

AN EXECUTIVE SESSION OF THE BOARD OF SUPERVISORS WAS HELD ON THE 12TH DAY OF MAY IN THE YEAR OF OUR LORD NINETEEN HUNDRED NINETY-SEVEN IN THE BOARD ROOM OF THE COUNTY ADMINISTRATION BUILDING BEGINNING AT 5:35 P.M.

IN RE: ROLL CALL

Gary L. Green	Present
James H. Burrell	Present
Frederick G. Bahr	Present
Julian T. Lipscomb	Present
Mark A. Hennaman	Present

IN RE: EXECUTIVE SESSION

Mr. Green moved to go into executive session for discussion of the condition, acquisition or use of real property for public purpose, or of the disposition of publicly held property pursuant to §2.1-344 (a)(2) of the Code of Virginia and consultation with legal counsel and briefings by staff members, consultants or attorneys, pertaining to actual or probable litigation, or other specific legal matters requiring the provision of legal advance by counsel pursuant to §2.1-344 (a)(6) of the Code of Virginia. The litigation being the Virginia Towers property. There was no discussion. The Members were polled.

Gary L. Green	Aye
James H. Burrell	Aye
Frederick G. Bahr	Aye
Julian T. Lipscomb	Aye
Mark A. Hennaman	Aye

The motion was carried.

THE REGULAR MEETING OF THE BOARD OF SUPERVISORS WAS HELD ON THE 12TH DAY OF MAY IN THE YEAR OF OUR LORD NINETEEN HUNDRED NINETY-SEVEN IN THE BOARD ROOM OF THE COUNTY ADMINISTRATION BUILDING BEGINNING AT 6:01 P.M.

IN RE: THE MEETING WAS RECONVENED AND THE ROLL WAS CALLED AGAIN.

Gary L. Green	Present
James H. Burrell	Present
Frederick G. Bahr	Present
Julian T. Lipscomb	Present
Mark A. Hennaman	Present

Mr. Hennaman stated that the Board had met in executive session to discuss the condition, acquisition or use of real property for public purpose, or of the disposition of publicly held property. Also for consultation with legal counsel and briefings by staff members, consultants or attorneys, pertaining to actual or probable litigation, or other specific legal matters requiring the provision of legal advice by

counsel pursuant to the Code of Virginia. Mr. Burrell stated that whereas the New Kent County Board of Supervisors has convened in executive meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and Whereas, Section 2.1-344.1 of the Code of Virginia requires a certification by the Board that such executive meeting was conducted in conformity with Virginia law; Now, therefore, be it resolved that the Board hereby certifies that to the best of each member=s knowledge (I) only public business matters lawfully exempted from open meeting requirement by Virginia law were discussed in executive meeting to which this certification resolution applies and (ii) only such public business matters as were identified in the motion convening the executive meeting were heard, discussed or considered by the Board. There was no discussion. The Members were polled on the certification.

Gary L. Green	Aye
James H. Burrell	Aye
Frederick G. Bahr	Aye
Julian T. Lipscomb	Aye
Mark A. Hennaman	Aye

Mr. Hennaman gave the invocation and lead the Pledge of Allegiance. Mr. Hennaman stated that he was going take some items out of order.

IN RE: PRESENTATION of name badge to Edward Kurzman.

Mr. Bahr was asked to make the presentation. Mr. Bahr praised Mr. Kurzman for his many talents. Mr. Kurzman designed the County seal and was presented with a name badge with the seal. Mr. Kurzman thanked everyone for the honor.

IN RE: ELECTED OFFICIALS REPORTS

Mr. Hennaman stated that at the request of Reverend Milton Hathaway and Mr. Ed Pollard, he and Mr. Emerson met with them on May 7th, and that at his request, the Commonwealths Attorney, Mr. Gregory and Captain McLaughlin representing Sheriff Howard were also present. We discussed the gathering that occurred in the County a couple weekends ago. As a lifelong resident of New Kent County Mr. Hennaman was personally saddened and disappointed that something like this had occurred within our community but does not believe that this incident is indicative of race relations in our County. He thinks this is an extreme example representative of just a few, and now it is important that we all send a message of unity. He requested of his colleagues of the Board to adopt a formal resolution to send this message. It has been suggested that the Board proclaim a New Kent Unity Week. Mr. Hennaman suggested that with the Board's consent and with Reverend Hathaway's input a resolution be adopted. Mr. Lipscomb stated that he supported a resolution and wanted it to be a unanimous vote in favor of it. He witnessed this incident from his window. It intimidated him and made him feel very uneasy. It was not, as he could see, a Christian ceremony. The landowners were the only County residents. He was in favor of any type of law that would keep this out of the County. Mr. Burrell stated it was an outrageous act that no one condones. Christ stood for love, cross burning is hate. He asked that the resolution include that the Board would urge all of the churches to band and let them know it was an outrageous act and it was in no way condoned. In fact, they (Board) condemn it at the highest level. Mr. Green stated that he agreed with everything that has been said tonight, and we need to do whatever we can to try to prevent it including the resolution. Mr. Bahr also agreed with the rest of the Board. Mr. Hennaman stated that the

Board was in a strong, unanimous consensus that direction be given to staff to work with Reverend Hathaway - and anyone else interested, including the New Kent County NAACP Chapter to draft a resolution.

Mr. Hennaman continued by reporting on the Richmond Regional Planning District Commission meeting. He also went over the guidelines for the public hearing in accordance with the By Laws.

Mr. Lipscomb did not have a report.

Mr. Green did not have a report.

Mr. Burrell did not have a report.

Mr. Bahr did not have a report.

Ms. Terry Lawler, School Board member, was recognized as well as Cynthia Gaines, District Three.

IN RE:            CONSENT AGENDA

Mr. Hennaman asked Mr. Emerson to go over the Consent Agenda. Mr. Emerson stated that the Consent Agenda consisted of approval of the minutes of the April 14th meeting, approval of appropriations: General Registrar to cover the June primary for \$5,760 from the Fund Balance; Refuse Collection Center maintenance - \$1,504.00 which is monies that come into the extension program and are administered by Mr. Davis, our extension agent, to recycle the pesticide containers; Virginia Juvenile Community Crime Control Act - \$14,509.00 which is a grant from VJCCA that covers Sherry Tate's programs with juveniles; and Treasurer's Office - \$1,736.07 transferred from Fund Balance to Expenditures for additional help in that office due to an employee's illness of several weeks - which may be covered up to 50% by the Compensation Board. The total appropriations are \$23,509.07. There are several miscellaneous items: Resolution R-12-97, recognizing Sheriff Howard for his time as the President of the Virginia Sheriff's Association; Resolution R-8-97, authorizing the banking contract with Citizens & Farmers; Ordinance O-08-97, authorizing the advertisement of the Sludge Ordinance; Ordinance O-10-97, referring the development agreement language that was approved by the General Assembly for New Kent County to the Planning Commission for a public hearing for amendment to the zoning ordinance; Ordinance O-11-97, authorizing advertisement of the ordinance for the discharge of weapons in New Kent County that deals strictly with automatic weapons, full automatic weapons - not semi automatic. Refunds: \$75.00 for double payment of a Land Disturbing Permit and \$236.16 for double payment of taxes. The finance report with total expenditures for the month of April - \$567,429.36. The Treasurer's Report showing a cash balance as of April 30, 1997 of \$6,054,845.88 with a variance from last year of \$1,929,161.22 to the positive. Mr. Burrell stated that in the minutes on page 4, where it states: ...if for some reason revenue comes in from the track at a greater amount than projected, then we have the option of putting that money in the contingency fund. We will do that anyhow, what I was referring to, I wanted to give the School Board more and you gentlemen felt that we should hold the line, and I agreed to that; however, if we have an influx of revenue greater than projected I would like to go on record that we share some of that with the School Board. Also, on Ordinance O-11-97, it states that Discharge of firearms: The discharge of automatic firearms... the hours are listed as 11:00 p.m. to 5:00 a.m. It was the consensus of the Board that the time frame could be changed at a later date if necessary. Mr. Bahr stated that in section 6A-13 Unnecessary or excessive noise, generally, (b) (1) should the language be changed? Mr. Cornwell stated that the language should be "fully automatic firearms, including rifles, pistols, and shotguns" referencing any kind of fully automatic weapons. Mr. Cornwell said this would be amended.

Mr. Green asked if any explosive device should be included in the verbiage. Mr. Cornwell stated that he was concerned about the Fourth of July. Mr. Cornwell stated that he would check into that. Mr. Burrell also requested that incendiary illumination devices be restricted. There was no further discussion. Mr. Lipscomb made a motion to approve the Consent Agenda with the corrections noted. There was no discussion. The Members were polled.

Gary L. Green	Aye
James H. Burrell	Aye
Frederick G. Bahr	Aye
Julian T. Lipscomb	Aye
Mark A. Hennaman	Aye

The motion carried. The Consent Agenda was passed.

FOR RESOLUTION R-12-97 AS ADOPTED, SEE BOARD OF SUPERVISORS ORDER BOOK, APPENDIX SIC, PAGE 38.  
FOR RESOLUTION R-8-97 AS ADOPTED, SEE BOARD OF SUPERVISORS ORDER BOOK, APPENDIX SIX, PAGE 39.

IN RE: CITIZENS' COMMENT PERIOD

Mr. Hennaman stated that four citizens had signed up to speak. The first was Mr. Burrell R. Pollard, 7832 Plum Point Road, Virginia. Mr. Pollard is Chairman of the Board of Education of New Kent Chapter of the NAACP and he wanted to speak about the cross burnings. Mr. Pollard stated that the NAACP is against this type of separatist activity. They (NAACP) want the County to be progressive in a solution to this situation. They totally and strongly agree with you (Board) to speak out against this separatist type of activity and believe that this is not just a minority issue, but it affects our education and children. It affects our future business ventures - what kind of business wants to associate with a County that harbors hate. It also affects us religiously. The second citizen to speak was Erccrute O. Travers, 20320 Tabernacle Road, Virginia. Mr. Travers who is the Vice President of the New Kent NAACP, but he was speaking as an individual citizen and also on behalf of the NAACP. They do not approve of what has happened. He has been a resident for 62 years. They are asking the County officials, law enforcement to speak out against this kind of thing - it will not be tolerated. He thanked and commended the officials for their views. The third citizen to speak was the Reverend Milton Hathaway, 9001 Crumps Mill Road, Virginia. Reverend Hathaway wanted to address the recent cross burning incident. He stated that there had been a number of voices raised over the past few weeks concerning what our response should be to what we believe was an act aimed at inflaming our community and creating a racial gulf between races. Some felt that a more immediate response was necessary while others felt that a calmer, more responsible response was important. They have met with community leaders, law enforcement officers, commonwealth's attorney, as well as many pastors and members of the religious community. They are convinced that when evil men plot good men must plan. When bad men burn, good men must build. Our focus is not on the media, but rather that a message be sent that we will not be divided. Our goal is to begin a process that will bring about lasting change and greater unity among all the citizens of New Kent. This is not primarily an issue of white verses black, but rather an issue of right verses wrong. How do we speak out against what we feel is wrong, but respect the rights of others to their opinions? I feel there are three options: 1) we can always go backwards, 2) we can keep quiet and do nothing, or 3) consciously decide that we are not going allow anyone to divide out community. He applauded the actions of the Board and the statements they made. He urged the Board to adopt a less confrontational style of leadership because negative attitudes anywhere fuel negative attitudes everywhere. You are not the source of the problem, but you are the leaders and our community will follow you. The stance you took tonight will go a long way in bringing about unity in our community. He also urged neighbors to work in partnership with our leaders. The week of unity should be a beginning where he hopes neighbors will seek opportunities to build a greater sense of unity, schools will find ways to meaningfully address

the problems within the student body, religious community will come together and work together and set aside that Sunday and there will not be a segregated church in New Kent County. The fourth speaker was John Crump, 8001 Emmaus Church Road, Virginia. Mr. Crump represented the Historical Society, which strives to tell the story of how we became the community we are today. On June 21st there will be a Heritage Day on the courthouse grounds with representatives from many cultures who will speak. There will also be re-enactments. He invited all to attend. Mr. Hennaman thanked all the citizens who spoke.

IN RE: STAFF REPORTS

Mr. Hennaman asked Mr. Emerson to start. Mr. Emerson stated that Mr. Gallaher wanted to report on the Lanexa Convenience Center Site and also the storage issue. Mr. Larry Gallaher stated that the Board had approved the purchase of two containers for storage at the last meeting. A new opportunity has come up that would allow the County to rent about six times more space, and provide a better environment for the storage of records. Mr. Gallaher asked that the Board allow the consideration of the rental of space in Providence Forge. Mr. Emerson clarified that they would like to research this option - get final numbers, and report back to you with our recommendation. The new option would allow us to build separate compartments, is conditioned space, and could probably be leased for 2-3 years for the same amount of money. It was the consensus of the Board to pursue this new option and report back to the Board. Mr. Hennaman questioned the distance of the storage from the courthouse. Mr. Burrell questioned the security of the new option. Mr. Gallaher stated that high security information would not be stored there. Mr. Lipscomb asked if the lease could be handled before a regular meeting. Mr. Emerson stated that it was possible it could be taken care of subsequent to the June Board meeting. Mr. Gallaher also reported that the convenience center on Rt. 647 and Rt. 60 will open on May 31st. Also, a rabies clinic will be held on May 31st at the courthouse from 8:30 a.m. to 11:30 a.m. and the Treasurer's Office will be open during those hours for sale of licenses.

Mr. Emerson reported on the old courthouse/administration building renovation project. Only two bids were received, both came in higher than anticipated; therefore, they were rejected. The project has been re-advertised with a due date of June 3rd. The project will be delayed, and the bond funds in the bank will have to be re-appropriated at the time expenditures are made. Mr. Emerson asked that the Board schedule a work session to go over the Planned Unit Development proposal. The consensus of the Board was to set the date of June 2nd at 6:00 p.m. Mr. Emerson also suggested that the Board set a public hearing date - at least two weeks past June 2nd.

IN RE: RESIDENT ENGINEER'S REPORT

Mr. Bob Riley gave the following report: For the month of April 53 calls were received from the public and all but 15 of these have been completed. All calls from the Sheriff's Office (10) and State Police (5) have been completed. The shoulders and ditches have been graded on Rt. 640 (Mr. Harris' property); High shoulders were pulled on Rt. 60 between Rt. 615 and Rt. 106; On Rt. 249 at I64 the concrete curb in median crossovers have been moved back to create a wider opening for trucks; On I64 at mile marker 206 a slope washout was repaired; On Rt. 60 (Mr. Epp's property) a ditch was cleaned and high shoulder was removed; four driveway pipes were installed at various locations; and the tree crew has been cutting limbs back on the Rt. 155 off ramps, behind the guardrail on Rt. 249 and at the East Bound rest area on I64. Regarding construction, work is being done on Rt. 651 (Angelview Lane), Rt. 604 (Poindexter Road), and plant mix overlay has been done on Rt. 249 at I64, Rt. 60 and Rt. 30. Surface treatment schedule will start in August.

Mr. Hennaman asked if the 55 m.p.h. sign had been moved southerly on Rt. 155 as he requested at the last meeting. Mr. Riley said that no action had been taken. Mr. Lipscomb asked about the double lines in front of Company 2. Mr. Hennaman asked if VDOT was going to erect a smart tower/camera where Henpeck Road crosses I64? Mr. Riley stated that there were no plans at this time.

IN RE: CUP-1-97, APPLICATION FOR CONDITIONAL USE PERMIT FROM PRIMECO PERSONAL COMMUNICATIONS INC. to construct a 125 foot communication tower and accessory equipment cabinets on a portion of Tax map and Parcel: 20-60. This property is located on the west line of State Route 640 (Old Roxbury Road).

Mr. Hennaman asked David Maloney to give his report. Mr. Maloney stated that the property is zoned A-1, Agricultural and zoning district regulations permit radio, television, and communication towers and stations in excess of fifty (50) feet in height as a permitted principle use with a conditional use permit. Section 9-245 of the New Kent county Zoning Ordinance sets forth thirteen site development criteria. The application has been reviewed by the Virginia Department of Transportation - which has stated that certain improvements must be made to the entrance to State Route 640, which must also be upgraded to VDOT development standards. The Virginia Department of Health had no comments as the tower will be unmanned. The Department of Public Safety has requested that engineered drawings be submitted with any building permit applications, and have asked that the FAA guidelines be considered in the review process. There are two remaining "holes" in the coverage of I64. The antenna tower proposed by the applicant will fill the westernmost void in the coverage. Information supplied by the applicant indicates he has satisfied the 13 minimum conditions under section 9-245 of the New Kent County Zoning Ordinance. A number of citizens from the surrounding community did speak in opposition to this application during the Planning Commission public hearing held in February and during the march Planning Commission citizen comment period. In general, the citizens of the Rose Garden Subdivision and surrounding community expressed concern the tower would be detrimental to the character of the community. To address the citizens' concerns, staff and the Board's representative to the Planning Commission met with PrimeCo to request they relocate the tower on the subject parcel in a manner that will be less obtrusive to the community. During the meeting, the applicant addressed a willingness to cooperate in this regard. Staff recommended the tower be relocated on site 260 feet west and 51 feet south of the original proposed location. This relocation would move the tower to a point 520 feet south of the north property line. It would also place the tower further into an existing wooded area, thus further obstructing the view from adjacent properties. The tower can not be relocated further into the woods beyond the revised location without violating the minimum setback requirements from the property line abutting I64 and the property line adjacent to Tax parcel 20-60B. It should be noted that PrimeCo has undertaken efforts to survey the new proposed location, and prepare line of site surveys for both the original and revised location. As a result of these surveys the applicant felt that due to the existence of fairly large trees, they would move the tower less to the west than staff had requested so that they would preserve these large trees, which will obstruct the view of the tower. The New Kent County Planning Commission, during its March 17, 1997 meeting, voted to recommend CUP-01-97 to the Board of Supervisors for its consideration and approval. Based upon the concerns raised by the citizens and subsequent meetings with both PrimeCo officials and residents of the Community, staff made two additional recommendations - numbered 14 and 15. Additional information provided include: affidavit from Frank Shortall regarding his criteria to locate the tower; affidavit from Debbie Gallof, a Senior Radio Frequency Engineer stating what the siting requirements are in relationship to the towers in the PrimeCo network; appraisal of impact study of proposed communications tower from Cecil Simmons & Company - in their opinion there is no substantial degradation of property value to those properties located near towers. Mr. Burrell asked what the Planning Commission vote was. Mr. Maloney answered 6:5. Mr. Burrell also questioned if siting the tower further west. Discussion followed about the

requirements per County Codes, and tower siting requirements. Mr. Maloney stated that Mr. Lipscomb and staff met with residents of the community, and a balloon test was done on May 2nd which was attended by members of the community. Mr. Bill Broaddus, PrimeCo's representative requested that the application be approved, that the Board consider the facts, and briefly listed them. He also asked that staff's requirement of not cutting any trees within a radius of 200 feet from the tower not be included. Mr. Hennaman asked Mr. Broaddus about a proposal that was done which required that PrimeCo apply for variance to locate the tower closer than the 150 feet setback. Mr. Broaddus stated the state laws that govern variances. Mr. Hennaman questioned the possibility of a tower at the intersection of Henpeck Road and I64. Mr. Broaddus answered that this was considered at one time, but rejected because the tower would be in the neighborhoods back yard and wouldn't meet the setback requirements. Discussion followed about other possible locations for siting the tower. Mr. Burrell asked if PrimeCo had tried to work with the people who own the tower on Rt. 249. Mr. Broaddus answered that it was considered, but that tower would not give enough coverage. Mr. Bahr questioned Mr. Cecil Simmons about his appraisal. Mr. Hennaman opened the public hearing. The first person to speak was Brenda Mula, 7300 Old Roxbury Rd., Virginia. Ms. Mula stated she supported the tower. Change is going to happen, by leasing the land for the tower her parents (Harold and Ann Seitz) will keep the land agricultural. The next person to speak was Johnny McLaughlin, 7500 Old Roxbury Road, Virginia. Mr. McLaughlin stated that he could not see the test balloon from his property. He asked the Board to approve the application. The next person to speak was Ann Seitz, 7400 Old Roxbury Road, Virginia. Ms. Seitz (applicant) stated that she had seen many changes over the years. They have farmed since 1950, but now are looking for other less strenuous options. They do not want to cut their trees. The tower will save the trees and give them an income. The next person to speak was Cathy Hargan, 7520 Old Roxbury Road, Virginia. Ms. Hargan (daughter of Harold and Ann Seitz) stated that the preservation of the ruralness of the County has always been a concern of her parents. The tower will not affect wildlife, produce any sounds, smell, or light at night. The next person to speak was Velma Stanley, 4311 Old Nottingham Road, Virginia. Ms. Stanley stated that her property is adjacent to the Seitz property where the tower would be located. She spoke for her husband as well as herself. They are opposed to the tower being located in view of their house - their house and property are a major investment. They feel their property value will be adversely affected by the tower by giving a commercial appearance to their neighborhood. The tree line will only be a partial screen during the summer months. These trees are located on their property and they feel it puts a restriction on the use of their property - preventing them from ever cutting the trees. In the future they may need to cut the trees - and will then have a clear view of the tower. She requested that the County consider other sites. The next person to speak was Charles Caldwell, 4301 Old Nottingham Road, Virginia. Mr. Caldwell stated that PrimeCo says this is the only site available for the tower. PrimeCo had another option - Section 2, Chapter 9 of the New Kent County Code paragraph 66 reads the verifiable evidence of lack of antenna space on existing towers or evidence of the unsuitability of existing tower locations must be provided by the applicant. PrimeCo considered the Kentwood tower, but did not accept the contract because it was cost prohibitive, and PrimeCo would be forced to look for alternative sites. The Telecommunications Act of 1996 states the general duties of telecommunications carriers: 1) Access to right-of-ways, 2) duty to negotiate in good faith, 3) co-locate, duty to provide on rate, terms and conditions that are just, reasonable and nondiscriminatory. Had H & W charged less than they were charging Contel, this would have been a violation of this Act. PrimeCo contacted VDOT about using the Rt. 60 Bottoms Bridge highway right-of-way - they learned that this would cause concern from the County. Health risks are also involved with radio frequency emission being absorbed by residents. Had New Kent County followed its own zoning ordinance by insisting that PrimeCo originally co-locate on the Kentwood Tower, then there would be no need for this Rt. 640 tower site. The next person to speak was Wanda O'Bier, 4300 Old Nottingham Road, Virginia. Ms. O'Bier stated that she and her family are opposed to the tower being located on this site. The next person to speak was Denis P. Miller, Sr., 7720 Old Roxbury Road, Virginia. Mr. Miller stated Mr. Maloney recommended approval to the Planning Commission without ever inspecting the site - but relying on the application information, which stated that large, dense mature trees provided a natural buffer of the view of the tower from adjacent land. This

information is false and misleading. PrimeCo's application contained incorrect information. Julian Lipscomb abstained from voting at the Planning Commission on a motion to deny the application, his comment being that he would save his vote for the Board of Supervisors. A motion was then made to approve the application and the vote was 6:5, with Mr. Lipscomb voting on the motion. Why did Mr. Lipscomb decide to vote on the second motion when he knew fully well the application could advance to the Board of Supervisors with a tie vote. You can place no weight on the Planning Commission's vote. Mr. Miller asked that the Board vote no. The next person to speak was Jennifer Caldwell, 4301 Old Nottingham Road, Virginia. Ms. Caldwell stated she is an adjacent property owner to the Seitz. The trees that block the view of the tower are mostly on her property. She quoted from the Loudon County Telecommunications policy "visual impact should be mitigated by measures on site rather than relying on off site conditions for mitigation." The New Kent County Zoning Ordinance, Section 9-244 reads: the proposed use shall not be detrimental to the use or development of adjacent properties or the general neighborhood, nor impair the value of buildings or surrounding areas. By relying on my trees to block the view you are creating an easement without my permission. In her initial conversation with Mr. Lipscomb concerning the proposed tower she asked why PrimeCo couldn't locate on the Kentwood Tower. His answer was that it belonged to Mr. Worley. Was this supposed to be self explanatory? The second time we asked him about this his answer was nobody is using that tower anymore. The third time he said that the Kentwood Tower would not replace the 640 Tower, but the one on Higgins Bottom Swamp. Why would PrimeCo erect a tower in a swamp when there is a 280 feet tower on a hill approximately a half mile away. Why, when I requested a balloon test in February did they wait until the leaves were on the trees to take the video. Why, when I asked for a land study that was recommended to me for my protection on our property which adjoins the tower site was a study done on a subdivision that does not adjoin the tower site? Why was the test done on a primary road when ours is a secondary road? Why did Mr. Maloney confirm that the Planning Commission will probably change the zoning ordinance to allow towers be placed close to I64 can it not be delayed till then? The next person to speak was Jessica Caldwell, 4301 Old Nottingham Road, Virginia. Ms. Caldwell stated that she is the daughter of Charles and Jennifer Caldwell. Her parents were going to give their daughters each a 5 acre parcel of their property for use as home sites. She and her sister have decided that if the tower is erected on the Seitz property neither of them would want to build a home on the property. She is also concerned about the health risks that towers emit as EMF exposure from a cellular communications facility. The next person to speak was Tom Hicks, 4200 Old Nottingham Road, Virginia. Mr. Hicks questioned why the video was taken when the leaves were on the trees. What happens during the winter? The tree line is owned 90 feet by Jennifer Caldwell and 15 feet by Harold Seitz. Perhaps PrimeCo should lease the tree line from Ms. Caldwell and Ms. Stanley to maintain the buffer. The next person to speak was Elizabeth Schultz, 4310 Old Nottingham Road, Virginia. Ms. Schultz stated that she is the one resident who has a prime view of the tower. She asked the Board to vote no and consider her view. The next person to speak was Betty Hicks, 4200 Old Nottingham Road, Virginia. Ms. Hicks stated that 11 out of the 16 homes will have a view of the tower when the leaves fall. She believes that in the beginning PrimeCo was going to use the Kentwood Tower, and this is when Julian Lipscomb became involved and told PrimeCo officials they could not use any highway right-of-ways in New Kent County. The Board expressed their concerns about this too. VDOT was interested in a shared location with PrimeCo on Rt. 665. New Kent should use the highway right-of-ways for towers. The tower is unsightly, and is relying on trees owned by adjacent property owners to block the view. This is in violation of your zoning ordinance and it is unreasonable to subject the Rose Garden citizens to this. They are demanding that Julian Lipscomb abstain from voting on this issue because: Mr. Lipscomb's first statement to them was that he was a long time personal friend of Mr. Seitz. At one time he was an adjoining property owner with Seitz and developed the land now called Timber Ridge. He acknowledged to us his early intervention with PrimeCo officials and his personal conviction that this tower would never go on highway right-of-way. He has stated his personal opinion that private landowners in New Kent should benefit financially from the leasing of towers. He asserted his influence on this issue by being on the Planning Commission, and he stated "I hope you all remember this when you want to come to me to build

a garage." She asked that those in the audience supporting her view to please stand. Approximately 12 people stood. She requested that the application be denied. The next person to speak was Winston Shepherd Jr., 7630 Old Roxbury Road, Virginia. Mr. Shepherd attended the Planning Commission hearings. He stated that placing towers in residential areas was a bad idea. He stated that it was prejudicial to the neighborhood. Most of the information provided came after the Planning Commission meetings. There is no comparison between Kentwood area and our neighborhood. No company should be allowed to place a single tower in New Kent without having a comprehensive plan for all tower placements. It's PrimeCo's bad planning that caused this. Do local authorities have any authority to deny a request for tower site? Yes is the answer, the Telecommunications Act of 1996 places the authority with local zoning over the placement of wireless facilities with a reasoned approach. I ask the Board to deny the application. The next person to speak was Harold K. Seitz, 7400 Old Roxbury Road, Virginia. Mr. Seitz stated that people have been trespassing on his property. If anyone wanted to go onto his property to call him first. He was disgusted by the utter disregard they had for his property. Mr. Hennaman closed the public hearing. Discussion among the Board followed regarding tower site locations, accusations about Board members. Mr. Lipscomb stated that in answer to Ms. Hick's questions, he did develop Timber Ridge, he owns no land now and hasn't for 10 years, is a friend of Harold Seitz, but as far as he could recollect he has never had any financial dealings with Mr. Seitz. He didn't see any reason why he should abstain from voting. Discussion followed about the southern boundary line, placement of the tower, waivers from VDOT, variances, and health risks from cellular towers - the proposed tower is digital not cellular, the use of the GTE (Kentwood) tower is not an option because the signal would not reach the other tower from that location. Mr. Hennaman asked Mr. Broaddus to address Mr. Burrell's question of the burden of proof for the tower location. Mr. Broaddus stated the problem with the GTE tower is twofold - one was addressed in the affidavit submitted by Debbie Gallof, the other reason is that the indicator on that tower would not reach far enough west to go to the tower at I64 and 295, which is why the tower was erected in Higgins Bottom Swamp. Also, the tower does not reach far enough east. Another tower would have to be put up in between. If they could have solved the problem by putting a disk on the GTE tower they would have saved money, people's feelings, and time, but it just doesn't work. There is GTE service in this area and it results in unequal treatment in the cellular communication technology. There was no further discussion. Mr. Green stated in order to address, protect, and promote public convenience, necessity, general welfare, and good conditional use permit practices in the County, I move to approve CUP-1-97 as presented with condition 14 to be removed, and modifying condition 15 with the buffer being moved to 100' as opposed to a 200' buffer. Discussion followed on the tower's visibility and height requirements. Mr. Burrell made a subsidiary motion in order to address, protect, and promote public convenience, necessity, general welfare, and good conditional use permit practices in the County, I move to deny CUP-1-97 as presented. Mr. Burrell's motion was acted upon first. There was no discussion. The Members were polled.

Gary L. Green	Nay
James H. Burrell	Aye
Frederick G. Bahr	Abstain
Julian T. Lipscomb	Nay
Mark A. Hennaman	Nay

The motion did not carry.

Mr. Green's motion in order to address, protect, and promote public convenience, necessity, general welfare, and good conditional use permit practices in the County, I move to approve CUP-1-97 as presented with the exception of deleting 14 and changing 15 to read 100' as opposed to 200' was then acted upon. The Members were polled.

Gary L. Green	Aye
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James H. Burrell  
Frederick G. Bahr  
Julian T. Lipscomb  
Mark A. Hennaman

Nay  
Nay  
Aye  
Aye

The motion carried, based upon the following reasons:

1. The applicant has satisfied all of the 13 minimum conditions outlined under Section 9-245 of the New Kent County Zoning Ordinance.
2. The applicant has relocated the tower from its original proposed location in order to minimize the impact on the surrounding residents.
3. Applicant cannot locate the tower on existing towers, buildings or other structures.
4. The erection of this tower will fill a gap in the existing cable and digital telecommunications in New Kent County.
5. The erection of the tower will be adequately screened with existing trees, which will minimize its impact on surrounding properties.
6. The applicant has submitted evidence that the tower will not adversely affect the neighborhood, the degradation of property values, and that co-location is not possible, and that the erection of the tower is necessary to fill a gap in coverage.

IN RE: APPOINTMENTS. The Board will continue to make appointments to various committees.

District One - no appointments.

District Two - no appointments.

District Three - no appointments.

District Four - Mr. Hennaman made the following motions contingent upon acceptance by the appointees:

I move to appoint J. C. Konier as District Four's representative to the Board of Road Viewers for a one year term ending December 31, 1997.

I move to reappoint Wayne Britt as District Four's representative to the Wetlands Board for a four year term ending December 31, 1999.

I move to reappoint Patricia Townsend as District Four's representative to the New Kent Clean County Committee for a four year term ending December 31, 2000.

I move to appoint Nicholas Hahn as District Four's representative to the New Kent Clean County Committee for a four year term ending December 31, 2000.

District Five - no appointments.

All appointments were taken as one motion by Mr. Lipscomb. There was no discussion. The Members were polled.

Gary L. Green	Aye
James H. Burrell	Aye
Frederick G. Bahr	Aye
Julian T. Lipscomb	Aye
Mark A. Hennaman	Aye

Appointments to Boards and Commissions not Delegated by District - no appointments.

IN RE: MEETING SCHEDULE.

The regular meeting of the Board of Supervisors will be held Monday, June 9, 1997 at 6:00 p.m. The public hearing for the FY 97-98 Budget will be held on May 14, 1997 at 7:00 p.m., and the adoption of the FY 97-98 Budget will be held on May 21, 1997 at 6:00 p.m. The Planning Commission will meet on Monday, May 19, 1997 at 7:00 p.m.

Mr. Burrell stated that regarding the concern the citizens had about Mr. Lipscomb's vote, in the future he recommended that the Board's representative to the Planning Commission (Mr. Lipscomb) not be allowed to vote at the Planning Commission or have discussions that would be of the persuasive type, but to be the Board's liaison to ask questions for clarification only. Mr. Bahr concurred with Mr. Burrell's suggestion and stated that it should apply to all of the Board's committees. Mr. Hennaman suggested that the Members consider this, and it brought up at a later meeting.

IN RE: ADJOURNMENT

Mr. Bahr made a motion to adjourn. There was no discussion. The Members were polled.

Gary L. Green	Aye
James H. Burrell	Aye
Frederick G. Bahr	Aye
Julian T. Lipscomb	Aye
Mark A. Hennaman	Aye

The motion carried. The Board adjourned at 9:16 p.m. until Wednesday, May 14, 1997 at 7:00 p.m.