AGENDA

REGULAR MEETING OF TOWN COUNCIL
CHRISTIANSBURG TOWN HALL
100 EAST MAIN STREET
AUGUST 8, 2017 – 7:00 P.M.

REGULAR MEETING

I. CALL TO ORDER

A. Moment of Reflection
B. Pledge of Allegiance

II. ADJUSTMENT OF THE AGENDA

III. PUBLIC HEARINGS

1. Proposed ordinance amending Chapter 42 – Zoning of the Town Code for the purpose of regulating the time, place, and manner of displaying signs in the Town of Christiansburg.

IV. CONSENT AGENDA

A. Meeting Minutes of July 25, 2017.

B. Schedule Public Hearing on September 26, 2017 for a Conditional Use Permit request for an electronic readerboard in the B-2, Central Business District at 190 North Franklin Street (Pizza Inn) by J. Stuart and Jill Arbuckle.

C. Schedule Public Hearing on Tuesday, August 22, 2017 for the Community Development Block Grant Annual Action Plan.

D. Approval of the contract and purchase of a new ambulance for the Rescue Squad.

V. CITIZEN COMMENTS

VI. INTRODUCTIONS AND PRESENTATIONS

A. Building Official Jerry Heinline to present on the blighted structures program.

B. Engineering Director Wayne Nelson and Planning Director Andrew Warren to present on Huckleberry Trail extension.

VII. COMMITTEE REPORTS

A. Finance Committee Report:

1. Policy regarding pay for Council meeting attendance.

VIII. DISCUSSION AND ACTION BY MAYOR AND COUNCIL

A. Deed of vacation of a 15-foot stormwater easement located on Church Street NE (Tax Parcel 497 - 32 - 6).

B. Conditional Use Permit request by Jeff Holland of Network Building + Consulting, LLC (representing Shentel), agent for Schaeffer Memorial Baptist Church, for a 110-foot tall steel monopole-style communications tower at 570 High Street, N.E. in the R-3 Multi-Family Residential District. The Applicant requests two waivers for: (1) the allowable height of monopoles in a residential district; and (2) the minimum setbacks from all property lines of no less than the height of the tower. The Public Hearing was held July 25, 2017.

C. Conditional Use Permit request by Ashley Jones, New River Barbell and Fitness, agent for Kevin Carter, for a private recreational facility (gym) at 492 Reading Road, S.E., Unit C in the I-2 General Industrial District. The Public Hearing was held July 25, 2017.

D. Discussion of I-1 and I-2 Zoning in Town, Especially Comparing Current Uses and Permitted Uses (Stipes).

E. Resolution Supporting the Amendment of Chapter 638 of Virginia Acts of Assembly Relating to the New River Valley Emergency Communications Regional Authority.

F. Ordinance amending Chapter 34 “Traffic and Motor Vehicles” in regards to interference with traffic.

G. Reappointment of Ann Carter to the Virginia Tech/Montgomery Regional Airport Authority Board. The term runs from September 1, 2017 to August 31, 2021.

IX. STAFF REPORTS

A. Town Manager

B. Town Attorney

C. Other Staff

X. COUNCIL REPORTS

XI. OTHER BUSINESS

A. Closed Meeting:

1. Request for a Closed Meeting under Virginia Code Section 2.2-3711(A)(5), for discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community. The Closed Meeting is being held to discuss an economic development prospect.

2. Reconvene in open meeting.

3. Certification.

4. Council action on the matter.

XII. ADJOURNMENT

The next regular Town Council meeting will be held at Christiansburg Town Hall on Tuesday, August 22, 2017 at 7:00 P.M.

TOWN OF CHRISTIANSBURG
TOWN COUNCIL
AGENDA COVER SHEET

AGENDA LOCATION:
PUBLIC HEARING

Meeting Date:
August 8, 2017

ITEM TITLE:
Revisions to signage standards - amending Chapter 42 – Zoning of the Town Code for the purpose of regulating the time, place, and manner of displaying signs.

DESCRIPTION:
The goals of the revisions to the sign ordinance include: (1) compliance with the Supreme Court ruling [Reed v. Town of Gilbert, Arizona (decided June 18, 2015)] requiring signage regulations to be content neutral; (2) move sign regulations from a stand-alone chapter (Chapter 4) to the Zoning Ordinance(Chapter 42) within Town Ordinance; (3) address the allowable timeframes for temporary signs; (4) streamline the overall format by removing outdated and duplicative definitions and sections; and (5) adjust allowable signage in business districts.

The draft is a combination of the Local Government Attorneys of Virginia (LGA) model ordinance and the Town's existing sign ordinance. Staff and Theresa Fontana, Town Attorney, developed the ordinance with guidance and feedback from the Planning Commission's Development Subcommittee. Public input has also shaped the draft ordinance with comments received from primarily the business community.

Planning Commission held its public hearing on July 17, 2017. At its July 31, 2017 meeting, the Planning Commission decided not to make a recommendation until its next meeting on August 14, 2017 since more information was requested on a suggested change to non-conforming billboards. The requested language change by Lamar Advertising is general in nature but specifically would affect two billboards on Peppers Ferry Road in which the visibility from the westbound travel lane has been lessened by the construction of the Renva W. Knowles Bridge. Staff will provide the minutes and resolution of the Planning Commission's recommendation to Council prior to your August 22nd scheduled meeting.

POTENTIAL ACTION:
Hold Public Hearing on August 8, 2017. Discussion and action is scheduled for August 22, 2017.

DEPARTMENT:
Planning

PRESENTER:
Andrew Warren, Planning Director

Information Provided:
Planning Commission Minutes dated July 17, 2017
Planning Commission Memo dated July 14, 2017
Planning Commission Memo dated July 28, 2017
(includes Ordinance draft dated July 28, 2017)**latest draft*
Nonconforming signage letter and attachments dated August 3, 2017

Links:
https://christiansburg.box.com/s/ym5kqwjhdmco1o2uo8l4tbdjffm6wyau
https://christiansburg.box.com/s/72le7w4b1r0ke48ujlc86i8d2fe3ik71
https://christiansburg.box.com/s/7sm6yekekcsrj3szuenb0jtzryau4q2b
https://christiansburg.box.com/s/hd3dl9pp1gv5x6v5ly7g1a1mphey35y2
https://christiansburg.box.com/s/642dvcd9hgcou3j0o0nnlw0emsq96l4a

CHRISTIANSBURG TOWN COUNCIL
CHRISTIANSBURG, MONTGOMERY CO., VA.
REGULAR MEETING MINUTES
JULY 25, 2017 – 7:00 P.M.

A REGULAR MEETING OF THE CHRISTIANSBURG TOWN COUNCIL, MONTGOMERY COUNTY, CHRISTIANSBURG, VA. WAS HELD AT CHRISTIANSBURG TOWN HALL, 100 EAST MAIN STREET, CHRISTIANSBURG, VIRGINIA, ON JULY 25, 2017 AT 7:00 P.M.

COUNCIL MEMBERS PRESENT: Mayor D. Michael Barber; Vice-Mayor Samuel M. Bishop; Harry Collins; Steve Huppert; Henry Showalter; Bradford J. Stipes. ABSENT: R. Cord Hall.

ADMINISTRATION PRESENT: Town Manager Randy Wingfield; Clerk of Council Michele Stipes; Town Attorney Jim Guynn; Director of Public Relations Melissa Powell; Finance Director/Treasurer Val Tweedie; Director of Engineering Wayne Nelson; Director of Parks and Recreation Brad Epperley; Police Chief Mark Sisson; Planning Director Andrew Warren.

I. CALL TO ORDER

A. Moment of Reflection
B. Pledge of Allegiance

II. ADJUSTMENT OF THE AGENDA

III. PUBLIC HEARINGS

1. Public Hearing for a Conditional Use Permit request by Jeff Holland of Network Building + Consulting, LLC (representing Shentel), agent for Schaeffer Memorial Baptist Church, for a 110-foot tall steel monopole-style communications tower at 570 High Street, N.E. in the R-3 Multi-Family Residential District. The Applicant requests two waivers for: (1) the allowable height of monopoles in a residential district; and (2) the minimum setbacks from all property lines of no less than the height of the tower.

   Max Wiegard of Gentry Locke in Roanoke, representing applicant, Shentel, explained to Council the CUP request and the two waivers. Planning Director Andrew Warren provided Council with a revised site plan for the replacement tower, along with a copy of Mr. Wiegard's PowerPoint presentation. Mr. Wiegard provided background on the existing pole which was erected by Ntelos in 1999 on property owned by Schaeffer Memorial Baptist Church. The wooden pole has since been sold to Grain Communications, which rents pole space to Shentel and Ntelos. Shentel is proposing, as part of its infrastructure upgrade in Montgomery County and the New River Valley, to replace the wood monopole with a state of the art steel monopole that would offer wireless broadband service to its customers, and would improve cellular performance and indoor signals. According to Mr. Wiegard, the existing wood pole was not structurally sound enough to handle the additional weight of the upgraded cellular equipment, which is the reason for the request to construct a steel pole. Mr. Wiegard explained the design and location of the equipment that would be attached to the monopole, designed to minimize visibility of the equipment. Shentel would lease space on the pole to other cell providers. Mr. Wiegard explained that existing mature trees on the property would interfere with cellular reception if the pole were not constructed to a height of 110-feet. Because of the needed additional height, the monopole could not meet setback requirements standard for this type of facility, which was why the applicant has requested a waiver of the setback requirements. Mr. Wiegard explained the safety features of the monopole, which was designed to collapse on itself and fall within a fifty-feet radius in the event of a major windstorm. He noted that the existing wood monopole offered no safety features in the event that it fell. Mr. Wiegard reported that a community meeting was held several months ago for public information, and several citizens expressed concerns with possible adverse health effects of radio frequency signals, and the potential devaluing of nearby real estate. He provided Council with statistical information pertaining to effects of radio frequency signals from cell towers, and with

information on areas of poor cell coverage in Christiansburg in comparison with anticipated improved coverage with upgrades. Mayor Barber asked if Shentel intended to provide liability insurance for the surrounding properties that could be impacted by the pole. Mr. Wiegard responded that it did not, that its lease was with the church which provided a level of liability insurance for its own property. Councilman Huppert commented that he had attended the Planning Commission discussion on this matter and expressed support for the request. Councilman Bishop asked if the location of the monopole would fall within the historic district; Planning Director Andrew Warren responded that Shaeffer Memorial Baptist Church was on the historic registry, but had not been incorporated into the Cambria Historic District. Councilman Stipes asked if there had been any additional comments from the community in response to Shentel's response to concerns voiced at the information meeting. Mr. Wiegard said there had been no additional comments.

William Smith, 569 High Street, said he lives directly across from the proposed pole location and he expressed concerns with possible adverse health effects from the radio frequency signals. Mr. Smith said he learned through research that the closer a person lives to a cell tower the more likely they are to experience health problems, including cancer. Possible negative impacts on real estate value, and the close proximity of the proposed monopole to his front porch, were also concerns presented by Mr. Smith. Mr. Smith stated that the proposed placement of the monopole would be detrimental to him and his property and he asked Council to consider his comments. Town Manager Wingfield noted that federal law prohibited considering health affects when determining telecommunications placement.

Allen Palmer, 525 High Street, expressed his concerns with the potential negative impact of the monopole on neighboring residents, and asked if Shentel could guarantee that neighboring property values would not decrease, and that there would be no adverse health effects on those living nearby, with placement of their pole. He then asked if there was a method in place for building concealed poles, and for minimizing visual pollution and radioactive frequency energy (RFE). Mr. Palmer presented information for Council to consider on the effects of RFE on human health, including a risk of cancer.

Pete Whitlock, 530 High Street, lives next to the proposed monopole site, and he expressed that approving the tower would be a complete disregard to those living in the area, and that the assets of the community would be degraded by placement of the proposed pole. Mr. Whitlock attended the public information meeting held by Shentel, and he stated that it was his belief that the monopole would not be in the best interest of Shaeffer Memorial Baptist Church, the community center, or neighboring residents. Mr. Whitlock asked Council to consider those living in the neighborhood and the concerns expressed by the community.

2. Public Hearing for a Conditional Use Permit request by Ashley Jones, New River Barbell and Fitness, agent for Kevin Carter, for a private recreational facility (gym) at 492 Reading Road, S.E., Unit C in the I-2 General Industrial District.

Trey Walls, on behalf of Ashley Jones, explained the request to operation a recreational facility at 492 Reading Road. The gym would be located in a 1,500 square-foot, two-bay garage facility that is part of a larger building. All fitness activities would take place indoors and he explained the hours of operation and expected membership. Mr. Walls noted that the facility was compliant with the Town's master plan, as it would bring people into the area for recreational purposes, and he agreed to comply with the conditions set forth in the CUP. There are currently three businesses located in the building that share bathrooms and parking.

Mike Martin, 475 Arrowhead Trail, expressed his support for the gym, but requested that the owners be cognizant of noise during hours of operation. Mr. Martin's residence is located a couple of hundred feet from the business location and he often hears loud music coming from the building, sometimes early in the morning. Mayor Barber noted that the Town has received noise complaints over the years from residents living near the building. Mr. Walls said he would be respectful to neighboring residents with regard to loud music/noises. Planning Director Andrew Warren noted that Ms. Jones has been working with the building inspections to meet all building code requirements.

Chris Waltz, 1370 Rigby Street, requested that Council consider that the request at hand was similar in nature to the Moose Lodge request for an ordinance amendment and Conditional Use Permit, which was denied on July 11, 2017.

IV. CONSENT AGENDA

A. Meeting Minutes of July 11, 2017.

B. Monthly Bills.

C. Schedule Public Hearing for August 22, 2017 for a Rezoning request from Agriculture to I-2 General Industrial District for a 64.114-acre parcel (Tax Map No. 558-A 24) located at the end of Parkway Drive adjacent to the Falling Branch Corporate Park by the Montgomery County Economic Development Authority (Property Owner: Cox Family Farms LLC).

D. VDOT Revenue Sharing Appendix As.

E. VDOT Primary Extension Project Administration Agreements.

F. Norfolk Southern (NS) Construction Agreement.

G. Virginia Department of Conservation and Recreation Funding Agreement.

H. Contract for Fire Alarm System at Police Department PD 18-001.

I. Amendment to contract for Microwave Radio Network RES-16-006.

Councilman Bishop made a motion to approve the consent agenda, seconded by Councilman Stipes. Council was polled on the motion as follows: Bishop – Aye; Collins – Aye; Hall – Absent; Huppert – Aye; Showalter – Aye; Stipes – Aye.

VI. CITIZEN COMMENTS

A. Stacy Martin, 1480 Turnberry Lane, Riner, noted that he had discussed the proposed sign ordinance amendment with Planning Director Andrew Warren and had concerns regarding the lack of guidelines for what can be put inside windows. He requested that Council and the Planning Commission meet with the public to listen to concerns regarding limitations on small businesses, and to discuss ways to establish Christiansburg as a small business hub.

VII. INTRODUCTIONS AND PRESENTATIONS

Councilman Stipes noted that the agenda packet for tonight's meeting did not contain Planning Commission action on the Public Hearing items, and he requested that Council be provided that information in the future. Planning Director Andrew Warren instructed that Planning Commission action could be accessed through a link on the Public Hearing cover sheet included in the agenda packet. A link is provided out of consideration for the potential lengthiness of agenda packets.

VIII. COMMITTEE REPORTS

A. Street Committee report/recommendation on:

1. East Main Street parking with regards to signage and increased fines.

Councilman Stipes reported that the Street Committee met twice to discuss the parking concerns raised at the July 25, 2017 meeting, and recommended that the five available parking spaces on East Main Street should be clearly defined pavement marking and signage prohibiting courthouse parking. Parking fines for violations in those parking spaces would be increased to $50 with a resolution in the Council packet, and would be clearly stated on parking signs. Parking in those five spaces would have a one-hour time limit. Councilman Stipes noted that there was ample courthouse parking located behind the courthouse, and directional signs would be posted indicating available parking for courthouse business. Councilman Stipes further noted that Police Chief Sisson, Engineering Director Wayne Nelson, and Public Works Director Jim Lancianese would make recommendations on ways to inform the public of the parking changes and the locations of available parking for courthouse business. The Street Committee will review the matter in a couple of months.

IX. DISCUSSION BY MAYOR AND COUNCIL

A. Council action on:

1. East Main Street parking with regards to signage and a resolution for increased fines. Councilman Stipes made a motion to approve the Street Committee recommendations to reserve the five parking spaces on East Main Street, indicated during the Street Committee report, with Courthouse parking prohibited and pavement marking and signage, and a resolution to increase parking violation fines to $50. Councilman Huppert seconded the motion. Councilman Bishop expressed concern with raising the fine amount, considering parking fines were recently increased town-wide, and he recommended beginning with signage and pavement markings, then monitoring results. Council was polled on the motion as follows: Bishop – Nay; Collins – Aye; Hall – Absent; Huppert – Aye; Showalter – Aye; Stipes – Aye.

2. Extension of Aquatic Center membership to Fire and Rescue Life Members. It was noted that the Aquatic Advisory Board supported extending free membership to the life members of the fire and rescue departments. Councilman Huppert made a motion to approve, seconded by Councilman Showalter. Council voted on the motion as follows: Bishop – Aye; Collins – Aye; Hall – Absent; Huppert – Aye; Showalter – Aye; Stipes – Aye.

B. An ordinance amending Chapter 2 “Administration” of the Christiansburg Town Code to revise the manner in which deeds, contracts, etc. are approved and executed. Town Manager Wingfield explained that the ordinance amendment would authorize the Town Manager to approve construction contracts and purchase orders for vehicles, equipment, and projects that have been appropriated in the budget, with the exception of contracts for legal services, and contracts in excess of $100,000. Councilman Stipes made a motion to approve the ordinance amendment, seconded by Councilman Huppert. Council voted on the motion as follows: Bishop – Aye; Collins – Aye; Hall – Absent; Huppert – Aye; Showalter – Aye; Stipes – Aye.

X. STAFF REPORTS

A. Town Manager Wingfield:
- Reported on the first Christiansburg Arts Council meeting held last night, with good attendance and positive discussion.
- Reported on the Diamond Hills Park sewer overflow. Town Manager Wingfield authorized an emergency repair contract with E.C. Pace to replace a 540’ portion of pipe due to a collapse. The contract cost was $79,227.
- The Engineering Department has begun taking inventory of Town-owned retaining walls and determined that the College Street was on private property according to an old survey. The Town has performed repairs on that wall in the past, but formally owned the property.
- The Kenneth B. Gibson Memorial Park and Ride is now open for use. A ribbon cutting is being planned, potentially for August, and details will be provided to Council as they come available.

- The Farmers' Market Committee has recommended closure of Hickok Street, which has been discussed with the Central Business District Committee. Mr. Wingfield explained the vision for the location to establish it as a community gathering place, and he requested authorization to contact the property owners for input. It was the consensus of Council to approve Mr. Wingfield's request in moving forward with plans for Hickok Street.

B. Town Attorney:

C. Other Staff:

XI. COUNCIL REPORTS

- Councilman Huppert provided information on Heritage Day scheduled for August 26, 2017, and announced that the aquatic center has hosted two meets in July with another one scheduled for July 28
- He then commended Town crews on the downtown flower beds and requested his appreciation be passed on to the appropriate work crews.
- Councilman Stipes welcomed Matthew Hobson, Executive Director of the New River Valley 911 Authority, to the Council meeting.
- Councilman Bishop – No report.
- Councilman Collins thanked Matthew Hobson, Executive Director of the New River Valley 911 Authority, for attending tonight's meeting and offered the Town's assistance to him as he settles into working with the localities of the 911 Authority.
- Councilman Showalter talked about the Central Business District Committee meeting and the discussion of the vision for Hickok Street, and he expressed his hopes for a public input meeting for ideas and feedback on creating a destination place in that location. He further noted that the focus of the Central Business District Committee and Town staff remained on downtown revitalization, and growing the Farmers' Market.
- Mayor Barber appointed Councilman Stipes and Councilman Bishop to serve on the Wayfinding Committee along with Melissa Powell, Wayne Nelson, and Brad Epperley. Councilman Collins and Councilman Showalter will serve as alternates.

XII. CLOSED MEETING:

1. Councilman Bishop made a motion to enter into a Closed Meeting in accordance with the Virginia Code Sections as follows. The motion was seconded by Councilman Collins and voted upon as follows: Bishop – Aye; Collins – Aye; Hall – Absent; Huppert – Aye; Showalter – Aye; Stipes – Aye.

   a. Virginia Code Section 2.2-3711(A)(5), for discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community. The Closed Meeting is being held to discuss an economic development prospect.

   b. Virginia Code of Virginia § 2.2-3711(3). Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body. The Closed Meeting pertains to discussions with the Montgomery County School Board.

   c. Councilman Bishop made a motion to enter into a Request for a Closed Meeting under Virginia Code Section 2.2-3711(A)(7), for consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body; and consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. For the purposes of this subdivision, "probable litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Specifically related to the New River Valley Mall real estate assessment.

d. Councilman Bishop made a motion to enter into a Closed Meeting under Virginia Code Section 2.2-3711(A)(7), for consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body; and consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. For the purposes of this subdivision, "probable litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Specifically related to the Starlight Drive-In Theater Noise Ordinance violation litigation.

2. Reconvene in Open Meeting. Councilman Bishop made a motion to reconvene in Open Meeting, seconded by Councilman Collins. Council voted on the motion as follows: Bishop – Aye; Collins – Aye; Hall – Absent; Huppert – Aye; Showalter – Aye; Stipes – Aye.

3. Certification. Councilman Bishop moved to certify that the Town Council of the Town of Christiansburg, meeting in Closed Meeting, to the best of each member's knowledge, discussed only the matters lawfully exempt from open meeting requirements by Virginia Law and only such matters as are identified in the Resolution to enter into Closed Meeting. The motion was seconded by Councilman Stipes and Council voted as follows: Bishop – Aye; Collins – Aye; Hall – Absent; Huppert – Aye; Showalter – Aye; Stipes - Aye.

4. Council action on the matter. Concerning Closed Meeting Discussion #3, Councilman Collins moved to authorize legal counsel to complete settlement by entering into the order that reduces the tax by the amount of $18,485.09 for the year 2017. Councilman Bishop seconded the motion and Council voted as follows: Bishop – Aye; Collins – Aye; Hall – Absent; Huppert – Aye; Showalter – Aye; Stipes – Aye.

XIII. ADJOURN

There being no further business to bring before Council, Mayor Barber adjourned the meeting at 10:11 P.M.

_____ _____

Michele Stipes, Clerk of Council D. Michael Barber, Mayor

TOWN OF CHRISTIANSBURG
TOWN COUNCIL
AGENDA COVER SHEET

AGENDA LOCATION: **Consent Agenda** **Meeting Date: 8/8/17**

ITEM TITLE: Ambulance

DESCRIPTION: To purchase ambulance off of the Montgomery County contract for the Rescue Squad

POTENTIAL ACTION: Approval

DEPARTMENT: Finance/Purchasing **PRESENTER:**

ITEM HISTORY:

Date: **Action Taken:**

Information Provided:

Date: **Action Taken:**

Information Provided:

Purchase Order

Revision Date:	October 2016

Bill To: *Town of Christiansburg*

100 East Main Street - Christiansburg, VA 24073 - Phone: (540) 382-6128 - Fax: (540) 382-3762

* Email invoices should be emailed to: vtweedie@christiansburg.org

Date:	7/25/2017
Purchase Order #:	20180012
Requisition #:	
Department ID:	RES
Account Code:	15-5945-7006
Commodity Description:	Ambulance

Vendor: Vest Sales & Service
1157 Stonewall Road
Check, VA 24072

Ship To: Christiansburg Rescue
190 Depot Street
Christiansburg, VA 24073

Buyer	Requested By	Reference Contract / Quote #
Kim Cromer	Joe Coyle	Montgomery Co Contract: 11-03

Qty.	UOM	Description	Part #	Price	Line Total
1	EA	Ambulance		$ 227,612.000	$ 227,612.00
Account Code:		15-5945-7006			
					$ -
Account Code:					
					$ -
Account Code:					
					$ -
Account Code:					
					$ -
Account Code:					
					$ -
Account Code:					
					$ -
Account Code:					
				Sub-Total:	$ 227,612.00
				Total Dollars from Item Listing Sheet (if applicable):	
				Sales Tax:	
				Total:	$ 227,612.00

	Terms:
Freight:	FOB
Payment:	**Net 30**

Terms and Conditions:
This Purchase Order is subject to the Town of Christiansburg General Terms & Conditions, attached herein as Exhibit A.

Authorized By: _____

Name and Title: Randy Wingfield, Interim Town Manager

Date: 7/25/2017

VEST SALES & SERVICE

1157 Stonewall Road
Check, Va. 24072
866.225.8144

July 12, 2017

Joe Coyle, NRP, MEP
Rescue Chief
Christiansburg Rescue Squad

Joe

Your Purchase Order # 20150106 dated 11/10/2015 established your base unit with changes as attached to the Montgomery County contract. At this time with 2017 prices the cost of your unit is $222,997.00 ordered just like it was last time. This would be a 2017 F-450 4wd in Blue with an Osage Super Warrior Module. I'll outline the latest changes and new total price below

No Charge items
Move Capt. Chair rearward 5"
Make assessment cabinet 8" deep OAL
Change cabinet under monitor shelf to a drawer
Change Size of L-4 exterior compartment N/C but no credit not standard size
Dual shocks on cabinet over pass-through

Deleted Items
3" hole under Capt. Chair and duct to cab <$300.00>
Simplex lock on lower in/out <$135.00>
In/Out door to exterior L-4 <$300.00>
Deleted Items Total <$735.00>

New Added Items.
Up-Grade chassis to F550 $2,100.00
Air Horns $1,550.00
V Beam Intersection Warning Lights with flasher $650.00
110v to front console $75.00
12v to lower in/out cabinet $50.00
Fixed dry marker board $75.00
Widen CPR Seat $100.00
Drop interior cabinet C lower than standard $300.00
Widen upper right bulkhead cabinet 6" $300.00
Shelf to assessment cabinet $75.00
Bottom hinged DPA door on Capt.'s Chair $75.00
Added Items Total $5,350.00

This gives a new price on your unit as per our meetings with changes of $227,612.00 with a delivery time of around 240 days. I do however need to get that time updated so it might be less.

Please let me know what else I can do to serve you or if you have any questions.

Thank you
Clay Fitzgerald

Clay Fitzgerald 540.588.1574 (c)
25 Ridgley Lane
Fincastle, Va. 24090

COUNTY OF MONTGOMERY
STANDARD CONTRACT

Contract Number: 11-03

This contract entered into this 7th day of February, 2011, by Vest's Sales + Service hereinafter called the "Contractor" and the County of Montgomery, called the "County".

WITNESSETH that the Contractor and the County, in consideration of mutual covenants, promises and agreements herein contained, agree as follows:

SCOPE OF SERVICES: The Contractor shall provide the services to the County as set forth in the Contract Documents.

CONTRACT PERIOD: The initial contract period is February 15, 2011 through February 14, 2012.

COMPENSATION AND METHOD OF PAYMENT: The Contractor shall be paid in accordance with the Contract Documents and attached pricing sheet.

CONTRACT DOCUMENTS: The Contract Documents shall consist of signed Contract, the statement of need, general terms and conditions, special terms and conditions, specifications, and other data contained in this Request For Proposal Number 11-03, dated October 22, 2010, addendum #1 dated November 17, 2010, addendum #2 dated November 19, 2010, together with all written modifications thereof, the proposal submitted by the Contractor dated December 8, 2010 the letter from the County dated January 20, 2011, the Contractor's response dated January 20, 2011, the letter from the County dated February 1, 2011, the Contractor's letter dated February 1, 2011, the email from the County dated February 4, 2011, the Contractor's response dated February 4, 2011 and the attached pricing sheet, all of which contract documents are incorporated herein.

In **WITNESS WHEREOF**, the parties have caused this Contract to be duly executed intending to be bound thereby.

CONTRACTOR:

By: _____

Title: Account Manager

COUNTY OF MONTGOMERY:

By: _____

Title: F. Craig Meadows, County Administrator

Approved as to form and legal sufficiency

County Attorney

PURCHASING DEPARTMENT

HEATHER M. HALL, C.P.M., CPPB, VCO PROCUREMENT MANAGER

755 ROANOKE STREET, SUITE 2C, CHRISTIANSBURG, VIRGINIA 24073-3179

January 20, 2011

Vest's Sales and Service
Attn: Clay Fitzgerald
1157 Stonewall Rd. NE
Check, VA 24072
Trk4150@comcast.net

Dear Mr. Fitzgerald:

SUBJECT: MONTGOMERY COUNTY RFP # 11-03
Term Contract for Ambulance Purchases

Thank you for submitting a proposal to the subject RFP.

We have reached the point in the evaluation process where we are ready to negotiate as provided for in Section V.A. of the RFP. We are pleased to inform you that Vest's Sales and Service has been selected to participate in negotiations. We would appreciate your answers to the following questions:

1. Do you agree that the time for completion shall be 180 to 210 days? You have stated this with a qualifier of "barring any interruption from the chassis manufacturers." Do you agree to be in constant contact with the user department if such interruption should occur and to keep said department fully informed as to what the hold-up is and the expected delay? Yes we agree to keep the user department informed of any hold up if and when one would occur. We just have to caveat the chassis manufacture as we have no control over what they do.

2. Do you agree to provide the County with a performance bond in the full amount of the purchase EACH time we purchase a vehicle? Yes we will provide the performance bond. Once any changes or revisions are done and purchase order is issued we will hand deliver to purchasing a performance bond in ten to fifteen working days. Our bonding company asks for ten days to process bonds.

3. Do you agree that this contract can be used by other entities throughout the Commonwealth? Yes we agree and understand that any entity in the Commonwealth may purchase off of this contract.

4. Do you agree that there is no guarantee of any purchase from this contract and that the County is free to still bid out vehicles at any time? Do you further understand and agree that this contract is not an exclusive deal with one company for the County? We confirm the understanding of no purchase is guaranteed and that you may bid out vehicles at your choice and also that this would not be an exclusive contract.

PURCHASING DEPARTMENT

HEATHER M. HALL, C.P.M., CPPB, VCO PROCUREMENT MANAGER

755 ROANOKE STREET, SUITE 2C, CHRISTIANSBURG, VIRGINIA 24073-3179

if there is a problem it would be up to whom-ever is with the unit to deal with it. Being a breakdown or a collision.

10. The County's terms are Net 30 but discounts for Net 10 will processed. Do you have any such discounts you would like to offer? The County is prohibited for pre-payment of the chassis prior to entire vehicle being delivered. Net 10 would save $500.00 Be it net 10 or 30 we would ask what the County's preferred invoice schedule would be, and establish that. Eg. If we know unit will be delivered by the 15th of next month do you need invoice by a specific date this month to keep payment on schedule.

11. Do you agree that no amendment, change or modification to the contract is valid unless in writing signed by both the Montgomery County Administrator and the Contractor? No one else with the County, other agencies, or departments have legal authority to change the contract. Yes as the contract is with the County it alone can sign any changes.

12. In regard to the term of the contract, do you agree the initial contract period shall be one year from the date of award? We are agreeable to what would work for the County. We would like for the contract or at least the pricing to run with model year as there are so many items from chassis on down that are tied to model year changes. This most likely would keep us to one price change per model year and be fairest to all parties involved. At most manufactures the model year changes between September and November. Chassis prices change around August. For example if this is awarded say in March we will already be at least four months into the model year so at the end of this year the local dealer would be faced with absorbing 4 months or more of new model year price increase.

13. Upon completion of the initial contract period, do you agree that the contract may be renewed by Montgomery County upon written agreement of both parties for nine (9) one year periods, under the terms of the current contact? Yes we would be glad to extend the contract as the County see's fit.

14. While we appreciate your willingness to hold your increases to no more than 4.875% per model and options per year, we are concerned with the lack of our ability to be able to forecast future prices related to change in chassis prices. Do you have any suggestions for a not to exceed price increase we might use for this contract so as to best utilize County budget decisions regarding these vehicles? Do you agree to notify the County's Purchasing Department when new model pricing becomes available? Historically Ford's price increases have fallen in the 3 to 5% range. For budgeting I would think this would be a fair number. So really if you took the total price of the unit and did it by 5% each year you should be safe. Dodge has short history in the ambulance market and so it has little established history but has fallen in the same realm. The wild card would be if new EPA requirements come along and cause big changes to the price of the drive trains. This is what has really driven the last two large price increases. At this time we have not heard of any new ones of these.

PURCHASING DEPARTMENT

HEATHER M. HALL, C.P.M., CPPB, VCO PROCUREMENT MANAGER

755 ROANOKE STREET, SUITE 2C, CHRISTIANSBURG, VIRGINIA 24073-3179

February 1, 2011

Vest's Sales and Service
Attn: Clay Fitzgerald
1157 Stonewall Rd. NE
Check, VA 24072
Trk4150@comcast.net

Dear Mr. Fitzgerald:

SUBJECT: MONTGOMERY COUNTY RFP # 11-03
Term Contract for Ambulance Purchases

A few follow-up questions with regard to your responses:

1. Is your discount on 3 units at the same time $500/unit or a $500 overall discount on entire purchase? To clarify, you are not willing to offer a discount on base trucks being purchased at the same time, all options must be the same to get the discount? Would you consider lowering the requirement from 3 to 2 purchased at the same time?

2. Please clarify what you expect when a vehicle is delivered. Are you expecting a check in hand at the time of delivery? If yes, you will need to provide an invoice 30 days prior to delivery. Departments must have signed and accepted the truck for check to be processed. Certificate of Origin MUST be exchanged with check. We will not release any check without a Certificate of Origin to "Montgomery County Board of Supervisors." This will vary for other agencies purchasing off this contract.

3. In regard to the contract, do you agree the initial contract period shall be one year from the date of award? Within that year, there may be one (1) price increase during the 4th quarter of the calendar year, not to exceed 5% for the chassis and not to exceed 4.975% on the model and options of the ambulance. These prices will be held for 365 days until the next price increase in the 4th quarter of the calendar year. Do you agree to these conditions without exception? Do you agree to notify the Montgomery County Purchasing Department when this pricing becomes available?

4. We appreciate your honesty about your pricing. You are significantly higher than your competitors on the following options: Air Dump Suspension with switches,

PURCHASING DEPARTMENT

HEATHER M. HALL, C.P.M., CPPB, VCO PROCUREMENT MANAGER

755 ROANOKE STREET, SUITE 2C, CHRISTIANSBURG, VIRGINIA 24073-3179

February 1, 2011

Vest's Sales and Service
Attn: Clay Fitzgerald
1157 Stonewall Rd. NE
Check, VA 24072
Trk4150@comcast.net

Dear Mr. Fitzgerald:

SUBJECT: MONTGOMERY COUNTY RFP # 11-03
Term Contract for Ambulance Purchases

A few follow-up questions with regard to your responses:

1. Is your discount on 3 units at the same time $500/unit or a $500 overall discount on entire purchase? To clarify, you are not willing to offer a discount on base trucks being purchased at the same time, all options must be the same to get the discount? Would you consider lowering the requirement from 3 to 2 purchased at the same time? The discount would be $500 per unit with (3) ordered at the same time. We have consulted with Osage and while they will not lower the requirement from (3) to (2) they will give the discount regardless of the configuration.

2. Please clarify what you expect when a vehicle is delivered. Are you expecting a check in hand at the time of delivery? If yes, you will need to provide an invoice 30 days prior to delivery. Departments must have signed and accepted the truck for check to be processed. Certificate of Origin MUST be exchanged with check. We will not release any check without a Certificate of Origin to "Montgomery County Board of Supervisors." This will vary for other agencies purchasing off this contract. Being paid for the unit at time of delivery would be great However we know that is not always possible. We are also agreeable to the department must have signed and accepted prior to payment being processed. We do want someone to sign that the unit was delivered with no visible damage. This would not preclude the inspection and acceptance time only to verify we delivered it in good shape. MSO in hand to exchange for payment when the county calls and say's the check is ready is also very agreeable. We feel a sit down meeting could establish a mutually agreeable time line on what needs to be in the County's hand when to everything on schedule and then we can put that time line in writing.

Heather Hall

From: TRK4150 [trk4150@comcast.net]
Sent: Friday, February 04, 2011 9:04 PM
To: Heather Hall
Subject: Re: Vest2 response

Yes we would let you know when those changes happen and if we know in advance we will let you know in advance so that you have a time frame if there are things you would like to do to avoid a price increase.

We do not believe in surprises

Clay Fitzgerald
Vest's Sales and Service
1157 Stonewall Rd
Check, Va 24172
540-588-1574

----- Original Message -----
From: "Heather Hall" <hallhm@montgomerycountyva.gov>
To: "TRK4150" <trk4150@comcast.net>
Sent: Friday, February 4, 2011 8:39:10 AM
Subject: RE: Vest2 response

One clarification on question #3 Clay. Will you notify the Purchasing Dept when the new chassis pricing becomes available? I understand what you are saying and that is fine, but I need to also know that you will let me know when that pricing does change. Thanks. I think we are ready to put some contract documents together once I have this answer.

Heather M. Hall, C.P.M., CPPB, VCO
Director of Purchasing
Montgomery County
755 Roanoke St., Suite 2C
Christiansburg, VA 24073
(540) 394-2134
(540)382-5783 fax

"Our lives begin to end the day we become silent about things that matter." Martin Luther King, Jr.

From: TRK4150 [mailto:trk4150@comcast.net]
Sent: Thursday, February 03, 2011 11:22 PM
To: Heather Hall
Subject: Vest2 response

Again we have answered in blue.

Please let us know if you need anything else.

Clay Fitzgerald
Vest's Sales and Service

TOWN OF CHRISTIANSBURG
TOWN COUNCIL
AGENDA COVER SHEET

AGENDA LOCATION:
CONSENT AGENDA

Meeting Date:
August 8, 2017

ITEM TITLE:
Drainage Easement Vacation

DESCRIPTION:
It is proposed to vacate the 15' drainage easement on Parcel Number 024403 as shown on "Map of The DeMaury Lots," PB11 PG68 located on Church Street.

POTENTIAL ACTION:
Council approval of easement vacation

DEPARTMENT:
Engineering

PRESENTER:
Andrew Warren and Wayne Nelson

ITEM HISTORY:
On 09/27/16, the Town was granted a 20-foot drainage easement in connection with the Brown, Church, and Lucas Storm Drain Improvement Project. As a result of this project, the Town no longer has a direct interest in this older 15' easement.

Information Provided:

"Map of the DeMaury Lots"; PB11
PG68: https://christiansburg.box.com/s/u7bttrkarw3dsrfs383cu22ud1wj7vb3

Deed of Dedication of Storm Drain Easement; Brown, Church, Lucas Project; Instrument #2016009307:
https://christiansburg.box.com/s/06lushjdkraebld4xy1oqeyzt859e9y2

DRAFT Deed of Vacation of Drainage Easement, drafted by legal counsel:
https://christiansburg.box.com/s/54252yg01vadz39k9evhqnt60sxz3eqz

TOWN OF CHRISTIANSBURG
TOWN COUNCIL
AGENDA COVER SHEET

AGENDA LOCATION:
DISCUSSION/ACTION

Meeting Date:
August 8, 2017

ITEM TITLE:
Conditional Use Permit – Communications Monopole in R-3, Multi-Family Residential (CUP 2017-05)

DESCRIPTION:
Included in this packet is a petition provided by citizens and information on land use decisions regarding cell towers originally provided to Council by Theresa Fontana by email on March 22, 2017.

DEPARTMENT:
Planning

PRESENTER:
Andrew Warren, Planning Director

PETITION

July 30th 2017

LOCAL ISSUE

CHRISTIANSBURG, VIRGINIA

Demand An End To The Construction Of Telecommunication Tower.

The residents of high street and adjacent properties; the signers of this petition respectfully request that a conditional use permit NOT be issued to Jeff Holland of Network Building + Consulting, LLC (representing Shentel).

The Reasons Being:
Reduced Property Value – Visual Pollution--Emission of Radiofrequency (RF) Energy.
(NOTE: Communication Tower is a device that emits radio frequencies, which the World Health Organization has classified as a potential carcinogen.)

There is an option of renting space on the tower that will generate or add to the energy emitted.

An option would be to use the existing 70 foot 4 inch measurements on a steel pole and top trees That is obstructing signals. (The existing pole constructed in 1999 did not require a conditional use Permit due to Christiansburg Town Code at that time.)

Respectfully Submitted:

NAME	ADDRESS	PHONE NUMBER
1. Myron G Macomber	545 High St.	(540) 357-2650
2. Kathleen Spencer	525 Sunnyside	382-6225
3. Dana Wyatt	545 Sunnyside	381-4946
4. Jason Lyon	580 Sunnyside	(434) 294-5344
5. Chuck Gil	" " "	"
6. William Altizer	560 Sunnyside Lane	
7. Marcie Altizer	560 Sunnyside Lane	
8. Lorraine Chafin	405 High st.	540-392-3087
9. Victoria Becker	710 High St	540 838-5054

PETITION PAGE #2

10.	Jean King	555 N High St	392-3627
11.	K. G Dobson	595 N. High St	(382-8110)
12.	Charleen Dobson	595 N. High St.	382-8110
13.	Dempsey McDobson	595 N. High St	381-8231
14.	Carl S Jones Jr	710 Shafer St	393-2353
15.	Ruby Blankenship	510 High St.	382.0955
16.	BS Blankenship	510 High St.	382 0955
17.	B.A. "Pete" Whitlock	530 High St.	381-1823
18.	Becky A. Whitlock	530 High St.	381-1823
19.	Rollie F. Palmer	525 High St.	382-8293
20.			
21.	Allen W. Palmer	525 High St	382-8293
22.			
23.	Dexter Deal	515 High St	540-460-9985
24.	Sabrina Deal		461-0910
25.	Mon Shaw	415 High St	382-2841
26.	William Smith	569 High St	382-9142
27.			
28.			
29.			
30.			
31.			
32.			

PETITION PAGE # 3

33.

34.

35.

36.

37.

38.

39.

40.

41.

42.

43.

44.

45.

46.

47.

48.

49.

50.

51.

52.

53.

54.

55.

please Take the
Time To Read this.

Thanks

Cell Phone Towers: How Far is Safe?

by Taraka Serrano

If you or people you know live within a quarter mile of a cell phone tower, this may be of concern. Two studies, one in Germany and the other in Israel, reveal that living in proximity of a cell phone tower or antenna could put your health at significant risk.

German study: 3 times increased cancer risk

Several doctors living in Southern Germany city of Naila conducted a study to assess the risk of mobile phone radiation. Their researh examined whether population living close to two transmitter antennas installed in 1993 and 1997 in Naila had increased risk of cancer.

Data was gathered from nearly 1,000 patients who had been residing at the same address during the entire observation period of 10 years. The social differences are small, with no ethnic diversity. There is no heavy industry, and in the inner area there are neither high voltage cable nor electric trains. The average ages of the residents are similar in both the inner and outer areas.

What they found is quite telling: the proportion of newly developed cancer cases was three times higher among those who had lived during the past ten years at a distance of up to 400m (about 1300 feet) from the cellular transmitter site, compared to those living further away. They also revealed that the patients fell ill on average 8 years earlier.

Computer simulation and measurements used in the study both show that radiation in the inner area (within 400m) is 100 times higher compared to the outer area, mainly due to additional emissions coming from the secondary lobes of the transmitter.

Looking at only the first 5 years, there was no significant increased risk of getting cancer in the inner area. However, for the period 1999 to 2004, the odds ratio for getting cancer was 3.38 in the inner area compared to the outer area. Breast cancer topped the list, with an average age of 50.8 year compared with 69.9 years in the outer area, but cancers of the prostate, pancreas, bowel, skin melanoma, lung and blood cancer were all increased

Israel study: fourfold cancer risk

Another study, this one from Israel's Tel Aviv University, examined 622 people living near a cell-phone transmitter station for 3-7 years who were patients in one clinic in Netanya and compared them against 1,222 control patients from a nearby clinic. Participants were very closely matched in environment, workplace

and occupational characteristics. The people in the first group live within a half circle of 350m (1148 feet) radius from the transmitter, which came into service in July 1996.

The results were startling. Out of the 622 exposed patients, 8 cases of different kinds of cancer were diagnosed in a period of just one year (July 1997 to June 1998): 3 cases of breast cancer, one of ovarian cancer, lung cancer, Hodgkin's disease (cancer of the lymphatic system), osteoid osteoma (bone tumour) and kidney cancer. This compares with 2 per 1 222 in the matched controls of the nearby clinic. The relative risk of cancer was 4.15 for those living near the cell-phone transmitter compared with the entire population of Israel.

Women were more susceptible. As seven out of eight cancer cases were women, the relative cancer rates for females were 10.5 for those living near the transmitter station and 0.6 for the controls relative for the whole town of Netanya. One year after the close of the study, 8 new cases of cancer were diagnosed in the microwave exposed area and two in the control area.

Locate the Cell Phone Towers and Antennas Near You

Do you know how many cell phone transmitters are in your neighborhood? You'd **be surprised. Visit** antennasearch.com **to find out where the towers and antennas are in your area and how close they are to your home or place of work.** The site will also pinpoint future tower locations, additional helpful information for those considering buying a home.

For clarity, towers are tall structures where antennas are installed. A typical tower may easily hold over 10 antennas for various companies. Antennas, on the other hand, are the actual emitters of signals for various radio services including cellular, paging and others. Antennas are placed on high towers or can be installed by themselves (stand alone) on top of buildings and other structures.

Using where I live as an example, I've located 3 cell phone towers and 22 *antennas within a quarter mile from our home, with the closest one at 845 feet.*. And this is in a relatively quiet residential neighborhood by the ocean in the small city of Hilo in Hawaii. As you may guess, I did my research only well after we've moved in. Fortunately, we're here on just a lease and we'll be a bit wiser next time we look for a new home.

What to Do If You Live Near a Cell Phone Transmitter

Short of relocating, there are some things you can do to fight the effects of electromagnetic radiation (EMR). The Safe Wireless Initiative of the Science and Public Policy Institute in Washington, DC, outlines three levels of intervention in accordance with the public health paradigm that everyone can apply. Here are our suggestions based on these guidelines:

The primary means of intervention is through avoidance or minimizing exposure. This simply means to avoid contact with EMR as much as possible. In case of a cell phone tower close to your home, this could mean using specially formulated RF shield paint, shielding fabric, shielding glass or film for windows, etc. Although they may sound extreme, these measures are a life-saver for someone who suffers from electrosensitivity, a condition in which a person experiences physical symptoms aggravated by electromagnetic fields. (Sweden is the only *country so far that recognizes electrosensitivity as a real medical condition, and* their government pays for measures to reduce exposure in their homes and workplaces).

The secondary means of intervention is to minimize the effects of exposure. This includes the use of bioenergetic devices that help reduce the effects of EMR, such as pendants, chips or other devices designed to strengthen the biofield of

the individual. A biofield is the matrix of weak electromagnetic signals that the body's cells use to communicate with each other. EMR disrupts these signals, causing the cells to eventually shut down and result in build up of toxins and waste products within the cells, including free radicals known to result in cellular dysfunction and interference with DNA repair. A scientifically validated bioenergetic device restores intercellular communications and normal cellular function by strengthening the biofield against the effects of EMR.

The third means of intervention is to help reverse damage caused by exposure.This includes nutritional support such as anti-oxidant supplementation, particularly helpful in countering the effects of free radicals. Supplementing with anti-oxidants SOD, catalase, glutathione, and Coq10 are especially recommended. Microwave radiation has been shown to decrease levels of these anti-oxidants that the body normally produces to protect itself. These levels are sensitive indicators in stress, aging, infections and various other disease states.

Additional information:

1. The Influence of Being Physically Near to a Cell Phone Transmission Mast on the Incidence of Cancer **(PDF)** ***(German study)***
2. Increased Incidence of Cancer Near a Cell-Phone Transmitter Station **(PDF)** ***(Israel study)***
3. Environmental Epidemiological Study of Cancer Incidence in the Municipalities of Hausmannstätten & Vasoldsberg (Austria) **(PDF)**

(Note: This article is shared for educational purposes only and does not constitute medical advice. If you believe that you have a health problem, see your doctor or health professional immediately.)

Taraka Serrano is a health advocate dedicated to sharing information and solutions relating to serious health issues of our time. Watch video reports on the dangers of cell phone and EMF **radiation, and learn more about the right** emf protection solutions **for you. Visit** EMF-Health.com

Word count: 1,235

Watch BBC report:
"EMF Damages Blood Cells, Test Shows"

Watch Sydney TV report:
"Brain Tumors and Cell Phones: Are They Linked?"

EMF BLUES

Handcrafted EMF Protection Devices that wo

Cell Phone Tower Dangers Are Real...

Health Risks of Cell Tower Radiation

Cell Tower Radiation exposure is at an all time high. While the exact number of cell phone towers in the USA is not clear (some numbers stating 260,000 and some other numbers stating over 1 million), we do know that the amounts have exponentially increased in the US since the year 2006, shooting up over 48% in some years according to certain sources.

Cell Phone Towers are, by scientific standards, somewhat of an experimental technology. We know they work, because we can make a cell phone call, but we don't know anything about the potential long term side effects of continuous exposure to cell tower radiation.

As to date, there have been no long term studies done on the effects of cell tower radiation exposure on humans, anima or plant life for that matter.

In essence, the current crop of life on the planet are the Guinea Pigs.

Mobile Tower Radiation Safety

> "Existing safety guidelines for Cell Phone Towers are completely inadequate. "- Dr.Gerard Hyland, Nobel Prize Nominee for Medicine

More than 25% of Cell Phone Towers are hidden; disguised as flag poles, chimney's, trees, water towers, light houses…even tombstones. While hidden cell towers might improve the landscape, they can also lull the public into a false sense of security. While pumping gas at your local station, you might be standing 10 feet away from a Cell Tower placed inside the gas station sign.

Whats more, new mini Cell Towers, called femtocells, are growing in popularity. Small enough to fit in a home or offi they are the size of a router and essentially work like a mini Cell Tower to amplify your signal and guarantee good reception for your call.

While the convenience of being 'connected' has run the mainstream narrative since the inception of cell phone usage, t dark side of cell phone tower radiation has received comparatively little attention by both the mainstream media and th scienctific community.

Cell Tower Safety Studies

> "To claim there is no adverse effect from phone towers flies in the face of a large body of evidence. There is no safe level of EMR Radiation." – Dr. Neil Cherry, PH.D. Biophysicist

While the official word on cell tower radiation is that it is below the levels of heating tissue and, therefore, considered 'safe', there is evidence that non-thermal levels of radiation does indeed cause changes within the body.

Various studies have shown that living near towers has also been linked to brain tumors, cancer, suppressed immune function, depression, miscarriage, Alzheimer's disease, multiple sclerosis and autoimmune illnesses such as fibromyal and lupus.

According to the Mount Shasta Bioregional Ecology Center in California, studies on Cell Phone Tower health effects have shown that "even at low levels there is evidence of damage to cell tissue and DNA, and it has been linked to brai tumors, cancer, suppressed immune function, depression, miscarriage, Alzheimer's disease, and numerous other seriou illnesses."

A study by Dr. Bruce Hocking in Australia found that children living near cell phone towers in Sydney had more than twice the rate of childhood leukemia than children living more than seven miles away.

According to Dr. W. Lšscher of the Institute of Pharmacology, Toxicology and Pharmacy of the Veterinary School of Hanover in Germany, dairy cows that were kept in close proximity to cell phone towers for two years had a reduction i milk production along with increased health problems and behavioral abnormalities. A cow with abnormal behavior w taken away from the cell phone antenna and the behavior subsided within five days. When the cow was brought back near the antenna, the symptoms returned.

How to Neutralize Cell Phone Tower Radiation

Crystal Catalyst Technology offers an innovate approach to clearing cell tower radiation. Rather than attempting to blo or shield these radiations, Crystal Catalyst Technology harmonizes these frequencies so they are no longer stressful to the body.

The Technology is a new silicone-based Advanced Ceramic Material whose unique composition enables it to transform

harmful frequencies into beneficial resonances.

The Ceramic itself is comprised of Quartz Crystal in the form of silicone, various Clays, as well as Rare Earths.

For clearing incoming cell phone tower radiation in your home or office, we recommend installing a Star Tri-Pak.

The Clearfield Plate is a Whole House Clearing Device and can also be installed in a home or office for clearing radiation from cell towers.

Please Share...

Biomagnetic Research Inc

"Our small family business produces ceramic dielectric resonators which are individually made, by hand, with love and intention to absorb harmful emanations and rebroadcast the energy in neutral to beneficial ranges."

-Charmion McKusick
Biomagnetic Research Inc

VERIFIED BY GeoTrust EMF Blues CLICK 03.04.17 14:39 UTC

EMF Blues SHOPPER APPROVED

BARBARA
24 Aug 2016

YOU ARE GREAT

APPROVED

EMF Protection Devices

- *Full Line of EMF Products*
- *Full Line of EMF Pendants*
- "I AM" Energy Jewelry
- Comparison Shop

Buy More & Save!

- Value Paks
- Variety Paks
- Bulk Pricing

EMF Clearing Guide

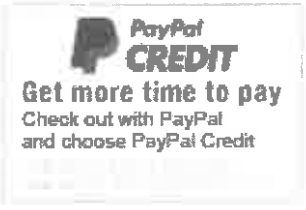
- What & How To Clear
- Library: In Depth Articles on EMFs

Dowsing eBooks & Booklets

- How To Dowse & Manifest Daily Needs
- How To Dowse & Balance The Chakras

Help

- Money Back Guarantee
- Shipping
- Customer Service
- Payment Options
- Off-Line Order



- Site Disclaimer
- Site Map

Copyright

- Return to top

Powered by WordPress and the Graphene Theme.

EMF Safety Network

We envision a world free of EMF pollution where children, communities, and nature thrive! Our mission is to educate and empower people by providing science and solutions to reduce EMFs to improve lives, achieve public policy change, and obtain environmental justice.

Wireless devices-potential cancer risk says World Health Organization

Cell phones, cell towers, wi-fi, smart meters, DECT phones, cordless phones, baby monitors and other wireless devices all emit non ionizing radio frequencies, which the World Health Organization (WHO) has just classified as a potential carcinogen. This is big news from the WHO and governments and decision makers can no longer hide behind the "no RF health effects" industry mantra.

Cindy Sage, co-editor of the Bioinitiative Report writes, " The WHO International Agency for Research on Cancer has just issued it's decision that non-ionizing radiofrequency radiation is classified as a 2B (Possible) Carcinogen. This is the same category as DDT, lead, and engine exhaust. This mirrors the 2001 IARC finding that extremely low frequency (ELF-EMF) that classified as a 2B (Possible) Carcinogen. This pertained to power frequency (power line and appliance) non-ionizing radiation. These two findings confirm that non-ionizing radiation should be considered as a possible risk factor for cancers; and that new, biologically-based public safety standards are urgently needed. "

Dr. Louis Slesin has been reporting on this issue for decades. See Microwave News, for further commentary.

IARC CLASSIFIES RADIOFREQUENCY ELECTROMAGNETIC FIELDS AS POSSIBLY CARCINOGENIC TO HUMANS

Lyon, France, May 31, 2011 --

"The WHO/International Agency for Research on Cancer (IARC) has classified radiofrequency electromagnetic fields as possibly carcinogenic to humans (Group 2B), based on an increased risk for glioma, a malignant type of brain cancer1, associated with wireless phone use.

Background
Over the last few years, there has been mounting concern about the possibility of adverse health effects resulting from exposure to radiofrequency electromagnetic fields, such as those emitted by wireless communication devices. The number of mobile phone subscriptions is estimated at 5 billion globally.
From May 24–31 2011, a Working Group of 31 scientists from 14 countries has been meeting at IARC in Lyon, France, to assess the potential carcinogenic hazards from exposure to radiofrequency electromagnetic fields. These assessments will be published as Volume 102 of the IARC Monographs, which will be the fifth volume in this series to focus on physical agents, after Volume 55 (Solar Radiation), Volume 75 and Volume 78 on ionizing radiation (X-rays, gamma-rays, neutrons, radio-nuclides), and Volume 80 on non-ionizing radiation (extremely low-frequency electromagnetic fields).
The IARC Monograph Working Group discussed the possibility that these

CONCERNS RELATIVE TO A COMMUNICATIONS TOWER BEING INSTALLED IN A RESIDENTAL AREA

1. **What are the benefits for the residents living in or near the communication tower?**
   Will the residents receive compensation??
   Will the residents be guaranteed in writing that property values will not decline??
   Will residents be guaranteed in writing that there will be no long term or short term effects relative to health issues? (Especially since there is the option Of renting spaces on the tower that will generate or add to the energy emitted)

   Is there a method available for building concealed towers??

   Visual Pollution – Reduced Property Value-scenery is cherished- Pollution is not Limited to the air we breathe and the water we drink; it can equally offend the eye and the ear. Visual pollution is a fascinating example of pollution. The most common harm associated with visual pollution is the annoyance resulting from the perception of something that is judged unsightly.

   Signs, communication towers and discarded cars have all been blamed for reducing property values and inhibiting the enjoyment of neighboring property. (I remember the time an officer walked all the way down to check a car on my mother's property that you could barely see as it was under the Pine trees.)

   Radiofrequency (R F) energy
   The specific absorption rate (SAR) used to determine how much RF energy is actually absorbed in the body is used to determine the Biological effects that result from heating of tissue by RF energy referred to as thermal effect

   In general, however studies have shown that environmental levels of RF energy routinely encountered by the general public are typically far below the levels necessary to produce significant heating and increasing body temperature, however there are many situations, particular in the work place environments Near high powered RF sources where recommended limit for safe exposure of Human beings to RF energy could be exceeded in such cases, restrictive measures or actions may be necessary to insure the safe use of RF energy.

I feel that Sherrill + or Sherrill Representatives
Knows little about this Project that the

Mobile phone radiation and health

From Wikipedia, the free encyclopedia

The effect of mobile phone radiation on human health is a subject of interest and study worldwide, as a result of the enormous increase in mobile phone usage throughout the world. As of 2015, there were 7.4 billion subscriptions worldwide, though the actual number of users is lower as many users own more than one mobile phone.[1] Mobile phones use electromagnetic radiation in the microwave range (450–2100 MHz). Other digital wireless systems, such as data communication networks, produce similar radiation.

Mobile phone use does not increase the risk of getting brain cancer or other head tumors.[2][3][4]

A man speaking on a mobile telephone

Contents

Effects

Blood–brain barrier

Evidence does not support the hypothesis that mobile phone radiation has an effect on the permeability of the blood-brain barrier.[5]

Cancer

Mobile phone use does not increase the risk of getting brain cancer or other head tumors. As the United States National Cancer Institute explains: *Radiofrequency energy, unlike ionizing radiation, does not cause DNA damage that can lead to cancer. Its only consistently observed biological effect in humans is tissue heating. In animal studies, it has not been found to cause cancer or to enhance the cancer-causing effects of known chemical carcinogens* .[2][3][4]

Electromagnetic hypersensitivity

Some users of mobile phones and similar devices have reported feeling various non-specific symptoms during and after use. Studies have failed to link any of these symptoms to electromagnetic exposure. (In addition, EHS is not a recognised medical diagnosis.)[6]

Base stations

Experts consulted by France considered it was mandatory that the main antenna axis should not to be directly in front of a living place at a distance shorter than 100 metres.[7] This recommendation was modified in 2003[8] to say that antennas located within a 100-metre radius of primary schools or childcare facilities should be better integrated into the cityscape and was not included in a 2005 expert report.[9] The Agence française de sécurité sanitaire environnementale as of 2009, says that there is no demonstrated short-term effect of electromagnetic fields on health, but that there are open questions for long-term effects, and that it's easy to reduce exposure via technological improvements.[10]

A Greenfield-type tower used in base stations for mobile telephony

Safety standards and licensing

In order to protect the population living around base stations and users of mobile handsets, governments and regulatory bodies adopt safety standards, which translate to limits on exposure levels below a certain value. There are many proposed national and international standards, but that of the International Commission on Non-Ionizing Radiation Protection (ICNIRP) is the most respected one, and has been adopted so far by more than 80 countries. For radio stations, ICNIRP proposes two safety levels: one for occupational exposure, another one for the general population. Currently there are efforts underway to harmonise the different standards in existence.[11]

Radio base licensing procedures have been established in the majority of urban spaces regulated either at municipal/county, provincial/state or national level. Mobile telephone service providers are, in many regions, required to obtain construction licenses, provide certification of antenna emission levels and assure compliance to ICNIRP standards and/or to other environmental legislation.

Many governmental bodies also require that competing telecommunication companies try to achieve sharing of towers so as to decrease environmental and cosmetic impact. This issue is an influential factor of rejection of installation of new antennas and towers in communities.

The safety standards in the US are set by the Federal Communications Commission (FCC). The FCC has based its standards primarily on those standards established by the Institute of Electrical and Electronics Engineers (IEEE), specifically Subcommittee 4 of the "International Committee on Electromagnetic Safety".

Switzerland has set safety limits lower than the ICNIRP limits for certain "sensitive areas" (classrooms, for example).[12]

Lawsuits

In the US, a small number of personal injury lawsuits have been filed by individuals against cellphone manufacturers (including Motorola,[13] NEC, Siemens, and Nokia) on the basis of allegations of causation of brain cancer and death. In US federal courts, expert testimony relating to science must be first evaluated by a judge, in a Daubert hearing, to be relevant and valid before it is admissible as evidence. In a 2002 case against Motorola, the plaintiffs alleged that the use of wireless handheld telephones could cause brain cancer and that the use of Motorola phones caused one plaintiff's cancer. The judge ruled that no sufficiently reliable and relevant scientific evidence in support of either general or specific causation was proffered by the plaintiffs, accepted a motion to exclude the testimony of the plaintiffs' experts, and denied a motion to exclude the testimony of the defendants' experts.[14]

French high court ruling against telecom company

In February 2009, the telecom company Bouygues Telecom was ordered to take down a mobile phone mast due to uncertainty about its effect on health. Residents in the commune Charbonnières in the Rhône department had sued the company claiming adverse health effects from the radiation emitted by the 19 meter tall antenna.[15] The milestone ruling by the Versailles Court of Appeal reversed the burden of proof which is usual in such cases by emphasizing the extreme divergence between different countries in assessing safe limits for such radiation. The court stated that, "Considering that, while the reality of the risk remains hypothetical, it becomes clear from reading the contributions and scientific publications produced in debate and the divergent legislative positions taken in various countries, that uncertainty over the harmlessness of exposure to the waves emitted by relay antennas persists and can be considered serious and reasonable".[16]

Italian high court ruling in favour of "causal" link with brain cancer

In October 2012, the Supreme Court of Cassation of Italy granted an Italian businessman, *Innocente Marcoloni* a pension for

occupational disease: "Contrary to the denials of many health agencies in the US and in some other countries, the Italian Supreme Court has recognized a 'causal' link between heavy mobile phone use and brain tumor risk in a worker's compensation case."[17][18] According to Reuters, a lower court in Brescia had "ruled there was a causal link between the use of mobile and cordless telephones and tumours" in the case of "Innocenzo Marcolini who developed a tumour in the left side of his head after using his mobile phone for [between 5 and 6] hours a day for 12 years. He normally held the phone in his left hand, while taking notes with his right hand" and that the ruling was upheld but they summarized experts saying the "decision flies in the face of much scientific opinion, which generally says there is not enough evidence to declare a link between mobile phone use and diseases such as cancer and some experts said the Italian ruling should not be used to draw wider conclusions about the subject."[19] As it takes time to develop cancer, the court disregarded short-term studies. The court based their ruling on "studies conducted between 2005 and 2009 by a group led by Lennart Hardell, a cancer specialist at the University Hospital in Orebro in Sweden"[19] and disregarded studies that were even partially funded by the mobile phone industry such as the INTERPHONE (see above).

Precautions

Precautionary principle

In 2000, the World Health Organization (WHO) recommended that the precautionary principle could be voluntarily adopted in this case.[20] It follows the recommendations of the European Community for environmental risks. According to the WHO, the "precautionary principle" is "a risk management policy applied in circumstances with a high degree of scientific uncertainty, reflecting the need to take action for a potentially serious risk without awaiting the results of scientific research." Other less stringent recommended approaches are prudent avoidance principle and as low as reasonably practicable. Although all of these are problematic in application, due to the widespread use and economic importance of wireless telecommunication systems in modern civilization, there is an increased popularity of such measures in the general public, though also evidence that such approaches may increase concern.[21] They involve recommendations such as the minimization of cellphone usage, the limitation of use by at-risk population (such as children), the adoption of cellphones and microcells with as low as reasonably practicable levels of radiation, the wider use of hands-free and earphone technologies such as Bluetooth headsets, the adoption of maximal standards of exposure, RF field intensity and distance of base stations antennas from human habitations, and so forth. Overall, public information remains a challenge as various health consequences are evoked in the literature and by the media, putting populations under chronic exposure to potentially worrying information.[22]

Precautionary measures and health advisories

In May 2011, the World Health Organisation's International Agency for Research on Cancer (http://www.iarc.fr/en/media-centre/pr/2011/pdfs/pr208_E.pdf) announced it was classifying electromagnetic fields from mobile phones and other sources as "possibly carcinogenic to humans" and advised the public to adopt safety measures to reduce exposure, like use of hands-free devices or texting.

Some national radiation advisory authorities, including those of Austria,[23] France,[24] Germany,[25] and Sweden,[26] have recommended measures to minimize exposure to their citizens. Examples of the recommendations are:

- Use hands-free to decrease the radiation to the head.
- Keep the mobile phone away from the body.
- Do not use telephone in a car without an external antenna.

The use of "hands-free" was not recommended by the British Consumers' Association in a statement in November 2000, as they believed that exposure was increased.[27] However, measurements for the (then) UK Department of Trade and Industry[28] and others for the French l'Agence française de sécurité sanitaire environnementale[29] showed substantial reductions. In 2005, Professor Lawrie Challis and others said clipping a ferrite bead onto hands-free kits stops the radio waves travelling up the wire and into the head.[30]

Several nations have advised moderate use of mobile phones for children.[31] A journal by Gandhi et al. in 2006 states that children receive higher levels of SAR. When 5- and 10-year olds are compared to adults, they receive about 153% higher SAR levels. Also, with the permittivity of the brain decreasing as one gets older and the higher relative volume of the exposed growing brain in children, radiation penetrates far beyond the mid-brain.[32]

Bogus products

Products have been advertised that claim to shield people from EM radiation from cell phones; in the US the Federal Trade

Commission published a warning that "Scam artists follow the headlines to promote products that play off the news – and prey on concerned people. If you're looking for ways to limit your exposure to the electromagnetic emissions from your cell phone, know that, according to the FTC, there is no scientific proof that so-called shields significantly reduce exposure from these electromagnetic emissions. In fact, products that block only the earpiece – or another small portion of the phone – are totally ineffective because the entire phone emits electromagnetic waves. What's more, these shields may interfere with the phone's signal, cause it to draw even more power to communicate with the base station, and possibly emit more radiation."[33] The FTC has enforced false advertising claims against companies that sell such products.[34]

See also

- Wireless electronic devices and health
- Background radiation
- Bioelectromagnetism
- BioInitiative Report
- COSMOS cohort study
- Electromagnetic hypersensitivity
- Electromagnetic radiation and health
- Microwave News
- Mobile phones and driving safety
- Non-ionizing radiation
- Possible health effects of body scanners
- Radiation biology

References

1. http://www.ericsson.com/res/docs/2015/mobility-report/ericsson-mobility-report-nov-2015.pdf
2. What has research shown about the possible cancer-causing effects of radiofrequency energy? (https://www.cancer.gov/about-cancer/causes-prevention/risk/radiation/cell-phones-fact-sheet#q4), United States National Cancer Institute
3. Repacholi MH, Lerchl A, Röösli M, Sienkiewicz Z, Auvinen A, Breckenkamp J, d'Inzeo G, Elliott P, Frei P, Heinrich S, Lagroye I, Lahkola A, McCormick DL, Thomas S, Vecchia P (2012). "Systematic review of wireless phone use and brain cancer and other head tumors". *Bioelectromagnetics* (Systematic review). **33** (3): 187–206. doi:10.1002/bem.20716. PMID 22021071.
4. "Electromagnetic fields and public health: mobile phones". World Health Organization. October 2014. Retrieved 2017-01-12.
5. Stam R (2010). "Electromagnetic fields and the blood-brain barrier". *Brain Res Rev* (Review). **65** (1): 80–97. doi:10.1016/j.brainresrev.2010.06.001. PMID 20550949.
6. Röösli, Martin (June 2008). "Radiofrequency electromagnetic field exposure and non-specific symptoms of ill health: A systematic review". *Environmental Research*. **107** (2): 277–287. doi:10.1016/j.envres.2008.02.003. PMID 18359015.
7. http://www.afsset.fr/index.php?pageid=712&parentid=424 page 37
8. Téléphonie mobile et santé, Rapport à l'Agence Française de Sécurité Sanitaire Environnementale, 21 March 2003 at http://www.afsset.fr/index.php?pageid=712&parentid=424
9. Téléphonie mobile et santé, Rapport du groupe d'experts, l'Agence Française de Sécurité Sanitaire Environnementale, April 2005 at http://www.afsset.fr/index.php?pageid=712&parentid=424
10. "Radiofréquences : actualisation de l'expertise (2009)", l'Agence Française de Sécurité Sanitaire Environnementale, April 2005 at http://www.afsset.fr/index.php?pageid=712&parentid=424
11. "International Commission for Non-Ionizing Radiation Protection home page". Retrieved 7 January 2008.
12. "Anforderungen nach NISV: Mobilfunkanlagen" [Specifications of the Regulation on Non-Ionizing Radiation: Mobile Telephone Installations] (in German). Bundesamt für Umwelt [Swiss Federal Environment Ministry]. 13 March 2009. Retrieved 20 January 2010.
13. Wright v. Motorola, Inc. et al., No95-L-04929 (http://infoventures.com/emf/legal/lt-il001.html)
14. *Christopher Newman, et al. v Motorola, Inc., et al.* (United States District Court for the District of Maryland) ("Because no sufficiently reliable and relevant scientific evidence in support of either general or specific causation has been proffered by the plaintiffs, as explained below, the defendants' motion will be granted and the plaintiffs' motion will be denied."). Text (http://news.lp.findlaw.com/hdocs/docs/cellphone/newmanmotorola93002mem.pdf)
15. Barstad, Stine (18 February 2009). "Kunne ikke bevise at strålingen var ufarlig". *Aftenposten* (in Norwegian). Archived from the original on 25 May 2009. Retrieved 25 May 2009.
16. *Residents living next to a phone mast vs. the mobile phone company Bouygues Telecom* (Versailles Court of Appeal 4 February 2009). Text (http://www.next-up.org/pdf/France_Versailles_Court_Of_Appeal_Judgement_Local_Living_Phone_Masts_Against_Compagny_Bouygues_Telecom_04_02_2009.pdf)
17. "Tumore e telefonini, il testo della sentenza n.17438 della Cassazione". *www.leggioggi.it* (in Italian). 19 October 2012. Retrieved 1 March 2017.
18. "Italian Supreme Court Rules Cell Phones Can Cause Cancer" (Press release). Center for Family and Community Health. 19 October 2012. Retrieved 16 March 2015.

19. "Italy court ruling links mobile phone use to tumour". *Reuters*. 19 October 2012.
20. "Electromagnetic Fields and Public Health: Cautionary Policies". *World Health Organization Backgrounder*. World Health Organization. March 2000. Retrieved 1 February 2008.
21. Wiedemann; et al. (2006). "The Impacts of Precautionary Measures and the Disclosure of Scientific Uncertainty on EMF Risk Perception and Trust". *Journal of Risk Research*. 9 (4): 361–372. doi:10.1080/13669870600802111.
22. Poumadère M.; Perrin A. (2013). "Risk Assessment of Radiofrequencies and Public Information". *Journal of Risk Analysis and Crisis Response*. 3 (1): 3–12. doi:10.2991/jrarc.2013.3.1.1.
23. "Information: Wie gefährlich sind Handystrahlen wirklich?" (in German). Marktgemeinde Pressbaum. Archived from the original on 2011-10-02. Retrieved 16 May 2015.
24. "Téléphones mobiles : santé et sécurité" (in French). Le ministère de la santé, de la jeunesse et des sports. 2 January 2008. Retrieved 19 January 2008. Lay article in **(English)** making comment at Gitlin, Jonathan M. (3 January 2008). "France: Beware excessive cell phone use?: despite lack of data". Ars Technica. Retrieved 19 January 2008.
25. "Precaution regarding electromagnetic fields". Federal Office for Radiation Protection. 7 December 2007. Retrieved 19 January 2008.
26. "Exponering" (in Swedish). Swedish Radiation Protection Authority. February 2006. Retrieved 19 January 2008.
27. "UK consumer group: Hands-free phone kits boost radiation exposure". *cnn.com*. Cable News Network. 2 November 2000. Retrieved 19 January 2008.
28. Manning, MI and Gabriel, CHB, SAR tests on mobile phones used with and without personal hands-free kits, SARtest Report 0083 for the DTI, July 2000 (PDF) at http://straff-x.com/SAR-Hands-Free-Kits-July-2000.pdf
29. Téléphonie mobile & santé, Report for l'Agence française de sécurité sanitaire environnementale (Afsse), June 2005 at http://www.afsse.fr/index.php?pageid=671&parentid=619#
30. "Bead 'slashes mobile radiation' ". BBC News. 25 January 2005. Retrieved 17 March 2009.
31. For example, Finland "Radiation and Nuclear Safety Authority: Children's mobile phone use should be limited". Finnish Radiation and Nuclear Safety Authority (STUK). 7 January 2009. Retrieved 20 January 2010. and France "Téléphone mobile, DAS et santé" [Mobile telephones, SAR and health] (PDF). *Votre enfant et le téléphone mobile [Your child and mobile telephony]*. Association Française des Opérateurs Mobiles (AFOM)[French Mobile Phone Operators' Association] et l'Union Nationale des Associations Familiales (UNAF) [National Federation of Family Associations]. 31 January 2007. Retrieved 20 January 2010.
32. Gandhi, Om P.; Morgan, L. Lloyd; de Salles, Alvaro Augusto; Han, Yueh-Ying; Herberman, Ronald B.; Davis, Devra Lee (14 October 2011). "Exposure Limits: The underestimation of absorbed cell phone radiation, especially in children". *Electromagnetic Biology and Medicine*. 31 (1): 34–51. doi:10.3109/15368378.2011.622827. ISSN 1536-8378. Retrieved 2015-04-25.
33. "Cell Phone Radiation Scams". Federal Trade Commission. September 2011.
34. Fair, Lesley (March 1, 2008). "Federal Trade Commission Advertising Enforcement" (PDF). Federal Trade Commission. pp. 18–19.

External links

- Summary and full text of "Possible effects of Electromagnetic Fields (EMF) on Human Health" (http://ec.europa.eu/health/opinions2/en/electromagnetic-fields/index.htm), the 2007 scientific assessment of the European Commission's SCENIHR (Scientific Committee on Emerging and Newly Identified Health Risks).
- WHO International EMF Program (http://www.who.int/peh-emf/en/)
- Independent Expert Group on Mobile Phones (IEGMP), UK (http://www.iegmp.org.uk/)
- FDA Cell Phone Facts (http://www.fda.gov/Radiation-EmittingProducts/RadiationEmittingProductsandProcedures/HomeBusinessandEntertainment/CellPhones/default.htm)
- FCC Radio Frequency Safety (http://www.fcc.gov/oet/rfsafety/Welcome.html)
- Medline Plus, by US National Library of Medicine and National Institutes of Health (NIH) (http://www.nlm.nih.gov/medlineplus/ency/article/007151.htm)
- GSM Association: Health (http://www.gsmworld.com/health)
- Public health and electromagnetic fields: Overview of European Commission activities (http://ec.europa.eu/health/scientific_committees/docs/pub_emf_ec_activities2011_wik_en.pdf)

Effects of Electromagnetic Fields.

What Is EMF?

EMF stands for electromagnetic fields. These consist of invisible electric and magnetic forces that emit radiation, which takes the form of waves. The human body and the earth itself create EMFs, but these are very low-level. However, many recent technologies create artificial EMFs. These are much more powerful — and more dangerous.

Read more

EMF Health Effects

You are exposed to 100 million times more EMFs than your grandparents were. That's because most of the trappings of modern life -- appliances, cell phones, wireless Internet, high-voltage wires and more -- emit artificial EMFs that disrupt the body's natural energy field and can cause many health problems. The more EMFs to which you

Chapter 35

The Telecommunications Act of 1996 and Wireless Telecommunications

35-100 Introduction

Congress enacted the Telecommunications Act of 1996 (the "Act") to promote competition and higher quality in American telecommunications services and to "encourage the rapid deployment of new telecommunications technologies." *110 Stat. 56, cited in City of Rancho Palos Verdes v. Abrams*, 544 U.S. 113, 115 (2005), *see also H.R. Conf. Rep. No. 104–458, at 113* (1996), explaining that the purpose of the Act is "to provide for a pro-competitive, deregulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services ... by opening all telecommunications markets to competition."

"Congress saw a national problem, namely, an 'inconsistent and, at times, conflicting patchwork' of state and local siting requirements, which threatened 'the deployment' of a national wireless communication system. [citation omitted]. Congress initially considered a single national solution, namely, a Federal Communications Commission wireless tower siting policy that would pre-empt state and local authority. [citations omitted]. But Congress ultimately rejected the national approach and substituted a system based on cooperative federalism. [citation omitted] State and local authorities would remain free to make siting decisions. They would do so, however, subject to minimum federal standards – both substantive and procedural – as well as federal judicial review." *City of Rancho Palos Verdes*, 544 U.S. at 127-128 (Breyer concurring).

In Section 704 of the Act (codified at 47 U.S.C. § 332(c)(7)), Congress "struck a balance between the national interest in facilitating the growth of telecommunications and the local interest in making zoning decisions" over the siting of towers and other facilities that provide wireless services. *360 Communications v. Board of Supervisors of Albemarle County*, 211 F.3d 79, 86 (4th Cir. 2000).[1] While expressly preserving local zoning authority (*47 U.S.C. § 332(c)(7)(A)*), the Act requires that decisions denying wireless facilities be in writing and supported by substantial evidence (*47 U.S.C. § 332(c)(7)(B)(iii)).* The Act also prohibits localities from adopting regulations that prohibit or have the effect of prohibiting wireless services, or unreasonably discriminate against functionally equivalent providers. *47 U.S.C. § 332(c)(7)(B)(i).* Finally, the Act requires that localities act on applications for approval of wireless facilities within a reasonable period of time. *47 U.S.C. § 332(c)(7)(B)(ii).*

The only complete preemption contained in 47 U.S.C. § 332(c)(7)(B) is found in subparagraph (iv), which preempts localities from regulating the placement, construction, and modification of wireless facilities on the basis of the environmental effects of radio frequency emissions if those facilities comply with the Federal Communications Commission's regulations concerning emissions.

A locality may not deny a request for a modification to "an existing wireless tower or base station that does not substantially change the physical dimensions of the tower or base station." *Middle Class Tax Relief and Job Creation Act of 2012 (also known as the "Spectrum Act"), § 6409*. Section 6409 is discussed in section 35-400.

35-200 The Telecommunications Act of 1996: the local zoning authority preserved

Because 47 U.S.C. § 332(c)(7) does not affect or encroach upon the substantive standards to be applied under established principles of state and local law, *Cellular Telephone Company v. Town of Oyster Bay*, 166 F.3d 490 (2d Cir. 1999), a locality retains its authority to:

[1] The United States Courts of Appeal have interpreted some provisions of 47 U.S.C. § 332(c)(7) differently from one another. This chapter focuses primarily on the district court and appellate decisions from the Fourth Circuit Court of Appeal, whose jurisdiction includes Virginia.

- Determine the appropriate height, location and bulk of wireless facilities. *Virginia Code § 15.2-2280(2).*

- Allow wireless facilities, by special use permit, subject to suitable regulations and safeguards. *Virginia Code § 15.2-2286(A)(3).*

- Deny applications for special use permits if the requisite findings for the granting of a permit cannot be made. *See, e.g., County of Lancaster v. Cowardin*, 239 Va. 522, 391 S.E.2d 267 (1990).

- Deny applications for special use permits if the proposed uses are inconsistent with the comprehensive plan. *National Memorial Park, Inc. v. Board of Zoning Appeals of Fairfax County*, 232 Va. 89, 348 S.E.2d 248 (1986).

- Prohibit uses, including wireless facilities, within certain zoning districts. *Resource Conservation Management, Inc. v. Board of Supervisors of Prince William County*, 238 Va. 15, 380 S.E.2d 879 (1989).

Of course, the exercise of this authority must otherwise comply with state and local land use laws, and may not violate the limitations set forth in section 332(c)(7)(B). *See T-Mobile Northeast, LLC v. Frederick County Board of Appeals*, 761 F. Supp. 2d 282 (D. Md. 2010) (court didn't reach Telecommunications Act issues because the county failed to comply with the requirements for a special use exception). Moreover, section 332(c)(7)(A)'s preservation of local zoning authority does "not alter the FCC's general authority over radio telecommunications granted by earlier communications legislation." *Southwestern Bell Wireless, Inc. v. Johnson County Board of County Commissioners*, 199 F.3d 1185, 1191 (10th Cir. 1999) (rejecting the assertion that preserving local zoning authority allows local regulation of radio frequency interference, and holding that such regulation is preempted by federal law and does not violate the Tenth Amendment).

Finally, note that the protections to the wireless industry found in the Telecommunications Act of 1996 apply to *telecommunications* services. Some federal courts in other jurisdictions have concluded that 4G service is not a *telecommunications* service entitled to the limited protections from local zoning authority under the Act, finding that 4G service is a broadband internet *information* service. *See, e.g., Clear Wireless LLC v. Building Department of Lynbrook*, 2012 U.S. Dist. LEXIS 32126, 2012 WL 826749 (E.D.N.Y. 2012)*, and cases and Federal Communications Commission rulings cited therein*. This distinction is not critical as far as implementation of the Albemarle County Zoning Ordinance is concerned because, as a broadband internet service, 4G service is within the definition of *personal wireless service facility* in the Zoning Ordinance.

35-300 The Telecommunications Act of 1996: the requirements and limitations in 47 U.S.C. § 332(c)(7)

As noted in section 35-100, 47 U.S.C. § 332(c)(7) expressly preserves local zoning authority on applications for personal wireless service authorities, subject to five limitations: (1) decisions denying wireless facilities must be in writing *(47 U.S.C. § 332(c)(7)(B)(iii))*; (2) decisions denying wireless facilities must be supported by substantial evidence (*47 U.S.C. § 332(c)(7)(B)(iii))*; (3) localities may not adopt regulations that prohibit or have the effect of prohibiting wireless services *(47 U.S.C. § 332(c)(7)(B)(i))*; (4) localities may not adopt regulations that unreasonably discriminate against functionally equivalent providers *(47 U.S.C. § 332(c)(7)(B)(i))*; and (5) localities must act on applications for approval of wireless facilities within a reasonable period of time *(47 U.S.C. § 332(c)(7)(B)(ii)).*

47 U.S.C. § 332(c)(7) also preempts localities from regulating the placement, construction, and modification of wireless facilities on the basis of the environmental effects of radio frequency emissions if those facilities comply with the Federal Communications Commission's regulations concerning emissions *(47 U.S.C. § 332(c)(7)(B)(iv)).*

These requirements and limitations are discussed below.

35-310 The decision must be in writing

The requirement that a decision be in writing is easily satisfied. A letter stamped with the word "Denied," or writing the word "Denied" on the wireless provider's application, satisfies the requirement. *AT&T Wireless PCS, Inc. v. City Council of City of Virginia Beach*, 155 F.3d 423 (4th Cir. 1998); *AT&T Wireless PCS, Inc. v. Winston-Salem Zoning*

Board of Adjustment, 172 F.3d 307 (4th Cir. 1999); *Shenandoah Mobile Co. v. Frederick County Board of Supervisors*, 83 Va. Cir. 113 (2011) (minutes of board meeting suffice as a written denial). There is no need for a locality to issue a written rationale with factual and legal conclusions as part of its decision. *T-Mobile South v. City of Roswell, Georgia*, 574 U.S. ___, 135 S. Ct. 808 (2015). However, those reasons must be provided "essentially contemporaneously" with the written decision. *T-Mobile South, supra* (although holding that the reasons can be stated separately from the decision, they must be provided "essentially contemporaneously" with the written denial; here the City failed to satisfy the court's newly created "essentially contemporaneously" requirement because the written minutes were not available until 26 days after the denial, just 4 days before the wireless provider had to seek judicial review).

As a practical matter, a locality that denies an application should delay issuing its written decision, which triggers the running of the time to seek judicial review, if there is any doubt as to whether the reasons for the decision can be issued "essentially contemporaneously" with the decision. A verbatim transcript accompanied by a cover letter is sufficient to satisfy the writing requirement. *Cellco Partnership v. Board of Supervisors of Fairfax County*, ___ F. Supp. 3d ___ (E.D. Va. 2015).

35-320 The decision must be supported by substantial evidence

The United States Supreme Court has defined "substantial evidence" to mean "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *Universal Camera v. NLRB*, 340 U.S. 474, 477, 71 S. Ct. 456, 459 (1951). It requires more than a mere scintilla but less than a preponderance. *360 Communications v. Board of Supervisors of Albemarle County*, 211 F.3d 79 (4th Cir. 2000). In reviewing the decision of an elected body, the courts will consider the "reasonable mind" to be that of a reasonable legislator. *AT&T Wireless PCS, Inc. v. City Council of City of Virginia Beach*, 155 F.3d 423 (4th Cir. 1998). The courts will not substitute their judgment for the governing body's but will uphold the decision if it has "substantial support in the record as a whole." *Virginia Beach*, 155 F.3d at 430. The court's inquiry is to ask whether a reasonable legislator would accept the evidence in the record as adequate to support the governing body's decision. *USCOC of Va. RSA # 3, Inc. v. Montgomery County Board of Supervisors*, 343 F.3d 262 (4th Cir. 2003).

Following is a list of some of the facts found by the courts in the Fourth Circuit Court of Appeals, whose jurisdiction includes Virginia, and the district courts within the Fourth Circuit, to be *substantial evidence* under the Act:

- *Facility's consistency with the comprehensive plan*: The governing body may consider whether the proposed facility is consistent with the comprehensive plan. In *Montgomery County*, the location and design of the applicant's 240-foot tower did not conform to the comprehensive plan or the regional approach for wireless facilities. In *Albemarle County*, the applicant proposed to construct a 100-foot tower on a mountain top, and the county's comprehensive plan and open space plan discouraged the construction of structures that would modify ridge lines and would contribute to erosion in mountainous areas. *See also Crown Castle Atlantic, LLC v. The Board of Supervisors of Loudoun County*, 2002 U.S. Dist. LEXIS 22000 (E.D. Va. 2002) (documented concerns about the proposed height and design of the tower and the evidence that the tower could be shorter and still achieve similar functional results, as well as the location of the proposed tower, adequately supported the board's finding that the application did not substantially conform to the comprehensive plan); *T-Mobile Northeast LLC v. Fairfax County Board of Supervisors*, 672 F.3d 259 (4th Cir. 2012) (substantial evidence supported the board of supervisors' denial of a special exception for a proposed wireless facility where the county's relevant policy called for facilities that provided "the least visual impact on residential areas" where the facility: (1) would be located 100 feet from two of the neighboring residences; (2) would extend 38 feet above the closest tree; (3) would rise approximately 48 feet above the average height of the existing trees on the adjacent property; (4) was to be located on a site containing concrete pads, with only a few trees and a small, grassy area with dense brush; and (5) called for supplemental vegetation that, when fully grown, would not reach a sufficient height to minimize the tree monopole's visual impact).

- *Facility's compliance with applicable zoning regulations*: The governing body may consider whether the proposed facility complies with applicable zoning regulations. In *Albemarle County*, the proposed tower violated the zoning ordinance's limitations on a structure's proximity to neighboring lots. Although the tower's noncompliance with the zoning regulations was not the only evidence presented to justify the denial of the application, it was a significant factor in the court's substantial evidence analysis. In *Montgomery County*, the court held that the

proposed facility's noncompliance with the county's zoning regulations was, in and of itself, substantial evidence. In *T-Mobile Northeast LLC v. Howard County Board of Appeals*, 2013 U.S. App. LEXIS 9079, 2013 WL 1849126 (4th Cir. 2013) (unpublished), the court held that substantial evidence supported the board's finding that T-Mobile failed to make a diligent effort to site the facility on government property as required by the Howard County regulations where it made only telephone inquiries regarding siting the facility at a high school, the inquiries were poorly documented, and there was no evidence of any specifics of the request or a written proposal.

- *Height of the facility*: The governing body may consider the height of a proposed facility. *Montgomery County, supra* (rejecting the argument that the board's decision was impermissibly based solely on aesthetic considerations in violation of Virginia law under *Board of Supervisors of James City County v. Rowe*, 216 Va. 128, 216 S.E.2d 199 (1975) since Virginia localities are enabled to regulate the size, height and bulk of structures under Virginia Code § 15.2-2280(2)); *see T-Mobile Northeast, supra* (county's denial of request to increase height of 100-foot pole an additional 10 feet to allow additional antennas was supported by substantial evidence that the additional height would increase the facility's visibility; substantial evidence included the reasonable concerns of a local residential community and the negative visual impact of the facility on a historic and scenic byway); *New Cingular Wireless PCS v. Fairfax County Board of Supervisors*, 674 F.3d 270 (4th Cir. 2012) (proposed 88-foot treepole/wireless facility in a residential neighborhood, which would extend 38 feet above the closest tree and 48 feet above the average height of the existing trees on the adjacent property was inconsistent with various provisions in the comprehensive plan and its zoning regulations regarding the siting and visibility of wireless facilities).

- *Design of the facility*: The governing body may consider whether the design of a proposed facility is proper, to the extent the design implicates the structure's size and bulk. *Montgomery County, supra* (the board could properly consider the adverse impacts arising from the applicant's more visually intrusive lattice design).

- *Location of the facility*: The governing body may consider the location of the facility on the lot, since Virginia law expressly enables a locality to regulate the location of structures under *Virginia Code § 15.2-2280(2). See Montgomery County, supra.*

- *Impacts of the facility on surrounding neighborhood*: The governing body may consider the impacts of the facility on the surrounding neighborhood. *AT&T Wireless PCS, Inc. v. Winston-Salem Zoning Board of Adjustment*, 172 F.3d 307 (4th Cir. 1999) (board considered visual impacts of tower on surrounding neighborhood); *Cellco Partnership v. Board of Supervisors of Roanoke County*, 2004 U.S. Dist. LEXIS 27348, 2004 WL 3223288 (W.D. Va. 2004) (concerns regarding property values, aesthetics, and fit within the surrounding community are objectively reasonable and constitute substantial evidence supporting the board's decision); *New Cingular Wireless PCS, supra* (concerns that proposed 88-foot treepole/wireless facility "do not belong in a residential community such as ours" and would "disrupt the neighborhood and country-like setting").

- *Where structures similar in appearance are regulated differently under the locality's zoning regulations:* In *T-Mobile Northeast LLC v. Loudoun County Board of Supervisors*, 748 F.3d 185 (4th Cir. 2014), the special exception for one of two facilities disapproved by the board of supervisors at issue in the case would have been an 80-foot tall bell tower that would house the antenna. T-Mobile contended that the board's aesthetic considerations were not legitimate because Loudoun County's zoning regulations would have allowed the church to construct a bell tower up to 74 feet in height for its own use, by right. The court rejected this argument and concluded that there was substantial support in the record for the board's action, explaining that: (1) the fact that a church bell tower without a wireless facility was allowed by right did not imply that citizens may not have legitimate objections to the tower; and (2) "any zoning decision reflects a balance between the benefit provided by the facility and the aesthetic harm caused, and thus a local government might be willing to tolerate what is aesthetically displeasing for one type of use but not for another."

These factors may be presented to the governing body in a number of ways, ranging from the testimony of members of the public, to staff reports, to the decision-makers' personal knowledge. Widespread public opposition to the construction of a telecommunications tower also may provide substantial evidence to support a local government's denial of a permit. *See Virginia Beach, supra; Petersburg Cellular Partnership v. Board of Supervisors of Nottoway*

County, 205 F.3d 688 (4th Cir. 2000) (noting that public opposition, if based upon rational concerns, provides substantial evidence to deny a permit); *Albemarle County, supra* (determining that public opposition was a factor that contributed to a finding of substantial evidence); *Winston-Salem, supra* (same); *New Cingular Wireless PCS, supra* (47 nearby residents signed a petition in opposition and 21 attended the public hearing, and the citizen concerns were reasonably-founded concerns were rational upon which the board could rely); *Cellco Partnership v. Board of Supervisors of Fairfax County*, ___ F. Supp. 3d ___ (E.D. Va. 2015) (photographs and photo simulations showing visual impacts). However, public opinion does not mandate a particular local zoning decision under the Act. *Montgomery County, supra.*

Public opposition, in whatever form it may be, must have at least some relevance and materiality to the decision before the governing body. Thus, in *T-Mobile Northeast LLC v. City Council of the City of Newport News*, 674 F.3d 380 (4th Cir. 2012), the court concluded that substantial evidence did not support a city council's denial of a conditional use permit for a wireless facility at a school where the staff report and the planning commission recommended approval of the facility, and at the city council public hearing 6 persons spoke in favor of the application but only 3 spoke in opposition. The court noted that two of the three who spoke in opposition only expressed concerns about their property values; other comments in opposition included only brief passing comments about the tower's aesthetics, which were not relevant, concern that workers servicing the tower might pose a risk to students, which was speculative, and concern about potential health effects from the facility, which was not relevant under the Telecommunications Act.

The governing body's known experiences also may be a source of substantial evidence. *Nottoway County, supra; Roanoke County, supra* ("known experiences" would allow the board to reasonably conclude that the tower would have an adverse impact on residential property values and would not be aesthetically pleasing).

Neither the governing body nor the public is obligated to call, at its expense, experts to opine about the adverse impacts arising from a proposed wireless facility when its effects are reasonably apparent to non-experts. *See Virginia Beach, supra* ("In all cases of this sort, those seeking to build will come armed with exhibits, experts, and evaluations. Appellees, by urging us to hold that such a predictable barrage mandates that local governments approve applications, effectively demand that we interpret the Act so as always to thwart average, non-expert citizens . . .").

35-330 A locality's regulations or decisions may not prohibit or have the effect of prohibiting wireless service

Section 332(c)(7)(B)(i)(II) forbids regulations that prohibit or have the effect of prohibiting the provision of personal wireless services:

> The regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof . . . shall not prohibit or have the effect of prohibiting the provision of personal wireless services.

This provision provides protection for wireless providers who are unable to enter a new market, but are unable to show unreasonable discrimination by a locality.

In order to establish a prohibition under section 332(c)(7)(B)(i)(II), a plaintiff must show: (1) that the locality has a general policy that effectively guarantees the rejection of all wireless facility applications; or (2) that the denial of an application for a single site is "tantamount" to a general prohibition of service. *T-Mobile Northeast LLC v. Fairfax County Board of Supervisors*, 672 F.3d 259 (4th Cir. 2012); *360 Communications Co. v. Board of Supervisors of Albemarle County*, 211 F.3d 79, 87-88 (4th Cir. 2000). To make the latter showing, the wireless provider must demonstrate: (1) that there is an *effective absence of coverage* in the area surrounding the proposed facility; and (2) that there is a lack of reasonable alternative sites to provide coverage or that further reasonable efforts to gain approval for alternative facilities. *T-Mobile*, 672 F.3d at 266. The effective absence of coverage does not mean a total absence; it may mean coverage containing significant gaps. *T-Mobile Northeast LLC v. Loudoun County Board of Supervisors*, 748 F.3d 185 (4th Cir. 2014) (holding that T-Mobile had failed to show that there was a lack of alternative sites from which to provide coverage or that further efforts to gain approval for alternative facilities would be fruitless). "This cannot, however, be defined metrically by simply looking at the geographic percentage of coverage or the percentage of dropped calls. It

is a contextual term that must take into consideration the purposes of the Telecommunications Act itself." *T-Mobile Northeast*, 748 F.3d at 198.

To establish that the denial of an application constitutes an *effective* prohibition, a wireless provider bears a *heavy* burden of proof to establish that the locality's regulation or decision has the effect of prohibiting service. *T-Mobile,* 672 F.3d at 268. *Albemarle County,* 211 F.3d at 87-88. The simple fact of denial with respect to a particular site is not enough to establish a prohibition of wireless service. *Albemarle County, supra.* "[T]here must be something more, taken from the circumstances of the particular application or from the procedure for processing that application, that produces the 'effect' of prohibiting wireless services." *Albemarle County, supra*. The wireless provider might show that the locality has indicated that repeated individual applications will be denied because of a generalized hostility to wireless services. *Albemarle County, supra.* As noted above, the courts have recognized the "theoretical possibility that the denial of an individual permit could amount to a prohibition of service if the service could only be provided from a particular site," but noting "that such a scenario 'seems unlikely in the real world.'" *Albemarle County, supra*. In *T-Mobile Northeast, supra*, the court concluded that T-Mobile could not meet its burden of proving that the board's denial of its application was "tantamount" to a general effective prohibition on services by showing only that the rejected alternative sites would not close the entire deficiency in coverage, or would not provide the same level of service as the proposed facility. Whatever those circumstances may be, the prohibition clause does not divest the locality of its discretion, under its site-specific review, to determine whether certain uses are detrimental to a zoning area. *AT&T Wireless PCS, Inc. v. Winston-Salem Zoning Board of Adjustment*, 172 F.3d 307 (4th Cir. 1999) (denial of tower in residential area on lot on which a historic building was located was supported by substantial evidence).

In *Montgomery County,* the board denied the 240-foot tower sought by U.S. Cellular, but approved the construction of a 195-foot tower, which would provide wireless capabilities to a significant area of the county currently without quality wireless service. The court found no prohibition because the board's careful consideration of the application provided no indication that future tower requests would be "fruitless." The court concluded that "[f]ar from seeking to prohibit service, Board members indicated a willingness to ensure coverage for the entire target area."); *see also, Cellco Partnership v. Board of Supervisors of Roanoke County*, 2004 U.S. Dist. LEXIS 27348, 2004 WL 3223288 (W.D. Va. 2004) (no prohibition where board denied application for 127-foot tower and associated facilities where it had previously approved 12 special use permits for towers, wireless service provider already provided service to a substantial portion of the county, and the proposed facilities would duplicate services already provided); *Crown Castle Atlantic, LLC v. The Board of Supervisors of Loudoun County*, 2002 U.S. Dist. LEXIS 22000 (E.D. Va. 2002) (no prohibition of service even though denial of 140-tower left significant gap in coverage because there was no evidence that further amendment to the current application or seeking approval for a facility at another location would be fruitless).

A wireless service provider fails to demonstrate that a locality effectively prohibited the provision of wireless service where: (1) the locality has previously approved numerous applications, especially those of the applicant; (2) the wireless service provider already provides coverage throughout the area; and (3) the wireless service provider fails to demonstrate that no reasonable alternative exists. *T-Mobile Northeast*, 672 F.3d at 268-269. Service that is less than optimal is not the prohibition of service.

In *New Cingular Wireless PCS v. Fairfax County Board of Supervisors*, 674 F.3d 270 (4th Cir. 2012), the court rejected the wireless service provider's assertion that the board's denial of a proposed 88-foot treepole/wireless facility had the effect of prohibiting service. The only evidence was the service provider's "mere reference to a competitor's prior experience in seeking to locate undescribed and unknown facilities in different parks." *New Cingular Wireless PCS,* 674 F.3d 277. The court noted that the service provider had not even submitted an application to the local federal park. The court also said that where, as here, the service provider claimed that the board's denial was tantamount to a general prohibition of service, it failed to demonstrate that further reasonable efforts to gain approval for alternative facilities would be fruitless. The service provider merely had argued that obtaining approval of an application from park authorities could "take years to process with no certain of outcome."

In *T-Mobile Northeast LLC v. Howard County Board of Appeals*, 2013 U.S. App. LEXIS 9079, 2013 WL 1849126 (4th Cir. 2013) (unpublished), the court rejected the wireless service provider's claim that the board's denial of a facility had the effect of prohibiting service where there was evidence that there was some level of wireless coverage in the

area, the provider failed to show that locating the facility at alternative sites would be fruitless, and the board had a strong record of approving conditional use permits sought by this provider.

An FCC ruling prohibits localities from denying an application where the sole basis for the denial is the presence of other wireless service providers in the area (known as the "one-provider rule" used by some courts). *In the Matter of Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B) to Ensure Timely Siting Review, et al., WT Docket No. 08-165.*

35-340 A locality's regulations may not unreasonably discriminate among providers of functionally equivalent services

Section 332(c)(7)(B)(i)(I) prohibits regulations that unreasonably discriminate against functionally equivalent wireless services (*i.e.*, PCS versus cellular or one wireless company versus another):

> The regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof . . . shall not unreasonably discriminate among providers of functionally equivalent services . . .

Congress intended that localities not favor one technology over another, or favor one service provider over another. However, this limitation does not require that all wireless providers be treated identically. The fact that a decision has the effect of favoring one competitor over another, in and of itself, is not a violation of the discrimination clause. The discrimination clause provides a locality with the flexibility to treat facilities that create different visual, aesthetic, or safety concerns differently to the extent permitted under generally applicable zoning requirements even if those facilities provide functionally equivalent services. *H.R. Conf. Rep. No. 104-458, 104th Congress, 2nd Sess. 208 (1996).*

The denial of an application for a wireless facility that is based on legitimate, traditional zoning principles is not "unreasonable discrimination." *T-Mobile Northeast LLC v. Fairfax County Board of Supervisors*, 672 F.3d 259 (4th Cir. 2012). *AT&T Wireless PCS, Inc. v. City Council of City of Virginia Beach*, 155 F.3d 423 (4th Cir. 1998). For example, if a city council approves a special use permit for a wireless facility in a commercial district, it is not necessarily required to approve a permit for a competitor's facility in a residential district. *H.R. Conf. Rep. No. 104-458, 104th Congress, 2nd Sess. 208 (1996).*

Unreasonable discrimination will not be found when the denial complained of was subject to a different application process than the approvals against which it is compared or when there is a difference in visual impacts or the aesthetic character of the individual facility. *T-Mobile Northeast LLC v. Fairfax County Board of Supervisors*, *supra.* (even where a prior application from a carrier for a 10-foot height extension, and an application for additional antennas, were approved on the same tower, the denial of a 10-foot height extension sought by T-Mobile Northeast was denied).

35-350 A locality must act on an application for approval of a wireless facility within a reasonable period of time

Section 332(c)(7)(B)(ii) requires that a locality act on a request for a wireless permit within a reasonable period of time:

> A State or local government or instrumentality thereof shall act on any request for authorization to place, construct, or modify personal wireless service facilities within a reasonable period of time after the request is duly filed with such government or instrumentality, taking into account the nature and scope of such request.

The Act does not define what a "reasonable period of time" is. However, in *In the Matter of Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B) to Ensure Timely Siting Review, et al., WT Docket No. 08-165*, the Federal Communications Commission issued a declaratory ruling that a "reasonable period for a wireless permit is 90 days

for collocation applications and 150 days for all other applications. The reader should note that the declaratory ruling defines a "collocation" to include changes to the height of a facility not exceeding 10%, regardless of the procedure for approving such a change under the locality's zoning regulations. *See City of Arlington, Texas v. Federal Communications Commission*, 569 U.S. ___, 133 S. Ct. 1863 (2013) (upholding authority of the FCC to issue the declaratory ruling).

35-360 A locality may not regulate radio frequency emissions and interference or base a decision on those grounds

One clear area of federal preemption under the Telecommunications Act is the regulation of radio frequency emissions and interference. With respect to radio frequency emissions, 47 U.S.C. § 332(c)(7)(B)(iv) provides:

> No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions.

In *T-Mobile Northeast LLC v. Loudoun County Board of Supervisors*, 748 F.3d 185 (4th Cir. 2014), the board of supervisors denied a special exception and a "commission permit" for the construction of a wireless facility. Its decision on the special exception included a number of legitimate grounds to disapprove the application, but it also included the possible negative effects of radio frequency emissions as a basis. The district court ordered that the facility be approved, and the board appealed. The Fourth Circuit affirmed, holding that the board's basis for its decision violated the prohibition against regulating on the basis of radio frequency emissions. In so holding, the court concluded: (1) the fact that the board gave valid reasons for its decision, which by themselves would have been sufficient to uphold the disapproval of the special exception, did not immunize the board from its violation of the statutory prohibition of using radio frequency emissions as a basis for disapproval; and (2) the fact that only the board's decision on the special exception, but not the commission permit, referred to radio frequency emissions as a basis for its decision did not validate the board's ultimate decision to disapprove the project because the two decisions were a single regulatory action.

Attempts by state or local governments to regulate in the field of radio frequency interference have been found to be preempted by federal law. *Freeman v. Burlington Broadcasters Inc.*, 204 F.3d 311 (2d Cir. 2000); *Southwestern Bell Wireless Inc. v. Johnson County Board of County Commissioners*, 199 F.3d 1185 (10th Cir. 1999). In *Freeman*, the court struck down a permit condition requiring users of a communications tower to remedy any interference with reception in homes in the area. In *Southwestern Bell*, the court voided a zoning regulation that prohibited wireless telecommunications towers and antennas from operating in a manner that interfered with public safety communications.

In *In the Matter of Petition of Cingular Wireless, et al., WT Docket No. 02-100*, the Federal Communications Commission issued a memorandum opinion and order in an administrative proceeding pertaining to Anne Arundel County, Maryland. At issue was a county ordinance requiring that, prior to county issuance of a zoning certificate, owners and users of telecommunications facilities had to show that their facilities would not degrade or interfere with the county's public safety communications systems. The FCC found that the county ordinance regulating radio frequency interference was preempted by federal law.

35-400 Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012: a locality is required to approve certain modifications to existing wireless towers and base stations

Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012 is found in Title VI of that law. Title VI is commonly known as the "Spectrum Act." As explained by the FCC in its Report and Order (FCC 14-153), adopted on October 17, 2014 (the "FCC Report and Order"), the Spectrum Act, among other things, required the FCC "to allocate specific additional bands of spectrum for commercial use" and established a governmental authority to "oversee the construction and operation of a nationwide public safety wireless broadband network." *FCC Report and Order, ¶ 136*.

Section 6409(a) (codified at 47 U.S.C. § 1455(a)) provides that localities *must approve* any application to collocate, remove, or replace (collectively, "modify" or "modification") transmission equipment on an existing wireless tower or base station if the modification does not substantially change the physical dimensions of the tower or base station. The FCC explained that Section 6409 contributes to the "twin goals of commercial and public safety wireless broadband deployment through several measures that promote the deployment of the network facilities needed to provide broadband wireless services." *FCC Report and Order, ¶ 137.*

35-410 Implementing Section 6409: the FCC's 2013 Guidance

Implementing Section 6409 posed some difficulties because the statute failed to define "substantial change" and "transmission equipment," which were the two fundamental terms of the law. The FCC and the wireless industry encouraged localities to define "substantial change" as it was defined in an earlier federal document identified as the "Collocation Programmatic Agreement" ("Programmatic Agreement"), an agreement between the FCC, the National Conference of State Historic Preservation Officers, and the Advisory Council on Historic Preservation. *Guidance on Interpretation of Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012*, DA 12-2047, FCC (01/25/13) ("*Guidance on Interpretation of Section 6409(a)*").

The Programmatic Agreement states that it was intended to better manage the consultation process under Section 106 of the National Historic Preservation Act (which requires federal agencies to take into account the effects of their undertakings on historic properties and to afford the Advisory Council on Historic Preservation a reasonable opportunity to comment) and to streamline reviews for collocating antennas on historic properties. The two most controversial elements of the Programmatic Agreement's definition were that modifications could result in towers and their equipment increasing in height or width by up to 20 feet without being deemed to be a substantial change.

35-420 Implementing Section 6409: the FCC's Rules

On October 17, 2014, the FCC adopted new Rules contained in a Report and Order (FCC 14-153). The Report and Order was released on October 21, 2014, and the Rules were published in the Federal Register on January 8, 2015 (Federal Register, Vol. 80, No. 5, p. 1238, *et seq.* ("Federal Register")). The portions of the new Rules that apply to local zoning decisions became effective April 8, 2015. The Rules implement and address some of the shortcomings of Section 6409(a). The Rules were upheld by the Fourth Circuit Court of Appeals in *Montgomery County, Maryland v. Federal Communications Commission*, 811 F.3d 121 (4th Cir. 2015) (rejecting challenge based on the Tenth Amendment and other grounds).

The Rules provide that any modification of an existing tower or base station resulting from the collocation, replacement, or removal of *transmission equipment* that does not result in the *substantial change* in the physical dimensions of the structure *must be approved* by the locality within 60 days. If the locality fails to approve the modification within the 60-day period, the application is *deemed approved.*

The Rules define the *transmission equipment* that will be eligible for collocation and replacement. The definition expands the term to not only include equipment used for personal wireless service communications, but also transmission equipment used for all FCC-licensed or authorized wireless transmissions. The FCC concluded that the expansion of the term fulfilled Congress' intent in Section 6409 *to advance the deployment of commercial and public safety broadband services. Federal Register, ¶¶ 64-66.*

The Rules also define *substantial change.* Whether a modification results in a substantial change to the physical dimensions of an existing tower or base station goes to the heart of the Rules. If an applicant demonstrates that a modification does not result in a substantial change, a locality must approve the application. If the application would result in a substantial change, the locality may process the application under its applicable procedures. Although the definition in the Rules incorporates many of the thresholds for a substantial change in the Programmatic Agreement, it also includes two new key elements – a change is also substantial if: (1) "it would defeat the existing *concealment elements* of the tower or base station" (italics added); or (2) if it "does not comply with conditions associated with the siting approval of the construction or modification" of the tower or base station equipment, provided that this element does not apply to a condition that applies to the height or width of the existing tower or base station.

The Rules do not define *concealment elements*, which is a task that has been left to the localities to reasonably define. *See, e.g.*, *FCC Report and Order, ¶ 3*: "[T]he rules we adopt today will allow local jurisdictions to retain their ability to protect aesthetic and safety interests"; *Statement of Chairman Tom Wheeler, FCC Report and Order, p. 147*: the new Rules "preserve[ ] local governments' authority to adopt and apply the zoning, safety, and *concealment requirements that are appropriate for their communities*" (italics added).

TOWN OF CHRISTIANSBURG
TOWN COUNCIL
AGENDA COVER SHEET

AGENDA LOCATION:
Discussion and Action by Mayor and Council

Meeting Date:
August 8, 2017

ITEM TITLE:
Resolution Supporting the Amendment of Chapter 638 of Virginia Acts of Assembly Relating to the New River Valley Emergency Communications Regional Authority

DESCRIPTION:
The New River Valley Emergency Communications Regional Authority Board of Directors has been discussing the funding of the Authority, which by Chapter 638 of Virginia Acts of Assembly, is set at 25% for each member (the Towns of Blacksburg and Christiansburg, Montgomery County, and Virginia Tech). The Board has proposed changing the funding formula to an "attributed" share as apportioned by the Board.

The funding formula currently proposed would utilize a 3-year rolling average of call data percentages with law enforcement, fire and rescue weighted calls for service from the previous calendar years (though the Board has discretion to exclude major capital expenditures or catastrophic events. Each discipline (law enforcement, fire, and rescue) will be calculated and assigned separately, but not multiple units assigned from the same response agency. The new formula is proposed to take effect Fiscal Year 2018-19.

This proposed formula will likely result in increased cost to the Town of Christiansburg on an annual basis.

POTENTIAL ACTION:
Council discussion and potential vote.

DEPARTMENT:
NRV Emergency Communications Regional Authority

PRESENTER:
Billy Hanks, Fire Chief/Fire Marshal

Information Provided:
- Resolution Supporting the Amendment of Chapter 638 of Virginia Acts of Assembly Relating to the New River Valley Emergency Communications Regional Authority
- Proposed Amendment to Chapter 638 of Virginia Acts of Assembly Relating to the New River Valley Emergency Communications Regional Authority
- Resolution for the New River Valley Emergency Communications Regional Authority to Establish a Funding Formula for Members Annual Contribution

TOWN OF CHRISTIANSBURG

Established November 10, 1792 *Incorporated January 7, 1833*

RESOLUTION SUPPORTING THE AMENDMENT OF CHAPTER 638 OF VIRGINIA ACTS OF ASSEMBLY RELATING TO THE NEW RIVER VALLEY EMERGENCY COMMUNICATIONS REGIONAL AUTHORITY

WHEREAS, the Virginia General Assembly enacted the New River Valley Emergency Communications Regional Authority Act, effective July 1, 2010 ("the Act"), enabling the County of Montgomery, the Town of Blacksburg, the Town of Christiansburg and Virginia Polytechnic Institute and State University to form a regional authority to provide the core responsibilities for governance of a consolidated public safety communications center with regional interoperable communications; and,

WHEREAS, the governing bodies of the Town of Blacksburg, the Town of Christiansburg, the County of Montgomery and the Board of Visitors for Virginia Polytechnic Institute and State University, by Resolution, approved, executed and delivered a Memorandum of Understanding supporting the formation of the New River Valley Emergency Communications Regional Authority (the "Authority") to provide 911 dispatch and emergency communications services for the people of Montgomery County and for Virginia Polytechnic Institute and State University's Blacksburg campus; and,

WHEREAS, the Authority was properly formed in 2010 and has successfully operated dispatch services for one (1) year; and,

WHEREAS, the Authority has developed a funding formula for the allocation of its Annual Budget in Annual Contributions to be allocated among the Town of Blacksburg, the Town of Christiansburg, the County of Montgomery and the Board of Visitors for Virginia Polytechnic Institute and State University and payable quarterly to the Authority, subject, however, to appropriation; and,

WHEREAS, the Authority has suggested that certain amendments be made to the Act permitting the implementation of the funding formula and the allocation of Annual Contributions to the Authority's Annual Budget among the Town of Blacksburg, the Town of Christiansburg, the County of Montgomery and the Board of Visitors for Virginia Polytechnic Institute and State University based on use of Authority services by each member; and,

WHEREAS, a copy of "Amendment of Chapter 638 of the 2010 Virginia Acts of Assembly (the "Act") relating to the New River Valley Emergency Communications Regional Authority" (the "Amendment to the Act") setting out the proposed amendments to the Act has been submitted to this meeting.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Town of Christiansburg, Virginia that the Christiansburg Town Council hereby approves the proposed Amendment to the Act and authorizes and directs the Authority to submit the same for approval by the Virginia General Assembly at its 2018 legislative session.

Upon a call for an aye and nay vote on the foregoing resolution at a regular meeting of the Council of the Town of Christiansburg, Virginia held _____, 2017, members of the Council stood as indicated opposite their names as follows:

	AYE	NAY	ABSTAIN	ABSENT
Samuel M. Bishop				
Harry Collins				
R. Cord Hall				
Steve Huppert				
Henry D. Showalter				
Bradford J. Stipes				
D. Michael Barber, Mayor*				

*Votes only in the event of a tie.

_____
D. Michael Barber, Mayor

ATTEST:

_____
Michele M. Stipes, Clerk of Council

VIRGINIA ACTS OF ASSEMBLY -- 20~~10~~18 SESSION

CHAPTER 638

~~An Act to create~~ Amendment of Chapter 638 of the 2010 Virginia Acts of Assembly (the "Act") relating to the New River Valley Emergency Communications Regional Authority.

[H ~~1002~~]

Approved ~~April 11, 2010~~ , 2018

~~Be it enacted by t~~The General Assembly of Virginia hereby amends Chapter 638 of the 2010 Virginia Acts of Assembly by amending the Act as follows:

1. *§ 1. Title.*

This Act shall be known and may be cited as the New River Valley Emergency Communications Regional Authority Act.

§ 2 Creation; public purpose.

If the governing bodies of the Towns of Blacksburg and Christiansburg, the County of Montgomery, and the Board of Visitors for Virginia Polytechnic Institute and State University (Virginia Tech) by resolution support the formation of a regional authority to provide 911 dispatch and emergency communications services to the people of each jurisdiction and campus, an authority known as the New River Valley Emergency Communications Regional Authority Act (hereinafter the Authority) shall thereupon exist for such participating entities and shall exercise its powers and functions as prescribed herein.

In any suit, action, or proceeding relating to or involving the validity or enforcement of any contract of the Authority, the Authority shall be deemed to have been created as a political subdivision and body corporate and to have been established and authorized to transact business and exercise its powers hereunder upon proof of the adoption of a resolution as aforesaid by the governing bodies of such towns, county, and university supporting the formation of such Authority. A copy of such resolution duly certified by the clerk or secretary of the governing body of the towns, county, and university by which it is adopted shall be admissible as evidence in any suit, action, or proceedings. Any political subdivision of the Commonwealth is authorized to join such Authority pursuant to the terms and conditions of this Act.

The ownership and operation by the Authority of emergency communications services and the exercise of powers conferred by this Act are proper and essential governmental functions and public purposes and matters of public necessity for which public moneys may be spent and private property acquired through the power of eminent domain as hereinafter provided. The purposes of such Authority shall be to develop a consolidated system for the receipt of and response to 911 emergency calls and communications that will improve response time, quality of service, and coordination of available resources for the citizens of the affected localities.

The Authority and its members, officers, employees, and agents shall all enjoy sovereign immunity for torts committed in exercise of its governmental and proprietary functions. Nothing in this Act shall be construed as a waiver of the sovereign immunity enjoyed by any of the participating political subdivisions.

The courts of the Commonwealth of Virginia shall have original jurisdiction of all actions brought by or against the Authority, which courts shall in all cases apply the law of the Commonwealth of Virginia.

§ 3 Definitions.

As used in this act, the following words and terms have the following meanings unless a different meaning clearly appears from the context:

"Act" means the New River Valley Emergency Communications Regional Authority Act.

"Annual ~~deficit~~Budget" means the amount of budgeted expenditures ~~in excess of anticipated revenues from~~necessary each fiscal year for the payment of operations or capital budgets.

"Annual Contribution" means the portion of the Annual Budget attributable to each Participating Political Subdivision each fiscal year.

"Authority" means the New River Valley Emergency Communications Regional Authority created by this Act.

"Board" means the governing body of the Authority.

"Bonds" means any bonds, notes, debentures, grant obligations, or other evidence of financial indebtedness issued by this Authority pursuant to this Act.

"Commonwealth" means the Commonwealth of Virginia.

"Facility" means any and all buildings, structures, or facilities purchased, constructed, or otherwise acquired or operated by the Authority pursuant to the provisions of this Act. Any facility may consist of or include any or all buildings or other structures, improvements, additions, extensions, replacements, machinery, or equipment, together with appurtenances, lands, rights in land, water rights, franchises, furnishings, landscaping, utilities, roadways, or other facilities necessary or desirable in connection therewith or incidental thereto.

"Participating political subdivisions" means the Towns of Blacksburg and Christiansburg, the County of Montgomery, and Virginia Polytechnic Institute and State University or any other political subdivision that may join or has joined the Authority pursuant to §§ 4 and 5 of this Act.

"Political subdivision" means a county, city, town, public body, public authority, institution (including an institution of higher education), or commission of the Commonwealth.

"University" means Virginia Polytechnic Institute and State University.

§ 4 Participating political subdivision.

At the time of creation of the Authority, each participating political subdivision shall have entered or shall enter into a memorandum of understanding by and among each of the participating political subdivisions setting forth the terms and conditions of the intended formation of the Authority.

No pecuniary liability of any kind shall be imposed upon any participating political subdivision because of any act, omission, agreement, contract, tort, malfeasance, misfeasance, or nonfeasance by or on the part of the Authority or any member thereof, or its agents, servants, or employees, except as otherwise provided in this Act with respect to contracts and agreements between the Authority and any other political subdivision.

§ 5 Joinder.

Membership in the Authority may be expanded only in accordance with the terms of a joinder agreement adopted by the governing bodies of all participating political subdivisions. Only another political subdivision may become a participating political subdivision of the Authority. The governing body of any locality wishing to become a member of the Authority shall by concurrent resolutions or ordinances and by agreement provide for the joinder of such locality. The agreement creating the expanded Authority shall specify the number and terms of office of members of the Board of the expanded Authority that are to be appointed by each of the participating political subdivisions and the names, addresses, and terms of office of initial appointments to Board membership.

§ 6 Appointment of members of the Board.

The powers of the Authority shall be vested in the members of the Board. The Board shall consist of five persons. Each participating political subdivision shall have the right to appoint one member of the Board and all participating political subdivisions shall jointly appoint the fifth member of the Board by unanimous approval of the participating political subdivisions. Each member of the Board shall be appointed for a term of four years, except that the initial members of the Board representing the participating political subdivisions shall be appointed for the following staggered terms to be selected by lot by the members of the Board at its initial meeting: one member shall be appointed for a term of one year; one member shall be appointed for a term of two years; one member shall be appointed for a term of three years; and one member shall be appointed for a term of four years. The jointly appointed member shall be appointed for an initial term of four years. Upon the expiration of the original term of office of a member of the Board, that member may continue to exercise all powers as a member of the Board until that person's successor is duly appointed and qualified.

Any vacancy in the membership of the Board other than by expiration of term shall be filled by the governing body that appointed the member or, in the case of the jointly appointed member, by approval of the governing bodies. The person appointed to fill such vacancy shall serve for the unexpired term only. Each participating political subdivision shall have the absolute right to remove its appointee to the Board, with or without cause, at any time. The participating political subdivisions shall have the absolute right to remove their joint appointee to the Board, with or without cause, at any time by resolution adopted by a majority of the governing bodies of the participating political subdivisions. Except as may be prohibited by the Constitution of Virginia, members of the Board may include elected or appointed officials, employees, managers, administrators, or officers of any participating political subdivision.

Each member of the Board may be reimbursed by the Authority for the amount of actual expenses incurred by him in the performance of his duties in addition to such other salary or benefit, or both, to be determined by the Authority.

§ 7 Organization.

A majority of the members of the Board shall constitute a quorum, and the vote of a majority of members of the Board shall be necessary for any action taken by the Board. Each member of the Board shall be entitled to one vote except as otherwise set forth herein. No vacancy in the membership of the Board shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority. The Board shall elect from its membership a chairman, vice-chairman, and secretary-

treasurer of the Board, such officers to serve in these capacities for terms of two years, except that an initial member of the Board whose term on the Board is for one year may be elected to serve in such capacity for a term of one year and if reappointed to the Board may thereupon be reelected to the Board to serve in such capacity.

The Authority shall hold regular meetings at such times and places as may be established by its bylaws.

The Board may make and from time to time amend and repeal bylaws, not inconsistent with this Act, governing the manner in which the Authority's business may be transacted and in which the power granted to it may be enjoyed. The Board may appoint such committees as it may deem advisable and fix the duties and responsibilities of such committees.

§ 8. Powers.

The Authority is hereby granted all powers necessary or appropriate to carry out the purposes of this Act, including the powers to:

1. Adopt bylaws for the regulation of its affairs and the conduct of its business;

2. Sue and be sued in its own name;

3. Have perpetual succession;

4. Adopt a corporate seal and alter the same;

5. Maintain offices at such places as it may designate;

6. Acquire, establish, construct, enlarge, improve, maintain, equip, operate, and regulate any structures, facilities, and other property incidental thereto;

7. Construct, renovate, install, maintain, and operate facilities for the location of dispatching services, necessary equipment, and administration space;

8. Apply for and accept gifts, grants of money, grants or loans of other property, or other financial assistance from, or borrow money from or issue bonds to, the United States of America and agencies and instrumentalities thereof; the Commonwealth and political subdivisions, agencies, and instrumentalities thereof; or any other person or entity, whether public or private, for or in aid of the construction, acquisition, ownership, operation, maintenance, or repair of the Authority's facilities (whether or not such facilities are then in existence) or for the payment of the principal of any indebtedness of the Authority, interest thereon, or other costs incident thereto and to borrow money on such terms as the Authority deems advisable. To this end the Authority shall have the power to render such services, comply with such conditions, and execute such agreements and legal instruments as may be necessary, convenient, or desirable or imposed as a condition to such financial aid, loads, grants, or other assistance;

9. Appoint, employ, or engage such officers, employees, architects, engineers, attorneys, accountants, financial advisors, investment bankers, and other advisors, consultants, and agents as may be necessary or appropriate and fix their duties and compensation;

10. Establish personnel rules;

11. Own; purchase; lease; obtain options upon; acquire by gift, grant, or bequest; or otherwise acquire any property, real, personal or intangible, or any interest therein, and in connection therewith to create, assume, or take subject to any indebtedness secured by such property;

12. Sell, lease, grant options upon, exchange, transfer, assign, or otherwise dispose of any property, real or personal, or any interest therein;

13. Make, assume, and enter into all contracts, leases, and arrangements necessary or incidental to the exercise of its powers, including contracts for the management or operation of all or any part of its facilities;

14. Adopt, amend, and repeal rules and regulations for the use, maintenance, and operation of its facilities and governing the conduct of persons and organizations using its facilities and to enforce such rules and regulations and all other rules, regulations, ordinances, and statutes relating to its facilities;

15. Purchase and maintain insurance and provide indemnification on behalf of any person who is or was a director, officer, employee, or agent of the Authority against any liability asserted against or incurred by him in any such capacity or arising out of his status as such;

16. Place a lien upon any or all of its property or otherwise secure its debts; and

17. Do all things necessary or convenient to the purposes of this Act.

§ 9. Rules, regulations, and minimum standards.

The Authority shall have the power to adopt, amend, and repeal rules, regulations, and minimum standards for the use, maintenance, and operation of its facilities and governing the conduct of persons and organizations using its facilities.

The Authority's rules and regulations shall be available for public inspection in the Authority's principal office.

The Authority's rules and regulations shall have the force of law, as shall any other rule or regulation of the Authority that shall contain a determination by the Authority that it is necessary to accord the same force and effect of law in the interest of the public safety.

§ 10. Reports.

The Authority shall keep minutes of its proceedings, which shall be open to public inspection during normal business hours. It shall keep suitable records of all its financial transactions and shall arrange to have the same audited annually by an independent certified public accountant. Copies of each such audit shall be furnished to each participating political subdivision and shall be open to public inspection. The Authority shall be deemed a local governmental agency subject to the requirements of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) of the Code of Virginia.

§ 11. Procurement.

All contracts that the Authority may let for professional services, nonprofessional services, or materials shall be subject to the Virginia Public Procurement Act (§ 2.2-4300 et seq.) of the Code of Virginia.

§ 12 Deposit and investment of funds.

Except as provided by contract with a participating political subdivision, all moneys received pursuant to the authority of this Act, whether as proceeds from the sale of bonds or as revenues or otherwise, shall be deemed to be trust funds to be held and applied solely as provided in this Act. All moneys of the Authority shall be deposited in a qualified public depository and secured in accordance with the Virginia Security for Public Deposits Act (§ 2.2-4400 et seq.) of the Code of Virginia.

Funds of the Authority not needed for immediate use or disbursement may, subject to the provisions of any contract between the Authority and the holders of its bonds, be invested in securities that are considered lawful investments for public sinking funds or other public funds as set forth in the Investment of Public Funds Act (§ 2.2-4500 et seq.) of the Code of Virginia.

§ 13 Authority to issue bonds.

The Authority shall have the power to issue bonds in its discretion, for any of its purposes, including the payment of all or any part of the cost of Authority facilities and including the payment or retirement of bonds previously issued by it. The Authority may issue such types of bonds as it may determine, including (without limiting the generality of the foregoing) bonds payable, both as to principal and interest (i) from its revenues and receipts generally and (ii) exclusively from the revenues and receipts of certain designated facilities or loans, whether or not they are financed in whole or in part from the proceeds of such bonds. Any such bonds may be additionally secured by a pledge of any grant or contribution from a participating political subdivision, the Commonwealth, or any political subdivision, agency, or instrumentality thereof; any federal agency; or any unit, private corporation, copartnership, association, or individual as such participating political subdivision or other entities may be authorized to make under general law or by pledge of any income or revenues of the Authority or by mortgage or encumbrance of any property or facilities of the Authority. Unless otherwise provided in the proceeding authorizing the issuance of the bonds or in the trust indenture or agreement securing the same, all bonds shall be payable solely and exclusively from the revenues and receipts of a particular facility or loan. Bonds may be executed and delivered by the Authority at any time and from time to time, may be in such form and denominations and of such terms and maturities, may be in registered or bearer form either as to principal or interest or both, may be payable in such installments and at such time or times not exceeding 40 years from the date thereof, may be payable at such place or places whether within or without the Commonwealth, may bear interest at such rate or rates, may be payable at such time or times and at such places, may be evidenced in such manner, and may contain such provisions not inconsistent herewith, all as shall be provided and specified by the Authority in authorizing each particular bond issue.

If deemed advisable by the Authority, there may be retained in the proceedings under which any bonds of the Authority are authorized to be issued an option to redeem all or any part thereof as may be specified in such proceedings, at such price or prices and after such notice or notices and on such terms and conditions as may be set forth in such proceedings and as may be briefly recited on the face of the bonds, but nothing herein contained shall be construed to confer on the Authority any right or option to redeem any bonds except as may be provided in the proceedings under which they shall be issued. Any bonds of the Authority may be sold at public or private sale in such manner and from time to time as may be determined by the Authority to be most advantageous and the Authority may pay all costs, premiums, and commissions that it may deem necessary or advantageous in connection with the issuance thereof. Issuance by the Authority of one or more series of bonds for one or more purposes shall not preclude it from issuing other bonds in connection with the same facility or any other facility, but the proceedings whereunder any subsequent bonds may be issued shall recognize and protect any prior pledge or mortgage made for any prior issue of bonds. Any bonds of the Authority at any time outstanding may from time to time be refunded by the Authority by the issuance of its refunding bonds in such amount as the Authority may deem necessary, but not exceeding an amount sufficient to refund the principal of the bonds so to be refunded, together with any unpaid interest thereon and any costs, premiums, or commissions necessary to be paid in connection therewith. Any such refunding may be

effected whether the bonds to be refunded shall have then matured or shall thereafter mature, either by sale of the refunding bonds and the application of the proceeds thereof to the payment of the bonds to be refunded thereby, or by the exchange of the refunding bonds for the bonds to be refunded thereby, with the consent of the holders of the bonds so to be refunded, and regardless of whether or not the bonds to be refunded were issued in connection with the same facilities or separate facilities, and regardless of whether or not the bonds proposed to be refunded shall be payable on the same date or on different dates or shall be due serially or otherwise.

All bonds shall be signed by the chairman or vice-chairman of the Authority or shall bear his facsimile signature, and the corporate seal of the Authority or a facsimile thereof shall be impressed or imprinted thereon and attested by the signature of the secretary (or the secretary-treasurer) or the assistant secretary (or assistant secretary-treasurer) of the Authority or shall bear his facsimile signature, and any coupons attached thereto shall bear the facsimile signature of said chairman. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be an officer before delivery of such bonds, such signature, or such facsimile, shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. When the signatures of both the chairman or the vice-chairman and the secretary (or secretary-treasurer) or the assistant secretary (or the assistant secretary-treasurer) are facsimiles, the bonds must be authenticated by a corporate trustee or other authenticating agent approved by the Authority.

If the proceeds derived from a particular bond issue, due to error of estimates or otherwise, shall be less than the cost of the Authority facilities for which such bonds were issued, additional bonds may in like manner be issued to provide the amount of such deficit, and unless otherwise provided in the proceedings authorizing the issuance of the bonds of such issue or in the trust indenture securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds of the first issue. If the proceeds of the bonds of any issue shall except such cost, the surplus may be deposited to the credit of the sinking fund for such bonds or may be applied to the payment of the cost of any additions, improvements, or enlargements of the Authority facilities for which such bonds shall have been issued.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds that shall become mutilated or shall be destroyed or lost. Bonds may be issued under the provisions of this Act without obtaining the consent of any department, division, commission, board, bureau, or agency of the Commonwealth, and without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions, or things that are specifically required by this Act; provided that nothing contained in this Act shall be construed as affecting the powers and duties now conferred by law upon the State Corporation Commission.

All bonds issued under the provisions of this Act shall have and are hereby declared to have all the qualities and incidents of and shall be and are hereby made negotiable instruments under the Uniform Commercial Code (§ 8.1A-101 et seq.) of the Code of Virginia, subject only to provisions respecting registration of the bonds.

In addition to all other powers granted to the Authority by this Act, the Authority is authorized to provide for the issuance from time to time of notes or other obligations of the Authority for any of its authorized purposes. All of the provisions of this Act that relate to bonds shall apply to such notes or other obligations insofar as such provisions may be appropriate.

§ 14 Credit of Commonwealth and political subdivisions not pledged.

Bonds issued pursuant to the provisions of this Act shall not be deemed to constitute a debt of the Commonwealth or any political subdivision thereof other than the Authority, but such bonds shall be payable solely from the funds provided therefore as herein authorized. All such bonds shall contain on the face thereof a statement to the effect that neither the Commonwealth, nor any political subdivision thereof, nor the Authority, except as may be otherwise stated, shall be obligated to pay the same or the interest thereon or other costs incident thereto except from the revenues and money pledged therefore and that neither the faith and credit nor the taxing power of the Commonwealth, nor any political subdivision thereof, is pledged to the payment of the principal of such bonds or the interest thereon or other costs incident thereto.

Bonds issued pursuant to the provisions of this Act shall not constitute indebtedness within the meaning of any debt limitation or restriction.

§ 15 Members of the Board and persons executing bonds not liable thereon.

Neither the members of the Board nor any person executing the bonds shall be liable personally on the Authority's bonds by reasons of the issuance thereof.

§ 16 Security for payment of bonds; default.

The principal of and interest on any bonds issued by the Authority may be secured by a pledge of the revenues and receipts out of which the same shall be made payable, and may be secured by a trust indenture or agreement covering all or any part of the Authority facilities from which revenues or receipts so pledged may be derived, including any enlargements or any additions to any such projects thereafter made. The resolution under which the bonds are authorized to be issued and any such trust indenture or agreement may contain any agreements and provisions respecting the maintenance of the projects covered thereby, the fixing and collection of rents for any portions thereof leased by the Authority to others, the creation and maintenance of special funds from such revenues, and the rights and remedies available in the event of default, all as the Authority shall deem advisable not in conflict with the provisions hereof. Each pledge, agreement, and trust indenture made for the benefit or security of any of the bonds of the Authority shall continue to be effective until the principal of and interest on the bonds for the benefit of which the same were made shall have been fully paid. In the event of default in such payment or in any agreements of the Authority made as a part of the contract under which the bonds were issued, whether contained in the proceeding authorizing the bonds or in any trust indenture or agreement executed as security therefor, may be enforced by mandamus, suit, action, or proceeding at law or in equity to compel the Authority and the members, officers, agents, or employees thereof to perform each and every term, provision, and covenant contained in any trust indenture or agreement of the Authority, the appointment of a receiver in equity, or by foreclosure of any such trust indenture, or any one or more of said remedies.

§ 17 Taxation.

The exercise of the powers granted by this Act shall in all respects be presumed to be for the benefit of the inhabitants of the Commonwealth, for the increase of their commerce, and for the promotion of their health, safety, welfare, convenience, and prosperity, and as the operation and maintenance of any project that the Authority is authorized to undertake will constitute the performance of an essential governmental function, the Authority shall not be required to pay any taxes or assessments upon any facilities acquired and constructed by it under the provisions of this Act and the bonds issued under the provisions of this Act, their transfer and the income therefrom, including any profit made on the same thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any political subdivision thereof.

§ 18 Bonds as legal investments.

Bonds issued by the Authority under the provisions of this Act are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities that may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations is now or may hereafter be authorized by law.

§ 19 Appropriation by political subdivision.

Any participating political subdivision or other political subdivision of the Commonwealth is authorized to provide services, to donate real or personal property, and to make appropriations to the Authority for the acquisition, construction, maintenance, and operation of the Authority's facilities. Any such political subdivision is hereby authorized to issue its bonds, including, but not limited to, general obligation bonds, in the manner provided in the Public Finance Act (§ 15.2-2600 et seq.) of the Code of Virginia or in any applicable municipal charter for the purpose of providing funds to be appropriated to the Authority, and such political subdivisions may enter into contracts obligating such bond proceeds to the Authority.

The Authority may agree to assume or reimburse a participating political subdivision for any indebtedness incurred by such participating political subdivision with respect to facilities conveyed by it to the Authority.

§ 20 Annual ~~deficit~~Budget.

The Board shall have full authority to adopt its operating and capital budgets on an annual fiscal year (July 1 through June 30) basis, to amend the same from time to time, and for the ~~annual deficit~~Annual Contribution to be ~~divided~~ apportioned among all participating political subdivisions by an apportionment formula approved by the Board. Each participating political subdivision shall contribute its respective ~~one-quarter~~attributed share of the ~~annual deficit~~ Annual Budget (referred to herein as its Annual Contribution) each year ~~-~~and otherwise as required; however, such obligation shall be subject to and dependent upon annual appropriations being made from time to time by the governing body of each such respective participating political subdivision, and as to the university by normal approval of appropriations, and shall not be deemed to constitute a debt of such participating political subdivisions within the meaning of Article VII, Section 10 of the Constitution of Virginia, and as to the university, within the meaning of Article X, Section 9 of the Constitution of

Virginia, or any applicable statutory debt limitation. Should any participating political subdivision fail to contribute in full ~~its proportionate share of the annual deficit~~Annual Contribution it shall remain a member of the Authority, but its representative on the Board shall not be entitled to cast a vote on any Authority matter until that participating political subdivision's ~~share of the annual deficit~~Annual Contribution has been paid in full. Further, should any participating political subdivision fail to contribute in full its ~~proportionate share of the annual deficit~~Annual Contribution, the Authority shall have a lien on any share of the Authority's profit or surplus revenues otherwise entitled to be distributed to the participating political subdivision. A participating political subdivision may contribute a portion or all of its share of ~~the~~ its ~~annual deficit~~Annual Contribution through "in-kind" contributions, subject to the approval of such contribution and valuation by the Authority.

§ 21 Contracts with political subdivisions.

The Authority is authorized to enter into contracts with any one or more political subdivisions.

§ 22 Authority as political subdivision.

The Authority is a political subdivision whose actions are exempt from the Commonwealth's rules and regulations on its agencies and commissions as to demolition, alteration, capital outlay requirements, temporary building use requirements, and like regulations and requirements. The Authority is subject to local building code requirements.

§ 23 Fees for Service.

The Authority is authorized to charge a fee for service to individuals who are not members of the participating political subdivisions and is, likewise, authorized to determine a fee schedule.

§ 24 Liberal construction.

Neither this Act nor anything herein contained is or shall be construed as a restriction or limitation upon any powers that the Authority might otherwise have under any laws of the Commonwealth, and this Act is cumulative to any such powers; however, the borrowing of money or issuance of bonds under the provisions of this Act need not comply with the requirements of any other law applicable to the issuance of bonds, notes, or other obligations. This Act does and shall be construed to provide a complete, additional, and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws. The provisions of this Act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the other provisions of this Act.

§ 25 Application of local ordinances, service charges, and taxes upon leaseholds.

Nothing herein contained shall be construed to exempt the Authority's property from any applicable zoning, subdivision, erosion and sediment control, and fire prevention codes or from building regulations of a political subdivision in which such property is located. Nor shall anything herein contained exempt the property of the Authority from any service charge authorized by the General Assembly pursuant to Article X, Section 6 (g) of the Constitution of Virginia.

§ 26 Existing contracts. Leases, franchises, etc., not impaired.

No provisions of this Act shall relieve, impair, or affect any right, duty, liability, or obligation arising out of any contract, concession, lease, or franchise now in existence except to the extent that such contract, concession, lease, or franchise may permit. Notwithstanding the foregoing provision of this section, the Authority may renegotiate, renew, extend the term of, or otherwise modify at any time any contract, concession lease, or franchise now in existence in such manner and on such terms and conditions as it may deem appropriate, provided that the operator of or under said contract, concession, lease, or franchise consents to said renegotiation, renewal, extension, or modification.

§ 27 Employees of the Authority.

A. Employees of the Authority shall be employed on such terms and conditions as are established by the Authority. The Board of the Authority shall develop and adopt personnel rules, policies, and procedures to give its employees grievance rights, ensure that the employment decisions shall be based upon the merit and fitness of applicants, and prohibit discrimination because of race, religion, color, sex, or national origin.

B. In cooperation with the Board, each participating political subdivision shall determine which of its current positions will remain under their individual employ and which will be recreated as part of the Authority. Any employee of Virginia Tech who (i) is not offered a position with the Authority for which the employee is qualified or is offered a position that requires relocation or a reduction in salary or (ii) is not offered the opportunity to remain employed with Virginia Tech shall be eligible for the severance benefits conferred by the provisions of the Workforce Transition Act (§ 2.2-3200 et seq.) of the Code of Virginia. Any employee of Virginia Tech who accepts employment with the Authority shall not be considered to be involuntarily separated from state employment and shall not be eligible for the severance benefits conferred by the Workforce Transition Act.

C. Notwithstanding any other provision of law to the contrary, any person whose employment is recreated in the Authority as a result of this Act and who is a member of any plan for providing health

insurance coverage pursuant to Chapter 28 (§ 2.2-2818 et seq.) of Title 2.2 of the Code of Virginia shall be eligible to continue to be a member of such health insurance plan. Notwithstanding subsection A of § 2.2-2818 of the Code of Virginia, the Authority shall pay the employer contribution, the amount of which is determined by negotiated agreement with the provider, of the costs of providing health insurance coverage to its employees who elect to continue to be members of the state employees' insurance plan. Alternatively, an employee may elect to become a member of any health insurance plan established by the Authority. The Authority is authorized to (i) establish a health insurance plan for the benefit of its employees and (ii) enter into agreements with the Department of Human Resources Management providing for the coverage of its employees under the state employees' health insurance plan, provided that such agreement shall require the Authority to pay the costs described above of providing health insurance coverage under such a plan.

D. Notwithstanding any other provision of law to the contrary, any person whose employment is transferred to the Authority as a result of this Act and who is a member of the Virginia Retirement System, or other retirement plan as authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1 of the Code of Virginia, shall continue to be a member of the Virginia Retirement System or other such authorized retirement plan under the same terms and conditions as if no transfer had occurred. Alternatively, such employee may elect, during an open enrollment period, to become a member of the retirement program established by the Authority for the benefit of its employees by transferring assets equal to the value to the actuarially determined present value of the accrued basic benefit as of the transfer date. The Authority shall reimburse the Virginia Retirement System for the actual cost of actuarial services necessary to determine the present value of the accrued basic benefit of employees who elect to transfer to the Authority's retirement plan. The following rules shall apply:

1. With respect to any transferred employee who elects to remain a member of the Virginia Retirement System or other such authorized retirement plan, the Authority shall collect and remit any employer and employee contributions to the Virginia Retirement System or other such authorized retirement plan for retirement for such transferred employees.

2. Transferred employees who elect to become members of the retirement program established by the Authority for the benefits of its employees shall be given full credit for their creditable service as defined in § 51.1-124.3 of the Code of Virginia, vesting and benefit accrual under the retirement program established by the Authority. For any such employee, employment with the Authority shall be treated as employment with any nonparticipating employer for purposes of the Virginia Retirement System or other retirement plan as authorized by Article 4 of Chapter 1 of Title 51.1 of the Code of Virginia.

3. For transferred employees who elect to become members of the retirement program established by the Authority, the Virginia Retirement System or other such authorized plan shall transfer to the retirement plan established by the Authority assets equal to the actuarially determined present value of e accrued basic benefits as of the transfer date. For purposes hereof, the basic benefits shall be the benefit accrued under the Virginia Retirement System or other such authorized retirement plan, based on creditable service and average final compensation as defined in § 51.1-124.3 of the Code of Virginia and determined as of the transfer date. The actuarial present value shall be determined on the same basis, using the same actuarial factors and assumptions used in determining the funding needs of the Virginia Retirement System or other such authorized retirement plan, so that the transfer of assets to the retirement plan established by the Authority will have no effect on the funded status and financial stability of the Virginia Retirement System or other such authorized retirement plan.

§ 28 Withdrawal of membership.

A participating political subdivision may withdraw its membership in the Authority at the end of any fiscal year if the withdrawing participating political subdivision has given notice to the Authority and all other participating political subdivisions of its intention to withdraw at least one year before the end of such fiscal year and the withdrawing participating political subdivision has paid in full its ~~share of the annual deficit~~Annual Contribution, if any, provided that no participating political subdivision may withdraw its membership in the Authority if the Authority has any outstanding debt without written approval of each participating political subdivision. As used in this section, the term "debt" shall mean a monetary obligation, whether general or limited in any way, to repay a loan or bond, or any long-term obligation, whether absolute or contingent in any way, to refund or reimburse any agency or entity for grant funds received by the Authority.

§ 29 Dissolution of Authority.

Whenever it shall appear to the Board or to all participating political subdivisions that the need for the Authority no longer exists, all participating political subdivisions may petition the Circuit Court of Montgomery County, Virginia, for the dissolution of the Authority. If the court determines that the need for the Authority as set forth in this Act no longer exists and that all debts and other obligations of any kind have been fully paid or provided for:

1. The Court shall enter an order dissolving the Authority; and

2. The remaining assets of the Authority shall be distributed to the participating political subdivisions in proportion to their respective ~~shares of the annual deficit~~Annual Contribution less any amounts owed to the Authority by such participating political subdivision.

Each participating political subdivision and all holders of the Authority's bonds shall be made parties to any such proceeding and shall be given notice as provided by law. Any party defendant may reply to such petition at any time within six months after the filing of the petition. An appeal from the final judgment of the court shall lie to the Supreme Court of Virginia.

RESOLUTION

RESOLUTION FOR THE NEW RIVER VALLEY EMERGENCY COMMUNICATIONS REGIONAL AUTHORITY TO ESTABLISH A FUNDING FORMULA FOR MEMBER ANNUAL CONTRIBUTION

WHEREAS, the County of Montgomery, the Towns of Blacksburg and Christiansburg, and Virginia Polytechnic Institute and State University (collectively, the "Participating Political Subdivisions,: and, individually, a "Participating Political Subdivision") have pursuant to the New River Valley Emergency Communications Regional Authority Act created the New River Valley Emergency Communications Regional Authority (the "Authority") to provide the core responsibilities for governance of a consolidated public safety communication center; and,

WHEREAS, a Memorandum of Understanding ("MOU") was adopted in October 2010 by the Participating Political Subdivisions which established a Board of Directors ("Board") to govern the affairs of the Authority; and,

WHEREAS, the Board has full authority to adopt its operating and capital budgets on an annual fiscal year (July 1 through June 30) basis; and,

WHEREAS, formerly the Participating Political Subdivisions have contributed equally (one-quarter) to the Annual Budget; and,

WHEREAS, the Board desires to establish a funding formula with a fair methodology acceptable to all Participating Political Subdivisions;

NOW, THEREFORE, BE IT RESOLVED, by the Board of Directors (the "Board") of the New River Valley Emergency Communications Regional Authority, that the Board hereby establishes the following funding formula and guidelines:

1. Each Participating Political Subdivision will contribute quarterly at the beginning of each fiscal quarter to the Annual Budget based on a funding formula that utilizes calls for service with a weighted value based on priority (high, medium, low) levels developed by the Law Enforcement Operations Committee and Fire and Rescue Commission and approved by the Board.
2. The funding formula will utilize a three (3) year rolling average of the call data percentages of the Participating Political Subdivisions.
3. The funding formula will include law enforcement, fire and rescue weighted calls for service from the previous calendar year(s).
4. The Board will have the discretion in adopting the Annual Budget and in setting the Annual Contributions each year to exclude major capital expenditure(s) as defined by the

Board and elect to allocate the expenditure(s) among the Participating Political Subdivisions equally or on another allocation basis.

5. The Board will have the discretion in adopting the Annual Budget and in setting the Annual Contributions each year of removing any major catastrophic incident(s) within the funding formula calculation from the previous calendar year that may dramatically increase a Participating Political Subdivision's Annual Contribution.
6. A call for service for funding formula analysis shall be defined as any request for service or self-initiated service provided from a field unit resulting in the creation of a computer aided dispatch (CAD) incident and interaction with Authority personnel with the exception of the following:
    a. Any incident that is canceled by Authority personnel due to error or generated solely for testing purposes.
    b. Any incident created by Authority personnel with a designated dispatch unit number solely for informational or documentation purposes.
7. The funding formula will calculate each discipline (i.e., law enforcement, fire, rescue) assigned to the same call for service separately, but not multiple units assigned from the same response agency.

FURTHER, BE IT RESOLVED, the funding formula will go into effect for the fiscal year 2018-2019 budget process and payment of the Participating Political Subdivisions' Annual Contribution shall be subject to and dependent upon annual appropriations.

Funding Formula Example:

Enter the number of calls for service for each member agency with each priority level. Multiply the agency calls for service with the weighted value to determine weighted total.

AGENCY X	CFS Total	Weight	Weighted Total
High	4506	3	13518
Medium	1494	2	2988
Low	3714	1	3714
Total	9714		20220
Percentage	22.30%		24.15%

CERTIFICATION

The undersigned Secretary of the New River Valley Emergency Communications Regional Authority does hereby certify that the foregoing is a true, correct and complete resolution adopted by the Board of Directors of the New River Valley Emergency Communications Regional Authority at a meeting duly called and held _____ __, 2017 at which a quorum was present and acting throughout, and that such resolution has not been amended, altered or rescinded this __ day of _____, 2017.

_____
Secretary, New River Valley Emergency
Communications Regional Authority

TOWN OF CHRISTIANSBURG
TOWN COUNCIL
AGENDA COVER SHEET

AGENDA LOCATION:
Discussion and Action by Mayor and Council

Meeting Date:
August 8, 2017

ITEM TITLE:
Ordinance amending Chapter 34 "Traffic and Motor Vehicles" of the Christiansburg Town Code in regards to traffic interference.

DESCRIPTION:
Town Council previously adopted an ordinance amending Chapter 34 "Traffic and Motor Vehicles" of the Christiansburg Town Code in regards to traffic interference, however it did not contemplate exchanges between pedestrians and passengers. The proposed ordinance excludes exchanges between pedestrians and passengers as well.

POTENTIAL ACTION:
Council vote on proposed ordinance.

DEPARTMENT:
Administration

PRESENTER:
Randy Wingfield, Town Manager

Information Provided:
Proposed ordinance amending Chapter 34 "Traffic and Motor Vehicles" of the Christiansburg Town Code in regards to traffic interference.

AN ORDINANCE AMENDING SECTION 34-26, "INTERFERENCE WITH TRAFFIC PROHIBITED," OF CHAPTER 34, "TRAFFIC AND MOTOR VEHICLES," CHRISTIANSBURG TOWN CODE; PROHIBITING PEDESTRIANS AND MOTOR VEHICLE OPERATORS OR PASSENGERS FROM EXCHANGING ITEMS AND INTERFERING WITH TRAFFIC WHILE A MOTOR VEHICLE IS IN THE TRAVEL LANE OF A ROAD OR HIGHWAY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, *Code of Virginia* § 15.2-2028, authorizes a locality to regulate and control the operation of motor and other vehicles and the movement of vehicular and pedestrian travel and traffic on streets, highways, roads, alleys, bridges, viaducts, underpasses, and other public rights-of-ways and places; and

WHEREAS, *Code of Virginia* § 46.2-931, authorizes a locality to prohibit certain interactions between pedestrians and motorists on highways and public roadways within its boundaries; and

WHEREAS, the Town Council has reviewed the issue of pedestrian interference with vehicle operators or passengers, considered the impact on traffic flows, and the danger that such interference presents to the pedestrians interacting with operators or passengers of vehicles while the vehicle is in the traffic/travel lane of a road or highway; and

WHEREAS, the Town Council has found that it is in the public health and safety interests of its citizens to prevent pedestrian interference with traffic as set forth herein;

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Christiansburg that Chapter 34, "Traffic and Motor Vehicles," of the *Christiansburg Town Code* is hereby amended by the adoption and enactment of Sec. 34-26, "Interference with traffic prohibited," as follows:

Chapter 34 – TRAFFIC AND MOTOR VEHICLES

* * *

Sec. 34-26. – Interference with traffic prohibited.

(1) *Intent of section.* The intent of this section is to protect the public health, safety, and general welfare of the citizens and visitors of the Town of Christiansburg, and enable the free, orderly, undisrupted movement of motor vehicles on public roadways within the town by limiting interactions between pedestrians and motor vehicles located within the traffic or travel lane of town roadways.

(2) *Definitions.* For purposes of this section, the following definitions apply:

(a) "*Roadway"* includes all public roads, streets, highways, and ramps, open to vehicular traffic within the town. This definition excludes private roads and private property. This definition also excludes public parking areas in the town.

(b) "*Motor Vehicle*" means every self-propelled or designed for self-propulsion device by which any person or property is or may be transported or drawn on a highway, except devices moved by human power. For example, cars, trucks, motorcycles, and mopeds are motor vehicles. A bicycle moved by human power is not.

(c) "*Item"* includes any physical object.

(3) *Findings.* The town council hereby finds the following: a) allowing transactions in which items are exchanged between pedestrians and the operators **or passengers** of motor vehicles operating in the traffic/travel lane of town roadways is inherently dangerous, is distracting to both pedestrians and motorists, threatens the safety and wellbeing of the pedestrian and vehicle operator **or passengers**, interferes with the free flow of traffic, and potentially threatens nearby third parties; (b) the traffic/travel lane of town roadways in which motor vehicles are present and operating is not designed for and is not an appropriate location for anything other than travel; (c) the prohibition against interfering with traffic as set forth herein is narrowly tailored to serve the town's substantial interest in protecting the public health, safety, and welfare of town citizens and visitors; and d) this prohibition leaves open many alternative channels for interaction in the town which do not disrupt traffic flows and create a dangerous situation on roadways.

(4) *Prohibition.* It shall be unlawful to violate the following:

(a) No pedestrian and the operator **or passenger** of a motor vehicle shall exchange or attempt to exchange any item while the ~~operator's~~ motor vehicle is located in a traffic or travel lane on town roadways.

(5) *Exceptions.* This section does not apply to the following:

(a) This section shall not apply to the distribution, receipt, or exchange of any item with the occupant of a motor vehicle parked on private property or parked in a public parking area.

(b) This section shall not apply to any law enforcement officer acting in the scope of his/her official duty.

(c) This section shall not apply to the distribution, receipt, or exchange of any item with the occupant of a motor vehicle located in the roadway after a motor vehicle accident, or to assist the occupant of a disabled motor vehicle, or to assist a pedestrian or motor vehicle occupant experiencing a medical emergency.

(6) *Penalties.* Any pedestrian or **motor vehicle** operator **or passenger** ~~of a motor vehicle~~ in violation of this section shall be guilty of a traffic infraction.

This ordinance shall become effective upon adoption. If any part of this ordinance is deemed unlawful by a court of competent jurisdiction all remaining parts shall be deemed valid.

Upon a call for an aye and nay vote on the foregoing ordinance at a regular meeting of the Council of the Town of Christiansburg, Virginia held _____, 2017, the members of the Council of the Town of Christiansburg, Virginia, present throughout all deliberations on the foregoing and voting or abstaining, stood as indicated opposite their names as follows:

	Aye	Nay	Abstain	Absent
Mayor D. Michael Barber*				
Samuel M. Bishop				
Harry Collins				
Cord Hall				
Steve Huppert				
Henry Showalter				
Bradford J. Stipes				

*Votes only in the event of a tie vote by Council.

SEAL:

_____ _____

Michele M. Stipes, Town Clerk D. Michael Barber, Mayor