasive argument on the part of Dominion as to why the Busch Corporate Center would not satisfy the requirements for Dominion. He also expressed his disagreement with the other Board members regarding their decisions to support the project. He also suggested that there might be a significant detriment to home values in that area.

Chairman Shepperd thanked the public for the visits and the discussion that had evolved regarding this project.

Mrs. Noll then moved the adoption of proposed Resolution R08-106(R) that reads:

A RESOLUTION TO APPROVE A SPECIAL USE PERMIT TO AUTHORIZE AN ELECTRIC SUBSTATION ON ROUTE F-139 APPROXIMATELY 220 FEET SOUTH OF PENNIMAN ROAD

WHEREAS, Dominion Virginia Power has submitted Application No. UP-746-08 requesting a Special Use Permit, pursuant to Section 24.1-306 (Category 17, No. 1) to authorize the establishment of an electric substation on a 1.6-acre parcel located along the west side of Interstate 64 at the southern Route 199 (Marquis/Water Country USA) interchange entrance ramp onto westbound Route 199 and approximately 220 feet south of the intersection of Penniman Road (Route 641) and Route F-139 and further identified as Assessor's Parcel No. 11-15-B (GPIN# H13a-1744-3280); 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 this application; and

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

WHEREAS, the Board has carefully considered the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 21st day of October, 2008, that Application No. UP-746-08 be, and it is hereby, approved to authorize the establishment of an electric substation on a 1.6-acre parcel located along the west side of Interstate 64 at the southern Route 199 (Marquis/Water Country USA) interchange entrance ramp onto westbound Route 199 and approximately 220 feet south of the intersection of Penniman Road (Route 641) and Route F-139 and further identified as Assessor's Parcel No. 11-15-B (GPIN# H13a-1744-3280) subject to the following conditions:

1. This Special Use Permit shall authorize the establishment of an electric substation on a 1.6-acre parcel located along the west side of Interstate 64 at the southern Route 199 (Marquis/Water Country USA) interchange entrance ramp onto westbound Route 199 and approximately 220 feet south of the intersection of Penniman Road (Route 641) and

Route F-139 and further identified as Assessor's Parcel No. 11-15-B (GPIN# H13a-1744-3280).

- 2. 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 Department of Environmental and Development Services, Division of Development and Compliance prior to the commencement of any development or land clearing activities on the site. Said site plan shall be in substantial conformance with the sketch plan titled "Use Permit Drawing, Penniman Substation, York County, VA," prepared by Dominion and dated May 27, 2008, a copy of which shall remain on file in the office of the Planning Division.
- 3. Development and operation of the substation shall be in conformance with the performance standards set forth in Section 24.1-493, Standards for all utilities issues, of the Zoning Ordinance.
- 4. The adjacent property owned by the applicant, identified as 104 Route F-139 and further identified as Assessor's Parcel No. 11-15-A (GPIN# H13a-1505-3129) shall be used for no purpose other than a natural, wooded vegetative buffer except for limited areas needed for drainage outfall. Dead, damaged or diseased vegetation or trees that could endanger the substation and transmission facility may be removed. The applicant shall record a deed conveying a conservation easement over said property to The County of York, in accordance with the provisions set forth in Section 24.1-118 of the Zoning Ordinance, to be effective for so long as this Special Use Permit, including any amendments or modifications thereto, shall continue in effect.
- 5. The applicant shall not initiate any proceeding to acquire the property identified as GPIN# H-13a-1394-3420, by eminent domain for so long as this Special Use Permit, or any modifications or amendments thereto, shall continue in effect.
- 6. In accordance with Section 24.1-115(b)(6) 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 a building permit.

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

On roll call the vote was:

Yea:	(4)	Noll, Wiggins, Hrichak, Shepperd
Nay:	(1)	Zaremba

**CONSENT CALENDAR**

Mrs. Noll moved that the Consent Calendar be approved as submitted, Item Nos. 7, 8, 9, 10, and 11, respectively.

On roll call the vote was:

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

Thereupon, the following minutes were approved and resolutions adopted:

Item No. 7. APPROVAL OF MINUTES

The minutes of the September 16, 2008, Regular Meeting of the York County Board of Supervisors were approved.

Item No. 8. PURCHASE AUTHORIZATION: Resolution R08-117

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR

TO PURCHASE FLOWMETERS, DATA RECORDERS, AND CON-  
STRUCT A SIDEWALK ALONG MATHEWS STREET

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 procurements are necessary and desirable, that they involve 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 21st day of October, 2008, that the County Administrator be, and hereby is, authorized to execute procurement arrangements for the following:

	<u>AMOUNT</u>
Flowmeters	\$ 85,281
Data Recorders	61,914
Mathews Street Sidewalk	47,000

Item No. 9. BOND REFUNDING FOR DOMINION VIRGINIA POWER: Resolution R08-121

A RESOLUTION TO APPROVE THE ISSUANCE OF REFUNDING  
BONDS FOR DOMINION VIRGINIA POWER IN AN AGGREGATE  
PRINCIPAL AMOUNT NOT TO EXCEED \$70,000,000

WHEREAS, the Economic Development Authority of York County, Virginia (the "Authority"), has considered the application of Virginia Electric and Power Company (the "Company") requesting the approval of (1) the issuance by the Authority of up to \$70,000,000 of its pollution control refunding revenue bonds (the "York Refunding Bonds") to refund the Industrial Development Authority of York County, Virginia Money Market Municipals Pollution Control Revenue Bonds (Virginia Electric and Power Company Project) Series 1985 currently outstanding in the principal amount of \$70,000,000 (the "1985 York Bonds") and (2) the issuance by the Industrial Development Authority of the County of Chesterfield (the "Chesterfield IDA") of its pollution control refunding revenue bonds (the "Chesterfield Refunding Bonds" and together with the York Refunding Bonds, the "Refunding Bonds") to refund the Industrial Development Authority of the County of Chesterfield Pollution Control Revenue Bonds (Virginia Electric and Power Company Project) Series 1985 currently outstanding in the principal amount of \$40,000,000 (the "1985 Chesterfield Bonds" and together with the 1985 York Bonds, the "1985 Bonds"), and has approved the issuance of the Refunding Bonds after conducting a public hearing on October 14, 2008;

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), provides that the governmental unit having jurisdiction over the issuer of private activity bonds and over the area in which any facility financed with the proceeds of private activity bonds is located must approve the issuance of the bonds;

WHEREAS, the proceeds of the 1985 Bonds were loaned to the Company and a portion of such proceeds were used to finance or refinance, in whole or in part, the acquisition, construction and equipping of certain air or water pollution control facilities and/or sewage or solid waste disposal facilities and related facilities and equipment at the Yorktown Power Station of the Company located at 1600 Waterview Road, Yorktown, York County, Virginia (the "Facilities");

WHEREAS, the Authority has recommended that the Board of Supervisors (the "Board") of York County, Virginia (the "County") approve the issuance of the Refunding Bonds; and

WHEREAS, a copy of the Authority's resolution approving the issuance of the Refunding Bonds, a certificate of the public hearing and a Fiscal Impact Statement have been filed with the Board.

October 21, 2008

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF YORK COUNTY, VIRGINIA:

1. The Board approves the issuance of (1) the York Refunding Bonds by the Authority in an aggregate principal amount not to exceed \$70,000,000, and (2) the Chesterfield Refunding Bonds by the Chesterfield IDA in an aggregate principal amount not to exceed \$40,000,000, each as required by Section 147(f) of the Code and Section 15.2-4906 of the Code of Virginia of 1950, as amended (the "Virginia Code") to permit the Authority and the Chesterfield IDA to assist in refinancing the Facilities.

2. The approval of the issuance of the Refunding Bonds and the refinancing of the Facilities does not constitute an endorsement to a prospective purchaser of the Refunding Bonds of the creditworthiness of the Company.

3. Neither the York Refunding Bonds, nor the interest thereon, shall ever constitute an indebtedness or a charge against the general credit or taxing powers of the Authority or the County within the meaning of any constitutional or charter provision or statutory limitation and neither shall ever constitute or give rise to any pecuniary liability of the Authority or the County. The York Refunding Bonds and the interest thereon shall be limited obligations of the Authority, payable by the Authority solely from the revenues derived from loan repayments (both principal and interest) made to the Authority by the Company on account of the York Refunding Bonds and from any other monies made available to the Authority for such purposes.

4. The York Refunding Bonds shall be authorized, issued, sold and delivered without direct or indirect cost to the Authority or the County, and to that end, the Company shall pay all necessary expenses of selling and issuing the York Refunding Bonds and any and all costs, fees and expenses (including, without limitation, attorney's fees) incurred by or on behalf of the Authority and the County in connection with this Resolution or the publication of notices of any public hearings to be held in connection herewith, whether or not the proposed financing is consummated.

5. That no further action by the County is necessary to effect the refinancing by the Authority of the Facilities or the completion of the transactions contemplated in this Resolution, including without limitation, the issuance and sale of the York Refunding Bonds.

6. Pursuant to the limitations contained in Temporary Income Tax Regulations Section 5f.103-2(f)(1), this resolution shall remain in effect for a period of one year from the date of its adoption.

7. This resolution shall take effect immediately upon its adoption.

Item No. 10. LONG-TERM FINANCING—FIRE STATION AND ATHLETIC FIELD IMPROVEMENTS: Resolution R08-124

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF YORK, VIRGINIA APPROVING THE LEASE FINANCING OF THE DESIGN, ACQUISITION, IMPROVEMENT, CONSTRUCTION AND EQUIPPING OF ATHLETIC FIELDS AND THE DESIGN, IMPROVEMENT AND CONSTRUCTION OF ADDITIONS TO THREE FIRE STATIONS AND AUTHORIZING THE LEASING OF CERTAIN COUNTY-OWNED PROPERTY, THE EXECUTION AND DELIVERY OF A PRIME LEASE AND A FINANCING LEASE, AND OTHER RELATED ACTIONS

WHEREAS, the Board of Supervisors (the "Board") of the County of York, Virginia (the "County"), intends to obtain funds to finance the design, acquisition, improvement, construction, and equipping of athletic fields (the "Athletic Field") and the design, improvement, construction and equipping of additions to three fire stations (the "Fire Station Additions" and together with the Athletic Field, the "Project"); and

WHEREAS, the County leases the parcel of real estate on which the Athletic Field will be located from the City of Newport News, Virginia and owns the parcels of real estate on which the Fire Station Additions will be located (collectively, the "Real Estate"); and

WHEREAS, the Board has determined that it is in the best interest of the County to enter into a lease arrangement in order to obtain funds to finance the Project; and

WHEREAS, the Board is authorized, pursuant to Section 15.2-1800 of the Code of Virginia of 1950, as amended, to lease any improved or unimproved real estate held by the County; and

WHEREAS, Virginia Resources Authority ("VRA") intends to issue its Infrastructure Revenue Bonds (Virginia Pooled Financing Program), Series 2008B (Non-AMT) (the "VRA Bonds"), and to provide a portion of the proceeds to the County to finance the Project pursuant to the terms of a Local Lease Acquisition Agreement (the "Local Lease Acquisition Agreement") and a Financing Lease (the "Financing Lease"), both between the County and VRA; and

WHEREAS, the County will enter into a Prime Lease (the "Prime Lease") with VRA whereby the County will lease the Real Estate and the associated improvements and property to be located thereon as part of the Project or otherwise (the "Improvements") to VRA; and

WHEREAS, the County will enter into the Financing Lease (the "Financing Lease") with VRA pursuant to which VRA will lease the Real Estate and the Improvements back to the County and the County will make rental payments corresponding in amount and timing to the debt service on the portion of the VRA Bonds issued to finance the Project (the "Rental Payments"); and

WHEREAS, pursuant to the Financing Lease the County will undertake and complete the Project; and

WHEREAS, the County intends to pay the Rental Payments out of appropriations from the County's General Fund; and

WHEREAS, the Local Lease Acquisition Agreement, the Prime Lease, and the Financing Lease are referred to herein as the "Documents;"

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF YORK, VIRGINIA, this the 21st day of October, 2008:

1. Approval of Lease-Leaseback Arrangement. The lease-leaseback arrangement with VRA to accomplish the financing of the Project is hereby approved.
2. Approval of Prime Lease. The leasing of the Real Estate and the Improvements by the County, as lessor, to VRA, as lessee, pursuant to the terms of the Prime Lease is hereby approved.
3. Approval of the Financing Lease. The leasing of the Real Estate and the Improvements by VRA, as lessor, to the County, as lessee, pursuant to the terms of the Financing Lease is hereby approved.
4. Approval of the Terms of the Rental Payments. The Rental Payments set forth in the Financing Lease shall be composed of principal and interest components reflecting an original aggregate principal amount not to exceed \$18,725,000, interest accruing at an interest rate not to exceed 7.0% per annum, and a term not exceeding twenty-one (21) years from the date of the Financing Lease.

Following the pricing of the VRA Bonds, the Chairman of the Board (the "Chairman") and the County Administrator, either of whom may act, are authorized to evidence the County's approval of the final terms of the Rental Payments within the parameters set forth above by executing and delivering to VRA the Local Lease Acquisition Agreement. The actions of the Chairman and the County Administrator in determining the final terms of the Rental Payments shall be conclusive, and no further action shall be necessary on the part of the Board.

October 21, 2008

5. Approval of Interim Financing. The County is authorized to enter into an interim financing in anticipation of the execution and delivery of the Documents (the "Interim Financing"). The County Administrator and the Chairman, or either of them, and such officers of the County as either of them may determine, are authorized to execute and deliver such documents and agreements, including such short term leases, financing agreements or other agreements with VRA or the Economic Development Authority of York County, Virginia, as may be necessary or desirable in connection with any such Interim Financing provided that the principal amount of the Interim Financing shall not exceed the principal amount set forth in paragraph 4 hereof, shall be for a term not in excess of three years, and shall bear interest at an annual rate not in excess of 6.5%.

6. Other Payments under Financing Lease. The County agrees to pay all amounts required by the Financing Lease, including any amounts required by Section 5.1(b) of the Financing Lease, including the "Supplemental Interest," as provided in such section.

7. Execution and Recordation of Documents. The Chairman and the County Administrator, either of whom may act, are authorized and directed to execute the Documents and deliver them to the other parties thereto. The Chairman and the County Administrator, either of whom may act, are further authorized to cause the Prime Lease and the Financing Lease, to be recorded in the Clerk's Office of the Circuit Court of York County.

8. Form of Documents. The Documents shall be in substantially the forms on file with the County Administrator, which are hereby approved with such completions, omissions, insertions and changes as may be approved by the Chairman and the County Administrator, either of whom may act, with the execution and delivery of the Documents by the Chairman and/or the County Administrator constituting conclusive evidence of the approval of any such completions, omissions, insertions, and changes.

9. Essentiality of the Project. The Project is hereby declared to be essential to the efficient operation of the County, and the County anticipates that the Project will continue to be essential to the operation of the County during the term of the Financing Lease.

10. Annual Budget. While recognizing that it is not empowered to make any binding commitment to make Rental Payments and any other payments required under the Financing Lease beyond the current fiscal year, the Board hereby states its intent to make annual appropriations for future fiscal years in amounts sufficient to make all such payments and hereby recommends that future Boards do likewise during the term of the Financing Lease. The Board directs the County Administrator, or such other officer who may be charged with the responsibility for preparing the County's annual budget, to include in the budget request for each fiscal year during the term of the Financing Lease an amount sufficient to pay the Rental Payments and all other payments coming due under the Financing Lease during such fiscal year. If at any time during any fiscal year of the County throughout the term of the Financing Lease, the amount appropriated in the County's annual budget in any such fiscal year is insufficient to pay when due the Rental Payments and any other payments required under the Financing Lease, the Board directs the County Administrator, or such other officer who may be charged with the responsibility for preparing the County's annual budget, to submit to the Board at the next scheduled meeting, or as promptly as practicable but in any event within 45 days, a request for a supplemental appropriation sufficient to cover the deficit.

11. Rental Payments Subject to Appropriation. The County's obligation to make the Rental Payments and all other payments pursuant to the Financing Lease is hereby specifically stated to be subject to annual appropriation therefor by the Board, and nothing in this resolution or the Documents shall constitute a pledge of the full faith and credit nor taxing power of the County or compel the Board to make any such appropriation.

12. Disclosure Documents. The County authorizes and consents to the inclusion of information with respect to the County to be contained in VRA's Preliminary Official Statement and VRA's Official Statement in final form, both to be prepared in connection with the sale of the VRA Bonds. If appropriate, such disclosure documents shall be distributed in such manner and at such times as VRA shall determine. The County Administrator is authorized and directed to take whatever actions are necessary and/or appropriate to aid VRA in ensuring compliance with Securities and Exchange Commission Rule 15c2-12.

13. Tax Documents. The County Administrator is authorized to execute a Nonarbitrage Certificate and Tax Compliance Agreement and/or any related document (the "Tax Documents") setting forth the expected use and investment of the proceeds of the VRA Bonds to be received pursuant to the Documents and containing such covenants as may be necessary in order for the County and/or VRA to comply with the provisions of the Internal Revenue Code of 1986, as amended (the "Tax Code"), with respect to the VRA Bonds and the Documents including the provisions of Section 148 of the Tax Code and applicable regulations relating to "arbitrage bonds." The County covenants that the proceeds of the VRA Bonds to be received pursuant to the Documents will be invested and expended as set forth in the Tax Documents, to be delivered simultaneously with the issuance and delivery of the Financing Lease and that the County shall comply with the other covenants and representations contained therein.

14. Other Actions. All other actions of the officers of the County in conformity with the purpose and intent of this resolution are hereby approved and confirmed. The officers of the County are hereby authorized and directed to execute and deliver all certificates and instruments and to take all such further action as may be considered necessary or desirable in connection with the execution and delivery of the Documents.

15. SNAP Investment Authorization. The Board authorizes the Treasurer to have the option to utilize the State Non-Arbitrage Program of the Commonwealth of Virginia ("SNAP") in connection with the investment of the proceeds of the lease-leaseback transaction. The Board acknowledges that the Treasury Board of the Commonwealth of Virginia is not, and shall not be, in any way liable to the County in connection with SNAP, except as otherwise provided in the contract creating the investment program pool.

16. Repeal of Conflicting Resolutions. All resolutions or parts of resolutions in conflict herewith are hereby repealed.

17. Effective Date. This resolution shall take effect immediately.

Item No. 11. APPROVAL OF BOARD POLICIES: Resolution R08-125

A RESOLUTION TO ADOPT CERTAIN AMENDMENTS TO BOARD POLICY NUMBERS BP94-03, BP94-08, BP94-09, BP94-10 AND BP94-11, AND TO ADD A NEW POLICY NO. BP08-23

WHEREAS, the York County Board of Supervisors adopted the Board Policies Manual on October 20, 1994; and

WHEREAS, in accordance with Board Policy Number BP94-01, the County Administrator has conducted an annual review of the adopted Policies and has submitted recommendations for amendments; and

WHEREAS, the Board carefully considered the County Administrator's recommendations at its October 7, 2008, work session and determined that they should be approved as submitted;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 21st day of October, 2008, that Board Policy Numbers BP94-03, BP94-08, BP94-09, BP94-10, and BP94-11 be, and they hereby are, amended and adopted to read as set forth in the attachments to County Administrator's memorandum to the Board of Supervisors dated October 8, 2008.

BE IT FURTHER RESOLVED that proposed new Policy No. BP08-23 be, and it is hereby, approved as set forth in the attachment to the County Administrator's October 8, 2008, memorandum.

Item No. 12. ISSUANCE OF GENERAL OBLIGATION SCHOOL BONDS: Resolution R08-128

A RESOLUTION AMENDING THE RESOLUTION AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION SCHOOL BONDS OF THE COUNTY OF YORK, VIRGINIA TO BE SOLD TO THE VIR-

October 21, 2008

GINIA PUBLIC SCHOOL AUTHORITY PURSUANT TO THE 2008 FALL NON- SUBSIDY SALE

WHEREAS, on September 16, 2008, the Board of Supervisors (the "Board") of the County of York, Virginia (the "County") adopted a resolution, R08-114, (the "Original Resolution") authorizing the issuance by the County of its general obligation school bonds (the "Bonds") for purposes of financing certain capital projects for school purposes.

WHEREAS, the County authorized the issuance and sale of the Bonds through the 2008 Fall Non-Subsidy Program by the Virginia Public School Authority.

WHEREAS, in the Original Resolution, the Board approved a number of financing terms within which the Bonds could be issued, including, but not limited to, the maximum true interest cost per annum on the Bonds.

WHEREAS, as a result of current market conditions, Virginia Public School Authority is concerned that it will be unable to sell the County's Bonds for a true interest cost less than six percent (6.0%) and has requested that the County authorize that the Bonds may be sold at a true interest cost not to exceed seven percent (7.0%).

WHEREAS, the Board has determined it necessary to amend the Original Resolution to increase the maximum true interest cost at which the Bonds may be sold.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF YORK, VIRGINIA:

1. Amendment of Resolution. The Board hereby amends paragraph 4 of the Original Resolution to increase the not to exceed true interest cost on the Bonds from six percent (6.0%) to seven percent (7.0%) per annum.
2. Filing of Resolution. The appropriate officers or agents of the County are hereby authorized and directed to cause a certified copy of this Resolution to be filed with the Circuit Court of the County.
3. Effective Date. This Resolution shall take effect immediately.

The undersigned Clerk of the Board of Supervisors of the County of York, Virginia, hereby certifies that the foregoing constitutes a true and correct extract from the minutes of a meeting of the Board of Supervisors held on October 21, 2008, and of the whole thereof so far as applicable to the matters referred to in such extract. I hereby further certify that such meeting was a regularly scheduled meeting and that, during the consideration of the foregoing resolution, a quorum was present. The front page of this Resolution accurately records (i) the members of the Board of Supervisors present at the meeting, (ii) the members who were absent from the meeting, and (iii) the vote of each member, including any abstentions.

WITNESS MY HAND and the seal of the Board of Supervisors of the County of York, Virginia, this 21st day of October, 2008.

Meeting Adjourned. At 12:15 a.m., Wednesday, October 22, 2009, Chairman Shepperd declared the meeting adjourned to 6:00 p.m., Tuesday, October 28, 2008, in the Landing Room, Riverwalk Landing, for the purpose of conducting a joint meeting with the Economic Development Authority and the Planning Commission.



James O. McReynolds, Clerk  
York County Board of Supervisors



Thomas G. Shepperd, Jr., Chairman  
York County Board of Supervisors