

**PASQUOTANK COUNTY, NORTH CAROLINA
MARCH 4, 2019**

The Pasquotank County Board of Commissioners met today in a regular meeting on Monday, March 4, 2019 in Courtroom C in the Pasquotank County Courthouse.

MEMBERS PRESENT: Jeff Dixon, Chairman
Lloyd E. Griffin, III, Vice-Chairman
Cecil Perry
Frankie Meads
Charles H. Jordan
Sean Lavin
Barry Overman

MEMBERS ABSENT: None

OTHERS PRESENT: Sparty Hammett, County Manager
R. Michael Cox, County Attorney
Shelley Cox, Planning Director
Lynn Scott, Clerk to the Board

The meeting was called to order at 7:00 PM by Chairman Dixon. Vice-Chairman Griffin gave the invocation and Commissioner Meads led in the Pledge of Allegiance to the American Flag. Chairman Dixon thanked everyone for coming out tonight.

1. AMENDMENTS TO THE AGENDA:

Chairman Dixon asked if there were any amendments to the agenda.

Finance Committee Chairman Lloyd Griffin requested that the agenda be amended to add the following items recommended by the Finance Committee today to the Consent Agenda: 1) Approval of request for occupancy tax funds; and 2) Approval to accept offer for Moyock Property and begin upset bid process.

Vice-Chairman Griffin also requested that the agenda be amended to delay action on item 7D (Adoption of resolution revising Albemarle Commission Bylaws) on the Consent Agenda.

Motion was made by Lloyd Griffin, seconded by Sean Lavin to amend the agenda to add Items 1 and 2 to the Consent Agenda and delay action on Item 7D on the Consent Agenda. The motion carried unanimously.

2. COMMENTS FROM JEAN SIMS:

Chairman Dixon recognized Ms. Jean Sims of 101 Schwarzkopf Drive who stated that she is the President of Elizabeth City Alumni Chapter of Delta Sigma Theta Sorority Incorporated. She said Delta Sigma Theta Sorority enjoyed the Board's meeting so much last month that they are back again tonight. She said they are interested in learning more about what they can do to help in the community.

3. PUBLIC COMMENTS ON CHANGE IN MEETING SCHEDULE:

Chairman Dixon explained that the Board previously discussed changing the starting time for the Board's regular meeting from 7:00 PM to 6:00 PM at its February 4, 2019 meeting. At that time, Board members suggested offering the public an opportunity to voice their preferences on what time the meetings should start. Chairman Dixon asked if anyone wishes to address the proposed change. There were no comments from the public.

Motion was made by Lloyd Griffin, seconded by Charles Jordan that the Board change its regular meeting schedule time from 7:00 PM to 6:00 PM.

When asked, Ms. Scott responded that the new meeting time can go into effect at the Board's next meeting on March 4, 2019. After brief discussion;

The motion carried 4 to 3, with Commissioners Griffin, Jordan, Overman, and Lavin voting in favor, and Commissioners Dixon, Perry, and Meads voting against the motion.

4. PRESENTATION ON PROPOSED INTERNSHIP PROGRAM WITH SHERIFF'S DEPARTMENT:

Chairman Dixon called on Peter Bruderle, Internship Coordinator with NEAAAT, to address the Board regarding a potential internship program between NEAAAT and the Pasquotank County Sheriff's Department. Attorney Cox explained that the Sheriff and Lieutenant Wallio came to him a couple weeks ago because they were approached by NEAAAT about setting up an internship program. He is in the process of preparing the necessary paperwork, but would like the Board's blessing and allow for questions.

Mr. Bruderle thanked the Board for allowing him to present the school's internship program. He noted that he teaches at the school and runs the internship program. He provided a broad picture of the program. He said NEAAAT is all about community engagement and real world learning. They try to get their students outside the classroom. Currently, they have 30 students performing internships at various locations including, but not limited to: Coastal Carolina Orthotics and prosthetics, Elizabeth City Pasquotank County Airport, both hospitals, YMCA, a law firm within the city, and many more. Next semester, they hope to have 50 interns. He noted that internships are a key component of workforce development. Ideally, the student will become a future employee. He stated that the program is a one credit course. Students are closely monitored. They are required to reflect and write every day they are on the internship site. The student must make a presentation at the end of the semester. He said it is a very serious, rigorous program. He explained that there are currently two young ladies who are interested in law enforcement. Mr. Bruderle met with the Sheriff, and the Sheriff quickly informed him that they would love to do internships because they need future law enforcement officers. Parents will sign a waiver of liability and provide proof of insurance.

Commissioner Jordan asked what type of work the students will be performing. Mr. Bruderle said it is really an agreement between the location and the intern. Their parents are involved likewise. It really depends on what the student's interests are, what their capabilities are, and what the site sponsor has for them to do. He noted that safety is a key component. Students will not be riding along in law enforcement vehicles or put into dangerous situation. Other members of the Board voiced similar concerns regarding safety of the students. Mr. Bruderle reassured the Board that the student's safety will not be endangered.

Lieutenant Aaron Wallio explained that the Sheriff's Department will not take high school aged children in police vehicle, noting it opens the door for liability. Each intern will be fingerprinted since they will be around sensitive information. He said the plans are to have the interns involved in the daily operations of the office, such as report taking, fingerprinting, and attending court. He went on to say that the County's new Sheriff has hit the ground running. He is trying to get the department out in the public more. They will be assisting at the Boys & Girls Club, Parks & Recreation, and Camp Cale, as well as participating in the Meals on Wheels meal delivery program. He noted that he will be spearheading all of the community programs for the department.

Motion was made by Barry Overman, seconded by Sean Lavin to support the proposed NEAAAT internship program with the Sheriff's Department. The motion carried unanimously.

5. PUBLIC HEARING ON SUBDIVISION VARIANCE REQUEST 19-01 AND FAMILY SUBDIVISION REQUEST 19-01:

Subdivision Variance Requests 19-01 is a request for a variance from the family subdivision requirement by Isaac Sutton. Mr. Sutton and Ms. Cox were sworn in by the Clerk. Ms. Cox explained that this is a request to subdivide a 43,000 square foot parcel which contains his family's homeplace. However, since the parcel is currently owned by his niece, the request does not specifically meet the provisions required within the Family Subdivision Ordinance. The property involved in this request is identified by PIN #8839700506 and is located off of Esclip Road in Salem Township. It is zoned A-1, Agricultural. The existing parcel is 3.9 acres and contains a house that was constructed by the applicant's father in 1968. The applicant is proposing to create a 43,000 square foot parcel to divide the existing house from the remaining property. The residual parcel that will remain after the new lot is created will be approximately 2.9 acres. This property was previously owned by the applicant's father Walter R. Sutton. Upon Mr. Sutton's passing, the property was willed to Annie Sutton-Nixon (the applicant's sister). In 2011, the applicant's niece was given the property through a deed of gift. The applicant is requesting that the lot be created in order for him to establish ownership of the existing property. She said the Planning Board reviewed this request on January 24, 2019 and they recommended

approval. She stated that the Board needs to make four findings before deciding whether to grant a variance and she provided the recommended finds from staff and the Planning Board.

Mr. Isaac Sutton stated that the property was originally left to his sister who is in her late 80s. His sister let her son live there. He said his nephew caught a bad case of cancer and started a fire, which burned the home pretty badly. He wants the opportunity to rebuild it so his family can enjoy it again.

Chairman Dixon declared the meeting to be a public hearing on Subdivision Variance 19-01 and Family Subdivision 19-01 and he asked if there were any comments. At the absence of comments, the public hearing was closed.

Motion was made by Frankie Meads, seconded by Cecil Perry to make the following findings, as recommended by staff and to grant Subdivision Variance request SV 19-01, and approve Family Subdivision 19-01:

- 1) That there are special circumstances or conditions affecting said property such that the strict application of the provisions of this Ordinance would deprive the Applicant of reasonable use of his land.

Response: *There are special circumstances or conditions affecting said property such that the strict application of the provisions of this Ordinance would deprive the Applicant of reasonable use of his land. The property involved in this request was originally owned by the Applicant's father and is currently owned by the Applicant's niece. The Applicant wishes to keep the homeplace under family ownership and the subdivision is necessary to accomplish that by allowing the niece to divide off the area where the home is located to be deeded to her uncle.*

- 2) That the variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.

Response: *The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner. Although the subdivision does not specifically meet the requirement of being a gift lot "to a child, parent, or grandchild" it will meet the spirit and intent of the ordinance by retaining the property under family ownership.*

- 3) That the circumstances giving rise to the need for the variance are peculiar to the parcel and are not generally characteristic of other parcels in the jurisdiction of this Ordinance.

Response: *The circumstances giving rise to the need for the variance are peculiar to the parcel and are not generally characteristic of other parcels in the jurisdiction of this Ordinance. This circumstance is unique in the way that this particular property has been handed down through the Sutton family.*

- 4) That the granting of the variance will not be detrimental to the public health, safety, and welfare or injurious to other property in the territory in which said property is situated."

Response: *The granting of the variance will not be detrimental to the public health, safety, and welfare or injurious to other property in the territory in which said property is situated. The purpose of the subdivision is to divide the existing homeplace from the rest of the property. There is an existing residence on the property and no additional impacts to surrounding properties should occur due to the issuance of a variance.*

6. Public Hearing on Proposed Zoning Ordinance Amendment ZTA 19-01:

Chairman Dixon declared the meeting to be a public hearing on Zoning Text Ordinance ZTA 19-01. Planning Director Shelley Cox explained that this a staff generated amendment to the Zoning Ordinance regarding the County's wireless communication tower and facility requirements. She said since 2002, the County has utilized a third party review firm for new cell towers and co-locations. New towers did not require any type of public hearing or that we notify adjoining property owners. State and federal laws have changed over the past several years regarding how we can regulate cell towers. She noted that our ordinance is deficient in a few ways and needs to be updated to meet the new state and federal requirements.

On December 3, 2018, the Board of Commissioners voted to terminate the County's contract with our third party reviewer. In her opinion, the fees that were being charged were excessive

for the type of review that was being provided. With the 90 day notice that is required, the cancellation of this contract will come into effect on March 2, 2019. This proposal would require a Special Use Permit for new wireless towers over 60' in height, which includes a public hearing by the Board of Adjustments. Towers under 60' in height and equipment co-locations on existing structures will be reviewed by staff to determine compliance with the Ordinance.

The current ordinance does not require any type of public hearing or notice to adjoining property owners when a new tower is proposed. With this amendment, staff is recommending that a Special Use Permit be required for new towers over 60' in height, so that nearby residents and property owners will have the opportunity to provide input. Proof of compliance with FAA and FCC regulations will be required that the tower is designed and constructed to be structurally sound and in conformance with state building codes.

She said under this amendment, the majority of the requirements would remain the same as the current ordinance. However they are proposing to re-locate the standards for this use to Article 9, Provisions for Uses Allowed as Special Uses and Conditional Uses and the related definitions to Article 4, Definitions of Terms. In addition, the use would be renamed from "Telephone & Telegraph Facilities" to "Wireless Communication Towers and Facilities" which more accurately reflects current technology including small cell wireless and fixed wireless internet services.

Ms. Cox stated that the Planning Board reviewed this request and recommended approval, and staff has also recommended approval of the following findings:

**RESOLUTION TO ADOPT A STATEMENT OF CONSISTENCY
FOR TEXT AMENDMENT ZTA 19-01**

WHEREAS, Section 153A-341 (2017) of the North Carolina General Statutes specifies that the governing board shall approve a statement describing whether its action is consistent with an adopted comprehensive and any other officially adopted plan that is applicable; and

WHEREAS, the Pasquotank County Board of Commissioners considers the Zoning Ordinance text amendment to Article 9; Section 9.04-33 Wireless Communication Towers and Facilities to be consistent with the Pasquotank County Elizabeth City 2004 Advance Core Land Use Plan, Section 4.1.1 Land Use Compatibility Goals "Balance growth and development and conservation/preservation of natural resources," and "Encourage land development in accordance with the suitability of the land, compatibility of surrounding land uses and the infrastructure available," and Section 4.2.1 B Pasquotank County Land Use Compatibility Policy 1 "Ensure that land use and development activities provide a balance between economic development needs and protection of natural resources and fragile environments.;" and

WHEREAS, the Pasquotank County Board of Commissioners has determined that the text amendment is reasonable and in the public interest because the proposed text will ensure the ordinance is compliant with state and federal regulations and will require notice to be provided to the public when new towers are proposed; and

WHEREAS, the Pasquotank County Board of Commissioners conducted a Public Hearing on February 18, 2019 for consideration of text amendment case ZTA 19-01 as submitted by the Planning Department staff;

NOW, THEREFORE BE IT RESOLVED THAT THE PASQUOTANK COUNTY BOARD OF COMMISSIONERS HEREBY:

Finds that the adoption of the text amendment as represented in ZTA 19-01 is consistent with the Pasquotank County Elizabeth City 2004 Advanced Core Land Use Plan and is reasonable and in the public interest based on consideration of the application materials, information presented at the Public Hearing, and the recommendation provided by Staff and the Pasquotank County Planning Board.

ADOPTED this 18th day of February, 2019;

Chairman Dixon asked if anyone would care to comment on the proposed zoning text amendments. At the absence of comments, the public hearing was closed. After brief discussion;

Motion was made by Cecil Perry, seconded by Sean Lavin to accept staff's recommended conclusions and findings listed in the above resolution and to approve Zoning Text Amendment ZTA 19-01 as presented. The motion carried unanimously and the following text amendment was adopted:

**AMENDMENT TO THE PASQUOTANK COUNTY ZONING ORDINANCE
REGULATING WIRELESS COMMUNICATION TOWERS AND FACILITIES
AS PROPOSED BY ZTA 19-01**

WHEREAS, the Pasquotank County Zoning Ordinance provides for the orderly growth and development of Pasquotank County; and

WHEREAS, the proposed text amendment will amend the standards that apply to wireless communication towers and facilities within the County; and

WHEREAS, the Planning Staff recommends approval of the proposed amendment; and

WHEREAS, on January 24, 2019, the Pasquotank County Planning Board reviewed the proposed amendment and recommended that the Board of Commissioners approve the amendment as proposed; and

WHEREAS, the Pasquotank County Board of Commissioners held a duly-noticed public hearing on February 18, 2019 to consider amending the Zoning Ordinance;

NOW, THEREFORE, IT BE ORDAINED BY THE PASQUOTANK COUNTY BOARD OF COMMISSIONERS THAT:

Section 1. Article 4, Article 7 and Article 9 of the Pasquotank County Zoning Ordinance are amended as follows:

Proposed Ordinance Text

Additions and/or changes to the existing regulations are highlighted in yellow. Deletions are noted by ~~strikethrough~~.

**ARTICLE 7
DISTRICT REGULATIONS**

SECTION 7.02 - NOTES TO THE TABLE OF PERMITTED USES

Note 9. — Communication Facilities

~~Towers and Antennas shall be subject to the following:~~

- ~~a) Towers and antennas shall be required to maintain a setback from front, side and rear property lines a distance equal to 50% of the height of the tower. Towers shall be setback from existing structures and public rights of way a distance equal to the height of the tower and antenna(s) plus 10%. Guy wires, when applicable, shall conform to the setback provisions of Article 8.~~
- ~~b) All utility buildings and accessory structures towers and antennas shall be architecturally designed to blend in with the surrounding environment.~~
- ~~c) Performance Security — The Applicant and the owner of record of any proposed Wireless Telecommunications Facilities property site shall, at its cost and expense, be jointly required to execute and file with the County a bond, or other form of security acceptable to the County as to type of security and the form and manner of execution, in an amount set forth in the Commissioners Fee Schedule, and with such sureties as are deemed sufficient by the County to assure the faithful performance of the terms and conditions of this Ordinance. The full amount of the bond or security shall remain in full force and effect until any necessary site restoration is completed to restore the~~

~~site to a condition comparable to that which existed prior to the issuance of the original Zoning Permit.~~

~~d) Abandoned or Unused Towers~~

- ~~1. Abandoned or unused towers and antennas located on land owned or leased by the utility owner shall be removed by the utility owner within 365 days of cessation of operations;~~
- ~~2. If the tower/antenna is not removed within the required 365 days of cessation of operations, the County will attempt to contact the utility owner and order the removal of the tower/antenna within sixty (60) days of receipt of the notice. If the County is not successful in contacting the utility owner, the County will notify the landowner that the tower/antenna must be removed within sixty (60) days of receipt of the notice; and~~
- ~~3. Upon successful notification to either the utility owner or the landowner and failure to remove the tower/antenna as ordered, the County may remove the tower/antenna and tax the costs of removal to the landowner or place a lien upon the property for the costs of removal if such cost is above the amount of the performance security.~~

~~e) Towers and antennas proposed for local business internal communication purposes only shall be exempt from the 1 mile search radius required.~~

~~f) Antennas placed on existing structures shall be considered accessory uses that are permitted by right subject to a zoning permit provided they are no higher than 20 feet above the structure to which they are attached and a qualified and licensed professional certifies the existing structure can suitably accept the antenna. No additional setbacks shall be required for antennas placed on existing structures, excluding existing towers. Antennas that are placed on existing towers cannot be placed above that which exists unless required setbacks can be met.~~

~~g) No new or existing tower and antenna service shall interfere with public safety telecommunications. Further, where it can be shown that telecommunication service interferes with reception received by surrounding properties, the permit holder shall be responsible for taking reasonable steps to eliminate that interference in accordance with FCC regulations.~~

~~h) Prior to obtaining a building permit, the applicant shall submit proof of compliance with Federal Aviation Administration and Federal Communications Commission regulations and any other documentation to demonstrate compliance with state building code regulations.~~

~~i) Every tower, affixed to the ground, and guy wires shall be protected to discourage climbing by unauthorized persons. The base of the tower along with any individual guy wires shall be enclosed by a commercial grade chain link fence (or some other fence of equal or greater quality) a minimum of eight (8) feet in height, and in addition to, shall include a minimum of two (2) strands of barbed wire and/or razor wire affixed to the top of the fence.~~

~~j) The permit, when issued, shall include a condition that the accumulative electromagnetic radiation levels maintain compliance with requirements of the Federal Communications Commission, regarding emission of electromagnetic radiation. The tower or antenna owner shall provide documentation of accumulative emission levels to FCC standards.~~

~~k) Landscaping requirements are as follows:~~

- ~~1. When deemed appropriate to minimize the potential impact on surrounding properties, the Zoning Administrator or his designee may require landscaping around the tower, antenna, guy wires, and associated buildings. In addition, the~~

~~following shall be required:~~

- ~~a. land form preservation: existing mature tree growth and natural land form on the site shall be preserved to the extent feasible; provided however, that vegetation that causes interference with the antennas or inhibits access to the Equipment Facility may be trimmed or removed;~~
- ~~b. existing vegetation: existing vegetation on a tower or antenna site may be used in lieu of required landscaping when approved by the Zoning Administrator or his designee; and~~
- ~~c. minimum site disturbance: grading for the new tower or antenna shall be minimized and limited only to the area necessary for the new facility.~~
- ~~l) Aesthetics, placement, materials and colors: All telecommunication facilities and accessory or associated facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and /or to harmonize with the natural surroundings, this shall include the utilization of stealth technology.~~
- ~~m) Lighting: The following lighting requirements shall apply to all towers and antenna installations. Towers and antennas shall not be artificially illuminated, directly or indirectly, except for:
 - ~~1. security and safety lighting of equipment buildings if such lighting is appropriately down shielded to keep light within the boundaries of the site;~~
 - ~~1. such illumination of the towers and antenna as may be required by the FAA or other applicable authority installed in a manner to minimize impacts on adjacent residences; and~~
 - ~~2. unless otherwise required by the FAA or other applicable authority, the required light shall be red and a type of lens used to reduce ground lighting when the site is within 100 feet of a residential dwelling.~~~~
- ~~n) Signage: Towers and antennas shall not display any signage, logos, decals, symbols or any messages of a commercial or noncommercial nature, except for a small message containing provider identification and emergency telephone numbers and such other information as may be required by local, state or federal regulations governing tower and antenna facilities.~~
- ~~o) Sound: No unusual sound emissions such as alarms, bells, buzzers or the like are permitted.~~
- ~~p) Shared Facilities and Collocation
 - ~~1. Collocation: All new tower and antenna facilities (other than those proposed for local business utilization) shall be engineered, designed and constructed to be capable of sharing the facility with other applicants, to collocate with other existing tower and antenna facilities and to accommodate the future collocation of other tower and antenna facilities. A zoning permit for a tower shall not be issued until the applicant proposing a new tower and antenna facility shall demonstrate that it has made a reasonable good faith attempt to locate its antenna facility on an existing structure. Competitive conflict and financial burden alone are not deemed to be adequate reasons against collocation.~~
 - ~~2. All towers and antenna facilities (other than those proposed for local business utilization) with a support structure up to a height of 150 feet shall be engineered and constructed to accommodate at least 3 antenna arrays. All towers and antenna facilities with support structures 150 feet or greater in height shall be engineered and constructed to accommodate at least 4 antenna arrays.~~
 - ~~2. Collocation Agreements. All applicants for towers and antenna facilities (other than those proposed for local business utilization) are required to submit a statement with the application for a zoning permit agreeing to allow and reasonably market collocation opportunities to other tower and antenna facility users. The statement shall include the applicant's policy regarding collocation of other providers and the methodology to be used by the applicant in determining reasonable rates to be charged other providers.~~~~
- ~~q) Wireless Communication Facility Development Standards:
 - ~~1. In addition to all General Standards as noted above, the following definitions and~~~~

~~development standards for Wireless Communication Facilities within the zoning jurisdiction of Pasquotank County shall apply to the installation, construction, attachment, removal, and alteration of facilities to accommodate wireless communication facilities.~~

~~2. Purposes~~

- ~~a. Pasquotank County desires to encourage the orderly development of wireless communication technologies for the benefit of the County and its citizens. The County also recognizes the character of the communities of the County;~~
- ~~b. As a matter of public policy the County aims to encourage the delivery of new wireless technologies throughout the County while controlling the proliferation of communication towers. Such development activities will promote and protect the health, safety, prosperity and general welfare of persons living in Pasquotank County;~~
- ~~c. Specifically, the Wireless Communication Facility Development Standards are designed to achieve the following:
 - ~~(1) Provide a range of locations for wireless communication facilities throughout the County;~~
 - ~~(2) Encourage the location of wireless communication facilities onto existing structures to reduce the number of new communication towers needed within Pasquotank County;~~
 - ~~(3) Encourage collocation and site sharing of new and existing wireless communication facilities;~~
 - ~~(4) Establish adequate development and design criteria to enhance the ability of providers of telecommunications services to provide service to the community quickly, effectively, and efficiently;~~
 - ~~(5) Protect residential, historic preservation areas, and scenic corridors from the uncontrolled development of wireless communications facilities by requiring reasonable site conditions;~~
 - ~~(6) Promote the use of suitable lands for the location of wireless antennae, towers, and/or wireless communication facilities;~~
 - ~~(7) Insure the harmonious, orderly and efficient growth and development of wireless communication facilities within the County;~~
 - ~~(8) Provide standards for the development of wireless communication facilities which are consistent with the requirements of the Federal Telecommunications Act of 1996 and the best interest of the future of Pasquotank County; and~~
 - ~~(9) Provide clear performance standards addressing the siting of wireless communication standards.~~~~

~~3. Definitions~~

~~Antenna Array is one or more rods, panels, discs or similar devices used for the transmission or reception of radio frequency signals, which may include omnidirectional antenna (rod), directional antenna (panel) and parabolic antenna (disc). The Antenna Array does not include the Support Structure.~~

~~Attached Wireless Communication Facility is an Antenna Array that is attached to an existing building or structure (Attachment Structure), which structures shall include but not be limited to utility poles, signs, water towers, rooftops, towers with any accompanying pole or device (Attachment Device) which attaches the Antenna Array to the existing building or structure and associated connection cables, and an Equipment Facility which may be located either inside or outside of the Attachment Structure.~~

~~Collocation/Site Sharing shall mean use of a common Wireless Communication Facility or common site by more than one wireless communication license holder or by one wireless license holder for more than one type of communications technology and/or placement of an Antenna Array on a structure owned or operated by a utility or other public entity.~~

~~Equipment Facility is any structure used to contain ancillary equipment for a~~

~~Wireless Communication Facility, which includes cabinets, shelters, a build-out of an existing structure, pedestals, and other similar structures.~~

~~FAA Federal Aviation Administration.~~

~~FCC Federal Communications Commission.~~

~~FTA Federal Telecommunications Act of 1996.~~

~~Height when referring to a wireless communication facility, height shall mean the vertical distance measured from the base of the tower to the highest point on the wireless communication facility, including the antenna array and other attachments.~~

~~Setback shall mean the required distance from the property line of the parcel on which the wireless communication facility is located to the base of the support structure and equipment shelter or cabinet and guy anchors.~~

~~Stealth Technology shall mean minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such wireless communication facility by using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.~~

~~Support Structure is a structure designed and constructed specifically to support an antenna array, and may include a monopole, self-supporting (lattice) tower, guy wire support tower and other similar structures. Any device (Attachment Device), which is used to attach an attached wireless communication facility to an existing building or structure (Attachment Structure) shall be excluded from the definition of and regulations applicable to Support Structure.~~

~~Temporary Wireless Communication Facility shall mean a Wireless Communication Facility to be placed in use for ninety (90) or fewer days.~~

~~Wireless Communications shall mean any personal wireless services as defined in the Telecommunications Act of 1996, which includes FCC licensed commercial wireless telecommunications services including cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, and similar services that currently exist.~~

~~Wireless Communication Facility is any unstaffed facility for the transmission and/or reception of wireless telecommunications services, usually consisting of an Antenna Array, connection cables, an Equipment Facility, and a Support Structure to achieve the necessary elevation.~~

~~4. Preferred Locations for Wireless Communication Facilities and Applicability~~

~~a. The following wireless communication facilities may be allowed within Pasquotank County:~~

~~(1) Antenna Attachments: Antenna attachments onto existing Support Structure(s), including but not limited to water tanks, utility poles/structures, buildings, etc. or onto an Attached Wireless Communication Facility shall be permitted subject to Development Standards identified in number 5.~~

~~b. A proposal for a new wireless communication facility shall not be approved unless the equipment planned for the proposed tower cannot be accommodated on existing or approved towers, buildings or alternative structures within a one (1) mile search radius of the proposed wireless communications facility due to one or more of the following reasons:~~

~~(1) The planned equipment would exceed the structural capacity of the existing or approved tower, building or structures, as documented by a qualified and licensed North Carolina professional engineer, and the existing or approved tower, building or structure cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment at a reasonable cost.~~

~~(2) The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower, building or other structure as documented by a qualified and licensed North Carolina professional engineer and the interference cannot be prevented at a reasonable cost.~~

~~(3) Existing or approved towers, buildings or other structures within the search radius, or combinations thereof, cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed North Carolina professional engineer.~~

~~(4) Other unforeseen reasons that make it infeasible to locate the planned telecommunication equipment upon an existing or approved tower, building or other structure.~~

~~5. Development Standards:~~

~~a. Development standards for Wireless Communication Facilities, in addition to the general standards as noted in this ordinance, will include the following:~~

~~(1) Spacing requirements:~~

~~(a) Wireless Communication Facilities shall be spaced a minimum of one half (1/2) mile apart unless an existing tower is full and another tower is erected on the same property.~~

~~(2) Height standards:~~

~~(a) Attached Wireless Communication Facilities shall not add more than twenty (20) feet to the height of the existing building or structure to which it is attached (Attachment Structure). However, antenna attachments to existing communication towers shall not increase the height of tower above the maximum original permitted height of that tower.~~

~~f) Liability Insurance~~

~~1) The permit holder for Wireless Telecommunications Facilities shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, until the tower is removed from the site, in amounts as set forth below:~~

~~a) Commercial General Liability covering personal injuries, death and property damage: \$1,000,000 per occurrence/\$2,000,000 aggregate;~~

~~b) Automobile Coverage: \$1,000,000 per occurrence/ \$2,000,000 aggregate;~~

~~c) Workers Compensation and Disability: Statutory amounts.~~

~~2) The Commercial General Liability insurance policy shall specifically include the County and its officers, boards, employees, committee members, attorneys, agents and consultants as additional named insureds.~~

~~3) The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the State and with a Best's rating of at least A.~~

~~4) The insurance policies shall contain an endorsement obligating the insurance company to furnish the County with at least thirty (30) days prior written notice in advance of the cancellation of the insurance.~~

~~5) Renewal or replacement policies or certificates shall be delivered to the County at least fifteen (15) days before the expiration of the insurance that such policies are to renew or replace.~~

~~6) Before construction of a permitted Wireless Telecommunications Facilities is initiated, but in no case later than fifteen (15) days after issuance of the Zoning Permit, the permit holder shall deliver to the County a copy of each of the policies or certificates representing the insurance in the required amounts.~~

~~s) Retention of Expert Assistance and Reimbursement by Applicant.~~

~~1. The County may hire any consultant and/or expert necessary to assist the County in reviewing and evaluating the Application, including the construction and modification of the site.~~

~~2. An Applicant shall deposit with the County funds sufficient to reimburse the County~~

~~for all reasonable costs of consultant and expert evaluation and consultation to the County in connection with the review of any Application including the construction and modification of the site, once permitted. The initial deposit shall be in the amount set forth in the Commissioners Fee Schedule and shall be paid at the time the application is submitted. The County will maintain a separate escrow account for all such funds. The County's consultants/experts shall invoice the County for its services in reviewing the Application, including the construction and modification of the site, once permitted. If at any time during the process this escrow account has a balance less than an amount set forth in the Commissioners Fee Schedule, the Applicant shall immediately, upon notification by the County, replenish said escrow account so that it has a balance in the amount as set forth in the Commissioners Fee Schedule. Such additional escrow funds shall be deposited with the County before any further action or consideration is taken on the Application. In the event that the amount held in escrow by the County is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the Applicant.~~

- ~~3. The total amount of the funds needed as set forth in subsection (2) of this section may vary with the scope and complexity of the project, the completeness of the Application and other information as may be needed to complete the necessary review, analysis and inspection of any construction or modification.~~

ARTICLE 9 PROVISIONS FOR USES ALLOWED AS SPECIAL USES AND CONDITIONAL USES

SECTION 9.04 - Additional Restrictions Imposed on Certain Special and Conditional Uses

9.04-33 **Wireless Communication Towers and Facilities** – Wireless communication towers and facilities are allowed in accordance with Section 7.01 - Table of Permitted Uses and with the requirements listed below. The removal or replacement of transmission equipment on an existing wireless communication tower that does not result in a substantial modification of the wireless facility and/or ordinary maintenance of existing wireless facilities shall be permitted by right. These regulations shall not apply to noncommercial amateur/ham radio towers.

- a) Towers and antennas shall be required to maintain a setback from all property lines a distance equal to 50% of the height of the tower. Towers shall be setback from existing structures and public rights-of-way a distance equal to the height of the tower and antenna(s) plus 10%. Guy wires and utility buildings shall conform to the principal structure setback provisions within Article 8, Table of Area, Yard and Height Requirements.
- b) Performance Security - The Applicant and the owner of record of any proposed Wireless Telecommunications Facilities property site shall, at its cost and expense, be jointly required to execute and file with the County a bond, or other form of security acceptable to the County as to type of security and the form and manner of execution, in an amount set forth in the Commissioners Fee Schedule, and with such sureties as are deemed sufficient by the County to assure the faithful performance of the terms and conditions of this Ordinance. The full amount of the bond or security shall remain in full force and effect until any necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the issuance of the original Zoning Permit.
- c) Abandoned or Unused Towers
 1. Abandoned or unused towers and antennas located on land owned or leased by the utility owner shall be removed by the utility owner within

365 days of cessation of operations;

2. If the tower/antenna is not removed within the required 365 days of cessation of operations, the County will attempt to contact the utility owner and order the removal of the tower/antenna within sixty (60) days of receipt of the notice. If the County is not successful in contacting the utility owner, the County will notify the landowner that the tower/antenna must be removed within sixty (60) days of receipt of the notice; and
 3. Upon successful notification to either the utility owner or the landowner and failure to remove the tower/antenna as ordered, the County may remove the tower/antenna and tax the costs of removal to the landowner or place a lien upon the property for the costs of removal if such cost is above the amount of the performance security.
- d) Towers and antennas proposed for local business internal communication purposes only shall be exempt from the 1 mile search radius required.
 - e) Antennas placed on existing structures shall be considered accessory uses that are permitted by right subject to a zoning permit provided they are no higher than 20 feet above the structure to which they are attached and a qualified and licensed engineer certifies the existing structure can suitably accept the antenna. No additional setbacks shall be required for antennas placed on existing structures, excluding existing towers. Antennas that are placed on existing towers cannot be placed above that which exists unless required setbacks can be met.
 - f) No new or existing tower and antenna service shall interfere with public safety telecommunications. Further, where it can be shown that telecommunication service interferes with reception received by surrounding properties, the permit holder shall be responsible for taking reasonable steps to eliminate that interference in accordance with Federal Communications Commission regulations.
 - g) Prior to obtaining a building permit, the applicant shall submit proof of compliance with Federal Aviation Administration and Federal Communications Commission regulations and any other documentation to demonstrate compliance with state building code regulations.
 - h) Every tower, affixed to the ground, and guy wires shall be protected to discourage climbing by unauthorized persons. The base of the tower along with any individual guy wires shall be enclosed by a commercial grade chain link fence (or some other fence of equal or greater quality) a minimum of eight (8) feet in height, and in addition to, shall include a minimum of two (2) strands of barbed-wire and/or razor wire affixed to the top of the fence.
 - i) The permit, when issued, shall include a condition that the accumulative electromagnetic radiation levels maintain compliance with requirements of the Federal Communications Commission (FCC), regarding emission of electromagnetic radiation. The tower or antenna owner shall provide documentation of accumulative emission levels to FCC standards.
 - j) When deemed appropriate to minimize the potential impact on surrounding properties, landscaping may be required around the tower, antenna, guy wires, and associated buildings. In addition, the following shall be required:
 1. Existing mature tree growth and natural vegetation on the site shall be preserved to the extent feasible; provided however, that vegetation that causes interference with the antennas or inhibits access to the equipment facility may be trimmed or removed;
 2. Grading for the new tower or antenna shall be minimized and limited only to the area necessary for the new facility.

- k) All telecommunication facilities and accessory or associated facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and /or to harmonize with the natural surroundings, this shall include the utilization of stealth technology.
- l) **Wireless communication towers may not be illuminated or marked except as required by the Federal Aviation Administration (FAA).**
- m) Towers and antennas shall not display any signage, logos, decals, symbols or any messages of a commercial or noncommercial nature, except for a small message containing provider identification and emergency telephone numbers and such other information as may be required by local, state or federal regulations governing tower and antenna facilities.
- n) No unusual sound emissions such as alarms, bells, buzzers or the like are permitted.
- o) Shared Facilities and Collocation
 - 1. All new tower and antenna facilities (other than those proposed for local business utilization) shall be engineered, designed and constructed to be capable of sharing the facility with other applicants, to collocate with other existing tower and antenna facilities and to accommodate the future collocation of other tower and antenna facilities. A permit for a tower shall not be issued until the applicant proposing a new tower and antenna facility shall demonstrate that it has made a reasonable good faith attempt to locate its antenna facility on an existing structure. Competitive conflict and financial burden alone are not deemed to be adequate reasons against collocation.
 - 2. All towers and antenna facilities (other than those proposed for local business utilization) with a support structure up to a height of 150 feet shall be engineered and constructed to accommodate at least 3 antenna arrays. All towers and antenna facilities with support structures 150 feet or greater in height shall be engineered and constructed to accommodate at least 4 antenna arrays.
 - 3. Collocation Agreements. All applicants for towers and antenna facilities (other than those proposed for local business utilization) are required to submit a statement with the application for a zoning permit agreeing to allow and reasonably market collocation opportunities to other tower and antenna facility users. The statement shall include the applicant's policy regarding collocation of other providers and the methodology to be used by the applicant in determining reasonable rates to be charged other providers.
- p) A proposal for a new wireless communication tower shall not be approved unless the equipment planned for the proposed tower cannot be accommodated on existing or approved towers, buildings or alternative structures within a one (1) mile search radius of the proposed wireless communications facility due to one or more of the following reasons:
 - 1. The planned equipment would exceed the structural capacity of the existing or approved tower, building or structures, as documented by a qualified and licensed North Carolina professional engineer, and the existing or approved tower, building or structure cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment at a reasonable cost.
 - 2. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower, building or other structure as documented by a qualified and licensed North Carolina professional engineer and the interference cannot be prevented at a reasonable cost.
 - 3. Existing or approved towers, buildings or other structures within the search radius, or combinations thereof, cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed North Carolina professional engineer.
 - 4. Other unforeseen reasons that make it infeasible to locate the planned telecommunication equipment upon an existing or approved tower, building or other structure.

q) All applications for wireless communications towers shall include the following:

1. The name, address, and telephone number of the owner and lessee of the parcel of land upon which the tower is proposed to be situated. If the applicant is not the owner of the parcel of land upon which the tower is proposed, the written consent of the owner shall be evidenced in the application.
2. The legal description, parcel identification number, and address of the parcel of land upon which the tower is proposed to be situated.
3. The names, addresses, and telephone numbers of all owners of other towers or usable antenna support structures within a one mile radius of the proposed new tower site, including county-owned property.
4. A site plan that must be signed and sealed by a qualified and licensed North Carolina professional engineer. All plans shall include a certification that the tower is designed to be structurally sound and in conformance with the state building code, and any other standards outlined in this Ordinance.
5. Color, photo simulations showing the proposed site of the tower with a photo-realistic representation of the proposed tower as it would appear viewed from the closest residential property and from adjacent roadways.
6. A copy of the Federal Communications Commission license applicable for the intended use of the structure.
7. Certification from the Federal Aviation Administration that the proposed wireless communication facility will not propose a hazard to air navigation.

ARTICLE 4 DEFINITIONS OF TERMS

SECTION 4.02 - WORD AND TERM DEFINITIONS

Antenna Array Communications equipment that transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.

Attached Wireless Communication Facility is an Antenna Array that is attached to an existing building or structure (Attachment Structure), which structures shall include but not be limited to utility poles, signs, water towers, rooftops, towers with any accompanying pole or device (Attachment Device) which attaches the Antenna Array to the existing building or structure and associated connection cables, and an Equipment Facility which may be located either inside or outside of the Attachment Structure.

Collocation The installation of new wireless facilities on previously approved structures, including towers, buildings, and water tanks.

FAA Federal Aviation Administration.

FCC Federal Communications Commission.

FTA Federal Telecommunications Act of 1996.

Stealth Technology shall mean minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such wireless communication facility by using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.

Wireless Communications shall mean any personal wireless services as defined in the Telecommunications Act of 1996, which includes FCC licensed commercial wireless telecommunications services including cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, and similar services that currently exist.

Wireless Communication Facility The set of equipment and network components, exclusive of the underlying support structure or tower, including antennas, transmitters, receivers base stations, power supplies, cabling, and associated equipment necessary to provide wireless data and telecommunications services to a discrete geographic area.

Wireless Communications Tower and Facility Height When referring to a wireless communication tower and facility, height shall mean the vertical distance measured from the base of the tower to the highest point on the wireless communication facility, including the

antenna array and other attachments.

Wireless Communication Tower and Facility Setback shall mean the required distance from the property line of the parcel on which the wireless communication facility is located to the base of the support structure and equipment shelter or cabinet and guy anchors.

Wireless Communication Tower A new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities.

Section 2. These ordinance amendments are effective upon adoption.

ADOPTED this 18th day of February, 2019;

7. APPROVAL OF CONSENT AGENDA:

The Board considered the following consent agenda:

a. Approval of Minutes of February 4, 2019 Commissioner Meeting

b. Approval of Tax Releases and Refunds

The Finance Committee has recommended approval of the following tax release, tax refunds, solid waste fee releases, and solid waste fee refund:

Tax Release

| | | County | City |
|----|-------------------------------------|--------|------|
| 1. | Kevin L. & Wendy W. Brickhouse Etal | 144.00 | |

Tax Refunds

| | | County | City |
|----|----------------------------------|--------|------|
| 1. | Bradley Dale Knowles | 135.44 | |
| 2. | Jason L. & Katherine D. Hamilton | 212.88 | |
| 3. | Jason L. & Katherine D. Hamilton | 212.88 | |

Solid Waste Fee Releases

| | | Parcel ID # | Reason for Release |
|----|-------------------------|-------------|--------------------|
| 1. | Walter Averill | P70-20 | Vacant |
| 2. | Shawn Etheridge Etal | P59-31 | Vacant |
| 3. | Ruth Lane | P12A-58 | Vacant |
| 4. | Floyd Simpson | P58-15 | Vacant |
| 5. | Wm. Henry Weatherly III | 24-B-52 | Vacant |

Solid Waste Fee Refund

| | | Parcel ID # | Reason for Refund |
|----|---------------------------------|-------------|-------------------|
| 1. | Eddie H. & Sandra W. Strickland | P94-25 | Vacant |

c. Approval of Budget Amendments

The Finance Committee has recommended approval of the following budget amendments:

Non-Departmental

| | | | |
|----------|------------------|----------------|------------|
| Increase | 010.0240.4380.20 | FEMA Funds | 114,272.00 |
| Increase | 010.4195.5600.35 | HMGP-Elevation | 114,272.00 |

To appropriate funds for the receipt and expenditure of the HMGP-Grant for the elevation of a structure affected by Hurricane Matthew.

Non-Departmental

| | | | |
|----------|------------------|------------------|------------|
| Increase | 010.0240.4380.20 | FEMA funds | 808,968.00 |
| Increase | 010.4195.5600.36 | HMGP-Acquisition | 808,968.00 |

To appropriate funds for the receipt and expenditure of the HMGP-Grant for the elevation of a structure affected by Hurricane Matthew.

d. Approval of Request for Occupancy Tax Funds

The Finance Committee has recommended approval of a request by the Elizabeth City/Pasquotank County Tourism Development Authority for occupancy tax funds totaling \$1,533 to purchase a Destinations International Event Impact Calculator. The ECPC TDA and the City will contribute \$1,533 per entity as well. An application for tourism

e. Approval to Accept Offer for Moyock Property and Begin Upet Bid Process

The Finance Committee has recommending accepting an offer of \$200,000 for property the County Owns at 104 Lark Drive in Moyock, and begin the upset bid process.

Motion was made by Lloyd Griffin, seconded by Sean Lavin to approve the Consent Agenda as amended. The motion carried unanimously.

8. COUNTY ATTORNEY REPORT:

County Attorney Mike Cox reported on the County Attorney's Winter Conference he recently attended.

9. REPORTS FROM COMMISSIONERS:

Commissioner Jordan attended the Weeksville VFD Annual Dinner. In addition, he attended a meeting with Bland Baker (Trillium), Wayne Jones (Jail), the Assistant District Attorney, the Police Chief, and the County Manager regarding mental health issues at the jail, which was very informative. He said they were made aware of resources that they were not aware of previously.

Commissioner Lavin attended the Newland Water Management Committee meeting, where he was brought up-to-date on issues they are dealing with.

Commissioner Meads received a complaint regarding flooding on Shadneck Road near the wildlife ramp and requested staff investigate.

Commissioner Perry will be attending an event at the old P.W. Moore High School for Black History Month tomorrow.

Chairman Dixon attended several meetings over the past two weeks. He stated that he really enjoyed the event at the Weeksville VFD. He asked staff to research the cost associated with installing blinking lights at all volunteer fire departments. He commended former Commissioner Sterritt for acknowledging the County on receiving a grant to help with cost of the COA Boardwalk repair. In addition, he has attended several strategic planning meeting this week.

10. CALENDAR/UPCOMING EVENTS:

The Clerk reviewed the calendar of upcoming events.

Chairman Dixon asked if there was any further business to come before the Board. There being no further business;

Motion was made by Lloyd Griffin, seconded by Charles Jordan to adjourn the meeting. The motion carried and the meeting was adjourned at 8:00 PM.

CHAIRMAN

CLERK TO THE BOARD