

VIRGINIA: AT THE REGULAR MEETING OF THE DINWIDDIE COUNTY BOARD OF SUPERVISORS HELD IN THE BOARD MEETING ROOM OF THE PAMPLIN ADMINISTRATION BUILDING IN DINWIDDIE COUNTY, VIRGINIA, ON THE 20TH DAY OF DECEMBER, 2005, AT 12:30 P.M.

PRESENT: HARRISON A. MOODY – CHAIRMAN ELECTION DISTRICT #1
DONALD L. HARAWAY ELECTION DISTRICT #2
ROBERT L. BOWMAN IV ELECTION DISTRICT #3
DORETHA E. MOODY ELECTION DISTRICT #4

ABSENT: MICHAEL W. STONE - VICE CHAIR ELECTION DISTRICT #5

ADMINISTRATION

PRESENT: KEVIN MASSENGILL, INTERIM COUNTY ADMINISTRATOR
MICHAEL DREWRY, COUNTY ATTORNEY
ANNE HOWERTON, FINANCE DIRECTOR

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CLOSED MEETING

The Chairman convened the meeting in open session at 12:30 P.M.

Upon motion of Mr. Haraway, seconded by Ms. Moody,

The Board of Supervisors of Dinwiddie County, Virginia convened in a closed meeting under: §2.2-3711 (A)(5) of the Code of Virginia – Prospective Business or Industry; §2.2-3711 (A)(1) – Personnel: Appointments – Planning Commission, Airport Authority, Industrial Development Authority; Personnel: Building and Grounds; and §2.2-3711 (A)(7) - Legal Matters: 2004A & B Bonds

Ayes: Ms. Moody, Mr. Haraway, Mr. Bowman, Mr. Moody
Nays: None
Absent: Mr. Stone

The Chairman reconvened the meeting in open session at 2:05 P.M.

CERTIFICATION

WHEREAS, this Board convened in a closed meeting under: §2.2-3711 (A)(5) of the Code of Virginia – Prospective Business or Industry; §2.2-3711 (A)(1) – Personnel, Appointments; Personnel: Building and Grounds – Planning Commission, Airport Authority, Industrial Development Authority; and §2.2-3711 (A)(7) - Legal Matters, 2004A & B Bonds,

AND WHEREAS, no member has made a statement that there was a departure from the lawful purpose of such closed meeting or the matters identified in the motion were discussed.

NOW BE IT CERTIFIED, that only those matters as were identified in the motion were heard, discussed or considered in the meeting.

Upon motion of Mr. Haraway, seconded by Mr. Bowman this Certification Resolution was adopted.

Ayes: Ms. Moody, Mr. Haraway, Mr. Bowman, Mr. Moody
Nays: None
Absent: Mr. Stone

REGULAR MEETING

1 & 2. CALL TO ORDER – INVOCATION & PLEDGE OF ALLEGIANCE

The Chairman, called the regular meeting to order at 2:03 P.M. followed by the Lord's Prayer and the Pledge of Allegiance.

3. AMENDMENTS TO AGENDA

Mr. Kevin Massengill stated that he had several amendments to mention: 1.) after Board Member comments there was a need to return into closed session under §2.2-3711 (A)(7) - Legal Matters, to discuss Voluntary Cash Proffers; 2) Item 4.A. Minutes for December 6, 2005 Regular Meeting were pulled from the agenda due to errors. These will be returned at the next meeting; 3) Item 4.D. Extension of Waste Management Contract has been amended. Mr. Massengill said that the Public Book had the amendment included and it was also before the Board members. The contract as written before was for one month. The cover memo prepared by Ms. Howerton had indicated six months. As well, the renewal period changed and now reflects a date of March 21, 2009 instead of 2011; 4.) Item 4.E. Proposed Contract Amendment – Southside Regional Jail has been changed under Section 8 to read “Emergency Male and Female Beds” rather than just “Female”.

Upon motion of Mr. Bowman, seconded by Mr. Haraway,

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that the Agenda is amended as stated.

Ayes: Ms. Moody, Mr. Haraway, Mr. Bowman, Mr. Moody
 Nays: None
 Absent: Mr. Stone

4. CONSENT AGENDA

4.A. APPROVAL OF MINUTES FOR DECEMBER 6, 2005 REGULAR MEETING

This item was pulled from the consent agenda.

4.B. CLAIMS

Upon Motion of Mr. Haraway, seconded by Ms. Moody,

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that the following claims are approved and funds appropriated for same using checks numbered 1051890 through 1052050 (voided check numbers 1051889 and 1052039).

Ayes: Ms. Moody, Mr. Haraway, Mr. Bowman, Mr. Moody
 Nays: None
 Absent: Mr. Stone

FY – 05/06

Accounts Payable:

(101) General Fund	\$ 253,371.83
(103) Jail Commission	\$ 58.00
(105) Recreation Fees	\$ 4,000.00
(209) Litter Grant Fund	
(222) E911 Fund	\$ 2,077.98
(225) Courthouse Main Fund	\$ 3,851.40
(226) Law Library	\$ 283.00
(228) Fire Programs & EMS	\$ 420.37
(229) Forfeited Assets	
(304) CDBG Grant Fund	\$ 264.71
(305) Capital Projects Fund	\$ 468.45
(401) County Debt Service	\$ <u>44,501.15</u>

TOTAL \$ 309,296.89

4.C. BRILLS ROAD RESOLUTION – RURAL RUSTIC ROAD DESIGNATION

The Board received the memo below from Michael Drewry, County Attorney.

On December 6, 2005, the Board of Supervisor's approved the six-year plan for improvements to the secondary system of state highways. The six-year plan includes the paving of Route 644 – Brills Road. In accordance with Virginia Code § 33.1-70.1, before paving and improvements may begin, the Board must adopt a resolution requesting VDOT to pave such secondary road. The referenced Va. Code section also states that the Board shall first consider paving the road in accordance within Rural Rustic Road

criteria. The attached resolution requests that Brills Road be paved and designated as a Rural Rustic Road.

Staff recommends approval of the attached resolution.

Upon motion of Mr. Haraway, seconded by Ms. Moody,

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County that the resolution as presented concerning the paving and designation as Rural Rustic of Route 644, Brills Road is approved by this Board.

Ayes: Ms. Moody, Mr. Haraway, Mr. Bowman, Mr. Moody

Nays: None

Absent: Mr. Stone

The following resolution was adopted.

**RESOLUTION
Rural Rustic Road Designation
Route 644 – Brills Road**

WHEREAS, Section 33.1-70.1 of the Code of Virginia, permits the improvement and hard surfacing of certain unpaved roads deemed to qualify for designation as a Rural Rustic Road; and

WHEREAS, any such road must be located in a low-density development area and have a minimum of 50 vehicles per day (“vpd”), and have no more than 500 vpd; and

WHEREAS, the Board of Supervisors of Dinwiddie County, Virginia (“Board”) desires consideration of whether Route 644 (Brills Road) in its entirety, from Route 610 (Old White Oak Road), to State Route 40 (Old Cryors Road/Darvills Road) should be designated a Rural Rustic Road; and

WHEREAS, the Board is unaware of pending development that will significantly affect the existing traffic on this road; and

WHEREAS, the citizens that utilize this road have been made aware that this road may be paved with minimal improvements during consideration of the County’s six year plan for secondary road improvements; and

WHEREAS, the Board believes that this road should be so designated due to its qualifying characteristics; and

WHEREAS, this road is in the Board’s six-year plan for improvements to the secondary system of state highways.

NOW, THEREFORE, BE IT RESOLVED, the Board hereby designates this road a Rural Rustic Road, and requests that the Resident Engineer for the Virginia Department of Transportation concur in this designation.

BE IT FURTHER RESOLVED, the Board requests that this road be hard surfaced and, to the fullest extent prudent, be improved within the existing right of way and ditch-lines to preserve as much as possible the adjacent trees, vegetation, side slopes, and rural rustic character along the road in its current state.

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

Recorded Vote	A Copy
Teste: _____	Signed: _____
Moved By: _____	Printed _____
Seconded By: _____	
Name: _____	
Yeas: _____	Title: _____
Nays: _____	

4.D. EXTENSION OF WASTE MANAGEMENT CONTRACT

The Board received the memo below from Anne Howerton, Director of Finance.

Please find attached an amendment to extend our contract with Waste Management on a month to month basis for another 6 months from December 31, 2005 through June 30, 2006. This amendment is supported by Denny King and Waste Management in accordance with our agreement with Waste Management (Solid Waste Transportation Agreement, Commencing March 22, 1999, Section II, Terms of agreement).

With your approval, we will extend our current agreement with Waste Management for 6 months which will allow us enough time to finalize an RFP for Refuse Collection Services.

Upon motion of Mr. Haraway, seconded by Ms. Moody,

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that the Solid Waste Transportation Agreement Renewal is extended commencing January 1, 2006 through June 30, 2006 as stated.

Ayes: Ms. Moody, Mr. Haraway, Mr. Bowman, Mr. Moody

Nays: None

Absent: Mr. Stone

SOLID WASTE TRANSPORTATION AGREEMENT RENEWAL

Atlantic Waste Disposal, Inc. and the County of Dinwiddie, Virginia in accordance with their agreement titled "Solid Waste Transportation Agreement" dated March 22, 1999, agree to extend the agreement in accordance with Section II, "Term of Agreement" which provides an extension period of up to five years or March 21, 2009, upon mutual consent of both parties. Atlantic Waste Disposal, Inc. and the County of Dinwiddie, Virginia mutually agree to an extension of the original agreement for a term of January 1, 2006 through June 30, 2006.

Michael P. Kearns
District Manager
Atlantic Waste Disposal, Inc.

Kevin Massengill
Interim County Administrator
County of Dinwiddie, Virginia

Approved as to form:

County Attorney

4.E. PROPOSED CONTRACT AMENDMENT – SOUTHSIDE REGIONAL JAIL

Background

As you are aware, Dinwiddie County is currently experiencing overcrowding in its local jail population. Southside Regional Jail Authority (SRJA) currently has excess prisoner capacity in its jail facility in Greensville County, Virginia, that it is willing to make available Dinwiddie. Attached to this cover letter you will find an agreement that details the price and other terms and conditions to which Dinwiddie and SRJA have agreed for Dinwiddie's use of jail capacity.

The Sheriff, Captain and I have held a meeting with Colonel Lance Forsythe, Jail Superintendent and are comfortable with the Agreement. As you are aware, the Sheriff has a statutory responsibility for, and custody of, all inmates committed to jail by the courts of Dinwiddie County. In addition the Sheriff compliance was needed with some of the terms of this Agreement because it is dependent on his cooperation.

Changes from Current Agreement:

	<u>Current</u>	<u>New</u>
Initial Term and Renewals	Ends June 30, 2007	Ends June 30, 2010
Guaranteed and Optional Additional Capacity		
Prisoner Space	25 Prisoners	35 Prisoners (10 inmate increase)
Male Cost per day:	\$28	\$28 (Same)
Female Spaces	Minimum of 8	Minimum of 10 (increase of 2 spaces)
Female Cost per day:	\$30	\$32 (increase of \$2)

Suggested Board Action:

Staff feels that the amended Agreement is needed and meets the necessary requirements and responsibilities of the Sheriff Department. The Agreement with SRJA is a cost effective solution to house our inmates, as the County jail remains overcrowded. Staff recommends the board approve the proposed contract amendment.

Upon motion of Mr. Haraway to allow the County Administrator to execute the necessary documents to amend Southside Regional Jail Authority Agreement with Sheriff Samuel Shands as outlined in the agreement document attached, seconded by Ms. Moody,

Ayes: Ms. Moody, Mr. Haraway, Mr. Bowman, Mr. Moody
 Nays: None
 Absent: Mr. Stone

RESOLUTION

WHEREAS, Dinwiddie County is dedicated to making the necessary arrangement to adequately care for and house its inmates in cost effective and efficient manner; and

WHEREAS, it has been determined that Southside Regional Jail Authority currently has excess prisoner capacity in its jail facility in Greensville County, that they are willing to make available to Dinwiddie County, and

WHEREAS, the Sheriff of Dinwiddie County has a statutory responsibility for, and custody of, all inmates committed to jail by the Courts of Dinwiddie County; and

WHEREAS, it is deemed mutually beneficial to both Dinwiddie County, Dinwiddie County Sheriff's Department and Southside Regional Jail Authority to continue into this Agreement for additional jail space.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Dinwiddie County, Virginia, does hereby authorize and direct W. Kevin Massengill, Interim County Administrator, to execute the necessary documents to amend the Southside Regional Jail Authority Agreement with Sheriff Samuel Shands as outlined in the agreement document.

REGIONAL JAIL AGREEMENT

This Agreement dated December 20, 2005, made by and among the **Southside Regional Jail Authority** ("SRJA"), the **County of Dinwiddie** ("Dinwiddie"), and **Samuel H. Shands**, Sheriff of Dinwiddie County ("the Sheriff"). The Parties agree as follows:

1. **Background and Purpose.** Dinwiddie is currently experiencing overcrowding in its local jail population. SRJA currently has excess prisoner capacity in its jail facility in Greensville County, Virginia, that it is willing to make available Dinwiddie. This Agreement details the price and other terms and conditions to which Dinwiddie and SRJA have agreed for Dinwiddie's use of such jail capacity. The Sheriff has been made a party to this agreement because he has statutory responsibility for, and custody of, all inmates committed to jail by the courts of Dinwiddie County, and because Dinwiddie's compliance with some of the terms of this Agreement is dependent on the Sheriff's cooperation.
2. **Initial Term and Renewals.** The term of this Agreement will be from January 1, 2006 through June 30, 2010 subject to annual appropriations by Dinwiddie. It shall be automatically renewed from year to year thereafter unless either party notifies the other in writing, postmarked not later than April 15 of each fiscal year, that it does not want to renew the Agreement for the next ensuing fiscal year.
3. **Guaranteed and Optional Additional Capacity.** During the term of this Agreement, and any renewals thereof, SRJA guarantees that it will make available 35 prisoner spaces in its facility, and Dinwiddie guarantees that it will pay for such spaces, whether actually used or not, at the rate of \$32 per female prisoner day (minimum of ten), and \$28 per male prisoner day. In addition, whenever SRJA's Jail Superintendent determines that additional capacity is available, he may make such space available to Dinwiddie at the same rate per prisoner day, which Dinwiddie may use at its option, paying only for the additional space actually used. Dinwiddie intends to appropriate sufficient funds to the Sheriff to pay for such guaranteed space, and agrees that it intends to budget and appropriate sufficient funds for the guaranteed space in subsequent fiscal years or will advise SRJA that it does not want to renew in writing by April 15 of each year. However if Dinwiddie does not appropriate such funds in future fiscal years, this agreement shall be void. Nothing in this Agreement shall create a debt in violation of any limitation in the Virginia Constitution. The Sheriff will not use any capacity over the thirty-five (35) guaranteed spaces that SRJA may make available unless he has sufficient additional funds appropriated to his department to pay for such additional use.
4. **Reimbursement for Medical Care and Related Expenses.** In addition to the daily rate, Dinwiddie will reimburse SRJA for actual out of pocket costs SRJA incurs for hospital, medical, dental, prescription drug or other health care expenses for Dinwiddie prisoners, as well as \$20 per hour for compensation of SRJA staff assigned to guard Dinwiddie prisoners hospitalized away from SRJA's facility. As soon as practicable, but no longer than 24 hours later, when any such offsite hospitalization occurs, the Sheriff will assign his employees to relieve SRJA of that duty.
5. **Transportation.** The Sheriff will transport Dinwiddie inmates to SRJA's facility for incarceration as well as necessary court appearances. SRJA will provide necessary transportation for medical emergencies, subject to reimbursement by Dinwiddie as stated in Paragraph 4 above. Transportation within the Greensville County/Emporia local area and transfers to the Virginia Department of Corrections will be the responsibility of the SRJA without additional reimbursement.
6. **Selection and Control of Inmates.** The Sheriff will determine which Dinwiddie prisoners will be transferred to the Southside Regional Jail; however, SRJA's Superintendent shall have the authority to direct that any male prisoner be returned to Dinwiddie due to the prisoner's behavior, the fact that he has chronic medical needs difficult for the Jail to handle, or for other reasonable cause. The preceding condition does not apply to female inmates. Notwithstanding the guarantee of 35 beds to Dinwiddie, SRJA shall not be obligated to house more than ten (10) female inmates from Dinwiddie at any one time. If the Jail Superintendent so directs, the Sheriff shall remove the prisoner in question within 24 hours, and when applicable, replace him with another prisoner.

7. **Billing and Payment.** SRJA will bill Dinwiddie by the 5th of each month for guaranteed space charges, health care or other reimbursable expenses and additional jail bed days actually used during the preceding month. Unless the calculation of the bill is disputed, it shall be due and payable within 30 days after it is mailed to Dinwiddie. Undisputed parts shall be directed by the Sheriff or Dinwiddie's County Administrator to the Jail Superintendent. If they are unable to resolve the dispute they shall select a neutral mediator, acceptable to both sides, to review the relevant records and recommend a solution to the dispute.

8. **Emergency Beds.** SRJA will hold, on an emergency basis, a single male or female inmate for Dinwiddie even though the 35 prisoner spaces guaranteed Dinwiddie by this agreement are full, under the following conditions: 1) limited to weekends and/or national holiday(s), 2) the inmate is picked up by Dinwiddie before 4:00 pm on the next day after the weekend and/or holiday(s), and Dinwiddie guarantees that it will pay at the rate of \$50 per day for each emergency female bed.

By the authorized signatures of their respective administrative officers, SRJA and Dinwiddie have indicated their acceptance and approval of this Agreement, and the Sheriff has indicated his intent to use the prisoner capacity being made available and otherwise to comply with the terms hereof.

Southside Regional Jail Authority

_____ Superintendent

County of Dinwiddie

_____ County Administrator

_____ Sheriff

Approved as to Form:

_____ County Attorney

5. CITIZEN COMMENTS:

1. David M. Dudley – 25907 Smith Grove Road – Petersburg – said he would like to personally thank Kevin Massengill, Interim County Administrator, for meeting with him and his granddaughter on December 8th regarding a community project she is working on. She is a Program Aide with Troop 799. Her goal is to earn the Gold Award in Girl Scouts. In order to achieve that goal she has to earn the Silver Award. One of the requirements is for her to do a community project. The project she has selected for the County of Dinwiddie is for the County Fire Department, Emergency Rescue Squad and the EMS Team Members of the County. She has chosen a Teddy Bear drive similar to what the State Police are currently using. The teddy bears will be collected and turned into the Namozine Fire Department. Based on the number of teddy bears collected, they will be distributed throughout the county through the Fire and EMS squad. If there are any left over they will be distributed to the Sheriff's Department. When the emergency workers have small children involved when they make their runs, they can offer the teddy bear as a means of bringing comfort. Mr. Massengill agreed for Mr. Dudley's granddaughter to have two drop-off points that are central locations within the county: one in the Pamplin Administration Building and the other at Eastside Community Center.

2. Michael Wilde – 11647 Old Stage Road – spoke in opposition to the Pegasus Tower. He also spoke in opposition to paving Brills Road. He said that he felt the money could be better spent elsewhere, Vaughn Road for example.

6.A. REPORT: SELECTIVE ENFORCEMENT

Captain Booth of the Sheriff's Department presented the following to the Board.

As you are aware, the Board approved \$5,000 selective enforcement funds for this office as a Pilot Program. Three thousand nine hundred eighty-seven and 50/100 dollars (\$3,987.50) of these monies were utilized beginning June 25, 2005 to July 19, 2005, by conducting selective enforcement on Interstate 85 for 159.5 man hours. We had 14 deputy sheriffs participate in this program. Please find below the final statistics for the Pilot Program.

1. Total summonses issued were	650
2. Total cases tried as of this date	622
3. Cases continued	28
4. Convictions with Fines	617
5. Other dispositions (Cpl-Driving School) No Fine	5
6. Continued Cases	28
7. Total Salaries to Deputies	\$3,987
8. Total Fines	\$53,030

As you can see, this program surpassed our original estimate for revenue, and I request that this program be continued and funded with additional funds.

Mr. Massengill spoke up at this time and stated that he, and Captain Booth and Sheriff Shands had met on this issue several times. He said that the staff had wanted the Sheriff's Department to present this to the Board to see if it was the desire of the Board to continue this program during the interim period until the budget is moved forward. If so, then an appropriation request will be prepared for the next meeting.

By consensus the Board agreed for this item to be on the agenda as an appropriation request for the next meeting.

6.B. REPORT: VIRGINIA DEPARTMENT OF TRANSPORTATION

Mr. Ray Varney, Resident Engineer, stated that before Christmas both lanes of Interstate 85 Southbound will be open. He said also that he would like to publicly apologize to Corman Construction for anything that was misconstrued regarding the problem on the bridge. He found out that part of the problem was with VDOT. He said that Corman Construction was a great contractor and has worked well with the department.

Mr. Varney discussed several projects that were either completed or in process: Cutbank Church Road closed, contract on schedule, due for completion January 31st; Wrenn Forrest in process and moving ahead; Halifax Road is torn up and will probably be in process into the summer; Sawmill Road construction has begun and will carry on into the spring. He said that he will look at the problem on Old Vaughn that Mr. Wilde spoke of, and will address that issue.

Mr. Bowman commented on the ramp coming off of I85S – 460 West. He said he had been traveling that route often lately. He noticed that the trucks and tractor trailers have a yield sign. He said they are expecting a ramp with some length so that they can merge. By the time they realize there is no ramp there, they have no where to go except to go on out into the lane. He said he had seen the potential for terrible accidents there. Mr. Bowman asked whether there would have to be a study done before a stop sign could be erected there.

Mr. Varney said that is the intersection of an interstate and a primary. It would require the district traffic engineer to look at it; it would affect ramp speed, etc. He said he would ask the district traffic engineer to investigate it.

Mr. Moody said he knew it was an issue but he was not sure that a stop sign was the answer, and that it might cause more problems. The ramp may need to be extended.

Mr. Varney said that the studies that would be needed are funded every year in the six-year secondary plan so the money is there to do the study.

Mr. Bowman also asked about the question that Mr. Wilde had regarding the funding on Brills Road and that the money could be better spent elsewhere. He asked whether the money was earmarked for that type of road.

Mr. Varney said that it is very specifically earmarked. It can only be used for unpaved roads. Brills Road has the highest traffic count of any unpaved road in the county. He said the other thing that is not often thought about is the added maintenance cost that is encountered for a gravel road. When workforces have to be sent out two, three, or four times a year to add stone, blade it, etc., it takes a lot of maintenance money and work to keep the road up. He said that construction funds must be spent on unpaved roads and cannot be applied to other roads in the county.

Mr. Moody commented on the e-mail Mr. Varney had sent him regarding the Rt. 460 corridor. That road is slated for the speed limit to be increased to 60 miles per hour, as it is on other parts of Rt. 460. The email said there were some concerns from county officials. Mr. Moody said he checked with the Sheriff's Department. He said Mr. Booth said they have no concern other than the area from Sutherland east, especially from Rt. 226 east. As far as from Sutherland west they had no problems. He said that the Board members had not expressed a concern with this speed limit increase either. He said that a letter could be drafted from the Board and sent to Mr. Varney expressing that County officials do not have a problem with the increase. Mr. Varney said he would forward the letter on to the central office.

7.A. ACTION ITEM: C-05-5 PEGASUS TOWER COMPANY

Mr. Wrenn spoke regarding the summary report below, and the fact that the Board had concerns regarding the tower that they wanted to address with the consultant.

At this time the consultant, Mr. George Condyles, President of Atlantic Technology Consultants, came forward to address the concerns of the Board. He stated that Cingular Wireless working with Pegasus Tower Company, Pegasus being the developer and Cingular being the FCC license carrier, has proposed various co-locations in the county. They have co-located on quite a few existing towers. They would like to cover from the Nottoway County line back towards the Rt. 460 corridor; and would like to have as much seamless coverage as possible. They have proposed to build a tower approximately 1.5 miles to the northwest of the existing Crowne Communications Tower. The Crowne Tower has several co-locaters on it. Their ability to get on that tower would be at approximately 185 ft. They are asking for 195 ft. tower height in their application. Mr. Condyles stated that it was his company's recommendation that this tower should be allowed to be built. He said he supposed the Board was looking to have the question answered, "what would be the penalty if they were denied this application and selected to go to the Crowne Communication Tower?" He said that in his calculations it looked like approximately a one mile lack of coverage that would be created if Cingular was to co-locate on the Crowne Tower rather than building where they are proposing. Their coverage is approximately a five to six mile length of the highway so if you took one mile away you would be looking at about a 20% reduction from one location to the other. He said that was a fairly significant gap.

Mr. Haraway asked if it was common for a company to build a tower one mile from an existing tower in order to accomplish the coverage.

Mr. Condyles stated that his firm does consulting for approximately 30 or 40 counties in Virginia, and he has seen towers a half mile apart, a quarter mile apart, and a mile apart. He said the carriers try to co-locate as much as possible. He said in Cingular's coverage of Rt. 460, they selected existing towers on the ends, and now in between is where the coverage is needed. They cannot get continuous coverage from the existing towers so they need to do a new build. He said that the Crowne Tower has three slots that are either occupied, or soon to be occupied. He said they just reviewed slot number three for Verizon on the Crowne Tower as a co-location. Once the slot number four is filled, that tower will be maxed out. Therefore, another facility somewhere in the area would be required.

Mr. Haraway asked if the Board disapproved the new tower, how the Telecommunication Act of 1996 would view the decision. Would the decision be reversed or, since there is another tower within a mile, would that make the decision acceptable?

Mr. Condyles answered that most of the expert witness testimony that he has had to give was from a technical aspect of radio frequency engineering. He said he could not make a legal judgment. He said the County has a legal attorney who is versed in the law and Federal code. Mr. Condyles said that he would say that this tower is not lightly asked to be built. The developer and carrier have other carriers that they're seeking to also locate

on the tower. He said that if the Board denied this proposal, they would probably get another application next month to build the same tower for another carrier in the same location. He said he could not presume what this applicant would do as a legal recourse.

Mr. Moody asked if the County Attorney, Mr. Drewry, had any comments.

Mr. Drewry stated that the Telecommunication Act understood the significance of cell towers in communications. It did put parameters on what a locality could or couldn't do. He stated that the case law surrounding that issue basically states that the County cannot deny if the tower fills an existing gap and if it is done in the least intrusive manner. He said he did not know all of the technical aspects of this but it appears that they are filling an existing gap. He added that it is up to the Board to decide if it is in the least intrusive manner. He said he would be cautious because they are filling a gap. He said from what he understood Mr. Condyles say, that even if they went to an existing tower there still would be a gap and that another carrier could come in and ask to put in a tower in that gap. To deny this request would not do away with the likelihood of a tower.

Mr. Haraway asked Mr. Condyles how many additional carriers could be put on the existing tower.

Mr. Condyles answered that the existing Crowne Tower has a potential of four carriers to go on it. However, the third carrier that has just been approved to go on it will have to structurally reinforce that tower. Even though it is a tall tower is still will need some structural reinforcement. Therefore, the fourth carrier to go on there will have to do some significant reinforcement also. The Pegasus Tower is being proposed for four locaters on the tower.

Mr. Bowman stated that he thought it was established that if the proposed tower collapsed it would not collapse on the property but would go across onto the neighboring property.

Mr. Condyles stated that the proposed tower is a three-legged lattice, 195 ft. tower. One leg is designed to be what is called a "collapse leg". The tower has a one-third, two-third collapse mode, which means that one-third of the tower is made as a buckle so that the tower would collapse upon itself. He said that in the sense of safety they always recommend that the fall zone from a tower be approximately 110% of the height of any tower regardless of its height. For a 195 ft. tower you would want a setback of 220 ft.

Mr. Bowman asked the distance to the property line.

Mr. Condyles answered that the distance to the closest property line is 220 ft. to the east, 220 ft. to the south and 317 ft. to the west.

Mr. Bowman said that would make it right on the property line.

There were no more questions from the Board at this time.

Mr. Moody said that he had told the applicant he would give him a short time to speak.

Mr. Steve Romine, the attorney for Pegasus Tower, spoke to the Board and covered some highpoints at this time.

Mr. Bowman asked of Mr. Wrenn whether the 400 ft. buffer that is in the ordinance is met by this applicant.

Mr. Wrenn answered that it is.

Mr. Bowman then asked the consultant his recommendations regarding towers being unsightly. He asked whether the county could enact an ordinance restricting the height of a tower, and camouflaging of towers so they would blend in with the tree line and not be so high above the tree line.

Mr. Condyles said that there are several counties in Virginia that do have a height limitation on commercial towers. He said that yes there are ways to write in the ordinance the camouflaging of towers.

Mr. Bowman asked if the towers were shorter would that mean that there would have to be more towers.

Mr. Condyles answered yes.

Mr. Bowman then asked of the County Attorney, Mr. Drewry, since it is not in the ordinance then does the Board really have a choice?

Mr. Drewry said there is a section of the ordinance that talks about signal coverage of a tower and it not being any higher than necessary, etc. He said that he would state that just as a reminder to the Board that in his review of this that the applicant has complied with the existing Dinwiddie County Code. They have shown a gap in coverage, and have shown that the antenna is no higher in elevation than needed to fill the gap. He said if there are still negative comments that are made to the applicant, they need to be made specifically so the applicant can address these or attempt to correct them. Again, the applicant has complied with the code that is in existence today.

There were no more questions from the Board at this time.

Summary Report

At the November 1, 2005 Board of Supervisors meeting, the Board had some concerns regarding the new tower construction from Pegasus Tower Company. The Board wanted justification from Pegasus that the tower would be needed in that area of the County. The Board also wanted to hear from Cingular and find out what the coverage area would be if the new tower were approved. The Board voted to defer this matter until the December Board meeting.

The Staff has not received any new information regarding this case as of November 18, 2005. The Staff has been in contact with the Pegasus Tower Company representative regarding addressing the concerns of the Board. The representative plans on presenting that information to the Board at the December meeting.

The Planning Commission heard the conditional use permit request, C-05-5, at their September 14, 2005 meeting. The Planning Commission voted to defer the case until the October 12, 2005 meeting to address issues concerning the maximum height of the tower, notification of adjacent property owners, setbacks from property lines, and public safety antenna access. At the October 12, 2005 meeting, the issues the Commission had were addressed and the Commission voted 4-3 to recommend approval with conditions of C-05-5 to the Board with the following conditions:

1. The tower proposed by Pegasus Tower Company shall not exceed one hundred ninety-five (195) feet in height.
2. A red beacon, not a strobe light, is utilized in lighting the tower, if required.
3. The conditional use permit must be reviewed at least every two (2) years for compliance with stated conditions.
4. The applicant shall reserve space for public safety antennas, in accordance with Dinwiddie County Code.
5. Ensure E-911 compliance with wireless cell phone calls originating from the site.
6. Ensure E-911 coordinator has GIS data for the towers.
7. The applicant must keep in compliance with all federal, state, and local rules and regulations.

Staff's recommendation is that this request complies with the provisions of the Dinwiddie County Zoning Ordinance. Therefore, Staff's recommendation of approval with conditions of the request for a conditional use permit is contingent upon the applicant's ability to address the following conditions:

1. The tower proposed by Pegasus Tower Company shall not exceed one hundred ninety-five (195) feet in height.
2. A red beacon, not a strobe light, is utilized in lighting the tower, if required.
3. The conditional use permit must be reviewed at least every two (2) years for compliance with stated conditions.
4. The applicant shall reserve space for public safety antennas, in

- accordance with Dinwiddie County Code.
5. Ensure E-911 compliance with wireless cell phone calls originating from the site.
 6. Ensure E-911 coordinator has GIS data for the towers.
 7. The applicant must keep in compliance with all federal, state, and local rules and regulations.

Upon motion of Mr. Bowman to approve, there being no second,

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that in order to insure compliance with Virginia Code Section 15.2-2286 (A)(7) it is stated that the public purpose for which this resolution is initiated is to fulfill the requirement, public necessity, convenience and general welfare and good zoning practice that the conditional use permit C-05-5 is approved with the conditions as noted.

Ayes: Ms. Moody, Mr. Bowman, Mr. Moody
Nays: Mr. Haraway
Absent: Mr. Stone

7.B. ACTION ITEM: APPOINTMENTS

Mr. Moody stated that Mrs. Willadean Harrison who has served on District 19 has expressed interest to be reappointed to that Board.

Upon motion of Mr. Haraway, seconded by Mr. Bowman,

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that the reappointment of Mrs. Willadean C. Harrison to serve on the District 19 Chapter 10 Board for a three year term ending 12-31-08 is approved.

Ayes: Ms. Moody, Mr. Haraway, Mr. Bowman, Mr. Moody
Nays: None
Absent: Mr. Stone

8. COUNTY ADMINISTRATOR COMMENTS

Mr. Kevin Massengill, Interim County Administrator, stated that the County's consultant has volunteered to help the Planning Commission as well as the Board of Supervisors in looking at the existing ordinances, as well as offering a training session. Staff recommendation is to expedite that to sometime in January or February between both the Planning Commission and the Board of Supervisors.

Mr. Massengill said that Mr. Haraway had stated that he would like to see something done regarding recognizing employees by having an employee of the year. He said that the subcommittee has finalized that recommendation and that individual will be honored at the January 3rd meeting. He said that the Board had said that if there is any type of financial portion to the award, i.e., any type of gift certificate, etc. it would come forth at that time. He asked that if the Board had any desire to do that to please let him know.

Mr. Haraway said he would like to see a \$100 gift certificate be given to the employee of the year.

Mr. Massengill asked if the other Board members were in agreement. There was consensus of the Board to give the employee of the year a gift certificate of \$100.

Mr. Massengill also commented that he wanted to acknowledge that the day of the meeting was the last day of employment for Mrs. Alice Jones, Clerk to the School Board, after 40 years of service to Dinwiddie County. He stated that she has been very loyal to the school system as well as to the County, and has been a tremendous gatekeeper back and forth in disseminating information between the Boards and Administration. Mr. Massengill stated further that she will be missed and is wished the best as she goes on to the next chapter in her life.

Mr. Massengill said that he wanted to publicly state that the consensus of Board of Supervisors is to reorganize the makeup of the Planning Commission to consist

of five members, which is a change from the existing seven. As this is a change, he said that he and the County Attorney will go through the appropriate process to advertise to solicit public comment on this matter. Therefore, it will be an item on the agenda for January.

In conclusion Mr. Massengill expressed appreciation from staff to the Board of Supervisors for the all day session during the Board Retreat. He said that staff thought it was very valuable and they look forward to doing those types of workshops in the future.

9. BOARD MEMBER COMMENTS

Mr. Bowman – stated that he would like to echo what he had said at the Board Retreat. He said a historical overlay is needed for Pamplin Park. He said he knew staff was working on it and he would like to see it done as soon as possible. He would like it to be given to the Board as quickly as possible. He said he would also like to see an ordinance for berns for industrial businesses to make sure they are screened properly. He said he would like to see the A1 Agricultural Zoning addressed. He said that was something that had been discussed since he had been on the Board and he would like to see it changed while he is still on the Board.

Ms. Moody – stated that she didn't know whether the county had anything to do with the Appomattox Regional Library setup, but she would like to see if there is anything that can be done to encourage them to stagger the hours they are open. Currently of the three libraries in Dinwiddie, two open at two o'clock and one opens at three. She asked if perhaps one library could open at nine o'clock, another at twelve, and the third one at three. This would enable citizens to have access earlier in the day.

Mr. Haraway – stated that he was concerned about the January 3rd public hearing on a subdivision. He said he didn't know whether it was possible to have a tape of the Planning Commission Meeting or to have a draft of the minutes as they would not be approved by then. He said that he would like to have the privilege of knowing the discussion that took place at this meeting so that he could better understand the subject matter.

Mr. Massengill asked if the current level of detail is sufficient as action minutes are currently taken rather than verbatim.

Mr. Haraway said that would be sufficient. Mr. Massengill stated that would be supplied to each Board member.

Mr. Drewry commented that it won't be just the past meeting. He said this has been through four meetings.

Mr. Haraway asked for minutes for all of those meetings.

Mr. Stone – sent his comments through Mr. Massengill and Mr. Massengill read those for the Board and public as follows:

Chairman Moody and fellow Board members,

I sincerely apologize for not being able to attend today's meeting.

In my first two years on the Board of Supervisors, I have learned a great deal from our entire Board and especially the two acting chairs, Mr. Haraway and Mr. Moody. It was an honor to be selected as the Vice-Chair for this year's session and I continue to be humbled by the opportunity to serve the residents of this county. Dinwiddie County has a long-standing tradition that the Vice-Chair will become the Chairman in the following session. This tradition ensures that our county's leadership will be a shared role among all elected Board members and also avoids non-productive political maneuvering.

The duties of the Chairperson far exceed those easily seen by the public. To be a productive Chairperson, the Board member must be able to commit himself/herself to an untold number of additional hours each week to handling these duties, many times without prior notice.

In my first twenty four months in office I have encouraged public participation in both the Planning Commission and Board of Supervisor's levels of county government.

Last night I held my fourteenth District 5 Town Hall meeting to give all residents of Dinwiddie County another opportunity to meet and openly discuss current or planning issues within our county. I have met with School Board members on a regular basis and worked to improve the lines of communication between the administration and all of the Counties' Constitutional officers. I have spearheaded efforts to consolidate services within the county government and the School Board. In 2006, I have scheduled eight District 5 town hall meetings in addition to the county's proposed four county-wide town hall meetings.

I regret that at this time I must ask my fellow Board members to withdraw my name from consideration for Chairperson for the upcoming session. This has been a long and difficult decision for me. Currently my duties at my primary job in Richmond are increasing as our company expands. My expanding duties are requiring me to take additional college courses towards my master's degree. As an active member of my church, the Ruritan Club, a husband and father of two young boys my time and most importantly my commitments are something that I take very seriously and are well thought out before acting.

With that said, I want to make it clear that my pledge to my district is to continue to work as hard for them as I have in the first two years. Therefore, by not accepting the additional duties as Board Chair, at this time, I can ensure that I will have the time to continue to meet with residents and work on moving the County forward.

In closing, I again apologize for my absence today especially with such an important comment to make. I trust that each of you understand and respect my position. I truly have too much respect for the position of Chairman to undertake the necessary added responsibilities and time that it deserves.

*Sincerely,
Mike Stone*

Mr. Moody – stated that it has been enjoyable working with the Board and the Staff this year as Chairman. He said there have been some rough times and some not so rough times. However, he said he has enjoyed the opportunity and wished all a Happy New Year and a joyous Christmas.

There were no further Board comments.

CLOSED MEETING

At 3:15 P.M. upon motion of Mr. Haraway, seconded by Mr. Bowman,

The Board of Supervisors of Dinwiddie County, Virginia convened in a closed meeting under: §2.2-3711 (A)(7) - Legal Matters, Proffers

Ayes: Ms. Moody, Mr. Haraway, Mr. Bowman, Mr. Moody

Nays: None

Absent: Mr. Stone

The Chairman reconvened the meeting in open session at 4:00 P.M.

CERTIFICATION

WHEREAS, this Board convened in a closed meeting under: (A)(7) - Legal Matters, Proffers

AND WHEREAS, no member has made a statement that there was a departure from the lawful purpose of such closed meeting or the matters identified in the motion were discussed.

NOW BE IT CERTIFIED, that only those matters as were identified in the motion were heard, discussed or considered in the meeting.

Upon motion of Mr. Haraway, seconded by Mr. Bowman this Certification Resolution was adopted.

Ayes: Ms. Moody, Mr. Haraway, Mr. Bowman, Mr. Moody

Nays: None

Absent: Mr. Stone

ADJOURNMENT

The Chairman adjourned the meeting at 4:03 P.M.

Harrison A. Moody, Chairman

ATTEST: _____
Kevin Massengill
Interim County Administrator
Clerk to the Board

/wjn