

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 19th DAY OF DECEMBER 2006 AT 3:30 P.M.

PRESENT: DORETHA E. MOODY – CHAIR ELECTION DISTRICT #4  
MICHAEL W. STONE - VICE CHAIR ELECTION DISTRICT #5  
HARRISON A. MOODY ELECTION DISTRICT #1  
DONALD L. HARAWAY ELECTION DISTRICT #2  
JOHN V. TALMAGE ELECTION DISTRICT #3

ADMINISTRATION

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

=====

**1.2.& 3. ROLL CALL – INVOCATION – PLEDGE OF ALLEGIANCE**

The Chair called the meeting to order at 3:30 p.m. followed by the roll call, invocation and pledge of allegiance.

**ROLL CALL**

PRESENT: Mr. Moody  
Mr. Haraway  
Mr. Talmage  
Mr. Stone  
Ms. Moody

**4. AMENDMENTS TO AGENDA**

W. Kevin Massengill, County Administrator, asked to add the following: under Closed Session §2.203711 (A) (1) Appointments: Virginia Gateway Region.

Upon motion of Mr. Talmage, seconded by Mr. Stone,

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

Ayes: Mr. Moody, Mr. Haraway, Mr. Talmage, Mr. Stone, Ms. Moody  
Nays: None

**5.A. CONSENT AGENDA: APPROVAL OF MINUTES FOR NOVEMBER 21, 2006 REGULAR MEETING**

Upon motion of Mr. Stone, seconded by Mr. Talmage,

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that the November 21, 2006 Regular Meeting Minutes are approved.

Ayes: Mr. Haraway, Mr. Moody, Mr. Talmage, Mr. Stone, Ms. Moody  
Nays: None

**5. B. CONSENT AGENDA: CLAIMS**

Upon motion of Mr. Stone, seconded by Mr. Talmage,

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that the following claims are approved and funds appropriated for same.

Ayes: Mr. Haraway, Mr. Moody, Mr. Talmage, Mr. Stone, Ms. Moody  
Nays: None

CLAIMS	November 24, 2006	December 1, 2006	December 8, 2006	December 15, 2006	Payroll - Nov 2006	
	1056131-1056270	1056382- 1056449	1056451- 105603	1056505- 1056591	1056292- 1056380	
	VOID 1056130	VOID 1056381	VOID 1056450	VOID 1056504	VOID 1056291 VOID 1056378	TOTALS
101 - General Fund	\$203,652.04	\$137,042.94	\$73,705.44	\$134,597.59	\$622,387.66	\$1,171,385.67
103 - Jail Commission				\$140.00		\$140.00
105 - Playground Equipment				\$1,000.00		
209 - Litter Grant Fund						\$0.00
222 - E911 Fund	\$1,747.67	\$334.77	\$417.18	\$638.93	\$48,767.14	\$51,905.69
225 - Courthouse Maintenance Fees						\$0.00
226 - Law Library	\$155.00		\$326.85			\$481.85
228 - Fire Programs & EMS	\$436.82		\$1,028.20			\$1,465.02
229 - Forfeited Asset Sharing Program						\$0.00
304 - CDBG Grant Fund	\$45.16	\$72.28	\$287.84	\$216.28	\$7,617.24	\$8,238.80
305 - Capital Projects Fund	\$6,483.05	\$130,869.24	\$11,283.65	\$6,381.76		\$155,017.70
401 - County Debt Service		\$36,855.00	\$21,485.05			\$58,340.05
<b>TOTALS</b>	<b>\$212,519.74</b>	<b>\$305,174.23</b>	<b>\$108,534.21</b>	<b>\$142,974.56</b>	<b>\$678,772.04</b>	<b>\$1,447,974.78</b>

**5. C. CONSENT AGENDA: SCHOOL BOND REQUISITIONS FROM PROJECT FUND:  
ES-23 & HS-21**

The Board received the following requisitions from Dr. Charles Maranzano, Jr., Superintendent of Schools. These requisitions were approved by the School Board at their meeting on Tuesday, December 12, 2006.

Upon motion of Mr. Stone, seconded by Mr. Talmage,

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that a total disbursement of \$813,590.50 from the Lease Revenue and Refunding Bonds, Series 2004B is approved.

Ayes: Mr. Haraway, Mr. Moody, Mr. Talmage, Mr. Stone, Ms. Moody

Nays: None

No. ES – 23

**REQUISITION FROM THE PROJECT FUND**

[Indicate whether from Note Account or Bond Account of Project Fund by marking a line through incorrect amount]

Note/Bond Account

Industrial Development Authority of Dinwiddie County, Virginia  
~~\$15,000,000 Lease Revenue Notes, Series 2004A and~~  
\$41,040,000 Lease Revenue and Refunding Bonds, Series 2004B

TO: SunTrust Bank

FROM: The Industrial Development Authority of Dinwiddie County, Virginia,  
Project Fund

DATE: December 12, 2006

The undersigned Authorized County Representative requests that you make the following disbursements from the referenced Project Fund:

<u>AMOUNT</u>	<u>TO</u>	<u>PURPOSE</u>
\$ 7,453.75	Froehling & Robertson, Inc.	Construction Testing Services
\$ 806,136.75	Kenbridge Construction Co., Inc.	Application for Payment No. 4
<b>\$ 813,590.50</b>	<b>TOTAL OF THIS REQUISITION</b>	

Upon motion of Mr. Stone, seconded by Mr. Talmage,

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that a total disbursement of \$979,744.05 from the Lease Revenue and Refunding Bonds, Series 2004B is approved.

Ayes: Mr. Haraway, Mr. Moody, Mr. Talmage, Mr. Stone, Ms. Moody  
Nays: None

No. HS- 21

**REQUISITION FROM THE PROJECT FUND**

[Indicate whether from Note Account or Bond Account of Project Fund by marking a line through incorrect amount]

Note/Bond Account

Industrial Development Authority of Dinwiddie County, Virginia  
~~\$15,000,000 Lease Revenue Notes, Series 2004A and~~  
\$41,040,000 Lease Revenue and Refunding Bonds, Series 2004B

TO: SunTrust Bank

FROM: The Industrial Development Authority of Dinwiddie County, Virginia,  
Project Fund

DATE: December 12, 2006

The undersigned Authorized County Representative requests that you make the following disbursements from the referenced Project Fund:

<u>AMOUNT</u>	<u>TO</u>	<u>PURPOSE</u>
\$ 5,423.75	Froehling & Robertson, Inc.	Construction Testing Services
\$ 880.00	Dinwiddie County Water Authority	Utilities
\$ 973,440.30	Kenbridge Construction Co., Inc.	Application for Payment No. 5
<b>\$ 979,744.05</b>	<b>TOTAL OF THIS REQUISITION</b>	

**5.C. CONSENT AGENDA: INDUSTRIAL DEVELOPMENT AUTHORITY REIMBURSEMENT – BUSINESS DEVELOPMENT**

Upon motion of Mr. Stone, seconded by Mr. Talmage,

WHEREAS the Dinwiddie County Industrial Development Authority's goal is to better the business community and encourage development of business opportunities in Dinwiddie County;

AND WHEREAS the Board of Supervisors of Dinwiddie County supports this goal and seeks to aid the Industrial Development Authority in accomplishing its mission;

THEREFORE BE IT RESOLVED, that the Board of Supervisors of Dinwiddie County, Virginia does hereby appropriate and authorize payment of \$14,000 from the undesignated general fund balance to the Dinwiddie County Industrial Development Authority for use in its mission.

Ayes: Mr. Haraway, Mr. Moody, Mr. Talmage, Mr. Stone, Ms. Moody

Nays: None

**5. D. CONSENT AGENDA: LIVESTOCK AND POULTRY CLAIM**

Mary Ellison, Animal Control Officer, provided the information below to the Board.

On October 22, 2006, I was dispatched to 19002 Cox Rd, Sutherland, for a poultry kill involving 9 laying hens and 2 roosters. One dog was caught inside a coop and the other caught in a trap. Both dogs were taken to the Dinwiddie Animal Shelter and held until November 7, 2006. No owner was found and the dogs were euthanized.

I called Heretick Feed and Seed for an estimated value of the birds. Hens and roosters are the same price of \$5.50 each, for a total of \$60.50.

The owner of the poultry is, Jimmy Schumaker, Jr.

Upon motion of Mr. Stone, seconded by Mr. Talmage,

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that a total disbursement of \$60.50 is approved to be made to Jimmy Schumaker, Jr. as payment of claim for an estimated value of poultry destroyed.

Ayes: Mr. Haraway, Mr. Moody, Mr. Talmage, Mr. Stone, Ms. Moody

Nays: None

Mr. Stone commented that at the January regular meeting he would like to review the Virginia Code section that addresses livestock and poultry.

**6.A. REPORT: AUDITED FINANCIAL REPORT FOR THE YEAR ENDED JUNE 30, 2006**

Mr. Paul Lee, CPA, of Robinson, Farmer, Cox Associates presented the audit report for the year ended June 30, 2006. He stated that fund balance wise the County finished up fine this year. He said that tax collection percentage remains high, and that there wasn't anything that they felt they needed to address in a management letter. He was available for any questions from the Board.

Mr. Haraway stated that he noticed that the allowance for uncollectible accounts went down over \$100,000. He said that must be an indicator that the Commissioner of Revenue and the Treasurer's department had done a good job collecting taxes over the past year.

Mr. Lee answered yes.

Mr. Haraway asked if that decrease was unusual for this day and time.

Mr. Lee answered that was probably right.

Mr. Haraway asked if there was a letter on file from the banks indicating that they have set aside the excess deposits to insure funds.

Mr. Lee answered that the County gets a monthly report from the State Treasurer that indicates which banks have complied. He stated that for a number of years he had not had a bank that had not complied.

Mr. Haraway stated that he thought the most significant item in the audit report is the \$3.8 million in excess of budget revenue.

**6.B. REPORT: VIRGINIA DEPARTMENT OF TRANSPORTATION**

Mr. Massengill, County Administrator, stated that Mr. Varney, VDOT Resident Engineer, would not be present as he had met with the Board earlier in the special meeting regarding the secondary six-year plan. He said Mr. Varney would be available at the evening portion of the meeting.

**6.C. REPORT: SCHOOL CONSTRUCTION UPDATE**

Mr. Kirby Childers, Construction Administrator, discussed the following regarding the Elementary School Project: the construction activity; the reduction of the initial 27 calendar day request to 14 calendar days; construction is now active in all building pad areas except B; concerns regarding the quantity of topsoil on-site and the availability and responsibility of fill material. Regarding the High School Project he discussed the following: that

progress at the High School site continues to be moving at a good pace and the construction is on schedule; work progress in each area; underground electrical and plumbing; and tennis courts and parking lot work.

**6.D. REPORT: COMPREHENSIVE LAND USE PLAN**

Mark Bassett, Planning Director, stated that the Planning Commission and staff have been working to update the Comprehensive Plan (the "Plan") in which the Board has been actively participating. As a part of updating the Plan, there are subcommittees chaired by each Planning Commissioner working to review and update the Goals and Objectives portion of the Plan to include in the final updated document. At the December Planning Commission meeting, the planning staff introduced draft goals and objectives from each subcommittee and the draft "village" concept future land use map. Staff also discussed a basic timeline for completing the Plan update. Mr. Bassett stated that he had worked through several comprehensive plans in the past, and he thought that the County's subcommittees had done a very good job of analyzing the existing data and coming up with their own goals and objectives rather than mimicking what already exists in the Comprehensive Plan. He said their goals and objectives will be integrated into the current Plan. Mr. Bassett stated that Planning staff indicated to the Planning Commission that the Plan update will have to be approved by the Planning Commission at their May meeting to be recommended to the Board for consideration at the June Board meeting with the final adoption date for the Plan update in August 2007.

**7.A. ACTION ITEM: ISSUANCE OF REVENUE BONDS FOR RICHARD BLAND COLLEGE FOUNDATION, INCORPORATED**

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

Following a Public Hearing, at their meeting on November 28, 2006, the Industrial Development Authority of Dinwiddie County, Virginia unanimously passed a Resolution to allow Richard Bland College Foundation, Inc. to use \$3,000,000 of bank-qualified bond capacity for financing the construction of student housing and recreation facilities at Richard Bland College. Allowing the foundation to use the IDA's capacity for bank-qualified bond funds will allow the foundation to acquire a cheaper interest rate than they could do otherwise.

These bonds will not constitute a debt or pledge of the faith and credit of the IDA or the County of Dinwiddie and neither the IDA nor the County of Dinwiddie shall be obligated to pay the bonds, or the interest thereon or other costs incident thereto.

Richard L. Hurlbert, Jr., Bond Counsel for the Richard Bland College Foundation, Inc. and Dr. Russell Whitaker, Dean of Administration and Finance of the College will make a brief presentation and entertain your questions, if any.

As required by the Code of Virginia, attached are copies of the following:

- Resolution of Industrial Development Authority of Dinwiddie County, Virginia for Richard Bland College Foundation, Incorporated
- Fiscal Impact Statement Submitted to the Industrial Development Authority of Dinwiddie County, Virginia
- Summary of Public Hearing Statements

Also attached, for your consideration, is a Resolution Approving Issuance of Revenue Bonds for Richard Bland College Foundation, Incorporated.

The following was discussed during the meeting: Mr. Haraway asked Mr. Hulbert, Jr. whether this will apply for the calendar year 2006 or 2007. Mr. Hulbert answered 2006 bank qualified capacity. He stated that it will in no way impact the County's ability to issue bank qualified loans in 2007.

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

BE IT RESOLVED, by the Board of Supervisors of Dinwiddie County, Virginia that the Resolution Approving Issuance of Revenue Bonds for Richard Bland College Foundation, Incorporated is approved as presented.

Ayes: Mr. Talmage, Mr. Moody, Mr. Haraway, Mr. Stone, Ms. Moody  
Nays: None

RESOLUTION APPROVING ISSUANCE OF  
REVENUE BONDS FOR  
RICHARD BLAND COLLEGE FOUNDATION, INCORPORATED

WHEREAS, there has been described to the Industrial Development Authority of Dinwiddie County, Virginia (the Authority), the plans of Richard Bland College Foundation, Incorporated, a not-for-profit Virginia non-stock corporation (the Company), the principal business address of which is c/o Dr. Russell E. Whitaker, Jr., Maze Hall, Room 211, 11301 Johnson Road, Petersburg, Virginia 23805, for the issuance by the Authority of its revenue bonds in an amount not to exceed \$3,000,000 (the Dinwiddie Bonds) to assist the Company in financing a portion of the cost related to (a) the construction and equipping of student housing facilities comprised of 74 residential units capable of housing up to 256 students, in two buildings, each of approximately 62,340 square feet, together with related ancillary and parking facilities as well as recreational facilities consisting of a softball field and tennis courts (collectively, all such facilities are referred to as, the Facility), which will be owned by the Company, operated by Richard Bland College (the College), and constructed on a parcel of 16 acres of land located on the campus of the College, on Carson Drive (Route 677) immediately adjacent to existing College buildings, such land to be leased by the Company from the College, (b) the funding of capitalized interest on the Bonds during construction of the Facility and for a period not to exceed one year after the date on which construction of the Facility is completed, (c) funding any required debt service reserves for the Bonds, and (d) paying all or a portion of the costs associated with the issuance of the Bonds (collectively, the Costs of the Facility); and

WHEREAS, there has been described to the Authority and this Board the plans of the Company to finance the other portions of the Costs of the Facility through (a) the issuance of revenue bonds by the Industrial Development Authority of Prince George County, Virginia, in an amount not to exceed \$4,000,000 (the Prince George Bonds), (b) the issuance of revenue bonds by the Industrial Development Authority of the County of Sussex, Virginia, in an amount not to exceed \$10,000,000 (the Sussex Bonds) and (c) the issuance of revenue bonds by the Industrial Development Authority of the County of Isle of Wight in an amount not to exceed \$10,000,000 (the Isle of Wight Bonds); and

WHEREAS, the Authority has held a public hearing on November 28, 2006, with respect to the Facility and the issuance of the Dinwiddie Bonds as required by Virginia law and the Internal Revenue Code of 1986, as amended (the Code); and

WHEREAS, the Code provides that the highest elected governmental officials of the governmental unit having jurisdiction over the issuer of private activity bonds shall approve the issuance of such bonds; and

WHEREAS, the Authority issues its bonds on behalf of Dinwiddie County, Virginia (the County), the Dinwiddie Bonds constitute private activity bonds, and the members of the Board of Supervisors of Dinwiddie County (the Board) constitute the highest elected governmental officials of the County; and

WHEREAS, Section 15.2-4906 of the Code of Virginia of 1950, as amended (the Virginia Code), provides that the Board shall within 60 calendar days from the public hearing with respect to the Dinwiddie Bonds either approve or disapprove the issuance of such bonds; and

WHEREAS, it has been represented to the Board that appropriate public hearings with respect to the Prince George Bonds, the Sussex Bonds and the Isle of Wight Bonds have or will be held as required by the Code and the Virginia Code prior to the issuance of such bonds; and

WHEREAS, Sections 15.2-4905 and 15.2-4906 of the Virginia Code provide that the Board must concur with the adoption of the resolutions authorizing the issuance of the Prince George Bonds, the Sussex Bonds and the Isle of Wight Bonds and approve the issuance of the Prince George Bonds, the Sussex Bonds and the Isle of Wight Bonds prior to the issuance of such bonds; and

WHEREAS, a copy of the resolutions by the applicable industrial development authorities authorizing the issuance of the Prince George Bonds, the Sussex Bonds and the Isle of Wight Bonds (collectively the Other Jurisdictions' Resolutions) have been presented to this meeting; and

WHEREAS, a copy of the Authority's resolution approving the issuance of the Dinwiddie Bonds, a reasonably detailed summary of the comments expressed at the public hearing with respect to the Dinwiddie Bonds and a statement in the form prescribed by Section 15.2-4907 of the Virginia Code have been filed with the Board, together with the Authority's recommendation that the Board approve the issuance of the Dinwiddie Bonds and concur with the Other Jurisdictions' Resolutions;

BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF DINWIDDIE COUNTY, VIRGINIA:

1. The recitals made in the first, second and third preambles to this Resolution are hereby adopted as a part of this Resolution.

2. The Board of Supervisors of Dinwiddie County, Virginia, approves the issuance of the Dinwiddie Bonds by the Authority to assist in the plan of finance described herein for the benefit of the Company to the extent required by the Code and Section 15.2-4906 of the Virginia Code. The Dinwiddie Bonds are hereby designated "qualified tax-exempt obligations" of the County for calendar year 2006 within the meaning of the provisions of Section 265(b)(3) of the Code.

3. The Board concurs with the adoption of the Other Jurisdictions' Resolutions and approves the issuance of the Prince George Bonds, the Sussex Bonds and the Isle of Wight Bonds, all to the extent required by the Code and Sections 15.2-4905 and 15.2-4906 of the Virginia Code.

4. The approval of the issuance of the Dinwiddie Bonds, the Prince George Bonds, the Sussex Bonds and the Isle of Wight Bonds, as required by the Code and the Virginia Code, does not constitute an endorsement to a prospective purchaser of any such bonds of the creditworthiness of the Project, the Company or the College, and, as required by Section 15.2-4909 of the Virginia Code, such bonds shall provide that neither the County nor the Authority shall be obligated to pay such bonds or the interest thereon or other costs incident thereto except from the revenues and moneys pledged therefor and neither the faith and credit nor the taxing power of the Commonwealth of Virginia, the County nor the Authority shall be pledged thereto.

5. This Resolution shall take effect immediately upon its adoption.

Adopted by a quorum of the Board of Supervisors of Dinwiddie County, Virginia, on December \_\_\_\_, 2006.

**7.B. ACTION ITEM: BOARD OF SUPERVISORS BYLAWS**

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

Pursuant to Article IX (A) of the Bylaws of the Board of Supervisors of Dinwiddie County, "the bylaws may be amended by a recorded majority vote of the entire membership of the Board provided that written notice has been given to all members of the Board and a copy of the proposed amendment is sent with the notice, prior to said meeting". This memorandum shall serve as written notice.

An amendment has been proposed in order to clarify proper procedure with regard to Board members' abstaining from voting.

For your consideration and discussion, attached please find the proposed amendment to Article IV (F) – Meetings – General Rules of Procedure; subsection 6, with regard to abstaining from voting. The proposed new language is underlined.

I recommend that the Board approve the amendment.

The following discussion took place during the meeting: Mr. Stone asked if a known conflict is coming before the Board, and a member announces it prior to any discussion, why would that member stepping down still constitute a quorum. Mr. Drewry answered that a quorum is established at the beginning of a meeting in order to ascertain that there are enough members there to transact the meeting. Mr. Stone asked if there are only three present and one were to abstain, would that mean the meeting would continue and two would vote.

Mr. Drewry answered that hypothetically the answer would be yes under Roberts Rules. He said that, however, he as the County Attorney would be asking whether there was a desire to go forth under those circumstances as he would recommend a deferral or continuance of the decision. He said that, however, legally under Roberts Rules the person who abstained from voting would still be counted in the quorum.

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

BE IT RESOLVED, by the Board of Supervisors of Dinwiddie County, Virginia, that the amendment to the bylaws, Article IV (F) – Meetings – General Rules of Procedure (6) is approved and amended as presented.

Ayes: Mr. Haraway, Mr. Talmage, Ms. Moody  
Nays: Mr. Moody, Mr. Stone

*Proposed amendment*  
BYLAWS  
BOARD OF SUPERVISORS  
DINWIDDIE COUNTY

F. GENERAL RULES OF PROCEDURE

The Board's Parliamentary Procedures shall be Robert's Rules of Order, Newly Revised, 10<sup>th</sup> edition, specifically to include Section 49, *Conduct of Business in Boards*, pages 469 – 471, in all matters not covered by the Board's bylaws, to the extent compatible with law and the historical practices of the Board. The County Attorney, or his or her designee, shall act as Parliamentarian to the Board. Any questions involving the interpretation or application of Robert's Rules shall be addressed to the County Attorney. The Board may amend, by Resolution, the rules as it deems appropriate. The following rules shall apply:

(6) No Board member is required to vote on any issue.

If any Board member determines, prior to the calling of any issue before the Board, that he, because of conflict or otherwise, will abstain from voting on such issue, he shall announce such intention at the time the issue comes before the Board and shall not participate in the discussion on such issue or question.

An abstention shall be counted for the purpose of determining a quorum. An abstention defeats a motion requiring a unanimous vote.

**7.C. ACTION ITEM: ORGANIZATIONAL MEETING**

W. Kevin Massengill, County Administrator, stated that the 2007 Organizational Meeting of the Board of Supervisors was originally scheduled to be held on Tuesday, January 2, 2007 at 3:30 P.M. He said that as Timothy M. Kaine, the Governor of Virginia, has declared January 2, 2007 to be a State holiday, a scheduling change must now be made. In accordance with requirements as set out in § 15.2-1416 of the Code of Virginia, a change in a regular meeting date shall be made by Board Resolution, and shall be advertised.

To that end, Mr. Massengill asked for the Board's approval to change the date of the Organizational Meeting.

Upon motion of Mr. Stone, seconded by Mr. Talmage,

BE IT RESOLVED, by the Board of Supervisors of Dinwiddie County, Virginia that the meeting date and time for the 2007 Organizational Meeting of the Dinwiddie County Board of Supervisors, originally scheduled for 3:30 P.M. on Tuesday, January 2, 2007 is moved to Tuesday, January 9, 2007 at 7:00 P.M. and that the same be duly advertised.

Ayes: Mr. Haraway, Mr. Moody, Mr. Talmage, Mr. Stone, Ms. Moody  
Nays: None

**7.D. ACTION ITEM: ILUKA RESOURCES, INC. – MINERAL ASSESSMENTS**

The Board received the memo below from Lori Stevens, Commissioner of Revenue, and Michael Drewry, County Attorney.

There are currently pending five applications filed in the year 2003 for correction of assessments in accordance with Virginia Code § 58.1-3980 for assessments of mineral lands for the years 1999 through 2002 on the following properties:

- |                                |                               |
|--------------------------------|-------------------------------|
| 1) William A. Barnes, Jr. -    | Tax Map No. 94-20             |
| 2) Kathleen B. Barnes et al -  | Tax Map No. 101-6             |
| 3) Faye C. Spiers -            | Tax Map No. 101-8             |
| 4) Carraway Mineral Co., Inc - | Tax Map Nos. 101-7 and 101-7M |
| 5) Charles W. Rideout et al -  | Tax Map No. 94-19A            |

During the referenced years, the mineral lands assessments were paid by Iluka Resources, Inc. ("Iluka") in accordance with lease agreements between the Landowners and Iluka. Accordingly, all the Landowners have signed power of attorney documents allowing Iluka to represent their interests in this matter.

Iluka, the Commissioner of the Revenue and the County Attorney have agreed upon terms of settlement in this matter and have incorporated such terms in settlement agreements which are attached. In these agreements the parties agree that the method to be utilized for assessing in accordance with Virginia Code § 58.1-3286, the under development mineral lands for each parcel is by the formula of previous year royalty income to the landowner divided by the capitalization rate. This method was confirmed as the proper and accepted method of assessing mineral lands by Tom Morelli of the Virginia Department of Taxation, and Wingate Appraisal Service, which performed the County's 2005 General Reassessment.

The County Attorney and the Commissioner of the Revenue researched and investigated the facts relating to the prior assessments of mineral lands and concluded that the assessments were incorrectly calculated and overstated by the prior Commissioner of the Revenue. These investigations included reviewing Iluka's accounting files and documents. As such, the Commissioner of the Revenue certifies to the County Treasurer and the Board of Supervisors, with concurrence by the County Attorney, that the following referenced properties were erroneously charged excess mineral lands assessments during the years 1999 through 2002, and requests the Board of Supervisors to direct the County Treasurer to refund the excess taxes plus interest from the original date of payment to Iluka on behalf of the landowners in the following listed amounts:

1) William A. Barnes, Jr. -	Tax Map No. 94-20	\$227,784.59
2) Kathleen B. Barnes et al -	Tax Map No. 101-6	\$ 76,180.31
3) Faye C. Spiers -	Tax Map No. 101-8	\$183,019.38
4) Carraway Mineral Co., Inc -	Tax Map Nos. 101-7/101-7M	\$247,672.84
5) Charles W. Rideout et al -	Tax Map No. 94-19A	\$ 12,674.11

Furthermore, Iluka acknowledges that mineral lands assessments have not been made for the years 2003 through 2006, and will result in additional taxes in the amount of approximately \$316,149.16 being due to the County. Also Iluka acknowledges that roll-back tax assessments have not been made for a change in use on leased parcels which will result in the additional taxes of approximately \$12,778.02 being due the County. Iluka has agreed to pay these additional taxes within 30 days of receipt of such assessments.

The net cash flow impact on the County will be approximately as follows:

County repayment of excess taxes	(\$747,331.23)
Mineral lands tax owed to the County	\$316,149.16
Land use roll back tax owed to the County	<u>\$ 12,778.02</u>
Net cash flow impact on County	(\$418,404.05)

The County Attorney and the Commissioner of the Revenue respectfully request that the Board of Supervisors approve the attached resolution that directs the County Treasurer to refund the excess taxes plus interest in the amounts indicated, and directs the County Administrator to sign the Settlement Agreements on behalf of the County.

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

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that the resolution for repayment of taxes and interest for erroneous assessments on mineral lands during the years 1999 through 2002 is approved as presented.

Ayes: Mr. Talmage, Mr. Haraway, Mr. Moody, Mr. Stone, Ms. Moody  
 Nays: None

**REPAYMENT OF TAXES AND INTEREST  
 FOR ERRONEOUS ASSESSMENTS ON MINERAL LANDS  
 DURING THE YEARS 1999 THROUGH 2002**

**WHEREAS**, there are currently pending five applications filed in the year 2003 for correction of assessments in accordance with Virginia Code § 58.1-3980 for assessments of mineral lands for the years 1999 through 2002;

**AND WHEREAS**, the Commissioner of the Revenue has certified to the County Treasurer and the Board of Supervisors with concurrence by the County Attorney that the referenced properties were erroneously charged excess mineral lands assessments during the years

1999 through 2002, and requests the Board of Supervisors to direct the County Treasurer to refund the excess taxes plus interest.

**NOW THEREFORE BE IT RESOLVED** by the Board of Supervisors of Dinwiddie County, Virginia, upon Certification of the Commissioner of Revenue, with the concurrence of the County Attorney and in accordance with § 58.1-3981 of the Code of Virginia, 1950, as amended, that the Treasurer of the County be and hereby is, directed to refund excess taxes plus interest from the original date of payment to Iluka Resources, Inc. on behalf of the landowners listed below, in the amounts listed below and in accordance with those certain Settlement Agreements with those herein named land owners, titled "Settlement Agreement Mineral Land Assessments" and hereby attached as "Schedules A, B, C, D and E":

Land Owner	Tax Map #	Repayment amount of taxes and interest due for erroneous assessments on mineral lands during the years 1999 through 2002
William Barnes, Jr., Trustee	94-20	\$227,784.59
Kathleen Barnes, et al	101-6	\$76,180.31
Faye Spiers	101-8	\$183,019.38
Carraway Mineral Co., Inc.	101-7 and 101-7M	\$247,672.84
Charles Rideout, et al	94-19A	\$12,674.11

**AND BE IT FURTHER RESOLVED** by the Board of Supervisors of Dinwiddie County, Virginia that the County Administrator, W. Kevin Massengill, be and hereby is directed to sign said Settlement Agreements, with any revisions necessary to further the purpose of this Resolution, on behalf of the County of Dinwiddie, Virginia.

**7.E. APPOINTMENTS**

There were no appointments at this time.

**8. CITIZEN COMMENTS**

The Chair opened the citizen comments period.

1. David Hale – 1311 Sutherland Road – Church Road – said that he was recently reading what the County was doing regarding pondering over the proffer policy. He said he is concerned about what is being done to ensure that the County is getting the proffers as they should be received. He said he was also concerned about the communities being developed in an agreeable manner. He asked when the proffers will be collected. He asked why proffers were not asked for at time of sale and transfer of deed instead of at issuance of building permit.

*Mr. Massengill, County Administrator, answered that currently the way it is proffered to the County is at time of building permit. He said that as it is a voluntary system; the developer would have to have to put it in at the time of rezoning to state that the cash proffer would be due at time of plat instead of at time of building permit.*

2. Michael Wilde – 11647 Old Stage Road – said that he would like to know if the schools that are being built will be big enough to accommodate the growth the County will sustain in the next ten years. He asked whether the School Board members were elected or appointed, and asked when Dinwiddie County was going to step up and get someone in that the residents wanted.

*Mr. Massengill, County Administrator, responded that 1) the schools will probably not be able to accommodate the rate of growth; 2) the School Board members are elected by the Dinwiddie County citizens as the same electoral districts as the Board of Supervisors. Their chief executive officer is the School Superintendent who is a contracted employee for the School Board, as the County Administrator is a contracted employee for the Board of Supervisors.*

As there was no one else signed up to speak, the Chair closed the citizen comments period.

**9. COUNTY ADMINISTRATOR COMMENTS**

W. Kevin Massengill, County Administrator, stated that he could not begin to express how proud he is of the County Attorney, Mr. Michael Drewry; and also of the staff regarding the issue with Iluka. He said he could not begin to imagine what the cost would have been to Dinwiddie County had this been handled by a large legal firm as in the past. Mr. Massengill stated that the time and energy this man, as well as his staff and the Commissioner of the Revenue, have put into this project has been tremendous. He said he felt it was worthy of much praise.

Mr. Massengill stated that he received a call the previous day from Tom Mitchell who asked him to share with the Board that Madame Chair, Ms. Moody, has been selected as the *2006 Martin Luther King Legacy Award Winner*, under the category of *Political Affairs*. He said that he wanted to congratulate her on that honor; and as the first African American female Chair of the Board for Dinwiddie County.

Mr. Massengill stated that he and Ms. Moody attended the Civilian Military Council Meeting hosted by Prince George County. They were given a BRAC update and the figures predicted are on track.

Mr. Massengill said he had signed a couple of press releases last week regarding two important new hires: the Recreation Director, Brian B. Mancini who will begin work on January 3rd; and Zoning Administrator/Planner, Christina Greene, will begin work on January 16<sup>th</sup>.

Mr. Massengill said he met with Charlie Taylor, former principal of Dinwiddie Elementary School. He is now the newly elected president of the Dinwiddie Optimist Club.

He stated that the fund raising committee for the multi-field sports complex has met on two occasions.

## **10. BOARD MEMBER COMMENTS**

Mr. Haraway stated that he wanted to echo Mr. Massengill's comments regarding Mr. Drewry. He said that those of the Board who had been there a while could really appreciate what Mr. Drewry has done.

Mr. Moody stated that Dinwiddie County is a member of NACO, and as such, has the ability to offer a prescription program to the citizens. He said he would like the staff to get together with Mr. Jones, County Treasurer, and put an insert in the tax bills setting out the guidelines for this program. He said he had received several calls regarding the Health Department and some of the issues about inspections on the drain fields. He said he would like a meeting to be set up with the regional director.

Mr. Massengill interjected that the question which had been posed to him and to Mr. Moody was the time it takes to get a drainage field approved in Dinwiddie County.

Mr. Moody thanked Dinwiddie County, Staff, and the Board members for the condolences expressed during his mother's passing. He said he really appreciated everything.

Mr. Talmage said that would like to congratulate Ms. Moody on her award; and Mr. Stone on his upcoming birthday.

## **11. CLOSED SESSION**

Upon motion of Mr. Stone, seconded by Mr. Talmage

The Board of Supervisors of Dinwiddie County, Virginia convened in a closed meeting under:

a. §2.2-3711 (A) (1):

▪ Appointments:

1. Board of Zoning Appeals
2. Industrial Development Authority
3. Planning Commission
4. Virginia Gateway Region

▪ Personnel:

1. Economic Development Director
2. Recreation Department

b. §2.2-3711 (A) (3) Land Acquisition

- Acquisition of Land

- c. §2.2-3711 (A) (5) Business and Industry Development:
- Prospective Business & Industry

Ayes: Mr. Haraway, Mr. Moody, Mr. Talmage, Mr. Stone, Ms. Moody  
Nays: None

Upon motion of Mr. Stone, seconded by Mr. Talmage,

The Board reconvened into open session.

Ayes: Mr. Haraway, Mr. Moody, Mr. Talmage, Mr. Stone, Ms. Moody  
Nays: None

### **CERTIFICATION**

WHEREAS, this Board convened in a closed meeting under:

- a. §2.2-3711 (A) (1):
- Appointments:
    1. Board of Zoning Appeals
    2. Industrial Development Authority
    3. Planning Commission
    4. Virginia Gateway Region
  - Personnel:
    1. Economic Development Director
    2. Recreation Department
- b. §2.2-3711 (A) (3) Land Acquisition
- Acquisition of Land
- c. §2.2-3711 (A) (5) Business and Industry Development:
- Prospective Business & Industry
- d. §2.2-3711 (A) (7) Legal Matters

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. Moody, this Certification Resolution was adopted.

Ayes: Mr. Talmage, Mr. Moody, Mr. Haraway, Mr. Stone, Ms. Moody  
Nays: None

### **7:00 P.M. – PUBLIC HEARINGS**

Mr. Massengill, County Administrator, asked that the agenda be amended at this time in order to present an award and a resolution.

Upon motion of Mr. Stone, seconded by Mr. Moody,

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

Ayes: Mr. Moody, Mr. Haraway, Mr. Talmage, Mr. Stone, Ms. Moody  
Nays: None

Mr. Massengill asked that Gene Jones step forward. He said that Mr. Jones thought he was going to give a presentation on the animal shelter. Mr. Massengill stated that he was very honored to recognize Gene Jones as the 2006 Employee of the Year. He gave some highlights of Gene's accomplishments since he began work for the County in 2002. He was hired as an Inspector in the Building Official Office; while working in the County Gene began taking classes to become certified in structural, mechanical, and electrical trades. In the Fall of 2002 Gene applied and was promoted to a vacant position as Superintendent of Buildings and Grounds; he took over the Namozine Volunteer Fire Department addition and renovation project; the picnic shelter; playground equipment; parking lot at Eastside; HVAC upgrade in the Pamplin Building and the generator

installation. Mr. Massengill stated that as Director, Gene consistently looks for ways to reduce cost and increase efficiency of staff and operations in his department and overall operations. Countless contracts with outside vendors were eliminated because Mr. Jones believed he had the skill sets and talent to do the projects in-house. Several years ago the County purchased a snow plow/blade to push snow. Every occasion of inclement weather Mr. Jones was out pushing snow to ensure the County Offices would be open. One example of Mr. Jones' desire to save the County money is the renovation of the building at Green Acres Mobile Home Park. He worked nights and weekends to make this facility suitable for instruction for kids in this after school program. Again, this saved the County thousands of dollars. Mr. Massengill stated that over a year ago, Mr. Jones approached him and asked that he be allowed to be General Contractor over the construction of the proposed Animal Shelter expansion. As such, Gene worked with County staff and drew up the plans for the expansion because he could not see paying someone to do it. During this past summer, the County restructured the division under Anne Howerton, the Director of Finance. As such, Waste Management was brought under Mr. Jones's responsibility (consolidating two departments under one). Mr. Jones took on these additional responsibilities with the utmost of professionalism. In the midst of high employee turnover and privatization of waste management, Mr. Jones worked countless hours with the utmost of dedication. Recently, the County had a need to demolish several structures at the commerce park. Once again, Mr. Jones and his staff jumped in and did the work in-house; and saved the County thousands of dollars. Mr. Jones continues to be involved with the planning and project management of: the two new schools, new sports complex, Ford Fire Department; and planning for additional manned dumpster sites. Mr. Massengill stated further that Gene Jones is always open to new ideas and doing things smarter and cheaper. He does all this for the simple belief and commitment to make Dinwiddie a better place.

Anne Howerton, Finance Director, presented Mr. Jones with the County of Dinwiddie 2006 Employee of the Year plaque.

Michael Stone asked the family of Willie Howard Maitland to come to the front. The following resolution was presented to Mr. Maitland.

Upon motion of Mr. Stone, seconded by Mr. Moody,

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that the resolution for William Howard Maitland is approved as stated.

Ayes: Mr. Haraway, Mr. Moody, Mr. Talmage, Mr. Stone, Ms. Moody

Nays: None

**RESOLUTION**  
***William Howard Maitland***

**WHEREAS**, William Howard Maitland was born on June 13, 1926 in Dinwiddie, Virginia; graduated from Sunnyside-McKenney High School in 1943; and has lived on his ancestral farm all his life; and

**WHEREAS**, William Howard Maitland, a devoted husband and father, is married to Mary "Lucy" Townsend, and they have three sons, one daughter, twelve grandchildren, and seven great grandchildren; and

**WHEREAS**, William Howard Maitland worked for 35 plus years with the young people of Dinwiddie County; was founder of Little League Baseball and Babe Ruth in Dinwiddie County; was founder of Dinwiddie Youth League; past president of Dinwiddie County High School Booster Club; and was responsible for the installation of the score board, bleachers, concession stand and ticket booth at the Dinwiddie County High School football field; and was responsible for the lights at the softball field at Dinwiddie County High School, Midway Elementary School, Rohoic Elementary School and Sunnyside-McKenney Elementary School; and

**WHEREAS**, William Howard Maitland served on the Dinwiddie County Volunteer Rescue Squad for some ten plus years; was awarded Dinwiddie County Ruritan's Outstanding Senior Citizens Award in February of 1978; and in 1988 was presented The Virginia Governor's Award for Volunteering Excellence; and

**WHEREAS**, William Howard Maitland is known far and wide for his fund-raising abilities and dedication to his community; is a dedicated member of Butterwood United Methodist Church; and has a long history of hard work as a dairy farmer and tobacco farmer while working full time in construction; and

**NOW, THEREFORE BE IT RESOLVED**, that the Board of Supervisors on this 19th day of December, 2006 wishes to recognize William Howard Maitland, aka "Willie", "Howard", "Porkchop", "Papa", for his many years of dedicated volunteer service to his community, his church, The Dinwiddie Youth League and the Darvills Ruritan Club; and

**BE IT FURTHER RESOLVED**, by the Board of Supervisors of Dinwiddie County, Virginia, that this resolution be presented to William Howard Maitland, and a copy spread upon the minutes of this meeting for eternity.

Signed, this 19<sup>th</sup> day of December, 2006.

**12.A. PUBLIC HEARING: P-06-10 RONALD H. BARNES, REZONING**

Mr. Mark Bassett, Planning Director, presented the summary below.

The Chair opened the public hearing in this case.

1. Frances Hauser – 13118 Boydton Plank Road – said that they have a contract with 200' road frontage. She spoke in favor of approval of this case. She said she felt Mr. Barnes had tried to answer every issue that had been brought up by the Planning Commission. She said she had tried to speak with the Board members individually in order to see what the concerns were so they could be addressed at this meeting. She said she did not understand why this would not be a viable thing for Dinwiddie County for revenue. She said this opportunity came to them and they took it with the thought that they have business all around them. She asked if there were any questions from the Board that she could answer at this time.
2. Robert Hauser – 13118 Boydton Plank Road – spoke in favor of this case. He said he felt that Family Dollar would be a big asset to Dinwiddie County.

As there was no one else signed up to speak, the Chair closed the public hearing in this matter.

There was discussion regarding the site plan. Dr. Moore, Chair of the Planning Commission, stated that there was a five to two descent vote against the project. He discussed some of the concerns at the Planning Commission level.

The applicant, Mr. Barnes, was available and addressed some of the concerns that had been mentioned regarding the site plan.

Mr. Haraway asked Ray Varney, Resident Engineer of VDOT, to address the highway issues.

Mr. Varney said VDOT concerns were three-fold: 1) the immediate access for the entrance; 2) the additional 20 feet - he was not sure how that was being dedicated; 3) access management – the property shows frontage along Boydton Plank Road of about 1,000 feet. If there is future expansion, it could give 5 entrances in 1,000 feet, plus Holly and Maple. That would give 7 entrances within approximately 1,100 feet on Boydton Plank Road. He said entrances need to be combined.

Mr. Moody asked whether anything else could be proffered.

Mr. Drewry, County Attorney, stated that once the public hearing has begun, if the amended proffers do not materially affect the overall proposal, they can be accepted. He said he still preferred to see proffers come in and not change. He said that if amendments are suggested and accepted, he would ask that the public hearing be reopened during the meeting.

Mr. Barnes stated that it would be fine to move the entrance so in the future both parcels could share it. He said they would try their best to go ahead and proffer the 20 feet as long as there were not huge hurdles to jump.

Mr. Drewry stated there is only one piece of property up for rezoning. He said it would be easier to state that on this piece of property the owner would agree in the future to allow a shared interest to be developed if desired by the County. He said it is not a proffer on the joint property; it is a proffer on the two acres.

**Planning Summary Report**

File #: P-06-10

Applicant: Mr. Ron Barnes  
Zoning Request: Agricultural, General, A-2 to Business, General, B-2  
Property Address: 13118 Boydton Plank Road  
Tax Map & Parcel #: 45-35B  
Magisterial District: Rowanty District  
Property Size: Approximately 2 acres

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### **CASE OVERVIEW**

The applicant, Mr. Ron Barnes, is requesting a rezoning of one (1) land parcel containing approximately two (2) acres from Agricultural, General A-2 to Business, General B-2 in order to construct a retail store (Family Dollar Store). The subject property is located on the west side of Boydton Plank Road (Route 1) on the southern side of Maple Street (a private drive), and the property is further defined as Tax Map 45, Parcel 35B. As set forth in the Comprehensive Land Use Plan, this property is located within the Dinwiddie Courthouse Community Planning Area, which includes the potential for future commercial development. There is a business establishment, the Food Lion grocery store, located directly across Boydton Plank Road (Route 1) from the subject property.

### **PROFFER STATEMENT**

The applicant has submitted a revised proffer statement to address the materials used on the exterior building facade that was discussed at the Planning Commission meeting, and the additional conditions remain to address the proposed use's potential impacts on the subject property. The applicant has limited the permitted use on the property to a retail use. Under the Zoning Ordinance, the proposed use could generally be classified as a retail shop. In the County Zoning Code Section 22-1, a retail shop is defined as "Buildings for display and sale of merchandise at retail or for the rendering of personal services (but specifically exclusive of coal, wood and lumber yards), such as the following, which will serve as illustration: drugstore, newsstand, food store, candy shop, milk dispensary, dry goods and notions store, antique store and gift shop, hardware store, household appliance store, furniture store, florist, optician, music and radio store, tailor shop, barbershop and beauty shop", within which the proposed retail store is classified as such a permitted use.

The applicant also addresses site lighting, which will be designed inward and downward to eliminate light overflow beyond the subject property lines. The building will be constructed with a brick front facade with the two sides being stucco and the rear of the building having metal siding. The landscaping and buffering will meet the requirements set forth in the Zoning Code and will be of similar design to the existing landscaping on the Food Lion site directly across from the subject property.

The proposed building and all proposed and required parking will be setback an additional twenty (20) feet from the current building setback line to preserve twenty (20) feet of property for future right-of-way for the widening of Route 1. The proposed dumpster pad will be extended back beyond the rear wall of the proposed building to allow for fire access, and the dumpster itself will be located a minimum of five (5) feet from the proposed building wall to aid in fire protection design.

The applicant has also proffered to locate the commercial entrance to the business at the VDOT approved location/ alignment, and if VDOT requires turning lanes or tapers the applicant will provide them to better access the site. The applicant will obtain a VDOT Land Use Permit and the commercial entrance will meet VDOT's standards.

### **Staff Recommendation:**

The staff has reviewed the rezoning request and is satisfied that the applicant has addressed the impacts of rezoning the property to allow a commercial use on the subject property.

Staff recommends APPROVAL WITH PROFFERS of the request to rezone the subject property based on the following reasons:

1. The zoning classification requested, B-2, Business General, is compatible with the surrounding zoning pattern;
2. The requested zoning classification and uses permitted under this classification conform with the underlying uses outlined in the Dinwiddie Courthouse Community Planning Area set forth in the Comprehensive Land Use Plan;
3. The applicant has provided signed proffers addressing the impacts of the proposed use on the subject property; and

4. Subject to the rezoning being approved the applicant will submit a site plan for the retail store for review and approval by the planning staff.

**PLANNING COMMISSION RECOMMENDATION:**

The Planning Commission heard this case at their November 8, 2006 meeting. The applicant, Mr. Ron Barnes, was present at the meeting, and he did present a brief overview of the rezoning request to the Planning Commission and addressed Planning Commissioner questions and audience questions and concerns.

During the Public Hearing portion of the meeting the citizens opposing the rezoning indicated that they were concerned with noise, trash, sound, and stormwater drainage coming from the proposed development. Other concerns included a reduction of property values, increased traffic and ingress and egress conflicts exiting and entering the site with the existing traffic on Route 1, and two citizens were simply opposed to the rezoning

The three major issues that surfaced as the Planning Commission further discussed the case included access to the development and future access to the remaining acreage on the Hauser's property adjacent to the subject property; the zoning and location of the subject property as related to the surrounding land uses and zoning pattern; and the materials used to construct the façade and sides of the proposed building. The Planning commission did vote on whether or not to defer the case to allow a committee to further discuss and try to resolve the major issues, but the motion to defer the case until the December Planning commission meeting failed. After further discussion the Planning Commission voted by a vote of 5-2 to recommend disapproval to the Board of Supervisors to rezone the subject property to Agricultural, General, A-2 to Business, General, B-2

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

BE IT RESOLVED, by the Board of Supervisors of Dinwiddie County, Virginia that this case is deferred until the Board of Supervisors meeting on January 16, 2007.

Ayes: Mr. Talmage, Mr. Moody, Mr. Haraway, Mr. Stone, Ms. Moody

Nays: None

**12.B. PUBLIC HEARING: C-06-6 MS. BELINDA BODIE (ALLTEL COMMUNICATIONS)**

Mr. Mark Bassett, Director of Planning, presented the summary below.

The Chair opened the public hearing in this case.

1. D. T. Adams – 22808 Dabney Mill Road – Petersburg – spoke in favor of this case. He said he is the land owner and that he feels there is a need for this tower. He said there will be minimal impact and that none of his immediate neighbors are opposed to the tower.

As there was no one else signed up to speak, the Chair closed the public hearing in this case.

The applicant, Ms. Bodie for Alltel Communications, spoke to the Board and stated that they are trying to improve their coverage in the surrounding area, as well as improve coverage along I85 and US 1 South. She was available for any questions from the Board.

**Planning Summary Report**

File #: C-06-06  
Request: Conditional Use Permit: Telecommunications Tower  
Applicant: Alltel Communications  
Property Address: 22808 Dabney Mill Road Petersburg, VA 23803  
Tax Map # & Parcel: 33-61A  
Acreage: A leased portion of 110 acres (.23 leased acres)  
Magisterial District: Rowanty District  
Existing Zoning: Agricultural, General A-2  
Public Hearing Date: December 19, 2006

**APPLICATION OVERVIEW**

The applicant, Alltel Communications, is seeking a conditional use permit to construct a 260 foot self-support telecommunications tower and related facilities on a leased portion of the property located at 22808 Dabney Mill Road Petersburg, VA 23803. The property is designated as Tax Map 33, Parcel 61A. The property is zoned Agricultural, General, A-2, and under the Zoning Ordinance Section 22-71 (2) (45) a communications tower is allowed

upon receiving a conditional use permit. As set forth in the the County Comprehensive Land Use Plan, the subject property is within the Rural Conservation Area which allows for limited commercial development.

### **CASE SUMMARY**

The applicant needs to locate a tower in this area of the County to fill in a gap in their existing coverage area along Route 1 and I-85. The proposed site will complete the coverage area between the existing tower sites in Dinwiddie and at the Airport. The possibility of co-location on two existing towers, one owned by Crown and one owned by American Tower, was studied by the applicant and the County's telecommunications tower consultant. The existing Crown tower site is located approximately one mile south of the proposed tower site and this tower has five co-locators. Co-locating on the existing Crown tower presents two problems: over loading the tower handling capacity and the minimal coverage area limitation. The American tower located two and one-half miles further south of the proposed Alltel tower has two existing and this tower presents the same limitation on the amount of coverage that it provides. It is apparent that a gap in adequate coverage exists and the addition of the proposed Alltel tower will fill in any "dead" areas enhancing the coverage area along Route 1 and I-85.

### **IMPACTS**

#### *Public Utilities, School System, & Historic Recourses*

The potential impacts on the subject property are minimal. Electricity is the only utility needed to develop the site for a telecommunications tower. There is no impact on the public school system. No impact on historic resources is anticipated. The tower does require a monthly site maintenance visit.

### **COUNTY CONSULTANT'S RECOMMENDATION**

The County's telecommunications consultant (Atlantic Technology Consultant, Inc.) has reviewed the conditional use permit information and is satisfied that the applicant has addressed the impact on the subject property and has recommended approval of the request subject to the proper RF exposure warning signage and FCC registration number being posted at the sight; that there is proper grounding of all structures and equipment at the site; and that the results of the FAA Air Space Study is submitted to the County prior to receiving final approval.

### **STAFF RECOMMENDATION**

The Staff has reviewed the conditional use permit and is satisfied that the applicant has successfully responded and addressed the impacts of conditional use permit on the property to allow a telecommunication tower.

1. The impact of the conditional use permit will be minimal given that the proposed tower will not have a direct effect on public utilities transportation, public safety, schools, and water quality.
2. The subject property will have a good vegetative buffer to shield the current and future adjacent property owners from the proposed tower. The subject property is well-wooded, which will provide for a good buffer and screening of the facility to all adjacent property owners. The tower will be located on a large parcel ensuring that the tower will be located away from habitable structures.
3. The proposed tower will improve the service coverage area for citizens traveling along Route 1 and I-85 within this geographic area.

Therefore, staff recommends APPROVAL of the request for a conditional use permit to construct the subject telecommunications tower based on the following conditions:

1. The applicant shall limit the height of the tower to 260 feet as stated in the application.
2. If requested by the county, the applicant will provide space to Dinwiddie County, at no cost to the County, to collocate communication equipment..
3. Before obtaining a building permit, the applicant shall post a bond equivalent to the cost of removal of the tower with the Planning Department.

4. The tower shall be engineered to accommodate a minimum of an additional four (4) service provider antennae.
5. The applicant will follow the landscape plan as shown in the site plan that was submitted to the County for the proposed tower.
6. The conditional use permit must be reviewed at least every two (2) years for compliance with stated conditions.
7. The applicant must keep in compliance with all federal, state, and county rules and regulations related to the tower use.

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### **PLANNING COMMISSION RECOMMENDATION**

At the November 8, 2006 Planning Commission meeting, the applicant, Belinda Bodie, Senior Zoning Specialist for Alltel, indicated that the proposed tower is needed to provide continued coverage in this area of the county and the level of coverage is not attainable using the existing towers within the area due to the capacity and coverage issues. The applicant indicated that Alltel will have no problem meeting the conditions of the permit. At the Public Hearing portion of the meeting one citizen spoke in opposition to the tower concerning perceived health risks related to exposure to the tower. The applicant and the County Attorney indicated to the Planning Commission that the Telecommunications Act precludes the Planning Commission the Planning Commission from denying a permit based on tower exposure issues. One citizen did speak in favor of the application for the tower permit. Upon closing the Public Hearing, the Planning Commission voted unanimously to recommend approval of the conditional use permit with conditions to the Board of Supervisors.

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

BE IT RESOLVED, that in order to assure 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 requirements of public necessity, convenience, general welfare and good zoning practice, that the conditional use permit C-06-06 with the applicable conditions is approved by the Board of Supervisors.

Ayes: Mr. Moody, Mr. Talmage, Mr. Haraway, Mr. Stone, Ms. Moody

Nays: None

### **13.A. OLD / NEW BUSINESS: APPOINTMENTS**

#### **Virginia Gateway Region Appointment:**

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

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that Michael Stone is reappointed to Virginia Gateway Region for a term ending December 30, 2007.

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

Nays: None

Abstain: Mr. Stone

#### **Dinwiddie County Planning Commission Appointments:**

Upon motion of Mr. Stone, seconded by Mr. Moody,

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that Calvin Wayne Cunningham is reappointed to the Dinwiddie County Planning Commission to represent District 4 for a term ending December 31, 2010.

Ayes: Mr. Haraway, Mr. Moody, Mr. Talmage, Mr. Stone, Ms. Moody

Nays: None

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

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that Dr. Mark Moore is reappointed to the Dinwiddie County Planning Commission to represent District 1 for a term ending December 31, 2010.

Ayes: Mr. Haraway, Mr. Moody, Mr. Talmage, Mr. Stone, Ms. Moody

Nays: None

Dinwiddie County Board of Zoning Appeals Recommendation:

Upon motion of Mr. Talmage, seconded by Mr. Stone,

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that Lance V. Everett is recommended to the Circuit Court Judge for appointment to the Dinwiddie County Board of Zoning Appeals for the unexpired term of Ronald C. Abernathy for a term ending July 3, 2007.

Ayes: Mr. Haraway, Mr. Moody, Mr. Talmage, Mr. Stone, Ms. Moody  
Nays: None

Dinwiddie County Industrial Development Authority Appointment:

Upon motion of Mr. Talmage, seconded by Mr. Moody,

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that Franklin Zitta is appointed to the Dinwiddie County Industrial Development Authority to represent District 3 for a term ending December 31, 2010.

Ayes: Mr. Moody, Mr. Haraway, Mr. Talmage, Mr. Stone, Ms. Moody  
Nays: None

John Tyler Alcohol Safety Action Program Board (ASAP) Appointment:

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

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that Marie Grant is appointed to serve on the John Tyler Alcohol Safety Action Program Board to represent Dinwiddie County for a term expiring December 31, 2009.

Ayes: Mr. Haraway, Mr. Moody, Mr. Talmage, Mr. Stone, Ms. Moody  
Nays: None

**14. CITIZEN COMMENTS**

The Chair opened the citizen comment period.

1. Frances Hauser – 13118 Boydton Plank Road – said she was somewhat at a loss. She said she felt she tried to address each and every issue with each of the Board. She said she and her husband have been citizens of Dinwiddie County their entire lives and it would have been nice for someone to have spoken up for them. She said they have a property that is in the corridor that has been designated by Dinwiddie County to be developed as business. She stated that Mr. Barnes had tried to address the issue and tried to be honest and direct about the situation. She added that she had all the respect in the world for the Board and their job, but she wanted them to understand her deep feeling.

As there was no one else signed up to speak, the citizen comment period was closed.

**15. ADJOURNMENT**

Upon motion of Mr. Moody to adjourn, seconded by Mr. Stone,

Ayes: Mr. Haraway, Mr. Talmage, Mr. Stone, Ms. Moody  
Nays: None

The meeting was adjourned at 10:00 p.m.

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Michael W. Stone

Chairman

ATTEST: \_\_\_\_\_

W. Kevin Massengill  
County Administrator  
Clerk to the Board

/wjn