

**TOWN COUNCIL
WORK SESSION
Minutes
November 30th, 2009
5:30 pm**

I. Divin' off the Dock

Mr. Funkhouser advised he has not received a purchase offer from Diane Rilee for 417 6th Street, that once an offer was received it would be presented to the Finance Committee.

II. Directional Signs

Mr. Funkhouser advised samples of directional signs had been presented to Town Council Committees during November and that Shawn Hershberger presented the signs to the Chamber of Commerce, the Chamber prefers the logo style sign and the EDA prefers general signage without business names.

Gail Nichols advised the directional signs with business owners names was needed to assist with sending the public in the right direction for shopping and that there needed to be more than six businesses on the sign.

Mr. Lawson advised the Town Manager had received an email from Steven Ogg stating that if the cost for the signs was \$100 each, Steven Ogg wanted three of the signs; if the cost was \$500 then he would not want to purchase any of the signs.

Charlie Gordon asked what the size was for each business sign.

Mr. Funkhouser advised they measure thirteen inches by eighteen inches and they would be reflective.

Jack Lawson advised the sample sign shows spaces for six businesses it would not be a fair system to single out six businesses and not offer the same advertising for the remainder of the businesses.

Bub Shreaves stated that he would like more information and additional ideas regarding signs before a decision could be made.

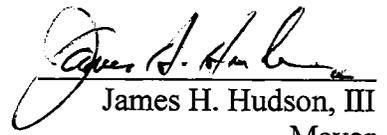
The consensus of Town Council is for Shawn Hershberger to provide additional information at Town Council Committees before Town Council can decide on directional signs.

III. CitiSwitch

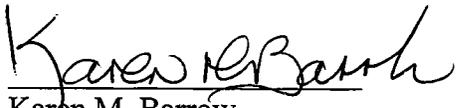
Andrea Erard, the Town Attorney presented Town Council with a Memorandum of Agreement and Resolution from CitiSwitch. Ms. Erard also stated the resolution only vacates the alley, it does not sell the alley and that the alley should not be sold until CitiSwitch had painted the tower and paid all necessary fees and expenses. The memorandum of agreement has to be signed by the FCC and the Historic Preservation Office.

Charlie Gordon asked how much of the alley is CitiSwitch requesting?

Mr. Funkhouser advised south of 12th Street down to the east/west cross alley. The remainder of the alley down to 11th Street is not passable.


James H. Hudson, III
Mayor

ATTEST:


Karen M. Barrow
Town Clerk

**TOWN OF WEST POINT
TOWN COUNCIL
MINUTES
November 30, 2009**

I. CALL TO ORDER

The West Point Town Council held its regular monthly meeting on Monday, November 30, 2009. The Honorable James H. Hudson III called the meeting to order at 6:30 p.m. James H. Hudson III gave the Invocation followed by the Pledge of Allegiance.

Members Present: Mayor, Jim Hudson; Vice Mayor, Deborah Ball; Charlie Gordon; Wayne Healy; Jack Lawson; Gail Nichols and Bub Shreaves.

Also Present: Trenton L. Funkhouser, Town Manager; Andrea Erard, Town Attorney; Karen Barrow, Town Clerk; Bill Hodges, Chief of Police; Captain Robbie Cottrell, WPPD; Holly McGowan, Community Development Coordinator; Shawn Hershberger, Economic Development Coordinator and other interested persons.

II. CITIZENS ADDRESS TO COUNCIL

A. Eagle Scout Commendations

Mr. Hudson presented Chad Bonadonna, Philip Liberato and Michael Robinson with letters of commendation for fulfilling the requirements to earn the rank of Eagle Scout.

B. Police Department Recognition for Chief's Award

Dana Schrad, Executive Director of the Virginia Association Chief's of Police, presented the West Point Police Department with the 2008 National Law Enforcement Challenge Award for third place in the National Championship category.

C. Public Hearing – A Request by Cityswitch to Abandon and Alley

Mr. Hudson read the advertisement and asked the Town Clerk if any one requested a copy of the ordinance, submitted comments in writing or asked for assistance to attend the public hearing.

The Town Clerk advised that no request were received.

Ken Harbour, Chief Operating Officer, Cityswitch advised that Cityswitch acknowledges that due to an inaccurate survey, Cityswitch inadvertently constructed a cell phone tower on property owned by the Town of West Point. Cityswitch are willing to mitigate the error and are willing to work with Town Council on a solution. Mr. Harbour asked Town Council to adopt the attached Memorandum of Agreement and Resolution with Cityswitch.

Mr. Hudson opened the floor for citizens to comment on the request by Cityswitch for Town Council to abandon a portion of one North/South alley between 12th Street and 11th Street, West of Kirby Street.

1. Lucy Edwards, 222 12th Street, Virginia advised that she did not know the Tower was going to be constructed when she purchased her property and that she had not received any correspondence from CitySwitch since the project started. Ms. Edwards also stated that she has concerns regarding the accuracy of the survey and for all she knows the CitySwitch fence could be on her property. Ms. Edwards objects to the tower and asked Town Council to deny the request to abandon the alley.
2. Philip Bradley, 216 16th Street, West Point, Virginia advised that his family had always taken care of the grass cutting in the alley and that his family is in the process of purchasing property south of the alley. Mr. Bradley also stated that

abandoning the alley would prevent access to a garage located on the property Mr. Bradley plans to purchase. Mr. Bradley asked Town Council to deny the request by CitySwitch.

3. Dwayne Callis, 470 Azalea Crescent, West Point, Virginia advised that he is a member of the West Point Planning Commission and that Planning Commission were unable to provide a recommendation on the request by CitySwitch. Mr. Callis also stated that he felt that not all the information had been provided to the Planning Commission, some questions that were asked were not answered by the Town Attorney. There are some wrong issues that occurred regarding the tower and the Town has an injured party through Ms. Edwards and Ms. Edwards concerns need to be addressed.

Mr. Hudson asked if any one else would like to comment on the public hearing for Cityswitch. There being none the public hearing was closed.

a. Action on Cityswitch – Resolution and Memorandum of Agreement

Mr. Shreaves made a motion for Town Council to approve the abandonment of a portion of the north/south alley, south of 12th Street to the east/west cross alley, running parallel with Kirby Street between 11th and 12th Streets situated between tax map number 69A1-62, lots 875,877,878 and 879, the motion includes adoption of the attached resolution and Memorandum of Agreement. Seconded by Mr. Gordon, upon roll call, Mrs. Ball, Mr. Gordon, Mr. Healy, Mr. Lawson, Mrs. Nichols and Mr. Shreaves voted “Aye”. The motion was approved.

D. Citizens Address to Council

Mr. Hudson opened the floor for citizens to address Town Council on any Town related business.

1. Mr. Bernard Lee, 284 Ogden Street, West Point, Virginia asked what the status was regarding the request by Ogden Street residents for a speed bump.

Mr. Hudson advised a resolution is on the Town Council agenda for adoption.

Mr. Lee, 284 Ogden Street asked if the Town has a policy regarding Pit Bull dogs.

Mr. Nichols advised yes. The dog has to stay in your yard or it has to be on a leash.

Mr. Funkhouser advised he would provide Mr. Lee with the animal control ordinance.

Mr. Hudson asked if there was any one else that would like to address Town Council. There being none, Mr. Hudson closed the Citizens Address.

III. COUNCIL RESPONSE

None were noted.

IV. AGENDA CHANGES

No changes were made to the agenda.

V. ADOPTION OF CONSENT AGENDA

Mrs. Ball made a motion to adopt the following consent agenda, seconded by Mrs. Nichols. Upon roll call Mrs. Ball, Mr. Gordon, Mr. Healy, Mr. Lawson, Mrs. Nichols and Mr. Shreaves all voted “Aye”.

- 1) Minutes of October 26, 2009 Town Council Meeting and Work Session
- 2) Cash Reports
 - a) General Fund
Cash on hand as of October 31, 2009 - \$5,348,861.97
 - b) Water Fund
Cash on hand as of October 31, 2009 - \$855,355.57

- c) CIP
 - Cash on hand as of October 31, 200 - \$7,167,793.91
 - 3) Monthly Budget Report
 - 4) School Fund Cash Report
 - a) Cash on hand as of October 31, 2009 - \$417,558.99
 - 5) West Point Monthly Police Activity Report
 - 5) Building Official Monthly Report
- Mr. Hudson asked the Town Manager for a report regarding the number of permits issued and inspections conducted during the past two years.
- 6) Public Works Monthly Permit Report
- Mr. Hudson advised he had received several phone calls from the public commending the Public Works Department for their proficient timely response to clean up after the severe storm.
- 7) Zoning Administrator Monthly Report
 - 8) Treasurer Monthly Report
 - 9) Economic Development Coordinator Report

V. COMMITTEE REPORTS

A. Public Safety

1. Park Use Ordinance 10-09 / Request Authorization for a Public Hearing

Mr. Lawson made a motion to authorize the Town Manager to advertise the proposed Chapter 41 Parks and Recreational Properties for a public hearing on January 25, 2010, seconded by Mr. Shreaves. Upon roll call Mrs. Ball, Mr. Gordon, Mr. Healy, Mr. Lawson, Mrs. Nichols and Mr. Shreaves all voted "Aye".

2. Speed Hump Resolution for Ogden Street – *See Attached Resolution*

Mr. Shreaves made a motion to adopt the attached resolution and authorize the Town Manager to work with VDOT to install a traffic calming measure on Ogden Street as soon as practical, seconded by Mrs. Ball. Upon roll call Mrs. Ball, Mr. Gordon, Mr. Healy, Mr. Lawson, Mrs. Nichols and Mr. Shreaves all voted "Aye".

B. Finance Committee – Mrs. Ball reported for the Committee

1. Budget Amendment for FY 09-10 Budget Amendment # 03-09 – *See Attached*

Mrs. Ball made a motion to adopt the attached Budget Amendment for FY 09-10, seconded by Mr. Lawson. Upon roll call Mrs. Ball, Mr. Gordon, Mr. Healy, Mr. Lawson, Mrs. Nichols and Mr. Shreaves all voted "Aye".

C. Education Committee – Mrs. Nichols reported for the Committee

Mrs. Nichols advised that seventy percent of the 2009 high school graduating class earned Advanced Education Diplomas and with all the recent rain, leaks in the new roofs at the schools were at a minimum that were repaired the next day.

D. Public Works – Mr. Gordon reported for the Committee

Mr. Gordon asked the Town Manager to report from the Public Works Committee.

Mr. Funkhouser advised that Jim Pyne provided a report from HRSD on future sewer projects and that after extensive discussion the Public Works Committee approved the purchase of two new pieces of equipment.

Mrs. Ball asked how much the purchase was.

Mr. Gordon advised approximately \$22,200.

Mr. Funkhouser advised it was for a leaf collector and a container.

Mrs. Ball asked if town residents had to continue bagging leaves.

Mr. Funkhouser advised town residents would have to continue bagging leaves.

Mr. Gordon advised the Public Works report stands as stated.

D. Economic and Community Development – Mr. Lawson reported for the Committee

1. Pollard Property Acquisition

Mr. Lawson asked the Town Manager to provide Town Council with information regarding the property acquisition.

Mr. Funkhouser advised the EDA had signed a contract to purchase the property for \$60,000 then exchange the property with Smurfit-Stone for two acres of land on King William Avenue. The property exchange would assist the EDA with the development of the 7th Street Marina. A portion of the cost would be reimbursed from the Kirby Street enhancement grant, the final cost to the Town would be \$37,211. Due to Smurfit-Stones bankruptcy, Smurfit-Stone are unable to exchange property until they merge from bankruptcy and the EDA are not in a position to purchase the property. Mr. Funkhouser suggested Town Council purchase the property.

Mr. Lawson made a motion for Town Council to purchase the real property identified at Tax Parcel 69A3-83-1098 located at 1420 Kirby Street for a price not to exceed \$60,000 and further move Council authorize the Town Manager to execute and deliver all necessary documents associated with the purchase. Seconded by Mr. Gordon, upon roll call Mr. Gordon, Mr. Lawson and Mrs. Nichols voted “Aye”, Mrs. Ball, Mr. Healy and Mr. Shreaves voted “Nay”.

Mrs. Ball asked Mr. Funkhouser to explain the value of the property and land value.

Mr. Funkhouser advised the appraisal is \$60,000, the assessed value is \$91,000, the land value is \$45,000 and the property is zoned Industrial. The grant would also pay for the demolition of the house.

Mr. Lawson advised the previous Economic Development Coordinator agreed to the purchase eighteen months ago prior to Smurfit-Stones bankruptch.

Due to a tied vote, Mr. Hudson voted “Aye”. The motion was approved.

VII. TOWN MANAGER’S ITEMS

Mr. Funkhouser advised there was nothing to report.

VIII. OLD BUSINESS

IX. NEW BUSINESS

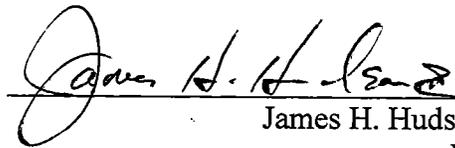
A. Planning Commission Report - Mr. Hudson

Mr. Hudson advised the following were action items of the Planning Commission regularly scheduled monthly meeting on November 2, 2009: 1) Conducted a public hearing. Case # PL09-05, a request for public land by CitySwitch, LLC. Planning Commission voted not to send any recommendation to Town Council. Planning Commission were deadlocked in voting. 2) Recommend approval of Case # 0908-POD-05, West Point Properties, LLC, Plan of Development with supplemental information prepared by Mitchell-Wilson Associates, August 7, 2009 and a revision date of October 19, 2009. Approval included four contingencies as listed in the Director of Community Development office.

X. ADJOURNMENT

Mr. Hudson advised the December Town Council meeting will be on Monday, December 14, 2009 at 6:30 pm.

There being no further business, Mr. Hudson adjourned the meeting at 7:37 pm.


James H. Hudson, III
Mayor

ATTEST:


Karen M. Barrow
Town Clerk



**TOWN OF WEST POINT
CITYSWITCH RESOLUTION**

WHEREAS in accordance with section 50-2 of the West Point Town Code, CitySwitch LLC (“CitySwitch”) has requested that the Town of West Point (the “Town”) vacate/abandon a portion of a North-South Alley located between 11th and 12th Streets, adjacent to the property owned by Norfolk Southern Corporation (the “alley”); and

WHEREAS the West Point Planning Commission conducted a public hearing on November 4, 2009, which was duly advertised, on the proposed vacation of the alley; and

WHEREAS the West Point Planning Commission reported to the West Point Town Council that it was deadlocked and unable to make a recommendation to the West Point Town Council regarding the proposed vacation/abandonment of the alley;

WHEREAS in accordance with state law the West Point Town Council has conducted a public hearing on November 30, 2009, which was duly advertised, on the proposed vacation/abandonment of the alley; and

WHEREAS the alley has not been utilized for any purpose in at least the last fifty years and is completely overgrown; and

WHEREAS the alley is not necessary for any neighboring property owners to be able to access their property; and

WHEREAS the West Point Town Council has no plans to utilize the alley at any point in the future.

NOW THEREFORE BE IT RESOLVED the 30th day of November, 2009, that the West Point Town Council hereby FINDS that the alley is of no functional use to the Town and is not necessary for any type of access and that the alley is hereby VACATED AND ABANDONED, subject to compliance with all of the terms of the Memorandum of Agreement (“MOA”) between the Federal Communications Commission (“FCC”), the Virginia State Historic Preservation Office (“Virginia SHPO”), CitySwitch, LLC (“CitySwitch”) and The Town of West Point, Virginia (the “Town”), a copy of which is attached and hereby incorporated by reference; and

BE IT FURTHER RESOLVED THAT the Mayor and Town Attorney are authorized to approve minor changes to the enclosed MOA and that the Mayor is authorized to execute the MOA on behalf of the Town.

Certified to be a true copy of a resolution adopted by the Town Council of the Town of West Point at its regular monthly meeting held November 30th, 2009 at which meeting a quorum was present and voted through out.

VOTE:

Mrs. Ball	“Aye”
Mr. Gordon	“Aye”
Mrs. Gulley	Absent
Mr. Healy	“Aye”
Mr. Lawson	“Aye”
Mrs. Nichols	“Aye”
Mr. Shreaves	“Aye”

MEMORANDUM OF AGREEMENT

THIS AGREEMENT is made by and between the Federal Communications Commission (“FCC”), the Virginia State Historic Preservation Office (“Virginia SHPO”), CitySwitch, LLC (“CitySwitch”) and The Town of West Point, Virginia (the “Town”).

WHEREAS, CitySwitch is an affiliate of Norfolk Southern Corporation (“NSC”) and CitySwitch has had constructed a 199 foot mono-pole telecommunications tower (the “Tower”) in the Town where 12th Street intersects with an undeveloped alley (a paper right-of-way); and

WHEREAS, the Tower should have been constructed at latitude 37-32-04.15N and longitude 76-48-03.24W on property owned by NSC, but for a surveying error, was constructed at latitude 37-32-04.2N and 76-48-03.1W which is partially on property owned by the Town; and

WHEREAS, the actual geographical location of the tower of 37-32-04.2N and 76-48-03.1W are the same Latitude and Longitudinal coordinates submitted to Virginia SHPO, the FAA and the FCC in the Form 620, denoting the fact that the tower is located at the precise coordinates on which the Section 106 submission was made, albeit on Town property; and

WHEREAS, CitySwitch is a licensee of the FCC and intends to use the Tower in connection with the provision of its license to service which previously has been communicated to the FCC; and

WHEREAS, previously the FCC licensed the Tower at its current location; and

WHEREAS, CitySwitch pursuant to delegation from the FCC initiated consultation with the Virginia SHPO under Section 106 of the National Historic Preservation Act (“NHPA”) as required by the FCC Rules 47 C.F.R. § 1.1307(a)(4); and

WHEREAS, all of the approvals and licensing from the named entities was obtained prior to the construction of the Tower and now as a result of the Tower being constructed slightly east of where it should have been constructed due to the surveying error, CitySwitch is seeking confirmation from the FCC as well as Virginia SHPO that the Tower as placed and per this Agreement, is agreeable with Virginia SHPO and the FCC agrees the license given in effect; and

WHEREAS, the Virginia SHPO has modified its original determination now noting an Adverse Effect, and states that any impact to any historical properties is hereby mitigated with the Tower being left at its current constructed location.

WHEREAS, by leaving the Tower in its current location, it is only located approximately 10 feet from where it was planned to be installed and as a result, both the FCC and Virginia SHPO are of the belief that any adverse impact to the historic area is mitigated, whether the tower is in its as built location or constructed at the originally planned location; and

WHEREAS, the FCC has consulted with the Virginia SHPO and other consulting parties to ensure that historic properties affected by leaving the Tower where it is constructed have been taken into account; and

WHEREAS, CitySwitch considered other locations for the Tower and concluded the existing site where the Tower is constructed better serves the NSC’s needs than other locations.

NOW, THEREFORE, the FCC, Virginia SHPO and CitySwitch agree that the undertaking described below shall be implemented and that these measures shall constitute full, complete and adequate mitigation measures under the NHPA and the implementing regulations of all applicable regulations.

1. **Stipulations.** The parties are in agreement that the Tower shall remain in its current location, provided that the undeveloped alley is conveyed to NSC in accordance with state law. Cellular carriers will be allowed to collocate on the Tower subject to resolving issues of access and security in a manner acceptable to the carriers and NSC. It is also agreed that the Tower is predominately to be used for VHF communications by NSC.

2. **Monetary Contributions.** The parties do acknowledge and agree that by the payment of \$250,000 from CitySwitch to the Town and based upon facts known to both the FCC as well as Virginia SHPO, such payment amounts to full mitigation of any damage suffered by

the Town as a result of the error in placing the Tower approximately 10 feet east of the planned location and any adverse affect on the local historical district. Actual payment of the \$ 250,000 to the Town shall occur at the same time as the alley is transferred to NSC and any and all required zoning permit(s) have been obtained. At the time the alley is transferred to NSC and any and all required zoning permit(s) have been obtained, CitySwitch shall make payment of \$ 250,000 to the Town. NSC shall be responsible, at its sole expense, for preparation of any and all documents, surveys and/or deeds that are necessary to effectuate the transfer of the alley to NSC; NSC shall also be responsible for the recordation of any and all such documents, surveys and/or deeds and any and all costs associated therewith. NSC also acknowledges that, prior to the transfer of the alley, NSC must pay the sum of \$ 6,192.00 for the actual cost of the alley itself.

3. **Continuing Agreement.** The parties to this Agreement do agree that by keeping the Tower at its currently constructed location, the prior approvals made by the FCC and Virginia SHPO remain in full force and effect and applicable to the Tower even though it was constructed a few feet east of where it was planned to be constructed.

4. **Other Requirements.** The parties do agree that no further environmental assessment is required since the movement of the Tower is *de minimis* with respect to the current location as compared to what had been the originally planned location of the Tower. The impact to the area in the view of FCC and Virginia SHPO is the same as if the Tower had been located on the right-of-way of NSC. This Agreement shall be governed by the laws of the Commonwealth of Virginia and, should any dispute arise out of this Agreement, the parties agree that venue shall lie in King William County. Lastly, the parties agree that within sixty days of the date of transfer of the alley to NSC, CitySwitch will paint the tower grey or some other neutral color approved by the Town.

Federal Communications Commission

By: _____

Title: _____

Date: _____

Virginia Department of Historic Resources

By: _____

Title: _____

Date: _____

CitySwitch, LLC

By: _____

Title: _____

Date: _____

The Town of West Point, Virginia

By: _____

Title: _____

Date: _____



***TOWN OF WEST POINT
RESOLUTION***

Whereas, Residents of Ogden Street (T-1007) have expressed concerns regarding drivers repeatedly exceeding the posted 25 MPH limit of that street, and

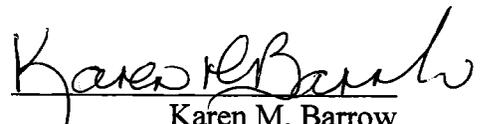
Whereas, radar enforcement and speeding citations have been used but don't represent a consistent solution to speeding on this relatively short street, and

Whereas, the Virginia Department of Transportation (VDOT) can utilize a variety of Traffic Calming measures to address road use concerns such as speeding, and

Whereas, The Town of West Point has received a petition signed by residents of more than 75% of the residential dwellings located along Ogden Street and such petition supports VDOT construction of a Traffic Calming Measure.

NOW, THEREFORE, The Town Council of the Town of West Point requests VDOT to review Ogden Street and install a Traffic Calming Measure as soon as practical with funds for such installation to be withdrawn from existing VDOT funds allocated to the Town of West Point.

Certified to be a true copy of a resolution adopted by the Town Council of the Town of West Point at its regular monthly meeting held November 30th, 2009 at which meeting a quorum was present and voted throughout.


Karen M. Barrow
Town Clerk

I support the Installation of Speed Bumps on Ogden street.

Name	Address	# of adults	# of children	Signature	Date
Bernard Lee	284 Ogden Street	2	6	Bernard Lee	11-6-09
Clarence O. Jackson Jr	288 Ogden St	2	1	Clarence O. Jackson Jr	11-7-09
TIM C BEINS	292 OGDEN ST	2	3	Tim C Beins	11-7-09
Ron Kirkland	286 Ogden St	2	2	Ron Kirkland	11-7-09
BERNICE LUCHARD	312 310 OGDEN	1	1	Bernice Luchard	11-7-09
Lina M. Lawson	210 Ogden Street			Lina M. Lawson	11-7-09
Joe & Kristina Serio	320 Ogden Street	3	2	Joe Serio	11-7-09
Billy Norton	304 Ogden Street	2	1	Billy Norton	11-7-09
Mike Hardy	300 Ogden Street	2	1	Mike Hardy	11-8-09
CLARENCE JACKSON	250 OGDEN ST.	1		Clarence Jackson	11-8-09
Latia Pittman	368 Ogden St	1	2	Latia Pittman	11-8-09
Charlene Pittman	369 Ogden St	1		Charlene Pittman	11-8-09
Irene T. Marley	348 Ogden St	2		Irene T. Marley	11-16-09
Muriel B. Epps	400 Ogden St	2		Muriel B. Epps	11-16-09
HENRY JOHNSON JR	280 OGDEN ST	2		Henry Johnson Jr	11-16-09

BY: 

Signatures Collected by:	Address	# of adults	# of children	Signature	Date
R Lee	284 Ogden Street	2	6	Bernard Lee	11-6-09

