

A continued meeting of the Westmoreland County Board of Supervisors was held Monday, October 28, 2024, in the public meeting room of the George D. English, Sr. Memorial Building, located at 111 Polk Street, Montross, Virginia. Those members present were Darryl E. Fisher, W. W. Hynson, Jeffrey McCormack, Mathew Ingram, and Timothy J. Trivett. Also present were Richard Stuart, County Attorney, Donna Cogswell, Interim County Administrator, and Karen Foxwell, Finance Director.

1. RECONVENE

Chairman Fisher reconvened the meeting from the Regular meeting on Wednesday, October 16, 2024 at 5:35 p.m. and since this meeting was continued, the Invocation and Pledge of Allegiance are still covered from the last meeting.

2. CONSENT AGENDA

a. Approval of/ Amendment to Work Session Agenda

The Chairman stated that all Board members should have received a copy of the agenda and asked if any additions or changes need to be made. If not, the Chairman asked for a motion to approve the agenda as presented.

Mr. McCormack ask to make a motion to add consideration of a Burn Ban Resolution to Action Item 4d.

Mr. Trivett asked to make a motion to add the James Monroe Foundation under Presentations 3c.

Chairman Fisher asked if anything else needed to be added or amended; if not, he asked for a motion to accept the agenda as presented and amended. With no further discussion, upon motion by Mr. McCormack, seconded by Mr. Trivett and carried unanimously, the Board approved the agenda as presented and amended.

3. PRESENTATIONS (Informational/Questions & Answers)

a. DMV Select/ Connect

Donna Cogswell, Interim County Administrator, stated that Mr. McCormack brought to her attention the interest in bringing back either DMV Connect or Select. She had done research and has a date for DMV Connect to come to the County on February 5, 2025, from 10:00 a.m. to 3:00 p.m. in the Board room. She noted that it will be well advertised and basic transactions can be done, but not everything and it will be by online

appointment two weeks before the date. She stated that she is working with her contact at DMV to try and get DMV to come regularly as the County used to in the past. The Chairman stated that the residents would see this as a needed convenience.

b. Work Sessions November 25, 2024 and December 23, 2024.

Donna Cogswell, Interim County Administrator, stated that the Work Session in November is the Monday before Thanksgiving and the Work Session in December is the Monday before Christmas Eve.

Ms. Cogswell asked Mr. Stuart if they could cancel the work sessions and put a notice up that it has been cancelled, if the Board chooses to do so, or if it needs to be rescheduled.

Mr. Stuart stated that the Work Sessions can be canceled as long as they were pre-advertised and be sure to put out a notice that the work sessions are canceled and will still have the regularly scheduled meetings.

The Chairman stated that November and December are typically not heavy action item months and that the Board will still have the regular meeting.

Mr. Hynson noted that it would be a good idea to cancel the two work sessions and handle whatever business is needed at the regular meetings.

Mr. McCormack agreed as well to cancel the work sessions and noted they could always call for a special meeting, if necessary.

With no further discussion, upon motion by Mr. Hynson, seconded by Mr. McCormack and carried unanimously, the Board authorized cancellation of the Work Sessions on November 25, 2024, and December 23, 2024.

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
					1	2
		HOLIDAY				
3	4	5	6	7	8	9
HOLIDAY		REGULAR BOARD MEETING				
10	11	12	13	14	15	16
17	18	19	20	21	22	23
WORK SESSION		CLOSED 12:00	HOLIDAY	CLOSED		
24	25	26	27	28	29	30

# NOVEMBER

## 2024

1 2 3 4 5	1 2 3 4 5 6 7
6 7 8 9 10 11 12	8 9 10 11 12 13 14
13 14 15 16 17 18 19	15 16 17 18 19 20 21
20 21 22 23 24 25 26	22 23 24 25 26 27 28
27 28 29 30 31	29 30 31

OCTOBER 2024

DECEMBER 2024

NOTES:



c. James Monroe Foundation

Dr. Lenard Levin, a volunteer at the James Monroe Birthplace was present to discuss their needs and provide additional information on requesting a shed and utility vehicle. He stated that when he started volunteering he noticed an abundance of brush, poison ivy, poison oak, and debris dumped through the birthplace. He has been working with a wheelbarrow and a rickshaw for the past year walking the half mile trail on a regular basis. He noted that he does not mind working hard and being productive, but it is physically hard and the only solution is the utility vehicle. He has worked countless hours to get the birthplace cleaned up. It used to be a dump site for many things but it looks much better now. He stated that all his work was within full respect for the Chesapeake Bay Foundation, the Environmental Protection Agency, etc. He commended the Land Use Department for their guidance ensuring he did everything correctly and by the book. He has moved many logs to allow the County the ability to mow the grass. He noted that visitors have noticed a big difference and have commented on how good everything looks. The James Monroe Foundation told Dr. Levin that it would be better for him to have a utility vehicle, but Dr. Levin wanted to have a place to store the utility vehicle at the Birthplace, so he called Michael Campbell, who sold sheds, and found a wood structure. The same color as the house and will go with the décor. It will be tucked away on the side, out of sight for the visitors. Dr. Levin then showed pictures of where the shed would go and what it would look like. He noted that he plans to use a solar panel to charge the utility vehicle.

Bucky Doerr, a volunteer at the James Monroe Birthplace was present and thanked Mr. Trivett for getting them on the agenda. She noted that they all carried bags of mulch, gravel, tools, etc., to work sites, all of which are currently stored at the visitor's center. She stated that they were able to purchase a used golf cart for a very reasonable price and they obtained permission of the James Monroe Foundation prior to purchasing. The golf cart is currently stored at Ms. Doerr's house. The purpose of the shed is to store the golf cart and other supplies needed. Ms. Doerr noted that the park looks better than it ever has and various magazines have come out to take pictures of the grounds. They have put a lot of their own money into these projects and she hopes that the Board would consider approving the shed and the utility vehicle. She noted if the utility vehicle is a problem they are willing to look at other options.

Mr. Hynson stated that he is worried about the image created on the grounds by what is driven on the grounds. The roof that they are suggesting does not go with colonial times. Mr. Hynson stated that they need to determine the maintenance time. He would like to take the time to go to Stratford Hall and Wakefield and get their ideas. He is willing to look at everything with them but is not sure now he could approve this.

Ms. Doer asked if it would be okay for a motorized scooter to be driven on the grounds for handicapped people.

Mr. Ingram and the Chairman both stated that they are not sure if they can do anything to restrict the handicapped under ADA regulations.

Richard Stuart stated that the County leases the property to the James Monroe Foundation and Mr. Stuart asked if Ms. Doer and Dr. Levin have spoken to the James Monroe Foundation about this.

Dr. Levin stated the James Monroe Foundation has already given the authorization for both, as well as paid for the golf cart and shed.

The Chairman asked Dr. Levin if all that was needed was permission from the Board to put the structure on the property.

Dr. Levin stated yes, both are paid for and the County does not need to approve any funds because both have been paid for by the Foundation.

Chairman Fisher stated that from listening to Mr. Hynson he knows there is an issue with the shed's appearance and the type of vehicle that will be used. He noted that maybe a tractor or a gator would be more useful to get the work done.

Mr. McCormack thanked Ms. Doer and Dr. Levin for their time and effort. He feels that the Board should consider approving this.

Mr. Trivett asked Ms. McDowell if a permit had already been issued for the structure and if there were any issues with the permit not being issued.

Ms. McDowell stated that issuing a permit for the structure is no issue and she is just waiting for Board approval.

Mr. Trivett also thanked Dr. Levin and Ms. Doerr for their time and effort. He stated that he had been there and had noticed all of Dr. Levin's outstanding work. Mr. Trivett feels that a utility vehicle will help Dr. Levin do his job more efficiently and thinks the Board should approve putting the shed on the property.

Dr. Levin stated that he wears a proper uniform on visiting days, and the maintenance work will be done Monday through Friday when the birthplace is closed and not when the birthplace is open to the public for tours.

Mr. Ingram thanked Dr. Levin and Ms. Doerr for their help in making the birthplace beautiful and not an eye sore like it has been for many years. He thanked the James Monroe Foundation and all the volunteers for their hard work and dedication. He feels that the Board should approve the utility vehicle and shed so they can do their work more efficiently. Chairman Fisher stated that from what was said it seems like it makes sense to approve and the representatives have made a good argument on the need. Since it rests in the fourth district he asked Mr. Hynson his final thoughts on how to proceed.

Mr. Levin stated that the golf cart is the most cost-effective at \$5,000, and a gator will cost closer to \$12,000 - \$15,000.

Mr. Stuart asked if there is something in the lease the Board needs that permission for or if the James Monroe Foundation requires it. Ms. McDowell stated that the lease says they need the Board's permission.

Mr. Hynson stated that they have done such good work and the Board appreciates it very much. He asked if they have spoken to Wakefield and Stratford Hall about how they deal with motorized vehicles on the grounds. If not, he would like to talk with Wakefield and Stratford Hall about how they handle maintenance before anything is decided. He noted that this matter should come before the Board again at the Board meeting next month and they will can vote at that time.

Mr. Trivett stated that he understands Mr. Hynson's hesitation on the golf cart but can they take action on the shed tonight and wait for the utility vehicle until next month's meeting?

Mr. Hynson stated they will not need a shed if they do not have a vehicle to put in the shed.

Mr. Trivett stated that Dr. Levin said he needed a shed to store all the other equipment and supplies needed to do the work.

Chairman Fisher asked Mr. Hynson if he would agree to the Board voting tonight on the shed and wait until next month to further discuss the golf cart.

Mr. Hynson stated that he understands the need for the shed. He will make the motion tonight for the Board to consider putting the shed on the property. He asked Mr. Levin to try to make it fit in with the décor as much as possible.

Mr. McCormack asked if the golf cart had already been in use on the grounds.

Dr. Levin stated that the golf cart has not been used and is being stored at Ms. Doerr's house for the time being.

With no further discussion, upon motion by Mr. Hynson, second by Mr. Trivett, and carried unanimously, the Board approved the request for the storage building/shed to be placed on the property at the James Monroe Birthplace with the above stipulations and to continue discussion regarding the golf cart at the next meeting.

The Chairman apologized for the oversight from the beginning and the County is indebted to them and all volunteers for the continued hard work and dedication they have put into conserving Westmoreland County's history. He noted that he was at the Birthplace recently and noticed all of the hard work being done and that it looks the best it has ever looked.

Mr. Ingram stated that when the utility vehicle is decided he will volunteer his students at the Northern Neck Tech Center to weld a trailer hitch on the back for a small trailer.

#### 4. ACTION ITEMS

- a. Verizon Fourth Amendment to Option and Lease Agreements (Montross & Nashtown) Towers (Richard Stuart)

Richard Stuart, County Attorney, was present to discuss the lease agreements for the Montross and Nashtown towers.

Mr. Stuart stated that what is before the Board is two addendums for the Montross and Nashtown towers and Verizon is requesting four more five-year terms to begin on January 1, 2025. They are agreeable to paying a 115% increase starting January 1, 2025,



and paying that increase at the beginning of each year during a four-year term. He noted that this matter has come before the Board previously and Verizon tried to decrease it but the Board rejected it. Presented today is what both parties have agreed to and a public hearing for both towers has already been done.

With no further discussion, upon motion by Mr. McCormack, seconded by Mr. Ingram and carried unanimously with Mr. Trivett, Mr. Ingram, Mr. Hynson, Mr. McCormack, and the Chairman voting "aye", the Board approved the Verizon Fourth Amendment to Option and Lease Agreements for the Montross and Nashtown Towers, as presented.

**\*\*LEASE AGREEMENTS FOR THE NASHTOWN AND MONTROSS  
TOWERS ON NEXT PAGE\*\***

LESSEE SITE NAME: Montross  
LESSEE MDG LOCATION: 5000116973

**FOURTH AMENDMENT TO  
OPTION AND LEASE AGREEMENT**

This Fourth Amendment to Option and Lease Agreement ("Fourth Amendment"), being made \_\_\_\_\_, between WESTMORELAND COUNTY, VIRGINIA, with principal offices located at 111 Polk Street, Montross, Virginia 22520 (hereinafter called the "LESSOR") and CELLCO PARTNERSHIP d/b/a Verizon Wireless, a Delaware general partnership with principal offices at One Verizon Way, Mail Stop 4AW100, Basking Ridge, New Jersey 07920 (hereinafter called "LESSEE").

**RECITALS**

WHEREAS, LESSOR and LESSEE's predecessor in interest, Washington DC SMSA Limited Partnership, entered into an Option and Lease Agreement dated October 9, 2002 (the "Lease") for property located at 111 Polk Street, Montross, Virginia, as amended by that certain First Amendment to Option and Lease Agreement dated August 11, 2018 (the "First Amendment"), as amended by that certain Second Amendment to Option and Lease Agreement dated August 17, 2012 (the "Second Amendment"), and as amended by that certain Third Amendment to Option and Lease Agreement dated September 10, 2018 (the "Third Amendment") (the Lease and all prior Amendments are collectively referred to as the "Agreement"); and

WHEREAS, LESSEE herein is the successor in interest to Washington DC SMSA Limited Partnership; and

WHEREAS, the third five (5) year extension term provided in the Lease is scheduled to expire December 31, 2024; and

WHEREAS, the Parties desire to further amend the Agreement to provide for additional five (5) year extension terms.

NOW THEREFORE, in consideration of the premises and intending to be legally bound hereby, the Parties hereto agree to the following changes and modifications to the Agreement.

1. **Recitals and Definitions.** The foregoing Recitals are true and correct and are incorporated herein by reference. The use of initially capitalized terms in this Fourth Amendment shall have the same meaning ascribed to them in the Agreement unless otherwise defined herein.

2. **Term Extension Options.** In addition to the three five (5) year extension terms provided in Paragraph 4 of the Lease, LESSOR hereby grants to LESSEE four (4) additional five (5) year extension terms commencing January 1, 2025, each extension term shall automatically be extended unless LESSEE terminates the Agreement at the end of the then current term by giving LESSOR written notice of intent to terminate at least six (6) months prior to the end of the then current term.

3. **Rent.** During the additional extension terms, annual rental shall continue to be paid in equal monthly installments on the first day of the month, in advance. The annual rental for the 5 year term commencing January 1, 2025 shall be increased to \$39,667.47; the annual rental for the 5 year term commencing January 1, 2030 shall be increased to 45,617.59; the annual rental for the 5 year term commencing January 1, 2035 shall be increased to \$52,460.23 and, the annual rental for the 5 year term commencing January 1, 2040 shall be increased to \$60,329.26.

LESSEE SITE NAME: Montross  
LESSEE MDG LOCATION: 5000116973

4. **Notices.** LESSEE's notices addresses, in Paragraph 24 of the Lease, are hereby updated as follows:

"LESSEE:           Cellco Partnership d/b/a Verizon Wireless  
                          180 Washington Valley Road  
                          Bedminster, New Jersey 07921  
                          Attn: Network Real Estate

                          With a copy to:           Basking Ridge Mail Hub  
  Attn: Legal Intake  
  One Verizon Way  
  Basking Ridge, NJ 07920"

5. **No Other Amendments.** Except as modified herein, all other terms and conditions of the Agreement will remain in full force and effect.

6. **Representation.** The Parties hereto represent that they have the corporate or partnership power to execute the Fourth Amendment and that the execution of this Fourth Amendment (a) has been duly authorized by the proper corporate or partnership action, (b) has been executed by a duly authorized officer or partner, and (c) constitutes a valid and binding obligation of the Parties hereto.

7. **E-Signature.** This Fourth Amendment may be executed by facsimile signature or any other form of electronic transmission of signature using generally recognized e-signature technology (e.g., DocuSign or Adobe Sign), and a facsimile or any other form of electronically transferred signature shall constitute an original for all purposes.

(SIGNATURES TO FOLLOW)

LESSEE SITE NAME: Montross  
LESSEE MDG LOCATION: 5000116973

IN WITNESS WHEREOF, the Parties hereto have set their hands and affixed their respective seals the day and year first above written.

**LESSOR: WESTMORELAND COUNTY, VIRGINIA**

\_\_\_\_\_  
WITNESS

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**LESSEE: CELLCO PARTNERSHIP  
d/b/a Verizon Wireless**

\_\_\_\_\_  
WITNESS

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
County Attorney

LESSEE SITE NAME: Nashtown  
LESSEE MDG LOCATION: 5000115019

**FOURTH AMENDMENT TO  
OPTION AND LEASE AGREEMENT**

This Fourth Amendment to Option and Lease Agreement ("Fourth Amendment"), being made \_\_\_\_\_, between **THE WESTMORELAND COUNTY SCHOOL BOARD**, with its principal offices located at 141 Opal Lane, Montross, Virginia 22520 (the "School Board"), **WESTMORELAND COUNTY, VIRGINIA**, with principal offices located at 111 Polk Street, Montross, Virginia 22520 (hereinafter called the "County") (the School Board and the County hereinafter collectively referred to as "LESSOR") and **CELLCO PARTNERSHIP d/b/a Verizon Wireless**, a Delaware general partnership with principal offices at One Verizon Way, Mail Stop 4AW100, Basking Ridge, New Jersey 07920 (hereinafter called "LESSEE").

**RECITALS**

WHEREAS, LESSOR and LESSEE's predecessor in interest, Washington DC SMSA Limited Partnership, entered into an Option and Lease Agreement dated October 9, 2002 (the "Lease") for ground space and tower space at that certain property known as Washington District Elementary Schol, Route 1301 and Route 3, Oak Grove, Virginia, as amended by that certain First Amendment to Option and Lease Agreement dated August 25, 2018 (the "First Amendment"); and

WHEREAS, LESSOR and LESSEE herein, entered into that certain Second Amendment to Option and Lease Agreement dated August 17, 2012 (the "Second Amendment"), as amended by that certain Third Amendment to Option and Lease Agreement dated February 22, 2017 (the "Third Amendment") (the Lease and all prior Amendments are collectively referred to as the "Agreement"); and

WHEREAS, LESSEE herein is the successor in interest to Washington DC SMSA Limited Partnership; and

WHEREAS, the third five (5) year extension term provided in the Lease is scheduled to expire December 31, 2024; and

WHEREAS, the Parties desire to further amend the Agreement to provide for additional five (5) year extension terms.

NOW THEREFORE, in consideration of the premises and intending to be legally bound hereby, the Parties hereto agree to the following changes and modifications to the Agreement.

1. **Recitals and Definitions.** The foregoing Recitals are true and correct and are incorporated herein by reference. The use of initially capitalized terms in this Fourth Amendment shall have the same meaning ascribed to them in the Agreement unless otherwise defined herein.

2. **Term Extension Options.** In addition to the three five (5) year extension terms provided in Paragraph 4 of the Lease, LESSOR hereby grants to LESSEE four (4) additional five (5) year extension terms commencing January 1, 2025, each extension term shall automatically be extended unless LESSEE terminates the Agreement at the end of the then current term by giving LESSOR written notice of intent to terminate at least six (6) months prior to the end of the then current term.

3. **Rent.** During the additional extension terms, annual rental shall continue to be paid in equal

LESSEE SITE NAME: Nashtown  
LESSEE MDG LOCATION: 5000115019

monthly installments on the first day of the month, in advance. The annual rental for the 5 year term commencing January 1, 2025 shall be increased to \$39,667.47; the annual rental for the 5 year term commencing January 1, 2030 shall be increased to 45,617.59; the annual rental for the 5 year term commencing January 1, 2035 shall be increased to \$52,460.23 and, the annual rental for the 5 year term commencing January 1, 2040 shall be increased to \$60,329.26.

4. **Notices.** LESSEE's notices addresses, in Paragraph 24 of the Lease, are hereby updated as follows:

"LESSEE: Celco Partnership d/b/a Verizon Wireless  
180 Washington Valley Road  
Bedminster, New Jersey 07921  
Attn: Network Real Estate

With a copy to: Basking Ridge Mail Hub  
Attn: Legal Intake  
One Verizon Way  
Basking Ridge, NJ 07920"

5. **No Other Amendments.** Except as modified herein, all other terms and conditions of the Agreement will remain in full force and effect.

6. **Representation.** The Parties hereto represent that they have the corporate or partnership power to execute the Fourth Amendment and that the execution of this Fourth Amendment (a) has been duly authorized by the proper corporate or partnership action, (b) has been executed by a duly authorized officer or partner, and (c) constitutes a valid and binding obligation of the Parties hereto.

7. **E-Signature.** This Fourth Amendment may be executed by facsimile signature or any other form of electronic transmission of signature using generally recognized e-signature technology (e.g., DocuSign or Adobe Sign), and a facsimile or any other form of electronically transferred signature shall constitute an original for all purposes.

(SIGNATURES TO FOLLOW)

LESSEE SITE NAME: Nashtown  
LESSEE MDG LOCATION: 5000115019

IN WITNESS WHEREOF, the Parties hereto have set their hands and affixed their respective seals the day and year first above written.

**LESSOR: COUNTY SCHOOL BOARD OF WESTMORELAND  
COUNTY, VIRGINIA**

\_\_\_\_\_  
WITNESS

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**LESSOR: WESTMORELAND COUNTY, VIRGINIA**

\_\_\_\_\_  
WITNESS

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
County Attorney

**LESSEE: CELLCO PARTNERSHIP  
d/b/a Verizon Wireless**

\_\_\_\_\_  
WITNESS

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

b. Breezeline Franchise Agreement

Mr. Stuart stated that what is before the Board is a renewal for the Breezeline Franchise Agreement. Mr. Stuart has looked at the agreement, does not see any issues and can answer any questions by the Board.

Chairman Fisher stated that the Interim County Administrator and the County Attorney have had time to look this over. They do not seem to have any issues and they recommend approving the agreement, as presented.

Upon motion by Mr. Ingram, seconded by Mr. Hynson and carried unanimously with Mr. Trivett, Mr. Ingram, Mr. Hynson, Mr. McCormack, and the Chairman voting "aye", the Board approved the renewal of the Breezeline Franchise Agreement, as presented.

**\*\* BREEZELINE FRANCHISE AGREEMENT ON NEXT PAGE\*\***





**Cogeco US (Delmar), LLC**  
**d/b/a Breezeline**

**Cable Franchise Renewal Agreement**

**with the**

**County of Westmoreland**

**(VA0442 & VA0454)**

## **CABLE FRANCHISE**

A FRANCHISE AGREEMENT GRANTING A NON-EXCLUSIVE FRANCHISE TO COGECO US (DELMAR), LLC, d/b/a BREEZELINE AND ITS SUCCESSORS AND ASSIGNS (FRANCHISEE) AND THE COUNTY OF WESTMORELAND (ISSUING AUTHORITY) TO OPERATE AND MAINTAIN A COMMUNITY ANTENNA TELEVISION SYSTEM; SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF FRANCHISE; PROVIDING FOR THE ISSUING AUTHORITY REGULATION OF THE COMMUNITY ANTENNA TELEVISION SYSTEM; AND PRESCRIBING PENALTIES FOR THE VIOLATION OF ITS PROVISIONS.

The County, having determined that the financial, legal and technical ability of the Franchisee is reasonably sufficient to provide the services, facilities and equipment necessary to meet the future cable-related needs of the community, desires to enter into this Franchise Agreement with the Franchisee for the construction, operation and maintenance of a Cable System on the terms and conditions set forth herein.

### **SECTION 1. SHORT TITLE.**

This Franchise Agreement shall be known and may be cited as the "Community Antenna Television Franchise Agreement."

### **SECTION 2. DEFINITIONS.**

For the purpose of the Franchise Agreement, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- 2-1 "Basic Service" is lowest level service tier, which includes the retransmission of local television broadcast signals.
- 2-2 "Communications Act" is the Communications Act of 1934, as amended, 47 U.S.C. §521 *et seq.*
- 2-3 "Community Antenna Television System," hereinafter referred to as "CATV System" or "System," means a system of coaxial cables or other electrical conductors and equipment used or to be used primarily to receive television or radio signals directly or indirectly off-the-air and transmit them to subscribers for a fee.
- 2-4 "Council" is the Issuing Authority Council of Westmoreland County, Virginia.
- 2-5 "FCC" is the Federal Communications Commission.
- 2-6 "Franchise" is an authorization granted by the Council pursuant to this Franchise Agreement, which permits the construction, operation, and maintenance of a CATV System within the territorial area involved.
- 2-7 "Franchisee" is Cogeco US (Delmar), LLC, d/b/a Breezeline or any person or entity who succeeds Breezeline as Franchisee hereunder in accordance with the provisions of this Franchise.

- 2-8 "Issuing Authority" is the County of Westmoreland, Virginia
- 2-9 "Persons" is any person, firm, partnership, association, corporation, company or organization of any kind.
- 2-10 "Subscriber" is any person lawfully receiving any service provided by or carried on the CATV System.

### **SECTION 3. GRANT OF AUTHORITY.**

There is hereby granted by the Issuing Authority to Franchisee; the right and privilege to construct, erect, operate and maintain in, upon, along, across, above, over and under the streets, alleys, public ways, and public places now laid out or dedicated, and all extensions, thereof, and additions thereto in the Issuing Authority, on poles, wires, cable, underground conduits, manholes, and other television conductors, and fixtures, and to use poles, wires, cables and other facilities of persons, providing consent is obtained from such persons, necessary for the maintenance and operation in the Issuing Authority of a community television system for the interception, sale and distribution of television and radio signals.

- 3-1 Non-exclusive Grant. The Issuing Authority hereby grants to Franchisee under the Code of Virginia and the Cable Act a nonexclusive Franchise authorizing the Franchisee The right to use and occupy said streets, alleys, public ways and places, or the facilities of other places for the purposes herein set forth shall not be exclusive, and the Issuing Authority reserves the right to grant a similar use of said streets, alleys, public ways and places, to any person at any time during the period of the Franchise. Any additional franchises granted by the Issuing Authority shall contain the same substantive terms and conditions as this Franchise and shall be competitively neutral and nondiscriminatory as compared to this or any other franchise granted by the Issuing Authority for the operation of a CATV System or other wireline multichannel video distribution system. Franchisee may use the CATV System to deliver services other than cable television services as permitted by applicable law.

State Franchise. If the Commonwealth of Virginia adopts a state issued cable franchise, Franchisee may replace this Franchise with a state franchise as provided under the authorized statute.

### **SECTION 4. COMPANY LIABILITY – INDEMNIFICATION AND INSURANCE.**

- 4-1 It is expressly understood and agreed by and between Franchisee and the Issuing Authority that Franchisee shall, and does by its acceptance of this Franchise, specifically agree to save the Issuing Authority harmless from all loss sustained by the Issuing Authority on account of any suit, judgment, execution, claim or demand whatsoever resulting from Franchisee's performance of its obligations under this Franchise unless such loss arises from the negligence or intentional misconduct of the Issuing Authority, its officers, agents or employees. The above shall include, but shall not be limited to, damages arising out of copyright infringement and all other damages arising out of the installation, operation or maintenance of the CATV System authorized herein, whether or not any act or omission complained of is authorized, allowed, or prohibited by this Franchise.
- 4-2 Nothing in this ordinance or in a franchise is intended to, or shall be construed or applied to, express or imply a waiver by the County of statutory provisions, privileges or immunities of any kind or nature as set forth in the Code of Virginia, including the limits

of liability of the County as exists presently or as may be increased from time to time by the legislature. Further, nothing shall constitute a waiver of the County's statutory provisions, privileges or immunities, including the County's sovereign immunity, of any kind or nature.

4-3 Franchisee, by its acceptance of this Franchise, specifically agrees that it shall maintain throughout the term of this Franchise, liability insurance, insuring the Issuing Authority and Franchisee against all claims or damages in the minimum amounts of at least:

- (1) \$1,000,000 for bodily injury or death to any one person, and \$3,000,000 for bodily injury or death resulting from any one accident.
- (2) \$3,000,000 for property damages resulting from any one accident.
- (3) Each of the foregoing insurance policies shall contain a statement that the insurer will not cancel the policy or fail to renew the policy for any reason without first giving notice in accordance with the terms of the policy. In addition, in the event that the insurer does not provide such notice directly to the Issuing Authority, Franchisee agrees to provide the Issuing Authority with as much advance written notice as is reasonably practicable in the event that any such insurer provides Franchisee with notice that it intends to cancel the policy or fail to renew the policy for any reason.
- (4) Workers Compensation Insurance as required by the Commonwealth of Virginia;

#### **SECTION 5. COMPLIANCE WITH APPLICABLE LAWS AND FRANCHISE AGREEMENTS.**

Franchisee shall, at all times during the life of this Franchise, be subject to all lawful exercises of the police power by the Issuing Authority and to such regulation, as the Issuing Authority, State or Federal Government shall hereafter provide.

- 5-1 Any lawful regulations established by the FCC pursuant to the Communications Act, as the same may be amended, shall be incorporated into this Franchise Agreement. Such regulations shall become incorporated on the date they become obligatory under federal law, or, in the event, no obligatory date is established, within one (1) year of adoption by the FCC.
- 5.2 In accordance with Section 622(b) of the Cable Act (47 U.S.C. § 542(b)), Franchisee shall not be liable for a total annual financial commitment pursuant to this Franchise and Applicable Law in excess of five percent (5%) of gross CATV System revenues in the Issuing Authority for such year.

#### **SECTION 6. TERRITORIAL AREA INVOLVED.**

This Franchise relates to the present unincorporated areas of the Issuing Authority and to any area henceforth added thereto during the term of this Franchise, however, in accordance with the terms and conditions set forth below:

- 6-1 Franchisee shall make cable service available in accordance with the terms of this Franchise to all residences, businesses and other public or privately owned buildings within the Issuing Authority that are within or contiguous to the CATV System as it exists on the date hereof, including multiple dwelling unit buildings, whose owners or occupants request cable service, except for multiple dwelling unit buildings and other locations to which Franchisee cannot legally obtain access; provided, however, that Franchisee may refuse to provide cable service when (i) it is not economically feasible to do so, (ii) when it is unable pursuant to normal industry practice to obtain necessary programming, real property or other access rights, (iii) when its prior service, payment, or theft of service history with a Person has been unfavorable, or (iv) pursuant to a written waiver by the Council or its designee. As used herein, "economically feasible" shall mean that there are at least thirty (30) unserviceable occupied homes per mile of cable television distribution plant and that the area is within or contiguous to the CATV System as it exists on the date hereof. The distance to be included in determining the thirty (30) unserviceable occupied homes per mile shall be based upon a measurement from the outermost extremity of the CATV System as it exists on the date hereof through and measured along the utility easement now laid out or dedicated to the location requesting service. Notwithstanding anything to the contrary contained in this Section 6-1, Franchisee is not obligated to extend service to residences beyond 300 aerial feet or 150 underground feet from the CATV System. Isolated residences requiring more than a standard 300 foot aerial drop or 150 foot underground line may be provided at a premium installation rate if such service has been requested by the resident. Franchisee may request advanced payment for such installation.

**SECTION 7. CUSTOMER SERVICE STANDARDS: BILLING.**

- 7-1 Franchisee shall have a publicly listed toll-free telephone number and be operated so as to receive Subscriber complaints and requests during normal business hours. Franchisee shall investigate and promptly resolve customer complaints regarding quality of service or service outages.
- 7-2 Customer Service Standards
- A. The Franchisee shall comply in all respects with the customer service requirements established by the FCC. Franchisee shall be subject to the following customer service standards consistent with 47 U.S.C. §§ 76.309, 1602, 1603, 1618 and 1619:
1. Franchisee will maintain a local, toll-free, or collect telephone access line, which will be available to its subscribers 24 hours a day, seven days a week.
    - a. Trained representatives will be available to respond to customer telephone inquiries during normal business hours.
    - b. After normal business hours, the access line may be answered by a service or automated response system, including an answering machine. Inquiries received after normal business hours must be responded to by a trained representative on the next business day.
  2. Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. Measurement of this standard shall include calls received by the Franchisee at all call centers

receiving calls from Subscribers, whether they are answered by a live representative, by an automated attendant, or abandoned after 30 seconds of call waiting. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety (90) percent of the time under normal operating conditions as measured on a quarterly basis.

3. Under normal operating conditions, the customer will receive a busy signal less than three (3) percent of the time, during any calendar quarter, as measured on a quarterly basis.

4. Installations, Outages, and Service Calls. Under Normal operating conditions, each of the following four standards will be met no less than 95 percent of the time as measured on a quarterly basis.

a. Standard installations will be performed within seven business days after an order has been placed. "Standard" Installations are those that are within 125 feet of the existing distribution system.

b. Excluding conditions beyond the control of Franchisee, the Franchisee will begin working on service interruptions promptly and in no event later than twenty-four (24) hours after the interruption becomes known. Franchisee must begin actions to correct other service problems the next business day after notification of the service problem.

c. The "appointment window" alternatives for installations, service calls and other installation activities will either be at a specific time or, at maximum, a four-hour time block during normal business hours. Franchisee may schedule service calls and other installation activities outside of normal business hours at its discretion if agreeable to the customer.

d. Franchisee may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment. If a Franchisee representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, an attempt to contact the customer will be made prior to the end time of the appointment window and the appointment scheduled at a time convenient to the customer, if rescheduling is necessary.

5. Communications between Franchisee and subscribers.

Notification to subscribers. Franchisee shall provide written information on each of the following areas at the time of installation of service, at least annually to all subscribers, and at any time upon request:

- i. Products and services offered.
- ii. Prices and options for programming services and conditions of subscription to programming and other services.
- iii. Installation and service maintenance policies.
- iv. Channel positions of programming carried on the system.

- v. The availability of parental control devices; and
- vi Refund policy: and,
- vii. Billing and complaint procedures, including the office hours, address and telephone number of the office to which complaints may be reported.

B. Franchisee will provide reasonable notice in writing to customers of any changes in rates, programming services or channel positions. Notice must be given to subscribers a minimum of thirty (30) days in advance of such changes if the change is within the control of the cable operator. In addition, Franchisee shall notify subscribers thirty (30) days in advance of any significant changes in the other information required by this Section 7, if within the control of the Franchisee.

Notwithstanding any other provision of Part 76 of the FCC Cable Television Regulations, Franchisee shall not be required to provide prior notice of any rate change that is the result of a regulatory fee, franchise fee, or any other fee, tax, assessment, or charge of any kind imposed by any Federal agency, state, or franchising authority on the transaction between a cable operator and the subscriber.

C. Billing.

1. Subscriber bills must be itemized to describe Cable Services purchased by Subscribers and related equipment charges. Bills shall clearly delineate activity during the billing period, including optional charges, rebates, credits, and aggregate late charges. Franchisee shall, without limitation as to additional line items, be allowed to itemize as separate line items, Franchise fees, Franchise related costs, taxes and/or other governmentally imposed fees. The Franchisee shall maintain records of the date and place of mailing of bills.

2. In case of a billing dispute, under Normal Operating Conditions, the Franchisee shall initiate investigation and resolution of all billing complaints received from Subscribers within (30) days of receipt of the complaint. Final resolution shall not be unreasonably delayed.

3. Refund checks will be issued promptly, but not later than either:

- a. The customer's next billing cycle following resolution of the request, or thirty (30) days, whichever is earlier, or
- b. The return of the current and compatible equipment supplied by a cable operator if service is terminated.

4. Credits for service will be issued no later than the customer's next billing cycle following the determination that a credit is warranted, and the credit is approved and processed. Such approval and processing shall not be unreasonable delayed.

5. Franchisee shall maintain and provide to the locality a log of all subscriber complaints for the prior 24 months, which require a work order, and/or service call, originating from the municipality indicating the action taken by the cable operator subject to Franchisee's right to exclude any personally identifiable subscriber information.

**SECTION 8. RULES AND REGULATIONS GOVERNING OPERATION.**

Franchisee shall render its service in accordance with all applicable laws governing the operation of its system.

**SECTION 9. COMPLIANCE WITH THE COMMUNICATIONS ACT AND THE RULES AND REGULATIONS OF FEDERAL COMMUNICATIONS COMMISSION.**

Franchisee and the Issuing Authority shall, at all times, comply in all material respects with the provisions of the Communications Act, 47 U.S.C. §521 *et seq.*, and the Rules and Regulations promulgated by the FCC, as the same may be amended from time to time, with respect to the operation of the System. This obligation shall include adherence in all material aspects by Franchisee to the Rules and Regulations of the FCC with respect to technical and engineering specifications involved in the construction of CATV systems and signal carriage therein and adherence in all material respects by the Issuing Authority with the obligations applicable to a "Issuing Authority" under, 47 U.S.C. §521 *et seq.*

**SECTION 10. SERVICE TO LOCAL GOVERNMENT, FIRE DEPARTMENT, RESCUE SQUADS.**

Upon request from the Issuing Authority, Franchisee shall install at no cost one (1) standard cable television service drop connecting one (1) television outlet for the reception of Basic Service and the next most widely distributed service tier in each of the Issuing Authority's municipal buildings, police and fire department main building and rescue squad main building located within one hundred twenty-five (125) feet of the Franchisee's aerial distribution system set outlined in Exhibit (1). Such service to such outlets shall be provided at no cost. Connections to additional television outlets within such buildings set forth on Exhibit (1) will be billed in accordance with Franchisee's published installation charges or if custom work is required, at time and materials. If the Issuing Authority requests that a particular municipal facility receive either a cable drop which exceeds 125 feet in length and/or an underground installation, Franchisee may charge the Issuing Authority the actual difference between Franchisee's cost of installing a 125-foot above-ground drop and Franchisee's actual cost of installing the drop as requested by the Issuing Authority.

**SECTION 11. CHANGES TO RATES OR SERVICES.**

Franchisee shall provide Subscribers and the Issuing Authority with notice of changes to its cable services or rates in accordance with FCC rules and regulations and pursuant to the applicable terms of this Agreement.

**SECTION 12. EMERGENCY USE OF FACILITIES.**

Franchisee shall comply with all applicable FCC rules regarding the Emergency Alert System ("EAS"). In accordance with Federal or State regulations, such persons authorized by the Council or Issuing Authority Administrator shall have the ability to activate the EAS in the event of any emergency or disaster.

Franchisee shall maintain the EAS, so long as required by the FCC, and shall periodically upgrade the EAS at the Franchisee's sole expense to ensure that the EAS technology remains consistent and compatible with prevailing technology and applicable law.

**SECTION 13. OTHER BUSINESS ACTIVITIES.**

This Franchise authorizes only the operation of a CATV System as provided for herein, and does not take the place of any other franchise, license, or permit, which might be required by law of Franchisee.



#### **SECTION 14. PROMULGATION OF RULES.**

Franchisee shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable the proper operation of the CATV System, and to assure an uninterrupted service to each and all of its Subscribers; provided, however, that such rules, regulations, terms and conditions shall not violate provisions hereof or the laws of the Issuing Authority (County of Bowling Green), Westmoreland County, the Commonwealth of Virginia, or the United States.

#### **SECTION 15. SAFETY REQUIREMENTS.**

- 15-1 Franchisee shall at all times employ ordinary care and shall install and maintain commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisance to the public.
- 15-2 Franchisee shall install and maintain its wires, cables, fixtures, and other equipment in accordance with the requirements of the National Electric Code and the National Electrical Safety Code, and in such manner that they will not interfere with any installation of the Issuing Authority or of a public utility serving in the Issuing Authority.
- 15-3 All structures, and all lines, equipment and connections in, over, under and upon streets, sidewalks, alleys, and public ways and places of the Issuing Authority, where ever situated or located, shall at all times be kept and maintained in a safe, suitable, substantial condition, and in good order and repair.

#### **SECTION 16. CONDITIONS OF STREET OCCUPANCY.**

- 16-1 Use. All transmission and distribution structures, lines and equipment erected by Franchisee or used on other poles or facilities within the Issuing Authority shall be so located as to cause minimum interference with the proper use of streets, alleys and other public ways and places and to cause minimum interference with the rights or reasonable convenience of property owners who adjoin any of the said streets, alleys, or other public ways and places.
- 16-2 Restoration. In case of any disturbance of pavement, sidewalk, driveway or other surfacing, Franchisee shall, at its own cost and expense and in a manner approved by the Issuing Authority County Manager or her duly appointed agent, replace and restore all paving, sidewalk, driveway or surface of any street or alley disturbed in as good conditions as before said work was commenced. If such repairs are not promptly made by Franchisee in the time and manner prescribed by the Issuing Authority County Manager or her agent, the Issuing Authority shall make such repairs as it deems necessary and charge the same to Franchisee.
- 16-3 Relocation. In the event that at any time during the period of this Franchise the Issuing Authority shall lawfully elect to alter, or change the grade of any street, alley or other public way, or to alter, change, or install public utilities, Franchisee, upon thirty (30) days advance notice by the Issuing Authority, shall remove, replace and relocate its poles, wires, cables, and underground conduits, manholes and other fixtures at its own expense; provided, however, in requiring Franchisee to remove, replace and/or relocate its equipment, the Issuing Authority shall treat Franchisee the same as, and require no more of Franchisee,

than any other similarly situated utility (i.e. if other similarly situated utilities are reimbursed for the cost associated with such removal, replacement and/or relocation, Franchisee shall also be reimbursed). If an emergency exists, the Issuing Authority shall give Franchisee the earliest possible notice.

- 16-4 **Placement of Fixture.** Franchisee shall not place poles or other fixtures where the same will interfere with any gas, electric or telephone fixture, water hydrant, or water and sewer mains, and all such poles or other fixtures placed in any street or otherwise shall be placed within the designated easements for such use and then in such a manner as not to interfere with the usual travel on said streets, alleys and public ways; all to be approved by the Issuing Authority County Manager, or her duly appointed agent and in accordance with existing Issuing Authority policy.
- 16-5 **Temporary Removal of Wire for Building Moving.** Franchisee shall, at the request of any person holding a building moving permit issued by the Issuing Authority, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal, raising or lowering of wires shall be paid by the Person requesting the same, and shall not exceed the actual costs of Franchisee. Franchisee shall have the authority to require such payment in advance. Franchisee shall be given no less than ninety (90) days advance notice to arrange for such temporary wire changes.
- 16-6 **Tree Trimming.** Franchisee shall have the authority to trim trees upon an overhanging street, alley, sidewalk or public place of the Issuing Authority so as to prevent the branches of such trees from coming into contact with the wires and cables of Franchisee at the expense of Franchisee.

#### **SECTION 17. PREFERENTIAL OR DISCRIMINATORY PRACTICES PROHIBITED.**

Franchisee shall not, as to rates, charges, service facilities, rules, regulations or in any other respect, make or grant any preference or advantage to any Person, provided nothing in this Franchise shall be deemed to prohibit the establishment of a graduated scale of charges, nor shall it be deemed to prohibit Franchisee from offering discounts for bundled services or offering inducements meant to attract new customers or to sell additional services to existing customers, nor shall it be deemed to prohibit Franchisee from giving free service to Issuing Authority's municipal buildings, public schools, police or fire department main building and rescue squad main building, or for any other public use.

#### **SECTION 18. PAYMENTS OF COMMUNICATIONS SALES AND USE TAX/EQUIPMENT SHELTER LEASE.**

- 18-1 **Communications Sales and Use Tax.** Pursuant to Virginia Code § 58.1-648, and Virginia Code § 15.2-2108.1:1, Franchisee shall collect the applicable Communications Sales and Use Tax, which shall be remitted to the Commonwealth of Virginia.
- 18-2 **Gross Revenue.** Upon written request of the Issuing Authority provided to Franchisee, Franchisee shall provide a summary report detailing the calculation of the payments made by Franchisee pursuant to Section 18-1. Such a request may be made no more than once a year by the Issuing Authority, and such request may only relate to the year immediately preceding the date of the request.

Payment of Franchise Fee to County. In the event that the Communications Tax is repealed and no successor state or local tax is enacted that would constitute a franchise fee for purposes of 47 U.S.C. § 641, as amended, Franchisee shall pay to the Issuing Authority a Franchise fee of five percent (5%) of annual Gross Revenue, beginning on the effective date of the repeal of such tax (the "Repeal Date"). In accordance with Title VI of the Communications Act, the twelve (12) month period applicable under the Franchise for the computation of the Franchise fee shall be a calendar year. Such payments shall be made no later than thirty (30) days following the end of each calendar quarter. Should Franchisee submit an incorrect amount, Franchisee shall be allowed to add or subtract that amount in a subsequent quarter, but no later than ninety (90) days following the close of the calendar year for which such amounts were applicable.

- 18-3 Use of County Property for Equipment Shelters. Franchisee has been and may continue to use certain County property, upon the County Manager's approval, for the installation and placement of shelters to house and operate certain equipment required for its system. As of the date of this Renewal Agreement, Franchisee is using County property designated as Tax Map Parcel No. 43A2-A-51 for such purpose. Franchisee agrees to pay County and annual amount of \$7,000 for each such equipment shelter (total annual amount of \$14,000 as of the date of this Renewal Agreement) located on County property.

#### **SECTION 19. TERMS OF FRANCHISE.**

The Franchise and rights herein granted under the provisions of this Franchise shall take effect and be in force from after the final approval thereof, as provided by law and upon filing of the acceptance and all other instruments required herein by Franchisee with the Issuing Authority County Manager and shall continue in force and effect for a term of fifteen (15) years after the effective date of this Franchise. The parties agree that any proceedings undertaken by the Issuing Authority that relate to the renewal of this Franchise shall be governed by and comply with the provisions of Section 626 of the 1992 Cable Act, as amended. Upon expiration or termination of the Franchise, Franchisee shall be afforded a six (6) month period to sell or otherwise dispose of the CATV System located in the Issuing Authority. During the six (6) month period, Franchisee shall operate the CATV System in accordance with this Franchise. At the expiration of the six (6) month period, Franchisee has the right to remove its facilities in the Issuing Authority within a reasonable time.

#### **SECTION 20. TRANSFER OF FRANCHISE.**

There shall be no assignment of Franchisee's Franchise, in whole or in part, by Franchisee without the prior consent of the Issuing Authority.

- 20.1 The Franchisee shall make written application to the Franchise Authority of any transfer, majority change in control or assignment as described above and shall provide all information required by FCC Form 394 and any other applicable federal, state, and local statutes and regulations regarding transfer or assignment. The Franchise Authority shall have thirty (30) days from the receipt of FCC Form 394 to notify Franchisee of any additional information it needs to make an informed decision on the transfer or assignment. The Franchise Authority shall have one hundred twenty (120) days from the receipt of all required information to take action on the transfer or assignment. No such consent shall be required for (i) a transfer in trust, by mortgage, hypothecation, or by assignment to a financial institution of any rights, title or interest of the Franchisee in the Franchise or in the Cable System in order to secure indebtedness; or (ii) a transfer to an entity owned and/or controlled by Franchisee. Any consent by the Franchise Authority for any transfer or

assignment described above shall not be effective until the proposed transferee or assignee shall have executed a legally binding document stating that it shall be bound by all the terms and conditions contained in this Agreement unless such one hundred twenty (120) day period shall have elapsed.

- 20.2 Exception. This Section shall not apply to any sale, assignment or transfer to one or more purchasers, assignees or transferees controlled by, controlling, or under common control with, Franchisee, and Franchisee shall be permitted to affect any such sale, assignment or transfer without prior notification to the Franchise Authority.

**SECTION 21. SIGNAL QUALITY REQUIREMENTS; SERVICE TO BE PROVIDED.**

- 21-1 Franchisee shall engineer, install, maintain, operate and equip the CATV System herein provided so as to meet the technical standards of the FCC.
- 21-2 Franchisee shall demonstrate by instruments and otherwise to Issuing Authority, upon request, that a signal of adequate strength and quality is being delivered.
- 21-3 The channel line ups are subject to change with appropriate notice, per federal requirements.

**SECTION 22. TERMINATION.**

- 22-1 Subject to Section 23, the Issuing Authority may terminate the Franchise granted under this Franchise Agreement in case of material noncompliance by Franchisee. Material noncompliance shall include: (i) a material violation by Franchisee of any term, condition, or provision of this Franchise Agreement that remains uncured within the applicable cure period; (ii) failure of Franchisee to comply with any reasonable, material provision of any applicable Franchise Agreement or the applicable mandatory requirements of 47 U.S.C. §§ 521-573 or any regulations promulgated thereunder; (iii) Franchisee becomes insolvent, unable or unwilling to pay its debts, or is adjudged bankrupt, or there is a notice of prospective foreclosure or other judicial sale of all or a substantial part of the CATV System; (iv) Company abandons the CATV System; or (v) Company fails to operate the CATV System for a period of 30 days.

**SECTION 23. TERMINATION PROCEDURES.**

If the Issuing Authority seeks to terminate this Franchise under Section 22, the Issuing Authority shall follow the procedures in this section.

- 23-1 **Notice of Complaint.** The Issuing Authority shall provide Franchisee with written notice describing with reasonable specificity the alleged noncompliance.
- 23-2 **Opportunity to Cure.** Franchisee shall have sixty (60) days from receipt of written notice to cure the alleged noncompliance. If Franchisee cures the alleged noncompliance within the sixty (60)-day period, the Issuing Authority shall provide Franchisee with written notice withdrawing the complaint.

- 23-3 **Public Hearing.** If Franchisee fails to cure the alleged noncompliance within the sixty (60)-day cure period, or if Franchisee provides the Issuing Authority with written notice disputing the complaint, and the parties fail to otherwise resolve the matter, the Issuing Authority shall schedule a public hearing on the alleged noncompliance. At the public hearing, Franchisee may present testimony, cross-examine witnesses and deliver to the Council all evidence relevant to Franchisee's defense. At the conclusion of the public hearing, the Council may dismiss the complaint, defer action, order appropriate sanctions, or terminate the Franchise in accordance with this section.
- 23-4 **Termination.** The Issuing Authority may, after a duly noticed public hearing, terminate the Franchise for material and willful continuing noncompliance by Franchisee. If Franchisee contests the termination in a court of competent jurisdiction, Franchisee may operate the CATV System in accordance with this Franchise Agreement while the case is pending.

#### **SECTION 24. UNAUTHORIZED RECEPTION OF SERVICE; TAMPERING.**

It shall be unlawful for any Person without Franchisee's consent to willfully tamper with, remove or injure any of the CATV System. It shall be unlawful for any Person to make or use any unauthorized connection to any part of the CATV System. Any Person that violates this Section 24 regarding theft of service shall be guilty of a misdemeanor and punished by a fine not to exceed \$500.00 for each occurrence or imprisonment for a term not to exceed 90 days or both, such fine and imprisonment as may be imposed by a court of competent jurisdiction.

#### **SECTION 25. INSPECTION OF FACILITIES**

- 25-1 A Franchisee shall comply with all applicable federal, state and local construction and engineering codes and regulations, currently in force or hereafter applicable, to the construction, operation or maintenance of its cable system within the Issuing Authority. The Issuing Authority shall have the right to review a Franchisee's construction plans and specifications to ensure compliance with the required standards. After construction has been completed, the Issuing Authority shall have the right to inspect all construction or installation work performed pursuant to the franchise and to conduct any tests it deems necessary to ensure compliance with the terms of this Agreement and all applicable federal, state and local building and engineering codes. However, the Issuing Authority shall not be required to review or approve construction plans and specifications. The Franchisee shall be solely responsible for taking all steps necessary to ensure compliance with applicable standards and to ensure that its cable system is installed in a safe manner and pursuant to the terms of the franchise and applicable law.

#### **SECTION 26. MISCELLANEOUS.**

- 26-1 **Severability.** If any section, subsection, sentence, clause, phrase, or portion of this Franchise is for any reason held invalid, unlawful, or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof it being the intent now hereby declared that this Franchise would have been adopted even if such unlawful, unconstitutional or void matter had not been included therein.

26-2 **Force Majeure.** Franchisee shall not be held in default under, or in noncompliance with, the provisions of this Franchise Agreement, nor suffer any enforcement or penalty relating to noncompliance or default, where such noncompliance or alleged defaults occurred or were caused by circumstances reasonably beyond the ability of Franchisee to anticipate and control. This provision includes work delays caused by waiting for utility providers to service or monitor utility poles to which the CATV System is attached, as well as unavailability of materials and/or qualified labor to perform the work necessary. Furthermore, the parties hereby agree that it is not the Issuing Authority's intention to subject Franchisee to penalties, fines, forfeitures or revocation of this Franchise for violations of this Franchise Agreement where the violation was a good faith error that resulted in no or minimal negative impact on the Subscribers, or where strict performance would result in practical difficulties and hardship to Franchisee which outweigh the benefit to be derived by the Issuing Authority.

26-3 **Notices.** Notices under this Franchise Agreement shall be in writing and shall be deemed given delivery by hand delivery, certified mail return receipt requested, or overnight courier to the following addresses:

To the Issuing Authority:

County of Westmoreland  
PO Box 1000  
Montross, VA 22520  
Attn: County Administrator

To Franchisee:

Breezeline  
126 Urbanna Road  
P.O. Box 1147  
Saluda, VA 23149  
Attn: General Manager

With copy to:

Breezeline  
3 Batterymarch Park  
Suite 200  
Quincy, MA 02169  
Attn: General Counsel

A party may designate other addresses for providing notice by providing notice in writing of such addresses.

26-4 **Entire Agreement.** This Franchise Agreement, including all Exhibits, embodies the entire understanding and agreement of the Issuing Authority and the Franchisee with respect to the subject matter hereof and supersedes all prior understandings, agreements and communications, whether written or oral. All ordinances or parts of ordinances that are in

conflict with or otherwise impose obligations different from the provisions of this Franchise Agreement are superseded by this Franchise Agreement.

- 26-5 **Governing Law and Venue.** This Franchise Agreement shall be deemed to be executed in the Commonwealth of Virginia, and shall be governed in all respects, including validity, interpretation and effect, and construed in accordance with, the laws of the Commonwealth of Virginia, as applicable to contracts entered into and performed entirely within the Commonwealth. Jurisdiction and venue for any litigation arising out of or involving this agreement shall lie in the courts of the County of Westmoreland, Virginia and such litigation shall be brought only in such courts.
- 26-6 **Modification.** No provision of this Franchise Agreement shall be amended or otherwise modified, in whole or in part, except by an instrument, in writing, duly executed by the Issuing Authority and the Franchisee, which amendment shall be authorized on behalf of the Issuing Authority through the adoption of an appropriate resolution or order by the Franchising Authority, as required by applicable law.
- 26-7 **No Third-Party Beneficiaries.** Nothing in this Franchise Agreement is or was intended to confer third-party beneficiary status on any member of the public to enforce the terms of this Franchise Agreement.

(Signature Page to follow)

APPROVED BY THE COUNTY COUNCIL OF WESTMORELAND, VIRGINIA this  
\_\_\_\_\_ day of \_\_\_\_\_, 2024.

Accepted and agreed to:

**COUNTY OF WESTMORELAND, VIRGINIA**

By: \_\_\_\_\_

Print:

Title:

Date: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
County Clerk

Accepted and agreed to:

**COGECO US (DELMAR), LLC**  
**d/b/a BREEZELINE**

By: \_\_\_\_\_

Print: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



**Exhibit 1**

**Courtesy Cable Service Locations**

**Mount Holly Fire Department  
2429 Mount Holly Road  
Montross**

**Oak Grove Volunteer Fire Department  
121 James Monroe Highway  
Colonial Beach**

**Cople District Volunteer Fire Department  
123 Yeocomico Lane  
Kinsale**

**Westmoreland County Emergency  
372 Oak Grove Road  
Colonial Beach**

c. LAND USE: Petition for Road Name Change

The Chairman stated that this topic is a continuation of the last meeting. A public hearing was held, and some proposed changes to the requested name, Arrowhead Drive, were made. The additional information presented now states that it is agreeable to proceed with the name that was originally advertised.

Darrin Lee, Land Use Administration, was present to give an update on the road name change. Mr. Lee gave an overview and stated that the issue is the addressing and with a new house being built that will be sitting between two existing addresses. The numbers will be out of sequence, which creates an issue. The new house being built was issued a permit in March 2024 and are just now getting everything completed. When Land Use Administration issues a CO (Certificate of Occupancy), they always like to have the 911 address that is issued to be on that document. The other issue is that the even and odd numbers would be incorrect and on the wrong side of the street. He stated that naming the Right of Way will let them clean up all the addressing issues. The recommended name was Arrowhead Drive, which is not a duplicate name. At the last meeting, some suggested names were withdrawn.

The Chairman stated that Mr. Trivett was not present for that meeting. The rest of the Board members understood the presentation. There was a suggested change, which has been withdrawn since then. It is understood that they can move forward with the recommended name from the Land Use Administration.

The Chairman asked Mr. Stuart, since it is a continued meeting and the other names have been withdrawn, are they able to validate the recommended name, if that is the Board's desire. Mr. Stuart stated yes.

With no further discussion, upon motion by Mr. Ingram, seconded by Mr. Hynson and carried unanimously with Mr. Trivett, Mr. Ingram, Mr. Hynson, Mr. McCormack, and the Chairman voting "aye", the Board approved the Petition for road name change to Arrowhead Drive, as presented.

**\*\* PETITION FOR RAOD NAME CHANGE ON NEXT PAGE\*\***

**Donna Cogswell**

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**From:** Darryl Fisher  
**Sent:** Friday, October 25, 2024 3:31 PM  
**To:** Donna Cogswell  
**Subject:** FW: Rappahannock Road name change

-----Original Message-----

**From:** Jillian Kline <jilliankline01@gmail.com>  
**Sent:** Thursday, October 24, 2024 7:29 PM  
**To:** Darryl Fisher <dfisher@westmoreland-county.org>  
**Subject:** Rappahannock Road name change

Caution: This message is from an external source. Please use caution clicking links or opening files if you did not expect to receive them.

Goodevening Darryl,

My name is Jillian Sudduth and I'm writing to you all about a name change to a current subdivision road.

My husband, Zackery Sudduth and I, are building a new home in a family subdivision on Rappahannock Road.

The construction started in March and now we are very close to the end of construction which is projected for next week. This name change should have been proposed by the county to us months ago. Now this name change will affect our move in date, making us pay more money in interest because of the probable extra month of construction, as well as most importantly preventing our local builder James Jett III with Jett III Construction from getting his well deserved earnings and money to pay his workers. He won't be able to get compensation for his work until we get the occupancy permit.

The situation currently with the road is that we tried to propose another name "Sudduth Way" than the suggested county name "Arrowhead Drive". Now everyone is unanimously agreeing on Arrowhead Drive. To my knowledge, this name was already posted in the newspaper and suggested at a meeting.

I'm asking if you all would be able to pass this decision through as to speed up the process for everyone involved.

Thank you so much,

Jillian



**Westmoreland County, Virginia  
LAND USE ADMINISTRATION**

Building Official  
Zoning Official  
Planning Commission  
Board of Zoning Appeals  
Board of Building Appeals  
Weldons Board

P.O. Box 1000

Montross, VA 22520

(804) 493-0120

**MEMORANDUM**

**To:** Westmoreland County Board of Supervisors  
**From:** Darrin Lee, Land Use Administration  
**Date:** October 16<sup>th</sup>, 2024  
**Subject:** Petition to name private right-of-way off of Rappahannock Road

A petition to name an existing private right-of-way has been submitted for your consideration. The private right-of-way is currently addressed as part of Rappahannock Road (Route 637). The request is to name the right-of-way, Arrowhead Drive. This right-of-way serves a family subdivision. The right-of-way is an off branch of the main road and should be named for emergency addressing purposes. The current address sequence is compromised due to this road segment being recognized as part of the main road. With the last dwelling on the road being a half mile away from the intersection of Rappahannock Road, this poses a public safety issue. Board of Supervisors approval is needed to name the right-of-way.

A permit has been issued for a new dwelling at this location. There are no other dwellings or pending permits for construction on this road. An emergency 911 address has not been assigned to the property (Tax Map 17-46D) at this time.

**Attachments:**

Aerial photo of road and surrounding area  
DRAFT resolution for the naming of a certain right-of-way  
County Code section 42-32 and related sections  
2017 and 2023 Plat (Michael Wind- see pb 1769 and 2601)



**A RESOLUTION ASSIGNING A NAME TO A CERTAIN RIGHT-OF-WAY**

**WHEREAS**, the Board of Supervisors adopted a process for assigning names to roads and streets within Westmoreland County by Resolution on September 11, 1995; and

**WHEREAS**, the Land Use Administrator has presented the naming of a certain right-of-way to this Board in accordance with that Resolution.

**NOW, THEREFORE, BE IT RESOLVED** by the Westmoreland County Board of Supervisors that the following right-of-way shall have the following name and is to be listed in the Westmoreland County Road Name Index:

<u>Location</u>	<u>Current Road Name</u>	<u>New Road Name</u>
Off of Rappahannock Road (State Route 637)	N/A	Arrowhead Drive

October, 16 2024  
Date of Adoption

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Darryl E. Fisher, Chairman  
Board of Supervisors  
Westmoreland County

**NOTICE OF PUBLIC MEETING  
OCT 2 & 9 2024**

The Westmoreland County Board of Supervisors will hold a public meeting on Wednesday, October 16, 2024 in the George D. English, Sr. Memorial Building, 111 Polk Street, Montross, Virginia starting at 6:00 p.m. on the following requests:

**ROAD NAME CHANGE CASE # 2410-RNC-03** – Request by Westmoreland County to name an existing unnamed private road as “Arrowhead Drive.” This will help aid in proper 911 addressing to ensure public safety. This road is located off of Rappahannock Road affecting TM#17-45 through 46D. Washington Magisterial District

Interested parties may attend and present their views on the request under consideration for approval.

Copies of the applications are available for public review in the office of the Land Use Administrator in the George D. English, Sr. Memorial Building, Montross, VA, during regular business hours.

Individuals needing special accommodations should contact the Land Use Administration office ten (10) days prior to the meeting.

By Order of the Westmoreland County Board of Supervisors  
Beth McDowell, Zoning Administrator



d. Consideration of a Burn Ban Resolution

Chairman Fisher stated that the Interim County Administrator has requested that the Board consider implementing a Burn Ban in the County. He noted that it has been really dry and that this would present a fire hazard. Chairman stated, it would be in the best interest of the residents to institute a Burn Ban. He also noted a Resolution has been prepared and if approved will go into effect tomorrow at noon until further notice.

Upon motion by Mr. Hynson, second Mr. McCormack and carried unanimously with Mr. Trivett, Mr. Ingram, Mr. Hynson, Mr. McCormack, and the Chairman voting "aye", the Board authorized a Burn Ban Resolution that will go into effect tomorrow, October 29, 2024, at noon until further notice.

**\*\* BURN BAN RESOLUTION ON NEXT PAGE\*\***

DARRYL E. FISHER  
ELECTION DISTRICT NO. 1  
HAGUE, VIRGINIA 22469

JEFFREY A. MCCORMACK  
ELECTION DISTRICT NO. 2  
MONTROSS, VIRGINIA 22520

MATTHEW D. INGRAM  
ELECTION DISTRICT NO. 3  
MONTROSS, VIRGINIA 22520

W. W. HYNSON  
ELECTION DISTRICT NO. 4  
COLONIAL BEACH, VIRGINIA 22443

TIMOTHY J. TRIVETT  
ELECTION DISTRICT NO. 5  
COLONIAL BEACH, VIRGINIA 22443



DONNA COGSWELL  
Interim County Administrator  
P. O. BOX 1000  
MONTROSS, VIRGINIA 22520-1000  
PHONE: 804/493-0130  
FAX: 804/493-0134  
E-mail: [dcogswell@westmoreland-county.org](mailto:dcogswell@westmoreland-county.org)  
Web Page: [www.westmoreland-county.org](http://www.westmoreland-county.org)

WESTMORELAND COUNTY, VIRGINIA

*Board of Supervisors*

MONTROSS, VIRGINIA 22520-1000

## RESOLUTION

### DECLARATION OF LOCAL EMERGENCY

**WHEREAS**, the Board of Supervisors of the County of Westmoreland does hereby find as follows:

1. That due to the lack of rainfall, the extremely dry conditions and the danger that any open burning could cause the County of Westmoreland is enacting a Burning Ban until further notice. The County of Westmoreland is facing a condition of extreme peril to the lives, safety, and property of the residents of Westmoreland County; and
2. That as a result of this extreme peril, the proclamation of the existence of an emergency is necessary to permit the powers of government to deal effectively with this condition of peril.

**NOW, THEREFORE, IT IS HEREBY PROCLAIMED** that an emergency now exists throughout said County; and

**IT IS FURTHER PROCLAIMED AND ORDERED** that during the existence of said emergency the powers, functions, and duties of the Director of Emergency Services and the Coordinator of Emergency Services of the County of Westmoreland shall be those prescribed by state law and the ordinances, resolutions, and approved plans of the County of Westmoreland in order to mitigate the effects of said emergency.

Effective: October 29, 2024 at 12:00 PM

Dated: October 28, 2024

\_\_\_\_\_  
Darryl E. Fisher, Chairman  
Westmoreland County Board of Supervisors

Attest: \_\_\_\_\_  
Interim Clerk, Board of Supervisors  
Westmoreland County, VA

5. CLOSED SESSION: SECTION 2.2-3711.A1- Discussion, consideration of prospective candidates for employment regarding the next County Administrator; Also, under same Section 2.2-3711.A1 - Discussion of employees and evaluation or performance of departments where such evaluation will necessarily involve discussion of the performance of specific individuals.

Chairman Fisher asked for a motion to go into Closed Session. With no further discussion, upon motion by Mr. Hynson, Seconded Mr. McCormack, and carried unanimously, the Board moved into Closed Session. The Chairman stated that it would be best to have the Interim County Administrator and the County Attorney in the Closed Session and the Board agreed.

**RECORDING WAS STOPPED, AND THE MEETING MOVED TO CLOSED SESSION**

Chairman Fisher asked for a motion to return to Regular Session from Closed Session. Upon motion by Mr. Hynson, seconded by Mr. McCormack and carried unanimously, the Board meeting returned to regular session from closed session.

Chairman Fisher then asked for a Certification Motion stating that nothing other than what was listed on the call under Sec 2.2-3711(A)(1) was discussed during Closed Session and no action was taken. Upon motion by Mr. McCormack, seconded Mr. Hynson and carried unanimously, Mr. Ingram, Mr. Trivett, Mr. McCormack, Mr. Hynson, and the Chairman voted "aye". The Certification Motion was approved.

6. ADJOURNMENT

Chairman Fisher asked if there was anything else that needed to be brought before the Board. Mr. Ingram gave some updates on what was happening in the Town of Montross.

- Angel Care Community Service and the Boys and Girls Club of the Northern Neck agreed that students from Cople Elementary and Montross Middle can catch the bus and ride down to the Boys and Girls Club in Northumberland for afterschool care and programs.
- Friday night they had a great trunk or treat at the High School along with the National Honor Society and Social Services. He noted that he and his wife handed out over 200

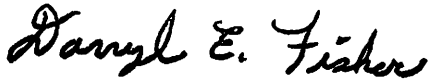
bags of candy. He thanked everyone who was involved and it was a good way to connect with the community.

- Popes Creek Baptist Church had its Fall Festival and Car Show; they had 90 cars on the show field. The Sheriff's Office and the Fire Department were there, and they had great community involvement.
- 1<sup>st</sup> Sargent Antwan Smith posted about Shop with the Sherriff, a program to change children's perspectives on law enforcement. They will do this around Christmas time, and donations need to be gathered for the event. It will be life-changing and hopefully change people's views on law enforcement.

The Chairman stated that the positive things that happen are not talked about enough and just allow the negative to steal the spot light. There are a lot of good things and good people in the County.

The Chairman asked if there is any other business to bring before the Board, if not, he asked for a motion to adjourn. He stated that the next scheduled meeting will be a Regular Meeting on November 13, 2024 at 6:00 p.m.

With no further business, upon motion by Mr. Hynson, Seconded Mr. McCormack and carried unanimously, the meeting adjourned at 8:03 p.m.

  
Chairman, \_\_\_\_\_