

A Regular Work Session of the Chesapeake City Council was held August 21, 2007, at 5:15 p.m., in the City Hall Building, 306 Cedar Road.

Present: Council Member Bryan Collins
Mayor Dalton S. Edge
Council Member Clifton E. Hayes, Jr.
Council Member Alan P. Krasnoff (arrived at 5:22 p.m.)
Council Member Ella Ward (arrived at 5:26 p.m.)
Council Member Patricia Pritchard Willis

Absent: Council Member Rebecca Adams (excused)
Council Member John M. de Triquet (excused)
Vice Mayor Dwight M. Parker (excused)

Present from Administration: City Manager William Harrell, City Attorney Ronald Hallman, Deputy City Manager Amar Dwarkanath, City Clerk Dolores Moore, Acting Economic Development Director Tom Elder, Acting Information Technology Director Rick Delorey, and other staff members.

Also Present: Verizon Communications Area Manager-External/Government Affairs, Eastern Virginia, Laura Barnes and Verizon Communications Municipal Affairs Manager, Robert Hayes

The Following Topics were discussed during the Work Session:

- 1) Telecommunication Franchise Ordinances
- 2) City Manager Updates

The Work Session adjourned at 6:00 p.m.

/dah

Regular Meeting of City Council
August 21, 2007

A Regular Meeting of the Chesapeake City Council was called to order by Mayor Dalton S. Edge on August 21, 2007 at 6:30 p.m., in the City Hall Building, 306 Cedar Road.

INVOCATION: Reverend Calvin Corbitt, Hickory Ridge Community Church

PLEDGE OF ALLEGIANCE: Council Member Clifton E. Hayes, Jr.

ROLL CALL BY CLERK OF COUNCIL:

Present: Council Member Rebecca Adams
Council Member Bryan Collins
Mayor Dalton S. Edge
Council Member Clifton E. Hayes, Jr.
Council Member Alan P. Krasnoff
Council Member Ella Ward
Council Member Patricia Pritchard Willis

Absent: Council Member John M. de Triquet , excused
Vice Mayor Dwight M. Parker, excused

Present from Administration: City Manager William Harrell, City Attorney Ronald Hallman, Deputy City Manager Amar Dwarkanath, City Clerk Dolores Moore, Planning Director Brent Nielson, Assistant City Attorney Grady Palmer, and other staff members.

APPROVAL OF MINUTES

Mayor Edge advised that the Work Session and Regular Meeting minutes for November 14 and November 21, 2006 were presented for approval.

Council Member Collins, on a motion seconded by Council Member Ward, moved approval of the November 14 and November 21, 2006 minutes as presented.

On the motion for approval of the minutes as presented, voting yes: Council Members Adams, Collins, Edge, Hayes, Krasnoff, Ward and Willis.

CERTIFICATE OF RECOGNITION

Mayor Edge called Coach Gary Lavelle to the podium to introduce the Greenbrier Christian Academy Boys' Baseball Team, the 2007 Virginia Independent Schools State Division II Championship.

APPLICANTS', AGENTS', AND CITIZENS' COMMENTS ON PUBLIC HEARING ITEMS

City Clerk Moore stated there were no speakers prior to the presentation of the public hearing items.

PUBLIC HEARING ITEMS

A. **R(C)-07-04 PROJECT: Maury Estates** APPLICANT: Brickhouse Associations, Inc. AGENCY: Engineering Services, Inc. PROPOSAL: A conditional zoning reclassification of 14.5 acres from R-15s Single Family Residential District to R-MF-1 Multi-family Residential District (6.6 acres) and O&I Office and Institutional District (7.9 acres) and 12 acres from R-MF-1 (9.9 acres) and O&I (2.1 acres) to R-MF-1 (6.1 acres) and O&I (5.9 acres). PROPOSED COMP LAND USE & DENSITY: Office, medium density multi-family residential with density not exceeding 16 units per acre EXISTING COMP LAND USE & DENSITY: High Density Mixed Use (with commercial/offices and residential up to 24 units per acre) and Institution/Government LOCATION: The property is located at the end of Medical Parkway. TAX MAP SECTION/PARCEL: 0360000001866, 0360000001862, 0360000001863, 0360000001851, a portion of 0360000001835 BOROUGH: Washington *(Continued from the June 17, 2007 City Council meeting)*

The Planning Commission recommends approval with the following proffers:

1. The applicant/owner agrees to construct and dedicate to the City two lanes of an ultimate four lane public road beginning at the terminus of the existing Knells Ridge Boulevard and extending to the terminus of the existing Medical Parkway. The location and design of the road shall comply with the requirements of the Director of the Department of Public Works or designee. The road and all required right of way to support the ultimate four lanes shall be complete and dedicated as determined by the Director of the Department of Public Works or designee before issuance of any certificate of occupancy on the property subject to this rezoning.
2. The applicant/owner agrees to construct and dedicate to the City a right turn lane on Medical Parkway to Battlefield Boulevard with supporting right of way. The turn lane shall comply with the requirements of the Director of Public Works or designee and shall be complete and dedicated as determined by the Director of Public Works or designee before any certificate of occupancy is issued on the property subject to this rezoning.
3. The applicant/owner agrees that the number of residential units on the property subject to the rezoning shall not exceed 190. All residential units shall be developed under a condominium regime and offered for sale to individual owners.
4. The applicant/owner agrees that the exterior design of all residential buildings shall conform to the following standards:

- a. Exterior wall finishes shall be of subtle, earth-toned colors, with no single color being repeated as the primary color on every building, with and harmonizing primary and accent colors, as determined by the Director of Planning or designee.
- b. The sum of all exterior wall areas of each individual building shall comply with either (1) or (2) below. In the percentage calculations, window and door areas shall be treated as if they were of the material surrounding them.
- c. Not less than 75% shall be a cementitious siding product, such as "HardiPlank."
- d. Not less than 25% shall be brick veneer (as actual, individually laid-up units, not "Quik-Brick" or similar modular product) or natural stone or a stone veneer product deemed by the Director of Planning or designee to be of quality similar to brick veneer, with the remainder being a cementitious product as in 1 above or a premium or super-premium (average panel thickness greater than or equal to 0.044") vinyl siding material. Premium or higher quality vinyl simulated shakes, such as "Nailite," shall also be acceptable for the remaining 75%.

City Clerk Moore identified the following speakers on Public Hearing Item

A:

Shepelle Watkins-White, 524 Johnstown Road, representing Chesapeake General Hospital, spoke in support of Public Hearing Item **A**.

Pete Burkheimer, 3351 Stoneshore Road, Virginia Beach, representing Brickhouse Association, Inc., spoke in support of Public Hearing Item **A**.

Donna Midgett, 417 Medical Parkway, representing self, spoke in opposition to Public Hearing Item **A**.

Mayor Edge asked City Attorney Hallman to address Ms. Midgett's title issue.

City Attorney Hallman and Ms. Watkins-White responded to Ms. Midgett's comments concerning ownership of the land and a possible title dispute, noting it was a private issue.

Council Member Collins, on a motion seconded by Council Member Hayes, moved approval of R(C)-07-04 with the proffers as presented.

Council Member Adams asked Mr. Burkheimer about the extension of Medical Parkway and expressed safety concerns at the Battlefield Boulevard and Medical Parkway intersection. Mr. Burkheimer advised that the left turn lane would be extended to accommodate additional traffic.

Council Member Willis and Council Member Ward were concerned that workforce development housing had not been included with the project and no school proffers had been offered by the applicant.

Council Member Krasnoff questioned Planning Director Nielson about the application of the Level of Service (LOS) Policy to the project. Mr. Nielson stated that the project was subject to the LOS policy and met both road and sewer service levels, however it would not generate any more students than the present zoning would allow.

There was no further discussion.

On the motion for approval of R(C)-07-04 with the proffers as presented, voting yes: Council Members Adams, Collins, Edge, Hayes, Krasnoff, and Ward.

Voting no: Council Member Willis (Council Members de Triquet and Parker excused)

#07-O-130 ORDINANCE AMENDING APPENDIX "A" OF THE CHESAPEAKE CITY CODE ENTITLED "ZONING," TO REZONE PROPERTY, LOCATED AT THE END OF MEDICAL PARKWAY IN THE WASHINGTON BOROUGH, 14.5 ACRES FROM R-15s SINGLE RESIDENTIAL DISTRICT (6.6 ACRES) AND O & I OFFICE AND INSTITUTIONAL DISTRICT (7.0 ACRES) AND 12 ACRES FROM R-MF-1 (9.9 ACRES) AND O & I OFFICE AND INSTITUTIONAL (2.1 ACRES) TO R-MF-1 (6.1 ACRES) AND O & I OFFICE AND INSTITUTIONAL (5.9 ACRES). (R(C)-07-04

B. R(C)-07-14 PROJECT: Hickory Ridge Community Church
APPLICANT: Hickory Ridge Community Church PROPOSAL: A conditional zoning reclassification of 34.62 acres from R-15s Single Family Residential District (2.09 acres) and A-1 Agricultural District (32.53 acres) to O&I Office and Institutional District for the expansion of church facilities and a future elementary and secondary school. PROPOSED COMP LAND USE & DENSITY: Office & Institutional EXISTING COMP LAND USE & DENSITY: Rural LOCATION: 3320 Battlefield Blvd. South TAX MAP SECTION/PARCEL: 0970000000870 BOROUGH: Pleasant Grove

The Planning Commission recommends that approval with the following proffers:

1. The applicant/owner agrees that the architecture of any structure built or placed on the subject property after the date this rezoning becomes effective shall comply with the site and design guidelines in Appendix B of the TCOD Policy Framework and Development Guidelines as approved by the Planning Director or designee.
2. The applicant/owner agrees to remove and replace all damaged or dead plant material on the subject property, as approved by the City Arborist or designee, within 120 days of the effective date of this rezoning.
3. The applicant/owner agrees to provide left and right turn lanes into the development along Battlefield Boulevard designed in accordance with AASHTO and Public Works requirements. These turn lanes shall be completed and dedicated as determined by the Director of Public Works or

designee before issuance of a certificate of occupancy for any new construction or addition on the subject property but not including the three portable classrooms placed on the subject property before the date this rezoning becomes effective and the 6,180 square foot church building expansion shown on the final site plan dated May 21, 2003 approved before the date that this rezoning becomes effective.

4. The applicant/owner agrees to reserve 1/2 of the ultimate 120' right-of-way along the property's frontage with Battlefield Boulevard in accordance with the 2050 Master Transportation Plan. The applicant/owner agrees that the City may acquire the right of way provided for by the reservation at no cost to the City at anytime deemed appropriate by the City. This reservation shall be made prior to final site plan approval for any new construction or addition on the subject property but not including the three portable classrooms placed on the subject property before the date this rezoning becomes effective and the 6,180 square foot church building expansion shown on a final site plan dated May 21, 2003 approved before the date that this rezoning becomes effective.

5. The applicant/owner agrees that the subject property shall only be used and developed as a church, private elementary and secondary school, family life center, child day care, and for recreational facilities associated with the church and primary and secondary school subject to any required conditional use permits.

City Clerk Moore advised that the applicant and engineer were present in support of the application and available for questions.

Council Member Krasnoff, on a motion seconded by Council Member Collins, moved approval of R(C)-07-14 with the proffers as presented.

There was no discussion.

On the motion for approval of R(C)-07-14 with the proffers as presented, voting yes: Council Members Adams, Collins, Edge, Hayes, Krasnoff, Ward, and Willis.

Voting no: None. (Council Members de Triquet and Parker were excused)

#07-O-131 AN ORDINANCE REZONING 34.62 ACRES, LOCATED AT 3320 BATTLEFIELD BOULEVARD SOUTH IN THE PLEASANT GROVE BOROUGH, FROM R-15s SINGLE FAMILY RESIDENTIAL DISTRICT (2.09 ACRES) AND A-1 AGRICULTURAL DISTRICT (32.53 ACRES) TO O & I OFFICE AND INSTITUTIONAL DISTRICT (R(C)-07-14.

C. **R(C)-07-05 PROJECT: 4912 Portsmouth Boulevard** APPLICANT:

Portsmouth Investment, LLC AGENCY: Chesapeake Land Use Enterprise
PROPOSAL: A conditional zoning reclassification of 3 acres from A-1 Agricultural District and 1 acre from R-15s Single Family Residential District to B-2 General Business District. PROPOSED COMP LAND USE & DENSITY: General Business/Commercial. EXISTING COMP LAND USE & DENSITY: Suburban Single-family with 1 unit per acre to something less than 4 units per acre. LOCATION: 4912 Portsmouth Boulevard and parcel immediately west. TAX MAP SECTION/PARCEL: 0151007000070, 0151007000071 BOROUGH: Western Branch

The Planning Commission recommends approval with the following proffers:

1. The applicant/owner agrees to provide ingress/egress easements benefiting abutting properties west and east as determined appropriate by the Director of Public Works or designee to provide for the implementation of an Access Management Plan for Portsmouth Boulevard. A stub street providing access to Parcels 015008000020, 015008000010, 0151007000071, and 0150000001910 may be via a stub street out with an ingress/egress easement across private property connecting to the proposed entrance along Portsmouth Boulevard. The precise location of these easements and stub street locations will be determined at preliminary site plan approval by the Director of Public Works or designee. These easements shall be recorded before final site plan approval.
2. The applicant/owner shall vacate all interior property lines prior to final site plan approval.
3. The applicant/owner agrees to dedicate right-of-way as necessary for the future 160' minimum right-of-way for Portsmouth Boulevard widening project in accordance with the 2050 Master Transportation Plan. This dedication shall be made prior to approval of final site plan for any property with frontage along Portsmouth Boulevard or when the City first notifies the applicant/owner of the commencement of right-of-way acquisition for the widening of Portsmouth Boulevard, whichever occurs first.
4. The applicant/owner agrees that no more than 100 rooms for occupancy shall be constructed for any hotel or motel, and that all office, commercial and retail buildings cumulatively shall not exceed 25,000 square feet of gross floor area.
5. The applicant/owner agrees that the architectural elements of the hotel shall be equal or better than the attached exhibit, and the additional building will be architecturally compatible with the hotel. Architectural elements for the hotel shall include, but not be limited to the following and

shall be consistently applied to all sides of the building, with the exception of the canopied entrance:

- a. A-pitched roofs with dormers,
 - b. Wrought-iron or wrought-iron-like fencing,
 - c. brick or brick veneer (as actual, individually laid-up units, not "Quik-Brick" or similar modular product) façade design features, with brick quioned corners as enhanced design features.
 - d. Decorative outside lighting,
 - e. Enhanced signage consistent with the architectural design of the building,
 - f. Canopied drive-thru entrance,
 - g. Heavy landscaping, which will equate to exceeding the City's Landscape Ordinance (19-600) by 30%. The objective of the enhanced landscaping is to be consistent with proposed surrounding development.
 - h. Shared BMP with adjacent property owned and developed by Wirth Construction, as agreed to and approved by the City.
6. The applicant/owner agrees to construct turn lane and entrance improvements to accommodate the final site design in accordance with Public Works requirements. The improvements and final geometric layout will be shown on the final site plan and constructed prior to a Certificate of Occupancy.

City Clerk Moore identified the following speakers in support of Public Hearing Item **C**:

Dorothy Kowalsky, 536 Providence Road, representing Portsmouth Investment, LLC.

Jay Barot, 505 Rushwood Court, Suffolk, representing Portsmouth Investments, LLC., did not wish to speak.

Council Member Ward, on a motion seconded by Council Member Collins, moved approval of R(C)-07-05 with the proffers as presented.

Council Member Ward was asked Ms. Kowalsky to the podium and expressed concern with the number of rooms, meeting space and lack of a restaurant facility located on the property. Ms. Kowalsky responded to Council Member Ward's concerns.

There was no further discussion.

On the motion for approval of R(C)-07-05 with the proffers as presented, voting yes: Council Members Adams, Collins, Edge, Hayes, Krasnoff, Ward and Willis.

Voting no: None. (Council Members de Triquet and Parker were excused)

#07-O-132 AN ORDINANCE REZONING 4 ACRES, LOCATED 4912 PORTSMOUTH BOULEVARD AND PARCEL IMMEDIATELY WEST IN THE WESTERN BRANCH BOROUGH, FROM A-1 AGRICULTURAL DISTRICT AND FROM R-15s SINGLE FAMILY RESIDENTIAL DISTRICT TO B-2 GENERAL BUSINESS DISTRICT (R(C)-07-05)

D. **R(C)-07-11 PROJECT: Jolliff Woods Phase VI** APPLICANT: Galberry Corporation AGENCY: Kimley-Horn and Associates, Inc. PROPOSAL: A conditional zoning reclassification of 14.89 acres from A-1 Agricultural District to R-15s Single Family Residential District for development of single-family homes. PROPOSED COMP LAND USE & DENSITY: Low Density Residential. EXISTING COMP LAND USE & DENSITY: Open space/Recreation. LOCATION: North of the terminus of Lakeshore Drive TAX MAP SECTION/PARCEL: 0022000002050 BOROUGH: Western Branch

The Planning Commission recommends approval the following proffers:

1. The Applicant/Owner agrees to limit the development to no more than 15 (fifteen) single family residential lots.
2. The applicant/owner agrees to make a cash contribution to the City of Chesapeake for capital improvements to public emergency service facilities, including but not limited to, land acquisition; design, construction, expansion, renovation, and repair of buildings and appurtenances; and acquisition of capital assets necessary to the provision of emergency fire and medical services to the citizens of Chesapeake. The amount of the voluntary cash contribution shall be \$642.34 per residential lot. The applicant/owner agrees to make the proffered cash contribution prior to final subdivision plat approval for single-family residential lots shown on such plat.
3. The applicant/owner agrees to make a cash contribution to the City of Chesapeake for capital improvements to public libraries, including but not limited to, land acquisition; design, construction, expansion, renovation, and repair of buildings and appurtenances; and acquisition of capital assets necessary to the operation of public libraries. The amount of the voluntary cash contribution shall be \$949.03 per residential lot. The applicant/owner agrees to make the proffered cash contribution prior to final subdivision plat approval for single-family residential lots shown on such plat.
4. The applicant/owner agrees to make a cash contribution to the City of Chesapeake for capital improvements to public arterial and collector streets within the traffic shed impacted by the rezoning, including but not limited to, right-of-way acquisition, road design, road construction, project management, widening, paving, striping, adding turn lanes, adding acceleration or deceleration lanes, installing or adjusting traffic control devices, installing curb and gutter, making ditch and shoulder improvements, and constructing or improving roadside drainage facilities. The amount of

the voluntary cash contribution shall be \$1,746.00 per residential lot. The applicant/owner agrees to make the proffered cash contribution prior to final subdivision plat approval for single-family residential lots shown on such plat.

5. The applicant/owner agrees to make a cash contribution to the City of Chesapeake for the expansion of classroom space in impacted public schools, including but not limited to, land acquisition for the expansion of public school facilities and construction of new schools and additions. The amount of the voluntary cash contribution shall be \$7,500.00 per residential lot. The applicant/owner agrees to make the proffered cash contribution prior to final subdivision plat approval for single-family residential lots shown on such plat. The applicant/owner acknowledges and agrees that the cash contribution may be deposited into the City of Chesapeake's "lock box," also known as the General Fund Reserve for School Capital Construction Costs and shall be subject to City Council approval prior to appropriation. In the event the cash proffer is not expended for land acquisition or classroom expansion within time constraints imposed by state law, the applicant/owner agrees that the cash proffer may be used for capital improvement projects for major repair, maintenance and renovation of public schools in the same school planning area as the rezoned property.

6. The Applicant/Owner agrees that there shall be a conservation area on-site as indicated on the preliminary site plan exhibit entitled "SALASKY PROPERTY REZONES" dated March 12, 2007 and prepared by Kimley-Horn and Associates, Inc. This area shall be undisturbed in perpetuity, preserved in its natural state, and maintain a minimum 20% canopy.

7. The applicant/owner shall have a *Qualified Environmental Professional* lawfully remove and dispose of the various debris identified within Figure 2 of Kimley-Horn and Associates' March 2007 Phase I ESA, and the debris shall be removed from the subject property prior to and/or in concurrence with land clearing activities in accordance with all local, Federal, and Virginia Solid Waste Management Regulations (9VAC20-80-680). The removal and disposal of the tires located on the subject property shall be in accordance with Virginia Solid Waste Regulations under code 9VAC20-80-670, and the possible abandoned on-site well shall be closed in accordance with Virginia Department of Health Private Well Regulations (April of 1992).

City Clerk Moore identified the following speakers in support of Public Hearing Item **D**:

Randy Royal, 501 Independence Parkway, representing Kimley Horn and Associates, Inc.

Martin K. Salasky, 2284 Lynx Drive, Virginia Beach, representing self.

David Blevins, 1021 Ramsgate Lane, representing Galberry Corporation.

Mayor Edge stated that he would abstain from voting and participating in the discussion because of a previous business transaction with the developer.

Mayor Edge relinquished the gavel to Council Member Krasnoff at 7:10 p.m. and left the Chamber.

There was extensive discussion between Council Member Adams and Schools Program Administrator for Planning and Development Paige Stutz, concerning school capacities, the number of students the project will produce, funded and unfunded school projects and dollar amounts for school proffers presently being offered by developers.

Council Member Willis, on a motion seconded by Council Member Ward, moved to deny R(C)-07-11 based on the Level of Service Policy for schools.

Council Member Willis spoke about the Level of Service policy, noting the schools in the area of the proposed project were over capacity and that the application only proffered half the amount of money normally proffered for schools.

There was no further discussion.

On the motion to deny R(C)-07-11, voting yes: Council Members Adams, Collins, Hayes, Krasnoff, Ward and Willis.

Voting no: None (Council Members de Triquet and Parker were excused) (Mayor Edge abstained).

Council Member Krasnoff relinquished the gavel back to Mayor Edge at 7:25 p.m.

E. **R(C)-07-16 PROJECT: Autumn Care** APPLICANT: Mars Brothers "H", LLC AGENCY: Hassell & Folkes, P.C. PROPOSAL: A conditional zoning reclassification of 14.6 acres from R-15s Single Family Residential District to R-MF-1, Multifamily Residential District to permit a group care facility as a conditional use on the site. PROPOSED COMP LAND USE & DENSITY: Medium density residential with up to 16 units per acre. EXISTING COMP LAND USE & DENSITY: Low density residential with one unit per acre to something less than four units per acre. LOCATION: Property is located on the east side of Argyll Street at its intersection with Bryant Drive. TAX MAP SECTION/PARCEL: Portions of 0380000001370, 0380000001380, 038000000521 BOROUGH: Washington

The Planning Commission recommends approval with the following proffer:

- The owner/applicant proffers that the uses on the site shall be restricted to a group care facility and its accessory uses.

City Clerk Moore identified the following speaker in support of Public Hearing Item E:

James R. Bradford, 325 Volvo Parkway, representing Hassell and Folkes, P.C.

Council Member Krasnoff, on a motion seconded by Council Member Adams, moved approval of R(C)-07-16 with the proffer as presented and Preliminary Site Plan Alternative B.

Council Members offered comments supporting the project stating it was a much needed service.

Council Member Willis expressed concern that a proffer had not been offered by the applicant for emergency services; she also noted that the project was located next to a landfill. She asked that the agent, Mr. Bradford come to the podium for questions. She asked Mr. Bradford if there were any buffers planned to help with noise from the operation of the landfill, and if there had been any complaints about noise from adjacent neighborhoods. Mr. Bradford stated that no complaints had been received concerning noise from the operation of the landfill and that the Department of Environmental Quality had monitored the water quality in the area for the past 20 years with no concerns.

There was no further discussion.

On the motion for approval of R(C)-07-16 with the proffer and with Preliminary Site Plan Alternative B as presented, voting yes: Council Members Adams, Collins, Edge, Hayes, Krasnoff, Ward and Willis.

Voting no: None (de Triquet and Parker excused)

#07-O-133 AN ORDINANCE REZONING 14.6 ACRES, LOCATED ON THE EAST SIDE OF ARGYLL STREET AT ITS INTERSECTION WITH BRYANT DRIVE IN THE WASHINGTON BOROUGH, FROM R-15s SINGLE FAMILY RESIDENTIAL DISTRICT TO R-MF-1 MULTIFAMILY RESIDENTIAL DISTRICT (R(C)-07-16).

F. **UP-07-18 PROJECT: Autumn Care** APPLICANT: Mars Brothers "H", LLC AGENCY: Hassell & Folkes, P.C. PROPOSAL: A conditional use permit for a group care facility on 14.6 acres. ZONE: Proposed: R-MF-1 Multifamily Residential District SIC CODE: 805 LOCATION: Property is located on the east side of Argyll Street at its intersection with Bryant Drive. TAX MAP SECTION/PARCEL: Portions of 0380000001370, 0380000001380, 0380000000521 BOROUGH: Washington

The Planning Commission recommends approval with the following stipulations:

1. The applicant/owner agrees to provide a 10 foot buffer "C" along the entire northern property line, in addition to any other required landscaping and buffer yards, as approved by the City Arborist before approval of any certificate of occupancy.
2. The height of all buildings shall not exceed 30 feet.

3. The applicant and the owner of the property shall ensure that full written disclosure of the proximity of the Elbow Road Farm (Thrasher) Landfill, located immediately north of this group care facility, is included in i) the notes on all recorded development plats and plans, ii) all initial contracts for purchase of lots by builders and first occupants, and iii) all deeds of conveyance, restrictive covenants, leases, and homeowner association documents that will run with the land. The disclosure shall read as follows:

The Elbow Road Farm (Thrasher) Landfill is located adjacent to this development. The existing Landfill was approved by issuance of a conditional use permit by the Chesapeake City Council and by the issuance of a permit for a construction and demolition debris landfill by the Virginia Department of Environmental Quality (DEQ). DEQ has also issued a permit for the future expansion of the Landfill. If implemented, the expansion will allow the operation of the Landfill to continue until the year 2018. Properties adjacent to the landfill may be affected by noise, dust and odors normally associated with the operation of a landfill. In addition, DEQ has required water quality monitoring for this Landfill due to potential impacts on adjacent properties. Any questions regarding the Landfill, the DEQ permits, the water quality monitoring tests, groundwater quality, or surface water quality should be directed at the DEQ.

The applicant and the owner shall be fully responsible for ensuring that this language is included in the instruments described above and by acceptance of development plan approval with this stipulation, the applicant and the owner acknowledge that the City is under no duty to inspect or review contracts, deeds, restrictive covenants, leases, and homeowner association documents. It is further acknowledged and agreed by the applicant and owner that the duty of ensuring compliance appropriately lies with the parties responsible for the development, construction and marketing of the development, e.g., owners, subdivider, developers, builders, realtors and sellers.

City Clerk Moore stated that the agent was present and available for questions.

Council Member Adams, on a motion seconded by Council Member Hayes, moved approval of UP-07-18 with stipulations as presented.

There was no discussion.

On the motion for approval of UP-07-18 with stipulations as presented, voting yes: Council Members Adams, Collins, Edge, Hayes, Krasnoff, Ward and Willis.

Voting no: None. (de Triquet and Parker excused)

G. UP-07-24 PROJECT: Starbucks Coffee-Country Club Shoppes

APPLICANT: Toby Cruser PROPOSAL: A conditional use permit for a drive thru with an amplified speaker system in conjunction with a permitted Starbucks Coffee Company within the Country Club Shoppes shopping center on a 2.4 acre parcel. ZONE: B-1 Neighborhood Business District SIC CODE: 58 LOCATION: 940 Cedar Road (intersection of Cedar Road & Country Club Boulevard) TAX MAP SECTION/PARCEL: 0470000001142 BOROUGH: Pleasant Grove

The Planning Commission recommends approval with the following stipulations:

1. As agreed upon by the applicant, the applicant/owner shall orient the amplified speaker within the speaker mounting stand in a manner such that it is angled as far away from the residential units as feasible. At the least, the speaker shall be angled directly towards Country Club Boulevard and/or as much towards the direction of Cedar Road as feasible.
2. As agreed upon by the applicant, the proposed drive-thru wall screen shall be constructed in substantial conformance to the attached architectural elevations (including materials and colors), dated July 2, 2007, as determined by the Planning Director or designee. In the event that the final layout or building orientation of the wall are found to be inconsistent with what has been offered, the applicant/owner shall make necessary changes, as required by the Director of Planning or designee, prior to the issuance of the building permit for the drive-thru wall screen.
3. The noise level being emitted from the amplified speaker in the drive-thru facility shall not exceed a decibel level of 42 dB at the property line at any time or the noise shall comply with the noise ordinance as amended, which ever is more restrictive. All measures shall be taken by the applicant/owner to ensure that the noise emitted from the speaker system is kept within this specified noise level.

City Clerk Moore stated that the applicant was present and available for questions.

Council Member Ward, on a motion seconded by Council Member Collins, moved for approval of UP-07-24 with stipulations as presented.

There was no discussion.

On the motion for approval of UP-07-24 with stipulations as presented, voting yes: Council Members Adams, Collins, Edge, Hayes, Krasnoff, Ward and Willis.

Voting no: None (de Triquet and Parker excused)

H. **UP-07-23 PROJECT: e Fueling Network** APPLICANT: James River Petroleum, Inc. PROPOSAL: A conditional use permit to allow an automated fueling facility on a 1.4505 acre parcel. ZONE: M-1, Light Industrial District SIC CODE: 554 LOCATION: 3481 Military Highway S. TAX MAP SECTION/PARCEL: 0252011000530 BOROUGH: Deep Creek

The Planning Commission recommends approval with the following stipulations:

1. The applicant/owner agrees that there will be no pay phones, snack machines or drink machines on the site.
2. If the applicant/owner chooses to construct a canopy on the site, it shall be constructed with brick columns and a pitched roof in neutral colors. Such improvements shall require approval of the Planning Director prior to final site plan approval.
3. The applicant/owner agrees to obtain approval from the Fire Department that the proposed facility is being developed in accordance with the applicable requirements of National Fire Prevention Act 30 and 30A, in particular Section 9-5.
4. The applicant/owner agrees to provide a Fire Department approved lock box for emergency access to the gated/fenced compound.
5. The applicant/owner agrees to design and construct a left turn lane with taper and right turn taper shall in accordance with ASSHTO and Public Works requirements prior to issuance of a certificate of occupancy.

City Clerk Moore identified the following speaker in support of Public Hearing Item **H**:

Shepelle Watkins-White, 524 Johnstown Road, representing e Fueling Network.

Council Member Ward, on a motion seconded by Council Member Hayes, moved for approval of UP-07-23 with stipulations as presented.

Council Member Collins asked Planning Director Nielson to review staff's findings on the proposed application.

Mr. Nielson stated that the application met the requirements of the Comprehensive Plan and reviewed the landscaping plan as it would be viewed from the street.

Council Member Willis commented on the compatibility of the application with the surrounding property and location; she expressed concern that no property had been dedicated for the Draft Trails and Bike Path Plan. She asked that a policy be considered for that.

There was additional discussion between Council Members, City Attorney Hallman and the applicant concerning the Trails and Bike Path area.

Council Member Krasnoff, on a substitute motion seconded by Council Member Collins, moved to continue UP-07-23 to the September 18, 2007 City Council meeting.

There was no additional discussion.

On the substitute motion to continue UP-07-23 to the September 18, 2007 City Council meeting, voting yes: Council Members Adams, Collins, Edge, Hayes, Krasnoff, Ward and Willis.

Voting no: None (de Triquet and Parker excused)

I. **UP-07-20 PROJECT: AGL Resources Construction Facility**
APPLICANT: AGL Services Company AGENCY: Kimley-Horn and Associates, Inc PROPOSAL: A conditional use permit for a General Contractor's yard with outside storage on a 2.5[±] acre lot. ZONE: B-2 General Business District SIC CODE: 15 LOCATION: 4601 & 4621 Bainbridge Blvd. TAX MAP SECTION/PARCEL: 0351001000010, 0351001000020 BOROUGH: Washington

The Planning Commission recommends approval with the following stipulations:

1. The applicant shall dedicate half of the ultimate "compressed section" of 90' right-of-way along the parcel's frontage to Bainbridge Boulevard.
2. Curb and gutter shall be installed along the entire frontage of the subject site in accordance with the requirements of the Public Works Department.
3. No inoperable vehicles shall be stored or placed on the subject site.
4. As agreed upon by the applicant, the applicant/owner shall install an eight-foot high decorative and opaque fence as depicted on the preliminary site plan dated July 11, 2007, and as permitted by the zoning ordinance to provide complete visual opaque screening for the residential homes to the east of the subject site.

City Clerk Moore identified the following speaker in support of Public Hearing Item I:

Randy Royal, 501 Independence Parkway, #300, representing AGI Resources Construction Facility.

Council Member Collins, on a motion seconded by Council Member Hayes, moved approval of UP-07-20 with stipulations as presented and an additional stipulation to read:

5. The Developer shall provide bicycle facilities on Bainbridge and Great Bridge Boulevards in accordance with the City Bicycle and Trails Plan, to be shown on final construction plans for review and approval by Public Works.

Council Member Hayes asked Mr. Royal if this project was a new facility or a relocation of an older facility. Mr. Royal stated that it was a new facility.

Council Member Willis asked if the 90' right-of-way dedication included space for a bike lane; she stated that a possible continuance was needed to assure the right-of-way could accommodate the bike path.

Council Member Willis, on a substitute motion seconded by Council Member Ward, moved to continue UP-07-20 to the September 18, 2007 City Council meeting.

Council Member Hayes stated that dedication of Bike Trail Paths should be looked at during the application process and not on the floor. He asked Mr. Royal about the 90 foot right-of-way. Mr. Royal stated that the Bike Path may be included in the right-of-way.

City Engineer Eric Martin was called to the podium and stated that the 90' dedication could accommodate a bike lane and would be considered at the time of site plan review. There were discussions between Council Members and Mr. Martin concerning the different classes of bike paths. Mr. Royal agreed that a bike path facility would be provided on the site plan during site plan review.

Council Member Willis withdrew her substitute motion based on the Bike Path discussion and assurance of the agent for the applicant.

There was no further discussion.

On the motion to approve UP-07-20 with stipulations as presented and an additional stipulation #5, voting yes: Council Members Adams, Collins, Edge, Hayes, Krasnoff, Ward and Willis.

Voting no: None (de Triquet and Parker excused)

J. **UP-07-19 PROJECT: Cascade Building Renovation** APPLICANT: City of Chesapeake AGENCY: Facilities Mgt. Division, General Services Dept. PROPOSAL: A conditional use permit to allow an interior renovation of an existing building and allow a change of use to a Community Hall on a 1.7 acre parcel. The applicant also requests an alternative parking surface in accordance with section 19-406.C.1 of the zoning ordinance. ZONE: R-8s, Residential District SIC CODE: 864 LOCATION: 1060 Cascade Blvd. TAX MAP SECTION/PARCEL: 1290000005310 BOROUGH: South Norfolk

The Planning Commission recommends approval with the following stipulations and with the alternative parking surface:

1. The applicant agrees to provide fire extinguishers in accordance with the requirements of the PFM.
2. The applicant agrees to provide smoke detectors, post an occupancy capacity sign and provide lighted exit signs with battery back-ups as recommended by the Fire Department.

3. The applicant agrees to install the landscape materials shown on the site plan stamp-dated June 27, 2007 prior to issuance of a certificate of occupancy.

City Clerk Moore advised there were no speakers on the item.

Council Member Ward, on a motion seconded by Council Member Adams, moved to approve UP-07-19 with stipulations as presented and with the alternative parking surface.

Council Member Ward commended the applicant for bringing the project forward and expressed support for the project.

Council Member Hayes stated support for the project, noting that it was an important community use of the building.

On the motion to approve UP-07-19 with stipulations as presented and the alternative parking surface, voting yes: Council Members Adams, Collins, Edge, Hayes, Krasnoff, Ward and Willis.

Voting no: None (de Triquet and Parker excused)

K. UP-05-44 PROJECT: 7-Eleven, Portsmouth Blvd. and Jolliff Rd.
APPLICANT: 7-Eleven, Inc. AGENCY: LeClair Ryan, A Professional Corporation PROPOSAL: A conditional use permit to construct and operate a motor vehicle supply facility in conjunction with a permitted convenience store on approximately 1.22 acres. ZONE: B-2, General Business District SIC CODE: 554 LOCATION: North side of Portsmouth Boulevard, east of the intersection of Jolliff Road and Portsmouth Boulevard. TAX MAP SECTION/PARCEL: Portion of 0150000001870 BOROUGH: Western Branch

The Planning Commission recommends approval with the following stipulations:

1. The applicant/owner agrees that the proposed architectural design of the proposed facility shall be substantially similar in appearance to that depicted on the rendering of architectural elevations, entitled "7-Eleven Convenience Store with Gas" and dated May 7, 2007, as determined by the Planning Director or designee. The applicant/owner also agrees that a final architectural plan, which includes without limitation a description of exterior colors and materials and demonstrates compliance with this stipulation, shall be submitted to, and approved by, the Planning Director or designee prior to the approval of the final site plan for the subject property. The applicant/owner further agrees that the approved final architectural plan shall be incorporated in the building plans that are submitted to the City for approval.
2. No loudspeakers shall be permitted on the subject site, with the exception of localized speakers at the individual gas pumps.
3. No telephones shall be permitted outdoors on the subject site.

4. No loitering shall be permitted on the site. Employees shall be required to monitor and prevent, as necessary, any evidence of loitering.

5. The site shall be kept in a clean, well-maintained order at all times.

6. No advertising shall be permitted on the proposed canopy with the exception of a 3x3 foot identification sign on the north, south and east sides of the canopy.

7. No advertising shall be permitted on the exterior of the proposed convenience store, except in the area over the front glass area on the elevation dated May 7, 2007.

8. The landscaping on the subject site shall be in accordance with Article 19-600 of the Chesapeake Zoning Ordinance, with the addition of an undulating berm ranging from 0ft. to 3ft. in height along its entire Portsmouth Boulevard frontage, east to the existing Commonwealth Gas line easement. Said berm shall wrap around the corner of the site from Portsmouth Boulevard to Starmont Parkway and extend to the first entrance to the site. The berm may be modified if required by the Public Works Department for sight visibility purposes.

In addition to the normally required street frontage buffer provisions, said frontage shall be improved with minimum 2.5 inch caliper trees, 12 ft. to 14ft. at the time of planting, and minimum 36 inch shrubs at the time of planting.

9. The right-of-way dedication shall be provided along Portsmouth Boulevard for the future 160' ultimate right-of-way width in accordance with the 2050 Master Transportation Plan

10. The proffers for R(C)-98-03 shall be shown on the final site plan.

City Clerk Moore identified the following speakers in support of Public Hearing **K**.

Steve Romine, 999 Waterside Drive, Norfolk, representing 7-Eleven, Inc.

Elmer Tolle, 770 Independence Circle, representing 7-Eleven, was available for questions.

Council Member Collins, on a motion seconded by Council Member Hayes, moved to approve UP-05-44 with the stipulations as presented.

Council Member Ward asked Mr. Romine about notification of the project to adjacent and nearby property owners. Mr. Romine stated that he had contacted the Jolliff Woods Civic League who posted the proposed project on their website and reviewed the site plan. Council Member Ward advised Mr. Romine that she had been contacted by several citizens who had concerns about the proposed project.

Discussion continued between Council Member Collins and Ward concerning the citizens' issues which centered on the number of convenience stores with fueling stations already located near the proposed area. Council Member Ward stated that a Civic League meeting was scheduled for the next night.

Council Member Collins asked Planning Director Nielson if the use permit application was only for the refueling portion of the site plan. Mr. Nielson stated that it was for the refueling portion of the business and that the store could locate on the site by right. The Planning Department had reviewed the application and from a planning standpoint, the proposed business was compatible. The application was only reviewed for compatibility and not for area competition.

There was further discussion by Council Members concerning loitering at similar businesses, repetitive use, noise, safety and reasons for continuing the application.

Council Member Ward, on a substitute motion seconded by Council Member Willis, moved to continue UP-05-44 to the September 18, 2007 City Council meeting.

Further discussion ensued concerning the need for the continuance and Council Members support or opposition to the continuance.

On the substitute motion to continue UP-05-44 to the September 18, 2007 City Council meeting, voting yes: Council Members Collins, Hayes, Ward and Willis.

Voting no: Council Members Adams, Edge and Krasnoff. (de Triquet and Parker excused)

L. UP-03-15 (Rev 4/07) PROJECT: Dominion VA Power Chesapeake Energy Center APPLICANT: Dominion Resources Services, Inc. AGENCY: Dominion Resources Services, Inc. PROPOSAL: A reconsideration of a previously approved stipulation (5b) regarding operational time limits for the anhydrous and aqueous ammonia systems for the Chesapeake Energy Center. ZONE: M-2 General Industrial District SIC CODE: 5169 LOCATION: 2701 Vepco Street TAX MAP SECTION/PARCEL: 0260000000090 BOROUGH: Deep Creek

The Planning Commission recommends approval with the following revised stipulations:

1. All transport of ammonia shall be on a route designated and approved by the Fire Department and shall occur only between the hours of 12:01 am and 5 am.
2. The operation, use, and maintenance of the tanks shall be subject to the requirements of the Fire Department and the Virginia Statewide Fire Prevention Code.

The applicant shall take any and all necessary action to ensure that trucks transporting toxic materials shall not travel, idle or park on any highway or road within the City of Chesapeake, except between the hours of Midnight and 5 a.m. A subsequent violation by the same or different truck driver or transport company shall be deemed sufficient cause to request City Council to revoke the conditional use permit pursuant to Section 17-112 of the Zoning Ordinance. The applicant shall be responsible for any notice of violation or warning issued by the Zoning Administrator for noncompliance with this stipulation, except in emergency situations as defined by the Fire Chief or designee, which shall be incorporated by reference into this stipulation when such definitions are established and amended as necessary. In such emergency situations, the Fire Department shall be notified as soon as reasonably practicable of the transport delivery of toxic materials outside the normal period of 12:00 am to 5:00 am. In addition, the facility shall provide such documentation as the Chesapeake Fire Department may request of the emergency conditions necessitating such transportation.

3. The applicant/owner shall be responsible for uninsured and unreimbursed costs incurred by the City in providing mitigation, containment or emergency services in the event anhydrous or aqueous ammonia is spilled or leaked in Chesapeake due to the activities conducted by applicant/owner under this conditional use permit. In addition, the City shall have all rights to collect clean-up costs and other damages as prescribed by the current Virginia Statewide Fire Prevention Code including local amendments in place, or any other applicable state, local or federal law, ordinance, regulation or cause of action.

4. An amendment of this conditional use permit shall be required in the event of:

a. any expansion of the anhydrous or aqueous ammonia tank systems that is not shown on the approved preliminary site plan, or

5. The applicant shall comply with the following Chesapeake Hazardous Material Team evaluation requirements:

a. 150 Industrial Scientific STX70, Single Gas Meters shall be purchased, and maintained and replaced as necessary by Dominion Virginia Power for use by and under the control of the Fire Department, to be strategically located at fire station numbers 2, 8, 9, and 15. The current price of these meters is \$588.00 each, with requirements for replacement of ammonia sensors as needed in accordance with shelf life.

b. Yearly drills, as requested and deemed to be necessary by the Fire Department for all Southside Regional Team members to include all 3 shifts.

c. Yearly drills, as requested and deemed necessary by the Fire Department for the first responding engine companies for Fire Station numbers 2, 8, 9, and 15 to include all three shifts.

City Clerk Moore identified the following speaker in support of Public Hearing Item L:

Max Bartholomew, 4901 Princess Anne Road, Virginia Beach, representing Dominion Virginia Power.

Paul Dickson, 2701 Vepco Street, representing Dominion Virginia Power, was present for questions only but was not called to the podium.

Council Member Adams, on a motion seconded by Council Member Hayes, moved to approve UP-03-15 (REV 4/07) with the stipulations as presented.

There was no discussion.

On the motion to approve UP-03-15 (REV 4/07) with stipulations as presented, voting yes: Council Members Adams, Collins, Edge, Hayes, Krasnoff, Ward and Willis.

Voting no: None (de Triquet and Parker excused)

M. #07-O-134 ST.C-07-03 PROJECT: Franklin Street Closure

APPLICANT: John S. Miller AGENCY: Glasser and Macon, P.C. PROPOSAL:

A street closure request for a 250 square foot portion of right of way along the east side of the 4100 block of Franklin Street. LOCATION: East side of Franklin Street in the 4100 block. TAX MAP SECTION/PARCEL: Adjacent to 1590000002100 BOROUGH: South Norfolk

The Planning Commission recommends approval with the following stipulations:

1. The applicant shall vacate all interior property lines by an approved resubdivision plat and the plat shall be filed for recording within 90 days of approval of this street closure.
2. The water meter and sewer cleanout shall be relocated by the applicant to public right-of-way, as approved by the Director of Public Utilities or designee, within 90 days of approval of this street closure.

City Clerk Moore advised there were no speakers on the item.

Council Member Collins, on a motion seconded by Council Member Ward, moved to approve ST.C-07-03 with stipulations as presented and with an additional stipulation to read:

3. \$3,000 payment to City of Chesapeake for purchase of land.

There was no discussion.

On the motion to approve ST.C-07-03 with the stipulations as presented and with the additional stipulation #3, voting yes: Council Members Adams, Collins, Edge, Hayes, Krasnoff, Ward and Willis.

Voting no: None (de Triquet and Parker excused)

N. #07-O-135 TA-Z-07-08 AN ORDINANCE AMENDING APPENDIX "A" OF THE CHESAPEAKE CITY CODE, ENTITLED "ZONING," SECTIONS 3-202 THEREOF, TO ADD PARAGRAPH C TO CLARIFY THE REQUIREMENTS FOR MINIMUM LOT FRONTAGE, LOT WIDTH AND LOT SIZE FOR PROPERTIES WITH MULTIPLE ZONING CLASSIFICATIONS.

The Planning Commission recommends approval of the version dated June 15, 2007.

City Clerk Moore advised there were no speakers on the item.

At the request of Mayor Edge, Planning Director Nielson reviewed the proposed changes to the ordinance and explained the amendments.

Council Member Willis, on a motion seconded by Council Member Hayes, moved to approve TA-Z-07-08, version dated June 15, 2007.

There was no discussion.

On the motion to approve TA-Z-07-08, version dated June 15, 2007, voting yes: Council Members Adams, Collins, Edge, Hayes, Krasnoff, Ward and Willis.

Voting no: None (de Triquet and Parker excused)

O. #07-O-136 TA-Z-07-10 AN ORDINANCE AMENDING APPENDIX "A" OF THE CHESAPEAKE CITY CODE, ENTITLED "ZONING", ARTICLE 3, SECTION 3-403, ARTICLE 7, SECTION 7-602, ARTICLE 8, SECTION 8-602, ARTICLE 9, SECTION 9-502, ARTICLE 10, SECTION 10-602, ARTICLE 12, SECTIONS 12-405 AND 12-607, ARTICLE 19, SECTION 19-411 TO ESTABLISH A DEFINITION OF MEDICAL CARE FACILITIES AND REQUIRE A CONDITIONAL USE PERMIT FOR SUCH USES IN THE BUSINESS, INDUSTRIAL, OFFICE AND INSTITUTIONAL, AGRICULTURAL, SOUTH NORFOLK BUSINESS OVERLAY AND FENTRESS OVERLAY ZONING DISTRICTS AND TO CLARIFY PARKING REQUIREMENTS FOR SUCH USES.

The Planning Commission recommends approval of the version dated June 26, 2007.

City Clerk Moore advised there were no speakers on the item.

Mayor Edge asked Planning Director Nielson to clarify the proposed changes.

Planning Director Nielson presented the proposed changes to the ordinance and provided an explanations of the changes.

Council Member Willis, on a motion seconded by Council Member Adams, moved to approve TA-Z-07-10, version dated June 26, 2007.

There was no discussion.

On the motion to approve TA-Z-07-10, version dated June 26, 2007, voting yes: Council Members Adams, Collins, Edge, Hayes, Krasnoff, Ward and Willis.

Voting no: None (de Triquet and Parker excused)

Non-Planning Public Hearing Items

P. ORDINANCES AWARDDING TELECOMMUNICATIONS FRANCHISES TO LEVEL 3 COMMUNICATIONS, LLC; TELCOVE, INC.; CAVALIER TELEPHONE, LLC; VERIZON COMMUNICATIONS; AND AT&T (Continued from the July 10, 2007 City Council Meeting)

- 1) **#07-O-137** AN ORDINANCE GRANTING A FRANCHISE TO LEVEL 3 COMMUNICATIONS, LLC FOR THE TERM AND UPON THE CONDITIONS HEREIN STATED TO OCCUPY AND USE THE STREETS, ALLEYS AND PUBLIC PLACES OF THE CITY OF CHESAPEAKE TO INSTALL, MAINTAIN, UPGRADE, REPAIR AND REMOVE POLES, WIRES, ELECTRICAL CONDUCTORS, CONDUITS, SUBWAYS, MANHOLES, FIXTURES, APPLIANCES AND APPURTENANCES OF A TELECOMMUNICATIONS SYSTEM IN THE CORPORATE LIMITS OF THE CITY OF CHESAPEAKE.

City Clerk Moore presented the item and stated there were no speakers.

Council Member Collins asked City Attorney Hallman if it would be a conflict of interest for him to participate in the discussion and vote on the item since a member of his immediate family worked for a telecommunications company. Mr. Hallman recommended that Mr. Collins abstain when that item came up for consideration.

Council Member Hayes, on a motion seconded by Council Member Ward, moved approval of the Ordinance as presented.

Council Member Hayes stated that all the components had been addressed at a recent work session and the ordinance was reasonable and appropriate.

Council Member Willis questioned City Attorney Hallman as to the fairness of the Franchise Agreement presented to Cox Communications earlier in the year. City Attorney Hallman stated that the agreement was broad enough to offer this type of service from Cox Communications and this was a different type of service.

There was no further discussion.

On the motion to approve the Ordinance as presented, voting yes: Council Members Adams, Collins, Edge, Hayes, Krasnoff, Ward and Willis.

Voting no: None (de Triquet and Parker excused)

2) **#07-O-138** AN ORDINANCE GRANTING A FRANCHISE TO TELCOVE, INC. FOR THE TERM AND UPON THE CONDITIONS HEREIN STATED TO OCCUPY AND USE THE STREETS, ALLEYS AND PUBLIC PLACES OF THE CITY OF CHESAPEAKE TO INSTALL, MAINTAIN, UPGRADE, REPAIR AND REMOVE POLES, WIRES, ELECTRICAL CONDUCTORS, CONDUITS, SUBWAYS, MANHOLES, FIXTURES, APPLIANCES AND APPURTENANCES OF A TELECOMMUNICATIONS SYSTEM IN THE CORPORATE LIMITS OF THE CITY OF CHESAPEAKE.

City Clerk Moore presented the item and advised there were no speakers.

Council Member Ward, on a motion seconded by Council Member Collins, moved approval of the Ordinance as presented.

There was no discussion.

On the motion to approve the Ordinance as presented, voting yes: Council Members Adams, Collins, Edge, Hayes, Krasnoff, Ward and Willis.

Voting no: None (de Triquet and Parker excused)

3) **#07-O-139** AN ORDINANCE GRANTING A FRANCHISE TO CAVALIER TELEPHONE, LLC FOR THE TERM AND UPON THE CONDITIONS HEREIN STATED TO OCCUPY AND USE THE STREETS, ALLEYS AND PUBLIC PLACES OF THE CITY OF CHESAPEAKE TO INSTALL, MAINTAIN, UPGRADE, REPAIR AND REMOVE POLES, WIRES, ELECTRICAL CONDUCTORS, CONDUITS, SUBWAYS, MANHOLES, FIXTURES, APPLIANCES AND APPURTENANCES OF A TELECOMMUNICATIONS SYSTEM IN THE CORPORATE LIMITS OF THE CITY OF CHESAPEAKE.

City Clerk Moore presented the item and advised there were no speakers.

Council Member Collins, on a motion seconded by Council Member Ward, moved to approve the Ordinance as presented.

There was no discussion.

On the motion to approve the Ordinance as presented, voting yes: Council Members Adams, Collins, Edge, Hayes, Krasnoff, Ward and Willis.

Voting no: None (de Triquet and Parker excused)

4) **#07-O-140** AN ORDINANCE GRANTING A FRANCHISE TO VERIZON COMMUNICATIONS FOR THE TERM AND UPON THE CONDITIONS HEREIN STATED TO OCCUPY AND USE THE STREETS, ALLEYS AND PUBLIC PLACES OF THE CITY OF CHESAPEAKE TO INSTALL, MAINTAIN, UPGRADE, REPAIR AND REMOVE POLES, WIRES, ELECTRICAL CONDUCTORS, CONDUITS, SUBWAYS, MANHOLES, FIXTURES, APPLIANCES AND APPURTENANCES OF A TELECOMMUNICATIONS SYSTEM IN THE CORPORATE LIMITS OF THE CITY OF CHESAPEAKE.

City Clerk Moore presented the item and advised there were no speakers.

Council Member Collins stated that he would abstain from voting on the Ordinance because of a family member's association with Verizon.

Council Member Adams, on a motion seconded by Council Member Hayes, moved to approve the Ordinance as presented.

There was no discussion.

On the motion to approve the Ordinance as presented, voting yes: Council Members Adams, Edge, Hayes, Krasnoff, Ward and Willis.

Voting no: None (Collins abstained) (de Triquet and Parker excused)

5) **#07-O-141** AN ORDINANCE GRANTING A FRANCHISE TO AT&T FOR THE TERM AND UPON THE CONDITIONS HEREIN STATED TO OCCUPY AND USE THE STREETS, ALLEYS AND PUBLIC PLACES OF THE CITY OF CHESAPEAKE TO INSTALL, MAINTAIN, UPGRADE, REPAIR AND REMOVE POLES, WIRES, ELECTRICAL CONDUCTORS, CONDUITS, SUBWAYS, MANHOLES, FIXTURES, APPLIANCES AND APPURTENANCES OF A TELECOMMUNICATIONS SYSTEM IN THE CORPORATE LIMITS OF THE CITY OF CHESAPEAKE.

City Clerk Moore presented the item and advised there were no speakers.

Council Member Ward, on a motion seconded by Council Member Willis, moved to approve the Ordinance as presented.

There was no discussion.

On the motion to approve the Ordinance as presented, voting yes: Council Members Adams, Collins, Edge, Hayes, Krasnoff, Ward and Willis.

Voting no: None (de Triquet and Parker excused)

CITIZENS' COMMENTS ON AGENDA ITEMS ONLY

City Clerk Moore identified the following speaker:

James R. Bradford, 325 Volvo Parkway, representing Hassell and Folkes, spoke in support of City Manager Item #1.

REGULAR AGENDA

CITY MANAGER ITEM

1. CONSIDERATION OF A REQUEST FROM HEARNDON CONSTRUCTION CORPORATION FOR THE EXPANSION OF THE HAMPTON ROADS SANITATION DISTRICT (HRSD) FORCE MAIN SERVICE AREA FOR OLDE MILL RUN – PHASE 3 SUBDIVISION – DEPARTMENT OF PUBLIC UTILITIES (Continued from the August 14, 2007 City Council Meeting)

City Manager Harrell presented the item.

Council Member Krasnoff called Mr. Bradford back to the podium and asked if this was an expansion of the service area or have Hampton Roads Sanitation District (HRSD) research to see if Old Mill Run, Phase 3, was located within the present service area. Mr. Bradford stated that this was simply a request to contact HRSD to clarify the service area for Olde Mill Run, Phase 3.

There was additional discussion between Mr. Bradford, Council Member Ward, Council Member Willis and City Attorney Hallman concerning the request of the item and wording of the request.

Council Member Krasnoff, on a motion seconded by Council Member Collins, moved to approve permission for staff to contact HRSD to clarify the service area for Olde Mill Run – Phase 3 Subdivision.

There was no additional discussion.

On the motion to approve permission for staff to contact HRSD to clarify the service area for Olde Mill Run – Phase 3 Subdivision, voting yes: Council Members Adams, Collins, Edge, Hayes, Krasnoff, Ward and Willis.

Voting no: None (de Triquet and Parker excused)

COMMITTEE REPORTS/OLD AND NEW BUSINESS

Mayor Edge combined Committee Reports with Old and New Business calling on Council Members for both beginning with Council Member Adams.

Council Member Adams reported on attendance at the Police Academy Graduation where 14 officers graduated. She reviewed a recent cooperative drug sting operation involving the cities of Chesapeake and Norfolk and commended the departments for working together on a successful operation with the State Police. Council Member Adams invited City Treasurer Barbara why the three major tax bills or fees, (Real Estate Taxes, Personal Property taxes and Stormwater fee), had the same “due date.” Following the explanation by City Treasurer Carraway, Council Member Adams stated that only the Stormwater fee could be changed. City Treasurer responded that was correct but the change would have to have the due date prior to June 5th. Additional discussion ensued between Council Member Willis and City Treasurer Carraway on the Stormwater

fee. Council Member Ward reiterated that citizens could arrange to pay Real Estate Taxes on a monthly basis.

Council Member Collins reviewed his attendance at the ribbon cutting for Towne Place at Greenbrier.

Council Member Hayes requested City Manager Harrell to explore an Emergency Notification System where citizens could voluntarily give their telephone numbers for contact in case of a City emergency. He also asked that he be provided the status of work being done by the Budget Department on unfunded mandates and the effect they were having on the City.

Council Member Krasnoff expressed concerns about the Southeastern Public Service Authority (SPSA) and the Board's decision to increase their line of credit and borrowing authority. Dr. Krasnoff inquired about the business to be voted on by the SPSA Board members at the next meeting. Council Member Collins responded, noting the members would vote on the amount of money to be refinanced (approximately \$32 million) and increasing the line of credit approximately \$3 million.

Council Member Krasnoff spoke about SPSA's previous spending practice and that the cities of Suffolk and Virginia Beach either pay no debt service or the debt service is capped. He also noted that the amount of money being considered by the Board members was the same requested in the previous year which resulted in Chesapeake filing a lawsuit against the Authority. Council Member Krasnoff stated that Chesapeake should continue to insist that SPSA take on no new debt until Suffolk and Virginia Beach will be contributing to the retirement of the Authority's debt.

Council Member Collins stated that the "Use and Support" Agreement for Suffolk and Virginia Beach (which is in effect until January 2018) was being upheld by the majority of the Board, and until the other members concurred with Chesapeake's position on new or additional debt, this would be an uphill battle.

Council Member Ward thanked the Department of Public Works for reducing the speed limit on Airline Boulevard to 35 miles per hour and for the new crosswalks at the traffic light. She announced that the next Symphony Under the Stars event was planned for September 2, 2007 at Chesapeake City Park. She commended the Planning Department on the recent Statistical Profile publication.

Council Member Krasnoff asked City Manager Harrell to research why the speed limit on Mount Pleasant Road near Blue Ridge Road had been increased. He asked that it be reduced back to 35 miles per hour.

Council Member Willis requested City Manager Harrell to have the Planning Department encourage proffers for workforce housing when working with applicants on development plans. She noted that SPSA was looking at asking members to go back to flow control to help reduce tipping fees. Mrs.

Willis asked for a timeline on the consideration. City Manager Harrell responded that a work session was planned on flow control for September 18, 2007 and that big bins for recycling could be discussed at that time.

Council Member Krasnoff referred back to the workforce housing issue raised by Council Member Willis noting that the City did not have a policy on it and it would be helpful to know what was reasonable on the issue. City Manager Harrell advised that staff had already begun discussions on workforce housing and were working with the Tischler Group to discuss the matter at the September 18th Work Session.

Council Member Adams thanked the Department of Public Works, Dominion Virginia Power, Southside Civic League and Reverend McNeil for the successful completion of the installation of lights on the Campostella Bridge, making the area safer for the community.

Council Member Ward thanked the Department of Public Works for the removal of limbs in the Western Branch area following the recent storm.

REQUEST FOR CLOSED SESSION

City Attorney Hallman provided the following language for an item to be considered for a closed session: "to discuss the acquisition of real property for a public purpose where discussion in open session would adversely affect the bargaining position of the City, pursuant to Virginia Code Section 2.2-3711 A.3."

Council Member Collins, on a motion seconded by Council Member Ward, moved for approval of the Closed Session topic.

There was no discussion.

On the motion for approval of the Closed Session topic, voting yes: Adams, Collins, Edge, Hayes, Krasnoff, Ward and Willis.

Voting no: None (de Triquet and Parker excused)

City Council recessed at 10:18 p.m. and went into Closed Session at 10:25 p.m. The meeting reconvened at 10:42 p.m.

CERTIFICATION OF CLOSED SESSION

City Attorney Hallman read the following: "The Chesapeake City Council hereby certifies that to the best of each member's knowledge, only public business matters lawfully exempted from open meeting requirements were discussed and only such public business matters as were identified in the motion convening the meeting were heard, discussed or considered by the City Council."

Council Member Collins, on a motion seconded by Council Member Ward, moved approval of the Certification of the Closed Session discussion.

On the motion for approval of the Closed Session discussion, voting yes: Council Members Adams, Collins, Edge, Hayes, Krasnoff, Ward and Willis.

Voting no: None (de Triquet and Parker excused)

August 21, 2007

ADJOURNMENT

There being no further business for consideration, the meeting was adjourned at 10:43 a.m.

/dah

Mayor

Attest:

City Clerk