

A Regular Work Session of the Chesapeake City Council was held September 18, 2007, at 4:30 p.m., in the City Hall Building, 306 Cedar Road.

Present: Council Member Rebecca Adams
Council Member Bryan Collins
Council Member John M. de Triquet
Mayor Dalton S. Edge
Council Member Clifton E. Hayes, Jr.
Vice Mayor Dwight M. Parker
Council Member Ella Ward
Council Member Patricia Pritchard Willis

Absent: Council Member Alan P. Krasnoff

Present from Administration: City Manager William Harrell, City Attorney Ronald Hallman, Deputy City Manager Wanda Barnard-Bailey, Deputy City Manager Amar Dwarkanath, City Clerk Dolores Moore, City Auditor Jay Poole, and other staff members.

Also Present: Smiling Earth Consultants John Henderson, Bernie Mock, Tony Prehm, Steven Still, John Rifilato, Hoggard-Eure Engineer Thom Maxwell, Executive Director of Southeastern Public Service Authority (SPSA), John Hadfield, SPSA Counsel Tony Thiel, and Consulting Engineer R. W. Beck, Jeff Clunie.

At 4:00 p.m., prior to the start of the Work Session, City Council held interviews with nominees for appointment to the Chesapeake Redevelopment and Housing Authority in the Human Resources Training Room on the fourth floor of the City Hall Building. The nominees interviewed for appointment were Shepelle Watkins-White and Linwood Nelms.

The interviews were concluded at 4:26 p.m. prior to the start of the Work Session.

The Following Topics were discussed during the Work Session:

- 1) Biodiesel Proposal
- 2) Flow Control/SPSA Financing
- 3) City Manager Updates

The Work Session adjourned at 6:08 p.m.

/dah

Regular Meeting of City Council
September 18, 2007

A Regular Meeting of the Chesapeake City Council was called to order by Mayor Dalton S. Edge on September 18, 2007 at 6:30 p.m., in the City Hall Building, 306 Cedar Road.

INVOCATION: Reverend Mark Lewis, Great Bridge Freewill Baptist Church

PLEDGE OF ALLEGIANCE: Boy Scout Grayson Kelley, Troop 6, Great Bridge Baptist Church

ROLL CALL BY CLERK OF COUNCIL:

Present: Council Member Rebecca Adams
Council Member Bryan Collins
Council Member John M. de Triquet
Mayor Dalton S. Edge
Council Member Clifton E. Hayes, Jr.
Council Member Alan P. Krasnoff (arrived at 6:35 p.m.)
Vice Mayor Dwight M. Parker
Council Member Ella Ward
Council Member Patricia Pritchard Willis

Absent: None

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

APPROVAL OF MINUTES

Mayor Edge advised that there were no minutes for approval at that time.

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

City Clerk Moore identified the following speakers prior to the presentation of the public hearing items in opposition to Public Hearing Item **D**:

Ellis W. James, 2021 Kenlake Place, Norfolk, representing Sierra Club Observer.

Jean Marie Eagler, 7712 C Cozy Corner Drive, representing self.

PUBLIC HEARING ITEMS

A. 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 015000001870 BOROUGH: Western Branch (Continued from the August 21, 2007 City Council Meeting.)

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 stated that the applicant and agent were present and available for questions.

Council Member Collins, on a motion seconded by Council Member de Triquet, moved approval of UP-05-44 with stipulations as presented.

There was no discussion.

On the motion for approval of UP-05-44 with stipulations as presented, voting yes: Council Members Adams, Collins, de Triquet, Edge, Hayes, Krasnoff, Parker, and Willis.

Voting no: Council Member Ward

B. **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 (Continued from the August 21, 2007 City Council Meeting)

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 advised that the agent was present and available for questions.

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

Council Member Willis thanked the applicant for the 20' right-of-way dedication for a future bike trail.

There was no further discussion.

On the motion for approval of UP-07-23 with stipulations as presented, voting yes: Council Members Adams, Collins, de Triquet, Edge, Hayes, Krasnoff, Parker, Ward, and Willis.

Voting no: None.

C. UP-07-26 PROJECT: Lee's TaeKwonDo America APPLICANT: Jee Ho Lee AGENCY: Hassell & Folkes, PC PROPOSAL: A conditional use permit to provide child day care with martial arts instruction for school age children. ZONE: B-1 SIC CODE: 835 LOCATION: 1402 Kempsville Road, Orchard Square Shopping Center TAX MAP SECTION/PARCEL: 0380000001520 BOROUGH: Washington

The Planning Commission recommends approval with the following stipulation:

- The applicant agrees to transport children enrolled in the day care center to Chesapeake City Park for outdoor recreation during non-school days.

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

Vice Mayor Parker, on a motion seconded by Council Member Ward, moved approval of UP-07-26 with the stipulation as presented.

There was no discussion.

On the motion for approval UP-07-26 with the stipulation as presented, voting yes: Council Members Adams, Collins, deTriquet, Edge, Hayes, Krasnoff, Parker, Ward and Willis.

Voting no: None.

D. **UP-07-15 PROJECT:** Virginia Point Biodiesel **APPLICANT:** Virginia Point Biodiesel, LLC **AGENCY:** Hoggard-Eure Associates, PC **PROPOSAL:** A conditional use permit to construct and operate a biodiesel fuel production facility on 44± acres. The applicant also seeks approval of a height increase pursuant to Sections 8-302.a.6 and 19.205.b of the Chesapeake Zoning Ordinance to allow two proposed 100 ft. structures to exceed the 75 foot height limitation by 25 feet. **ZONE:** M-2 General Industrial District **SIC CODE:** 2079 **LOCATION:** 700 Rosemont Avenue **TAX MAP SECTION/PARCEL:** 1440000000010, 1440000000011, portion of 140000000040 **BOROUGH:** South Norfolk

The Planning Commission recommends approval with the requested height increase and with the following stipulations:

1. The term "applicant" as used herein shall mean not only the current applicant, but any and all successors in interest and operators of the facility.
2. The applicant must obtain all the necessary permits for a sewage disposal system, whether public or private, prior to the issuance of a Certificate of Occupancy for the subject facility.
3. The applicant shall not process, handle or store, or allow the processing, handling or storage of, raw materials including, but not limited to, plants and animal fat, on the subject site. The purpose of this stipulation is to prohibit odorous raw materials used to produce oils that are in turn used to create biodiesel fuel on the subject site.
4. A certificate of occupancy, temporary or final, shall not be issued for the facility, or any portion thereof, until the Fire Department certifies in writing that Stipulations five (5) through (42) have been satisfied, unless another date is specifically stated in a stipulation. This provision shall not be construed to nullify the applicant's continuing obligation to comply with all stipulations.
5. a. The applicant shall prepare a security plan for the facility subject to the joint approval of the Chesapeake Fire Chief/Emergency Management Coordinator and the Chesapeake Chief of Police, or their respective designees. Such plan shall be subject to a periodic review and update, as determined by the Fire Chief/Emergency Management Coordinator or Chief of Police.

8.
 - a. The applicant shall provide emergency access, beginning at Rosemont Ave., to all buildings, structures, piers, wharfs and areas where bio-diesel, palm oil or other hazardous materials will be manufactured, loaded, unloaded, transported, handled or stored; ensure an adequate water supply for firefighting, including sufficient water pressure; install and maintain automatic fire protection systems; and obtain all required operational permits for hazardous materials; all as required by the Uniform Statewide Building Code, the Statewide Fire Prevention Code, Public Facilities Manual and all requirements of the Fire Department. Operational fire code permit(s) for hazardous materials shall not be issued or considered valid until the Fire Department certifies that the required emergency access, firefighting water supply, and automatic fire protection systems have been provided in accordance with applicable laws, ordinances and regulations and in full compliance with the stipulations and preliminary site plan approved by City Council in granting UP-07-15.
 - b. The applicant shall ensure that an additional emergency access road(s) beginning at Bainbridge Blvd. with the proper dead-end turnaround with the proper widths and turning radius for fire apparatus, and properly marked in accordance with the Chesapeake Fire Department requirements and the Public Facilities Manual in accordance with Chesapeake Fire Department requirements shall be provided as shown on the approved final site plan or as may be required through the final build out of the site by the Chesapeake Fire Chief/Emergency Services Coordinator or designee.
 - c. Additional access roads as identified by the Chesapeake Fire Chief/Emergency Services Coordinator or designee, during final site plan review and thereafter, shall meet emergency access requirements. In the alternative, the applicant shall provide for increased fire protection measures above minimum requirements as approved by the Chesapeake Fire Chief/Emergency Services Coordinator or designee.
9. The applicant shall ensure that lock boxes as required and approved by the Chesapeake Fire Department shall be placed in identified areas for emergency access to include any secured entrance gate(s) to the complex and for substantial buildings within the complex. The keys contained in these lock boxes shall be keyed alike to provide for greater response efficiency. The applicant shall install one or more lock boxes for emergency access through gated access, as well as for

entry to principal buildings and areas, as designated by the Chesapeake Fire Chief/Emergency Services Coordinator or designee. The applicant shall maintain, repair and replace the lock boxes as necessary to ensure functionality.

10. Fire protection equipment shall be installed and maintained as approved by the Chesapeake Fire Chief/Emergency Services Coordinator or designee by the issuance of a permit for installation and by final system field inspection and testing before any hazardous materials are manufactured, used or stored at the facility. Approved fire protection equipment shall be maintained while any hazardous material is manufactured, stored or used on the site.
11. The applicant shall ensure that any Self Contained Breathing Apparatus at the facility shall be of the same brand, model and type as used, or approved by the Chesapeake Fire Chief/Emergency Services Coordinator or designee.
12. The applicant shall provide and maintain a remote surveillance and fire command center (FCC). The size, location and construction of this center shall be approved by the Chesapeake Fire Chief/Emergency Services Coordinator or designee but shall be located near the entrance to the site. The functionality of the FCC shall include at a minimum:
 - Video capability to view all areas of the processing, storage, loading and other areas identified by the Fire Department.
 - Fire detection, fire alarm annunciation, fire suppression, remote sensor monitoring and controls shall be required. The fire alarm and suppression shall be zoned as required and approved by the Fire Department.
 - Remote operation of fire pumps and required backup power supplies.
 - Remote operation of remote control fire suppression monitors as required by the Fire Department.
 - Remote operation of foam supplies and appliances.
 - Remote shut off of fuel loading equipment at all loading racks.
 - Remote shut off of flammable, combustible or corrosive material transfer or processing equipment.
 - Equipped with all measures necessary to protect personnel from any releases of hazardous materials.
 - Weather station.
 - Communication capability with all facility site operators and response personnel.
 - Keys and pass cards for all locked accesses, gates, etc.

- A pre-incident plan provided by the Chesapeake Fire Department.
 - Current facility layout including: Storage tanks, Facility piping, Loading racks, Emergency access points.
 - Current facility emergency response plan.
 - Current emergency contact list.
 - A plant operations liaison employee knowledgeable in plant operations, equipment, safety equipment and safety procedures shall meet the Fire Department on any emergency response and be assigned to the FCC to assist the Fire Department Incident Commander. When the facility is staffed and operating this employee shall immediately meet the fire department. When the facility is not staffed or operating this employee shall arrive within 1 hour of notification of an incident.
13. The applicant shall ensure that the fire protection equipment for the site and pier serving the facility meets or exceeds all applicable requirements and specifications of the Statewide Fire Prevention Code and local amendments, as well as all applicable API, ANSI, FM, ASTM, ISO and NFPA requirements or as required and approved by the Chesapeake Fire Department.
14. The applicant shall install and maintain a water main dedicated solely for supplying fire hydrants used for manual firefighting operations and domestic water with no fire pump pressurization and a separate water main dedicated solely for fire protection equipment pressurized by a fire pump. Fire department connections shall be configured so that fire department apparatus can augment fire suppression equipment as may be required by the Chesapeake Fire Chief/Emergency Services Coordinator or designee without pressurizing the hydrant system. Fire department connections shall be installed in accordance with the Virginia Statewide Fire Prevention Code and National Fire Protection Standard 24 and shall be located at least forty (40) feet from any structure, and shall have a fire hydrant supply within fifty (50) feet of any fire department connection, in accordance with the approval of the Chesapeake Fire Chief/Emergency Services Coordinator or designee.
15. The applicant shall install and maintain water and foam monitors for fire protection, as required by the Chesapeake Fire Chief/Emergency Services Coordinator or designee. The monitors shall be automatically actuated by fire-responsive devices and shall also have a capability for manual actuation in accordance with Chapter 4 of NFPA 11 and NFPA 16 as required by the Chesapeake Fire Chief/Emergency Services Coordinator or designee. All monitors shall have 360 degree water discharge positioning capability and fog or straight stream

- discharge pattern adjustment under remote, manual and local (physically manned) operation unless otherwise approved by the Chesapeake Fire Chief/Emergency Services Coordinator or designee.
16. The applicant shall install and maintain water and foam monitors for fire protection protecting flammable/combustible liquid storage tanks, pipelines, loading racks, unloading racks, manufacturing, pier or wharf, marine vessel, railcar and truck loading area connection points and other areas, if required by the Chesapeake Fire Chief/Emergency Services Coordinator or designee. The monitors shall be fully remote controlled providing 360 degrees discharge positioning and fog/straight stream adjustment, foam supply as well as on/off controlling. The applicant shall ensure that all water and foam monitors for fire protection will have specific capabilities of being remotely controlled from the FCC as shown on the Final Site Plan unless otherwise approved by the Chesapeake Fire Chief/Emergency Services Coordinator or designee.
 17. The applicant shall provide and maintain all new or existing piers, docks or wharfs used by the facility with automatic fire protection, automatic fire detection, firefighting water supply, fire hydrants, manual or remote fire suppression monitors and foam supplies or appliances as required by the Chesapeake Fire Chief/Emergency Services Coordinator or designee.
 18. The applicant shall install and maintain water main fire suppression system pumps necessary to meet water demand pressure and shall require electric generator back up for electric fire pumps and water storage tanks to meet volume demand as required by the Chesapeake Fire Chief/Emergency Services Coordinator or designee that will simultaneously provide adequate water supply to the fire suppression nozzles, fire hydrants, fire sprinkler systems and other firefighting equipment required by the Chesapeake Fire Chief/Emergency Services Coordinator or designee. The applicant shall ensure that the firefighting water supply meets all current demands and be upgraded when necessary to meet future demands.
 19. The applicant shall design, install and maintain water lines, pumps, tanks hydrants and related equipment or improvements needed to meet and maintain water supply demand and water pressures at all times for overall site protection, as determined by the Chesapeake Fire Chief/Emergency Services Coordinator or designee, using municipal water only. Required water supply for fire fighting shall be municipal water. Alternative sources of water may be used for fire fighting but shall not affect the required amount of municipal water supply. The required water demand and pressure are cumulative and

- shall include manual and automatic systems including protecting exposures and foam production which occur simultaneously.
20. The applicant shall ensure that the minimum amount and duration of fire flow water for process areas and storage tanks shall be a minimum of 2,000 gallons per minute for 3 hours, as indicated by the Clark Nexsen report dated June 21, 2007 or the minimum flow and duration required by applicable SFPC, NFPA or FM standards, which ever is greater unless otherwise approved by the Chesapeake Fire Chief/Emergency Services Coordinator or designee.
 21. The applicant shall ensure that the minimum amount and duration of firefighting foam supply for process areas and storage tanks shall provide at least 3 hours supply (4,200 gallons) or the minimum flow and duration required by applicable SFPC, NFPA or FM standards, which ever is greater. Firefighting foam supplies shall be in a fixed and pre-piped foam tank and system which includes a central foam tank(s) capable of storing and distributing the maximum amount of foam concentrate required for any firefighting foam operation scenario. The location of this foam storage area shall be remote as approved by the Chesapeake Fire Chief/Emergency Services Coordinator or designee. This location will be a safe area away from the hazards, protected and shall contain all piping and appliances necessary for automatic use and distribution of firefighting foam. Foam supplies on site must satisfy the greatest on-site demand, as determined by the Chesapeake Fire Chief/Emergency Services Coordinator or designee, unless otherwise approved by the Chesapeake Fire Chief/Emergency Services Coordinator or designee. Any foam used by the Fire Department for an incident on the site shall be replaced within a time required by the Chesapeake Fire Chief/Emergency Services Coordinator or designee.
 22. The applicant shall provide and maintain extra foam supplies in amounts (1,400 gallons minimum), type, containers, distribution equipment and methods in accordance with the requirements of the Chesapeake Fire Chief/Emergency Services Coordinator or designee.
 23. The applicant shall install and space all fire hydrants a maximum of 250 feet apart as approved by the Chesapeake Fire Chief/Emergency Services Coordinator or designee and shall flow at a minimum of 1,500 gallons per minute (at a minimum of 20 psi) each unless otherwise approved by the Chesapeake Fire Chief/Emergency Services Coordinator or designee.
 24. The applicant shall install and maintain dry hydrants that meet NFPA 1142 standards and fire department connections for an emergency back up firefighting water supply at the pier or other areas as required

- by the Chesapeake Fire Chief/Emergency Services Coordinator or designee.
25. The applicant shall maintain the pipelines transporting inflammable/combustible liquids with automatic fire protection as required by the Chesapeake Fire Chief/Emergency Services Coordinator or designee. This fire protection system must be activated by an approved fire detection system that is connected to the monitored fire alarm system that provides on-site notification and automatically shuts down the transport/transfer operation unless otherwise approved by the Chesapeake Fire Chief/Emergency Services Coordinator or designee.
 26. The applicant shall ensure that high hazard areas shall be protected by automatic early suppression fast response (EFSR) sprinkler heads as required by the Chesapeake Fire Chief/Emergency Services Coordinator or designee.
 27. The applicant shall ensure that appropriate containment and drainage for runoff of firefighting water and foam applications as approved by the Chesapeake Fire Chief/Emergency Services Coordinator or designee.
 28. The applicant shall ensure that an operational fire code permit(s) is obtained before any manufacture, use or storage of any hazardous materials on the facility will be allowed.
 29. The applicant shall not permit, cause or allow hazardous materials be transferred directly from one ship, barge, truck or railcar to another, ship, barge, truck or railcar without written approval of the Chesapeake Fire Chief/Emergency Services Coordinator or designee. All off-loading or on-loading of transport vessels shall be to or from fixed facility containers.
 30. The applicant shall prepare and submit a Risk Management Plan to the Chesapeake Fire Chief/Emergency Services Coordinator or designee for review and approval prior to any storage or manufacturing of biodiesel or any other hazardous material at the facility.
 31. The applicant shall engage the continuous services of a private hazardous materials response team, which shall be certified and properly trained and shall arrive onsite within one hour of an emergency alarm or call. The private hazardous materials response team shall be responsible for responding to assist the Fire Department with emergencies at the facility, as well as at any other location in the Cities of Chesapeake and Portsmouth from which biodiesel or other hazardous material is shipped to or from the facility. Regardless of the circumstances, the applicant and the private

hazardous materials response team shall on every occasion deem an emergency to exist if so determined by the Chesapeake Fire Chief/Emergency Services Coordinator or designee. The applicant shall provide the Chesapeake Fire Chief/Emergency Services Coordinator or designee annually, or as changes occur, a copy of any and all contracts with private hazardous materials response teams to ensure that the terms and obligations satisfy this stipulation.

32. The applicant shall ensure that the operation, use, and maintenance of all equipment and tanks used to manufacture, store, handle or process hazardous materials meet the requirements of the Chesapeake Fire Chief/Emergency Services Coordinator or designee.
33. The applicant shall ensure that inflammable and combustible liquid storage tanks meet or exceed NFPA 30 requirements for fire protection and spacing as approved by the Chesapeake Fire Chief/Emergency Services Coordinator or designee.
34. The applicant shall install and maintain on-site sensors to detect a leak of any hazardous materials as determined to be required by the Chesapeake Fire Chief/Emergency Services Coordinator or designee. These sensors shall be located throughout the terminal facility, including without limitation, buildings, structures, dock areas and loading racks, as required and approved by the Chesapeake Fire Chief/Emergency Services Coordinator or designee. These sensors shall be set to alarm and give automatic, audio and/or visual notifications to the satisfaction of the Chesapeake Fire Chief/Emergency Services Coordinator or designee. The applicant shall also provide, monitor and maintain off-site, remote sensors as required in accordance with the requirements of the Chesapeake Fire Chief/Emergency Services Coordinator or designee. Such remote monitors may be located anywhere the Chesapeake Fire Chief/Emergency Services Coordinator or designee determines a reasonable potential threat may exist. The applicant shall be solely responsible for testing, repairing, replacing and monitoring the required sensors and related equipment.
35. The applicant shall ensure that any unintended, accidental or unauthorized intentional release of any hazardous materials shall be reported as required by the Chesapeake Fire Chief/Emergency Services Coordinator or designee and to other federal, state and local regulatory agencies.
36. Procedures shall be developed, approved by the Chesapeake Fire Chief/Emergency Services Coordinator or designee implemented that appropriately stores, contains, mitigates and disposes of any product

or portion of material that is determined to not be satisfactory for the production of bio-diesel or is a waste byproduct.

37. The applicant shall perpetually maintain a copy of all facility inspection reports in a secure location and shall make them available to the City of Chesapeake within one (1) hour of request from the City Manager, City Attorney, Fire Chief/Emergency Management Coordinator, or their respective designees. The inspection reports shall include the date, purpose, scope and findings of all inspections of the facility, whether conducted by an individual, private entity, insurance company, OSHA, the U.S. Coast Guard, or any other private, federal, state, local or private agency, association or organization.
38. The applicant shall, upon request, provide a representative to the City of Chesapeake Local Emergency Planning Committee (LEPC).
39. The applicant shall invite the Chesapeake Fire Chief/Emergency Services Coordinator or designee to attend the initial and subsequent updates to any risk/vulnerability inspections or studies conducted at or in regard to the terminal facility. The invitation shall be in writing with no less than seven (7) days prior notice.
40. The applicant shall take any and all necessary action to ensure that trucks transporting, delivering or removing hazardous, toxic and corrosive 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 caused by force majeure conditions as determined by the Chesapeake Fire Chief/Emergency Services Coordinator or designee, including, but not limited to, severe winter weather. In such emergency situations, the Chesapeake Fire Chief/Emergency Services Coordinator or designee shall be notified as soon as reasonably practicable of the transport and delivery of hazardous, toxic and corrosive 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 Chief/Emergency Services Coordinator or designee may request of the emergency conditions necessitating such transportation.
41. The applicant shall provide the Chesapeake Fire Chief/Emergency Services Coordinator or designee with a list of new safety, handling, dispensing and storage equipment, technologies and features for

alternate fuel manufacturing facilities, including a comparative analysis of the existing equipment and process at the facility. Such list and analysis shall be provided at least once every ten (10) years or more frequently, if requested by the Chesapeake Fire Chief/Emergency Services Coordinator or designee.

42. To enhance safety at the facility the applicant shall ensure that the facility shall be reviewed by the Chesapeake Fire Chief/Emergency Services Coordinator or designee every ten (10) years to determine whether the applicant is maintaining, repairing and replacing all equipment, computer programs and other types of improvements required by these stipulations or required by changes in applicable laws, ordinances, regulations, specification manuals or industry best practices. The review shall also be used to ensure that the applicant is installing improved safety and protection equipment, computer programs and other devices and processes in accordance with new technologies as they become available. If the review indicates that the applicant has failed to install improved equipment, computer programs and other technically advanced devices and processes, based on the then current industry standards and operational best practices, the Chesapeake Fire Chief/Emergency Services Coordinator or designee shall give the applicant reasonable notice to correct any and all noted deficiencies. The applicant's failure to make such corrections within the time permitted shall constitute a willful violation of this stipulation. In no event shall this stipulation be interpreted to limit the right of any City of Chesapeake Official or employee to inspect the facility as otherwise permitted by law or to take corrective action in the event of violation of any law, ordinance or regulation or in the event of noncompliance with any stipulation attached to, or site plan approved as part of, this conditional use permit UP-07-15.
43. The applicant shall provide radio communications equipment and continuous radio communications service as deemed necessary by the Chesapeake Fire Chief/Emergency Services Coordinator or designee to facilitate constant radio contact between the proposed facility and the Chesapeake Fire Department, the railroad serving the facility and the United States Coast Guard. In the event any of the buildings, equipment or operations at the facility interferes with or inhibits the Chesapeake public safety communication system, the applicant shall take all necessary steps to restore effective public safety communications, as determined and approved by the City of Chesapeake Communications Coordinator.

44. The applicant shall provide the Chesapeake Fire Chief/Emergency Services Coordinator or designee a "MIDLAND" model B-240, kit for handling railcar emergencies.
45. The applicant agrees to shall establish a citizen advisory committee. The committee shall consist of members from the surrounding communities of Chesapeake and Portsmouth. This committee shall be established upon City Council approval of the project. This committee shall serve to receive and address citizens concerns such as safety, environmental and operational issues directly with facility personnel. The members of the committee shall decide on the frequency of meetings.
46. In the event that the Zoning Administrator receives verifiable complaints of odor or noise emanating from the subject property, the Zoning Administrator may refer the conditional use permit to the Planning Commission for further review and recommendation to City Council for additional stipulations to address odor or noise related issues.

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

Thomas Maxwell, 901 Port Centre Parkway, Portsmouth, representing Hoggard-Eure Associates, P.C.

John Henderson, 2919 Misty Wind Court, Big City, Texas, representing Virginia Point Biodiesel.

Tony Prehm, Albert Lea, Minnesota, representing SE Energy/Virginia Point Biodiesel.

Steve Still, 1531 Sunrise Court, Sheldon, Iowa, representing SE Energy/Virginia Point Biodiesel.

John Rifilato, 886 Forbes Drive, Brea, California, representing SE Energy/Virginia Point Biodiesel.

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Christopher Born, 6160 Kempsville Circle, Norfolk, representing Clark-Nexsen.

Bernie Mock, 2789 Rutgers Avenue, L.B., California, representing SE Energy/Virginia Point Biodiesel.

Burnie Mansfield, 1144 Virginia Avenue, representing self.

Stephen Schwartz, 932 N. Oriole Drive, Virginia Beach, representing self.

Frank Lilley, 905 Ohio Street, representing South Norfolk Civic League.

City Clerk Moore identified the following speakers in opposition to Public Hearing Item **D**:

Paul Rakowski, 5209 Windsor Lane, Virginia Beach, representing self.

Francis Nugent, 1041 Sharon Drive, representing self.

Barbara Bodenstein, 475 Water Street, Portsmouth, representing Elizabeth River Project, offered comments.

Thomas Arrington, 305 Stonewood Court, representing self.

Marvin Hill, 812 Middle Street, representing South Hill.

Marilyn Collins, 805 Park Road, representing South Hill Civic League.

Sheldon C. Collins, 1618 Seaboard Avenue, representing Rosemont Community.

Mayor Edge opened the floor for Council Members to ask technical questions prior to a motion being made.

Mayor Edge asked Mr. Henderson to come forward to provide a definition of "VOC". Mr. Henderson stated that those initials stood for Volatile Organic Compounds, which refers to something that can evaporate into the air and create smog or pollution.

City Manager Harrell asked Planning Director Nielson to review the stipulations submitted by the application. Mr. Nielson highlighted the different stipulations covering fire prevention, emergency operations, emission controls, and ingress/egress to the proposed site.

City Manager Harrell further stated that meetings with the South Hill Community had been held and emergency evacuation was a major concern. Drainage issues, job opportunities and relocation of property owners were discussed with residents during the community meetings. Mr. Harrell asked Fire Chief Best to the podium to address emergency routes.

Fire Chief Best offered an extensive plan to Council Members addressing the additional access for nearby residents and emergency access to I-464; he stated that the developer would provide a secondary access road.

In response to an inquiry by Mayor Edge, Mr. Maxwell informed Council Members that the proposed facility was approximately 950 feet from the nearby residences, and that the actual processing facility was approximately 1,800 feet from those residents.

Mayor Edge requested a comparison of the volatility of existing fuel storage

in the area to the proposed biodiesel. Fire Chief Best stated the fuel storage tanks held highly flammable Class 1 combustible fuels while biodiesel is a very low Class 3 combustible liquid.

Chief Best responded to questions by Council Members and outlined the tiers of prevention and protection that had been stipulated by the applicant at the request of the fire and police departments, and reviewed the different fire specialty teams that were available should an emergency occur. Chief Best reviewed the delivery times and methods that would be used by the applicant to transport materials coming into the facility for processing.

There was discussion between Council Member Collins and Mr. Henderson concerning the types and amounts of VOC that would be omitted by the project and the stipulations required by the City for the application.

Council Member Hayes, on a motion seconded by Council Member Collins, moved for approval of UP-07-15 with stipulations as amended to include the additional stipulations as read into the record and with the proposed height increase.

Council Member Collins offered comments concerning the zoning, land use and comprehensive plan as it related to the proposed area.

Planning Director Nielson stated that the area was zoned industrial and the type of use proposed was covered under the current zoning.

Council Member Collins asked the applicant to speak to the stipulations dealing with money to address the South Hill Community issues.

Mr. Bernie Mock reviewed one of the additional stipulations that offered up to \$5 million to improve the South Hill area, offer training and scholarships for residents, and to be a good neighbor to the residents.

Discussion ensued between Vice Mayor Parker, Council Member Collins and City Attorney Hallman concerning the \$5 million stipulation and the ability of Council to revisit if the stipulation was violated.

Council Member Willis spoke about the meeting held with the Elizabeth River Project members, staff and representatives from S. E. Energy Company. She offered comments on the application, the applicant, and the proposed stipulations, noting that all concerns about the company's ability to financially handle the project had been addressed.

Council Member Adams asked the applicant to explain the process and technology that would be used at the proposed site. Mr. Henderson provided the information noting that the technologies had been used in other industries and the proposed facility would marry various technologies together with the project. The process included a waterless wash and explained that process to Council Members. Council Member Adams inquired how all the stipulations would be monitored. Planning Director Nielson stated that the Zoning Administrator would enforce the stipulations along with the Fire Department and the Public Works Department. Council Member Adams expressed concerns about the number of stipulations,

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monitoring of the site, the financial viability of the Company, environmental issues and the VOC emitted by the operation.

Council Member Adams, on a substitute motion seconded by Council Member de Triquet, moved to continue UP-07-15 to the October 18, 2007 City Council meeting.

Council Member de Triquet complimented the applicant and his team for all their work on the project; he expressed concerns about the amended stipulations, noting he needed more information on the technical issues and for more information about the Company and its operation before a decision was made.

Council Member Krasnoff stated that a letter of credit was in order to ensure the success of the \$5 million stipulation and expressed concerns on whether or not the project would impact Hampton Roads' ability to meet Federal emission attainment levels and this keep Federal Highway funds. He suggested that the Planning District Commission be contacted for current numbers on Hampton Roads attainment levels.

Mayor Edge asked Mr. Marvin Hill, of the South Hill community to the podium for additional comments concerning the South Hill area. Mr. Hill asked Mr. Thomas Arrington to speak instead; Mr. Arrington offered comments concerning the \$5 million being stipulated to the Community.

Additional discussion ensued between Council Members and the applicant concerning the number of stipulations, the revitalization efforts for the South Hill Community, the process proposed by the applicant, transportation of products into and out of the plant site and the products that would be used by the proposed project.

Council Member Collins asked staff to obtain the VOC emissions from the neighboring Allied site.

Vice Mayor Parker, on a motion seconded by Council Member de Triquet, called for the question to end debate of the motion.

On the motion calling for the question to end debate, voting yes: Council Members Adams, Collins, de Triquet, Edge, Hayes, Krasnoff, Parker, and Ward.

Voting no: Council Member Willis.

On the substitute motion to continue UP-07-15 to the October 16, 2007 City Council meeting, voting yes: Council Members Adams, Collins, de Triquet, Edge, Hayes, Krasnoff, Parker, Willis and Ward.

Voting no: None

City Council recessed at 9:42 p.m. and reconvened at 9:58 p.m.

E. CITY MANAGER UPDATES -

City Manager Harrell stated he had no updates for discussion.

OLD AND NEW BUSINESS

A. CONSIDERATION OF A FUNDING REQUEST IN THE AMOUNT OF \$11,250 FROM THE COUNCIL CONTINGENCY FUND FOR THE VIRGINIA SCHOLARSHIP & YOUTH DEVELOPMENT FOUNDATION - COUNCIL MEMBER WARD

Council Member Ward presented the item.

Council Member Ward, on a motion seconded by Council Member Hayes, moved to continue Old and New Business Item **A** to the September 25, 2007 City Council meeting.

There was no discussion.

On the motion to continue Old and New Business Item **A** to the September 25, 2007 City Council meeting, voting yes: Council Members Adams, Collins, de Triquet, Edge, Hayes, Krasnoff, Parker, Willis and Ward.

Voting no: None

COMMITTEE REPORTS

Council Member Ward advised of her attendance at the Oscar Smith Middle School Groundbreaking Ceremony on September 13, 2007, and the Library Board meeting, offering kudos to Ms. Stillman, Ms. Bigelow and the staff members for the great job they perform for the City's Library System.

Council Member Willis announced the upcoming Parks and Recreation event at Chesapeake City Park, "Bark in the Park" on October 7th and stated that the Dock Dogs would be performing.

Council Member Krasnoff, on a motion seconded by Council Member Collins, moved to suspend City Council's Rules of Order and Procedure to amend the agenda and consider the Planning Commission appointment.

On the motion to suspend City Council's Rules of Order and Procedure to amend the agenda and consider the Planning Commission appointment, voting yes: Council Members Adams, Collins, de Triquet, Edge, Hayes, Krasnoff, Parker, Ward and Willis.

Voting no: None

Mayor Edge relinquished the gavel to Vice Mayor Parker.

APPOINTMENT TO BOARDS AND COMMISSIONS

Vice Mayor Parker stated that one appointment needed to be made to the Planning Commission and that there were two nominees, Sandi B. Hutchinson and William C. Small, who were interviewed earlier in the evening. He reminded each Council Member to vote for only one nominee.

Sandi B. Hutchinson received 5 votes from Council Members Adams, Collins, Parker, Hayes and Ward.

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William C. Small received 4 votes from Council Members de Triquet, Edge, Krasnoff and Willis.

Sandi B. Hutchinson was appointed to the Planning Commission.

Vice Mayor Parker relinquished the gavel back to Mayor Edge, who continued with Committee Reports, calling on Council Member Hayes.

COMMITTEE REPORTS (CONTINUED)

Council Member Hayes advised that he would be attending the Hampton Roads Transportation Authority meeting on September 12 at Sandy Bottom Bridge Park in Hampton to discuss HB3202 which created the Authority to address transportation funding needs for Hampton Roads. He invited the public to attend a meeting to discuss the bill on September 27th also at Sandy Bottom Bridge Park in Hampton starting at 1:30 p.m. Mr. Hayes announced the Groundbreaking Ceremony planned for the Gateway Project at SoNo on September 19th at 11:30 a.m.

Council Member Adams asked that the Department of Public Works street projects list be published quarterly. She noted that she toured the Hazmat Operations Command Unit and asked that Council Members tour the Unit prior to an upcoming Council meeting. She expressed her condolences to the family of Undersheriff Dave Newby who recently passed away and stated that his service was scheduled for Friday, September 21st at Great Bridge Presbyterian Church.

Vice Mayor Parker asked City Clerk Moore to notify Ms. Hutchinson of her appointment to the Planning Commission.

Council Member Adams congratulated the Library on the 15th successful Civil War Days event.

ADJOURNMENT

There being no further business for consideration, the meeting was adjourned at 10:14 p.m.

/dah

Mayor

Attest:

City Clerk