

**WILLIAMSBURG CITY COUNCIL
MINUTES
APRIL 8, 2010**

The Williamsburg City Council held its regular monthly meeting April 8, 2010, at 2:00 p.m., in the Council Chambers of the Stryker Building, 412 N. Boundary Street, Williamsburg, Virginia.

CALL TO ORDER

Mayor Jeanne Zeidler called the meeting to order.

ATTENDANCE

Present in addition to Ms. Zeidler were Vice-Mayor Clyde Haulman, Council members Ms. Judith Knudson, and Messrs. Robert Braxton and Paul Freiling. Also present were City Manager Jack Tuttle, Deputy City Attorney Christina Shelton and Council Clerk Donna Scott.

Staff Attending: Assistant City Manager Jodi Miller, City Attorney Joe Phillips, Economic Development Director Michele DeWitt, Communications Specialist Kate Hoving, Finance Director Phil Serra, Planning Director Reed Nester, Public Works and Utilities Director Dan Clayton, Parks and Recreation Director Lori Rierson, Deputy Police Chief Dave Sloggie, Fire Chief Pat Dent, Deputy Director of Human Services Chris Powell and Commissioner of Revenue Judy Fuqua.

COUNCIL MINUTES

Mr. Freiling moved that Council approve the minutes of the March 8 Work Session, the March 11 Regular Meeting, the March 16 Special Meeting and Budget Work Sessions of March 22 & 23, 2010 as submitted. Mr. Braxton seconded the motion which carried by roll call vote of 5-0.

Recorded Vote on the Motion:

Aye: Freiling, Braxton, Zeidler, Haulman, Knudson
No: None
Absent: None

MATTERS OF SPECIAL PRIVILEGE

Peninsula Health District

Dr. David H. Trump, Director, Peninsula Health District, Virginia Department of Health, said the Peninsula Health District of the Virginia Department of Health serves the City of Williamsburg as well as four other jurisdictions on the Peninsula. He said that this year Williamsburg's portion of the district's cooperative budget is \$268,000 or 3.5% of the total cooperative budget. Within the City's portion are projected revenues of \$34,000, and of the net by formula, the state's share is 60.4% and the local share is 39.6% or \$92,466.

Dr. Trump summarized some of the services that residents of the City of Williamsburg have received during the past year:

- In the Environmental Health area, work with regard to food establishment permitting and inspections, tourist establishments, swimming pools and animal bite investigation and rabies prevention

- Some limited clinical services, provided primarily for low income, uninsured individuals seeking assistance through the District's family planning or sexually transmitted disease clinic
- Immunizations were provided to 56 residents of the City of Williamsburg
- Work daily with patients, physicians, school leadership, management of long-term care facilities, and many others to identify and control the spread of communicable diseases
- Maintain a very close working relationship with the City's Fire Chief and with the City's Emergency Management team to prepare for and respond to the public health care aspects of natural and man-made disasters

Dr. Trump said an excellent example of some of these activities is the response to the H₁N₁ influenza this past year. Some of the first cases of the H₁N₁ flu that were confirmed in the Health District were students in Williamsburg-James City County Public Schools. He said they worked very closely with school leadership to investigate and get information out to parents and the community. Over the past six months the health department has provided H₁N₁ vaccines to 32,500 persons, about 3600 of those were citizens in the 23185 zip code. In addition, 1500 middle and high school students received the H₁N₁ vaccine during the school day, and many other opportunities were provided for others to receive the vaccine.

Dr. Trump said there has been one addition to staff this year; they established and filled a public health nurse senior position. One of the primary responsibilities of this nurse is to serve as the health district liaison and point person for many of the community health issues in the Greater Williamsburg community. Laura Boyles will be working out of the Williamsburg office to develop an even stronger commitment to work with the local organizations such as the Olde Towne Medical Center and many others to strengthen community health services, delivery and programs.

Mayor Zeidler thanked Dr. Trump for his presentation and for all the work he and his staff do to keep our community healthy and safe.

Mr. Braxton asked the status of the H₁N₁ virus scare, and Dr. Trump answered that the most important thing is that we seem to have passed the worst of the H₁N₁ activity; it peaked at the end of October, early November 2009. A small number of cases have been confirmed over the last couple of weeks and they expect it to be part of the mix of the flu viruses circulating over the next several years.

Mr. Freiling thanked Dr. Trump for all he does and in addition, thanked him for his strong financial management and his ability to do more with less. Mr. Freiling said the very welcome and reasonable request for reduced funding from the prior year is greatly appreciated. Dr. Trump noted it is a joint effort between the state and good local management.

Having served as Executive Director of the Olde Towne Medical Center, Ms. Knudson reiterated how much the support of the health department means to the Medical Center. She thanked Dr. Trump noting that he sits on the board and it's a wonderful working relationship.

Mayor Zeidler stated that because the person to whom the Excellence in Service award is to be presented has not yet arrived, she will proceed with the Public Hearing pending his arrival.

PUBLIC HEARINGS

Budget Public Hearings

Operating and Capital Budgets for the Fiscal Year Commencing July 1, 2010, and the Proposed Water Rate increase to \$4.20 per 1,000 gallons.

Mr. Tuttle stated that formal notice was given on the budget proposal for next year. The General Fund Operating Budget "Revenues" in four major categories total \$31.1 million, a 3.2% reduction from the prior year. The General Fund Operating Budget "Expenditures" reflect an overall equal reduction in budget of 3.2%. In addition to the General Fund Operating Budget, the Capital Improvements Budget is \$3.99 million next year, and the Utility Fund, which includes both capital and operating, is \$7.32 million; this is where the 5% increase in water rates is found. There are no changes in the budget in any of the tax rates in the City.

Mayor Zeidler noted that the budget was discussed at Council's recent work sessions. She then opened the Public Hearing on the Operating and Capital Budgets for the Fiscal Year and the Proposed Water Rate.

There being no comment the Public Hearing was closed. Mayor Zeidler stated that the budget is on the agenda for adoption at the May 13 City Council meeting.

Excellence in Service to Williamsburg

Mayor Zeidler noted that the gentleman to whom the Excellence in Service to Williamsburg is to be presented, had arrived. The Mayor asked Donald "Bill" Brown, Caretaker of Cedar Grove Cemetery, to come forward and presented him a proclamation acknowledging his dedication to excellence in keeping with the best traditions of public service in the City of Williamsburg.

The proclamation said that Bill takes great pride in caring for the Cemetery and for everyone who enters its gates. He tends one of Williamsburg's truly special places with deep personal engagement. In his words, "This is not a job, it's a duty." Bill is often cited for excellent service and superior performance by members of the public. From mowing the grass, to helping cemetery patrons and visitors, to developing a brochure on the history of Cedar Grove Cemetery, Bill manages every aspect of the cemetery which the City of Williamsburg has owned and operated since 1859. He has a genuine heart for people, and he graciously assists families often at the most trying of times. Further, as a leader among his peers, Bill upholds and promotes the values and the goals of the City and the Public Works Department.

Mr. Brown said he respects the Mayor and wishes she would be mayor forever; it was a pleasure that she was the one to present him with the award. Bill thanked his wife, Al Brenick and all his teammates.

PUBLIC HEARINGS

Council returned to the next Public Hearing on the agenda.

Mr. Haulman and Ms. Knudson read disclosure statements regarding the next four requests of the William and Mary Real Estate Foundation. They said that although they are either an employee, in Mr. Haulman's case, or have a family member who is an employee of the College of William & Mary, as is the case with Ms. Knudson, neither they nor their family

members are a part of or have an interest in the applicant, William & Mary Real Estate Foundation. The College of William & Mary is not the applicant, but is only indirectly related to the project. They said that to the extent that they may have a personal interest related to the College, they are disclosing that relationship, but it does not prevent either of them from exercising their impartial judgment fairly, independently and in the public interest regarding the applications before the Council.

Requests of William and Mary Real Estate Foundation for approval of the Triangle Retail Project

Mr. Nester noted that the following four requests of the William and Mary Real Estate Foundation for approval of the Triangle Retail Project will be discussed simultaneously and voted on separately:

- PCR #10-001 -- Amendment of the Zoning Ordinance text to create a new Planned Development College District, PDC District. *Proposed Ordinance #10-03.*
- PCR #10-002 -- Rezone the property to PDC, which includes development plan approval. *Proposed Ordinance #10-04.*
- PCR #10-003 -- Approve a special use permit for a parking master plan for the project.
- PCR #10-005 -- Approve a special use permit for increasing the building height from 35 to 45 feet.

The William and Mary Real Estate Foundation is proposing the Triangle Retail Project, a three-story, mixed-use building to be located on a one-acre site on Richmond Road between Wawa and the Williamsburg Baptist Church. The first floor will contain approximately 10,634 square feet of commercial floor area, and the second and third floors will contain 14 student apartments to house 56 students (four per apartment). The application states "The goal of the project is to provide student housing and student-oriented businesses immediately adjacent to the College campus."

The site is currently zoned B-1 Downtown Business District. The 2006 Comprehensive Plan designates the location as Downtown Commercial land use intended to promote a variety of business uses in the Center City with residential uses on the upper floors of buildings encouraged; the proposed Triangle Retail Project is in accord with the Comprehensive Plan. The Plan also notes that it is the responsibility of the College to provide an appropriate amount of student housing on campus. Although this location is not "on campus," it is immediately adjacent to the campus, near other dormitories along Richmond Road and provides additional student housing away from the City's single-family neighborhoods. The Commercial and Economic Development Plan also encourages businesses to locate adjacent to the College of William and Mary and this proposal will serve the needs of the 7,500 students at the College as well as those of residents and visitors.

The building location, height and setback maintain the character of the streetscape along Richmond Road. The increase in height from 35 feet to 45 feet is consistent with the scale of the street and particularly with the College of William and Mary buildings across Richmond Road. The off-street parking is located on the rear of the property, which allows the continuation of the "building wall" as the primary feature of the Richmond Road streetscape. As noted by the Parking Master Plan, there is adequate parking on campus to satisfy the residential parking needs for the project.

The quality of the architectural design for this project is very important, as it was for the nearby Mama Mias and Hermes (next to Paul's Deli) projects. The Architectural Review Board's Design Review Guidelines state that "the proper balance must be maintained between preserving buildings that make important contributions to the history and character of the City and surrounding neighborhood, and allowing for new development." The approval of the conceptual design by the Architectural Review Board (ARB #09-079) indicates that this "proper balance" has been maintained by the design of the Triangle Retail Project.

At the first Planning Commission's Public Hearing for this project, there had been some question about the lighting for the project. In response, Mr. Nester said the details of the lighting plan will be addressed at the final site plan review since issues of this type are typically not addressed at the development plan stage. He added that the final site plan will also return to the Planning Commission for review. Functioning as the Archaeology Review Board, the Planning Commission has approved the "Phase 1 Cultural Resources Survey of the College Triangle Retail Property," which includes the Emergency Treatment Plan contained in Appendix D of the Survey.

Planning Commission has recommended approval of the four requests with conditions:

- PCR #10-001 – Create PDC District
Planning Commission recommends that City Council create the PDC District, as detailed in Proposed Ordinance #10-03, **but with the deletion of "parking garages" as a permitted use**. This ordinance includes a special use permit requirement for building height above 35 feet.
- PCR #10-002 – Rezone Triangle Retail Project from B-1 to PDC
Planning Commission recommends that City Council rezone 255, 261 and 303 Richmond Road, 630 Prince George Street, and 700 Scotland Street from B-1 to PDC, as detailed in Proposed Ordinance #10-04. This approves the submitted conceptual plans and conceptual architectural plans for the Triangle Retail Project development, approves the requested slope waivers, and approves the management plan for the student dwellings.
- PCR #10-003 – Parking Master Plan
Planning Commission recommends that City Council approve a special use permit for the Triangle Retail Project Parking Master Plan, contingent upon the following:
 1. The special use permit approves the plan titled "Parking Master Plan, William and Mary Real Estate Foundation, Triangle Retail Project" prepared by Vanasse Hangen Brustlin, Inc., dated February 2010.
 2. The parking requirement for the Triangle Retail Project shall be 29 spaces.
 3. No parking shall be permitted on the Triangle Retail Project site for students living in the 14 on-site dwelling units, and this shall be enforced by the College of William and Mary in their routine monitoring of parking facilities.
 4. All residents of the 14 on-site dwelling units shall be required to obtain a College of William and Mary residential parking permit as a condition of their lease.
- PCR #10-005 – Height Increase
Planning Commission recommends that City Council approve a special use permit to allow the height for the Triangle Retail Project to be increased from 35 feet to 45 feet.

Mr. Braxton expressed concern about parking for the project and noted that one of the

contingencies for approval of the special use permit for the Parking Master Plan is that the residents of the 14 dwelling units must obtain a College of William and Mary residential parking permit as a condition of their lease. He is concerned that the Project residents will use the severely limited on-street parking and asked if parking can be enforced to ensure they park on campus if they have that decal and not on the nearby streets. Mr. Tuttle answered that what is open to the general public must be open to these residents as well; we cannot restrict the on-street parking that is available to the general public. Mr. Braxton added that he was hoping there was something the City and the College of William and Mary could do in regard to the enforcement.

In response to Mr. Freiling's question about the area where property owners would have standing to apply for this new zoning district, Mr. Nester explained that the PDC District is a special zoning district and that the rezoning has to be in conjunction with a specific project plan; the project plan is approved with the rezoning. Only property that is located within the area designated as Downtown Commercial Land Use is eligible for rezoning to the PDC District; property farther out on Richmond Road would not be eligible. Mr. Nester added that the PDC District was designed to be very narrowly drawn and restrictive as to where projects like this could be located; specifically, very near the college, in the Downtown area and away from residential neighborhoods. Mr. Freiling asked for clarification as to a zoning designation that cannot be applied for if one is in a different area. Deputy Attorney Shelton responded that it is like an overlay district where currently a rezoning related to a specific project can be applied for. Mr. Freiling said if there was another area surrounding the college that might be well suited for this use, yet not in the Downtown Commercial District, the property owner would not be eligible to apply, for specific example, the Williamsburg Shopping Center which is across the street from College property at the School of Education. Ms. Shelton confirmed that they would not be eligible to apply as it is currently written.

Mr. Freiling asked about the Planning Commission's discussion to eliminate "parking garages" as a permitted use, not even allowed with a special use permit, and Mr. Nester said the concern was one raised by the owner of the adjacent King and Queen Apartments. If this rezoning is approved, a parking garage could not be built as part of this project even if it's a permitted use because it was not a building shown on the approved plan. He said Planning Commission felt it was reasonable not to have parking garages as a permitted use and recommended that it be deleted. Mr. Freiling said if the College were to come back with a request to build a parking garage, the choices would be to change the zoning on this particular parcel to provide a means for applying for the garage, or to change the definition of the entire district and put parking garages back in. Mr. Nester confirmed this and added that the preferred way would be to add parking garages back in as a permitted use and then go through the process to amend the approved plans. He also confirmed this would be better than putting parking garages as a special use approved with each subsequent application or amending an existing application. He reiterated that nothing is allowed in the PDC District without going through the whole rezoning approval process, and that was why it was among the uses when it was originally proposed.

Mayor Zeidler opened the Public Hearing on the four requests.

Vernon Geddy said it was an honor and privilege to represent the William and Mary Real

Estate Foundation which was founded in 2006. The Foundation is a private entity with a mission to hold and develop real estate for the benefit of the College with a particular focus on bringing student-oriented retail close to campus. The Foundation's Board of Directors includes members of the Board of Visitors, President Reveley, senior College administrators and alumni. He noted that unlike the College, the Foundation is a private entity and subject to City zoning and the City will realize tax revenue from the businesses on the site. He said they feel this is an excellent location for this project, directly across the street from the main campus, surrounded by institutional uses, three churches, commercial uses with adjacent Wawa, and high density apartment uses with the King and Queen Apartments. Mr. Geddy showed a number of renderings of the proposed project and noted that it meets two very important community goals and Comprehensive Plan goals; it locates student housing immediately adjacent to the campus and out of City single-family neighborhoods and brings student-oriented businesses adjacent to campus with ready pedestrian access. Mr. Geddy concluded his comments by saying the project is a win, win, win situation; good for the community, the City and the College, and they respectfully request the City Council's approval.

Attorney, **William R. Bland**, said his client is the King and Queen Apartments, LLC which owns the property referred to at 732 Scotland Street, The King and Queen Apartments. Representing Mrs. Victor, the owner/manager of the LLC, Mr. Bland said most of the issues she asked him to raise on her behalf have already been addressed. He noted that Mrs. Victor is not opposed to the proposed project, and is in fact very much in favor of it. However, one of her concerns is about the parking deck. She would be very much opposed to a parking deck which she feels would directly impose on the twenty-eight residents in the apartments. The 45 foot height allowance, the lighting, the drainage and all that goes along with the parking deck, would really put a strain on her apartment complex and the residential character of the neighborhood as well as the Braxton Court neighborhood. Mr. Bland said Mrs. Victor also has concerns about stormwater, lighting and placement of the Surry siren, but it appears all of those issues will be addressed as the project progresses, hopefully keeping in mind that there are twenty-eight sleeping people in the adjacent apartment complex.

There being no other comment from the audience the Public Hearing was closed.

Mayor Zeidler said she thinks this is a great project. It addresses needs that have been talked about for a long time; more appropriate and adequate housing for students and student-oriented retail establishments. Because the location is in the Architectural Review Board's area of purview, the Board's design control will ensure the entrance corridor will continue to look as it should. The Mayor said she understands why this location, next to the apartment complex, is not a good place for a parking garage, but asked if "parking garages" is put back in the ordinance as a permitted use, could it be denied at this site in the future since the request would have to go through the whole evaluation procedure again; Mr. Nester confirmed her understanding. She said she would like parking garages to be put back in the ordinance since there may be some other place in this area where it would work well and address needs.

Mr. Haulman thanked both the Architectural Review Board and the Planning Commission for all the work they've done on the review of this project and also thanked the applicant for being responsive. Our community is one with standards and expectations that you may not run into in other communities and working with that can be a challenge. He agreed with Mr. Geddy that this is a win, win project that works for everyone. Mr. Haulman echoed the Mayor's

concern about eliminating parking structures. It's not appropriate at this site but he can imagine other sites where you might not have the space and where some type of parking structure integrated with the retail and apartments might work. We would be tying our hands for future projects if it were eliminated and there are enough safeguards to protect this project.

Ms. Knudson also agreed with Mr. Geddy; this is a win, win project good for the College and good for the City. She said she doesn't have as much of a problem with a parking garage; looking at the site plan, it's hard to see where one could be placed, except underground, where it might be appropriate in this district. If someone does come up with an innovative project that includes a parking garage we could look at it then. She concluded by saying she sees some danger in putting it back in as a permitted use, but is open to other opinions voiced by Council.

Mr. Braxton thanked Mr. Geddy and the William and Mary Real Estate Foundation for all they have done in planning this project. He said he is a little hesitant about the parking garage. He noted how extraordinarily well done the parking garage on Henry Street is; it melds so well with the surrounding structures that it is sometimes hard for people to find. He said he is not sure about placing an overhead parking garage anywhere in that area.

Mr. Freiling asked if we were not rezoning this property to the PDC District, could the property owner build a parking garage? Mr. Nester answered that it is currently zoned B-1 and parking garages are permitted with a special use permit.

Mr. Freiling said he appreciates Planning Commission's review of the project and thinks the 45 feet by special use permit is an improvement on the zoning guidelines. He added that he also appreciates the applicant's willingness to work with and take into account the advice of the Architectural Review Board because what is presented here today is far better than the conceptual drawings Council saw earlier. The revised plan is not only acceptable and fits in better, but also enhances the Richmond Road corridor. He agreed with other Council members that it is in an ideal location for both student housing and student retail.

Even though new housing is being constructed, Mr. Freiling stated that he doesn't have the parking concerns expressed by some because we will not be creating new automobile traffic; the students would probably be living off-campus and driving to campus anyway, so the net effect would be nothing; he supports the parking plan.

Regarding the parking garage, Mr. Freiling said this is in the downtown area, the closest thing we have to an urban area with limitations and challenges for parking; to eliminate a use that may be beneficial to the overall community, does not make sense. By eliminating parking garages we would be sending a message to future applicants that we don't want privately built parking garages in the downtown area. In addition, Mr. Freiling said he is not convinced that a parking garage would not be good at this particular site because it's not so much the garage that needs to be discussed, but the impacts of traffic in and out of the garage and the impact of lighting on nearby properties. If these issues can be taken care of, he thinks this would be a perfect place for a parking garage. However, at this point, the William and Mary Real Estate Foundation probably won't return with a request for a garage, and because the proper safeguards are in place for adjacent property owners, he supports putting parking garages back in the ordinance as a permitted use.

Mayor Zeidler agreed; the elimination of parking garage as a permitted use would limit future opportunities. Because projects don't have to be rezoned or approved if not appropriate, and

with review by the Planning Commission, Architectural Review Board and City Council there are plenty of safeguards in place

Mr. Freiling moved that City Council create the Planned Development College District (PDC District), **with the addition of parking garages as a permitted use**, *Proposed Ordinance #10-03*. Mr. Haulman seconded the motion which carried by roll call vote of 4-1.

Recorded Vote on the Motion:

Aye: Freiling, Zeidler, Haulman, Knudson
No: Braxton
Absent: None

Adopted Ordinance #10-03

PCR #10-002 – Rezone Triangle Retail Project from B-1 to PDC

Mr. Haulman moved that City Council rezone 255, 261 and 303 Richmond Road, 630 Prince George Street, and 700 Scotland Street from B-1 to PDC. This approves the submitted conceptual plans and conceptual architectural plans for the Triangle Retail Project development, approves the requested slope waivers, and approves the management plan for the student dwellings, *Proposed Ordinance #10-04*. Mr. Freiling seconded the motion which carried by roll call vote of 5-0.

Recorded Vote on the Motion:

Aye: Freiling, Braxton, Zeidler, Haulman, Knudson
No: None
Absent: None

Adopted Ordinance #10-04

PCR #10-003 – Parking Master Plan – **Special Use Permit**

Mr. Haulman moved that City Council approve a special use permit for the Triangle Retail Project Parking Master Plan, contingent upon the following:

1. The special use permit approves the plan titled “Parking Master Plan, William and Mary Real Estate Foundation, Triangle Retail Project” prepared by Vanasse Hangen Brustlin, Inc., dated February 2010.
2. The parking requirement for the Triangle Retail Project shall be 29 spaces.
3. No parking shall be permitted on the Triangle Retail Project site for students living in the 14 on-site dwelling units, and this shall be enforced by the College of William and Mary in their routine monitoring of parking facilities.
4. All residents of the 14 on-site dwelling units shall be required to obtain a College of William and Mary residential parking permit as a condition of their lease.

Mr. Freiling seconded the motion which carried by roll call vote of 5-0.

Recorded Vote on the Motion:

Aye: Freiling, Braxton, Zeidler, Haulman, Knudson
No: None
Absent: None

PCR #10-005 – Height Increase – **Special Use Permit**

Ms. Knudson moved that City Council approve a special use permit to allow the height for the

Triangle Retail Project to be increased from 35 feet to 45 feet. Mr. Freiling seconded the motion which carried by roll call vote of 5-0.

Recorded Vote on the Motion:

Aye: Freiling, Braxton, Zeidler, Haulman, Knudson
No: None
Absent: None

Amend the Zoning Ordinance to revise requirements for an increase in residential occupancy in single-family dwellings, PCR #10-004, Proposed Ordinance #10-05.

Mr. Nester stated that City Council referred two items in the proposed amendment to Planning Commission for review in December 2009. It is proposed to revise the requirements for an increase in residential occupancy in single-family detached dwellings by requiring a plot plan instead of a minor site plan, and to delete the requirement for an electrical inspection by a third party inspector (rental inspection program inspections are still required). He noted Planning Commission's recommendation, by a vote of 7-0, is denial of the proposed amendment. This would result in no change to the requirements for an increase in rental occupancy.

Mr. Haulman asked if this amendment were approved and someone submitted a plot plan that either wasn't clear or the Zoning Administrator needed confirmation of some measurements, could he then require a minor site plan to clarify the proposal? Mr. Nester responded that the Zoning Administrator could require whatever information he felt necessary to render a proper decision. In response to Mr. Haulman's question, Deputy City Attorney Shelton confirmed that under the rental inspection program, City inspectors are qualified electrical inspectors so they're doing the same type inspection that an electrician would do to ensure the system is safe and in good working order.

Mayor Zeidler opened the Public Hearing.

There being no comment the Public Hearing was closed.

Mayor Zeidler asked what the inspector would be looking for in a house, which has to be in the rental inspection program district and has been inspected already for electricity; what is the standard for one more person in the dwelling. Ms. Shelton responded that there is no standard for one more person in the house. The requirement would be to meet the current requirement of the building code. She said we cannot require houses to retrofit under the building code; this is in addition to what we are allowed to do under the building code. Currently, when an inspector inspects a property, the inspection is for the safety of the electrical system based on what it was at the time the house was constructed. This provides an additional burden for the property owner to bring it up to current code.

Mr. Haulman said that although it would be nice to have every house in the City up to current code, this is something we cannot require existing homeowners to do, and we don't require it of rental properties. What we're trying to do with this ordinance is to create an opportunity to see if there are houses where adding a fourth person will work for the residents, landlords and community. To add an extra hurdle by saying you must bring it up to current code, seems to be too big a hurdle and will prevent people from trying. He said he is a bit torn, but fairness

says that if you can rent a house to three people under these standards, adding a fourth person should not require higher standards. Ms. Knudson and Mr. Braxton agreed.

Mr. Freiling agreed with other Council members' comments adding that we are not talking about a safety discrepancy, but about a change in the building code. Regarding the decision to change the zoning to allow occupancy of four people under certain circumstances, he said he would like to see the owner of any house eligible to go to four under the new guidelines, choose to do so because it would be beneficial to the community in a number of ways. When we put unreasonable additional hurdles in the way of those houses transitioning to this four person special use, we are defeating our own intentions.

Mr. Haulman moved that City Council approve *Proposed Ordinance #10-05*. This changes the requirements for an increase in rental occupancy by requiring a plot plan instead of a minor site plan, and deleting the requirement for an electrical inspection by a third party inspector. Ms. Knudson seconded the motion which carried by roll call vote of 5-0.

Recorded Vote on the Motion:

Aye: Freiling, Braxton, Zeidler, Haulman, Knudson
No: None
Absent: None

Adopted Ordinance #10-05

REPORTS

Monthly Financial Statement

Mr. Tuttle noted we are three-quarters of the way through the year and revenues and expenditures are on track.

Monthly Departmental Operating Reports

Mr. Tuttle said employee turnover rate is tracked on both a monthly and annual basis. He highlighted that for nine months through the current year we are running just over 7% turnover which is historically very low for the City. The City's rate has been around 10% historically, which is also a fairly low turnover rate for most organizations. He said this may indicate a lack of job opportunities in the recession, but also that the City remains a good place to work.

Mayor Zeidler said she hopes the reason for the low turnover is job satisfaction; City employees give good service to the citizens of this community.

Planning Report – None in addition to the Public Hearings.

City Manager Reports

Declaration of Interdependence – Request of Hampton Roads Partnership

Mr. Tuttle reported that the Hampton Roads Partnership is seeking the endorsement of a regional compact, a "Declaration of Interdependence," and with Council's approval, the Mayor will be able to sign the document on behalf of the City of Williamsburg.

Ms. Knudson moved that City Council endorse the proposed "Declaration of Interdependence"

for Hampton Roads. Mr. Haulman seconded the motion which carried by roll call vote of 5-0.

Recorded Vote on the Motion:

Aye: Freiling, Braxton, Zeidler, Haulman, Knudson
No: None
Absent: None

Permit Procedures for Itinerant Dealers Conducting Business Outdoors, Proposed Ordinance #10-02.

Mr. Tuttle said that currently there are very strict guidelines for persons who wish to act as commercial door-to-door solicitors in the City to obtain a permit from the Chief of Police, but there is no corresponding permit requirement and regulations regarding the conduct of business by itinerant dealers at outdoor locations. Currently, the Code does not deal with a vendor who comes in for a short period of time and sets up with a private property owner's permission on private property in order to sell something. Mr. Tuttle noted that this occurs very rarely and gave the example of the case when a vendor comes and buys books back at the end of the college term. This would allow an additional provision that allows itinerant dealers no more than ten days per year and gives the police the ability to issue the permit after appropriate background investigation has been done. The proposed ordinance would establish permit procedures and regulations pertinent to the conduct of business at outdoor locations by itinerant dealers on private property located in the City's business zones with permission of the private property owners. Itinerant dealers, as is the case for door-to-door solicitors, would not be permitted to engage in selling on public streets, sidewalks and other public property under this ordinance.

Mr. Freiling moved that City Council adopt *Proposed Ordinance #10-02*. Mr. Braxton seconded the motion which carried by roll call vote of 5-0.

Recorded Vote on the Motion:

Aye: Freiling, Braxton, Zeidler, Haulman, Knudson
No: None
Absent: None

Adopted Ordinance #10-02

Request of Riverside Healthcare Association to Amend Proffers for Quarterpath at Williamsburg, Proposed Ordinance #10-10.

Mr. Tuttle noted that the request to amend proffers for Quarterpath at Williamsburg was reviewed in detail at City Council's work session on Monday.

Planning Director Nester briefly reviewed the request noting that amending the proffers only requires action by City Council. As allowed by Section 15.2-2302 of the Code of Virginia, the Public Hearing requirement is waived because the amendments do not affect conditions of use or density.

In April 2005 properties for Riverside's Quarterpath at Williamsburg development were rezoned. The developer is requesting amendments of the proffers for three parcels in the development because of "unforeseen and extraordinary economic circumstances."

Mr. Nester reviewed the proffers that were accepted for the three rezonings in 2005, the

current status of the proffers and the proposed changes. The proposed changes are as follows:

- **No Tax Exemption.** It is proposed to establish a waiver from the proffered taxability for the Healthcare Development Area for a period of time ending ten years from the date of issuance of a certificate of occupancy for the hospital, except for the City of Williamsburg real estate taxes.
- **Major Roadways.** It is proposed that prior to construction of the entirety of Battery Boulevard, improvements may be constructed in the ED Economic Development Zoning District that would generate traffic “of an equivalent amount of average daily traffic as the aggregate of improvements comprising a 40 bed hospital facility, 200,000 square feet of medical office, 250,000 square feet of additional non-residential floor area and 175 condominium/townhouse units would generate...” Thus, until the projected traffic count of improvements exceeds this standard, only the portion of Battery Boulevard needed to serve such improvements need be constructed. Once the designated threshold is met, the remainder of Battery Boulevard must be built all the way to Quarterpath Road before further construction can take place in the ED District. Residential construction on Lot 2 would not be allowed until all of Redoubt Road and all of Battery Boulevard is completed or bonded.
- **Escrow to Assure Battery Boulevard Construction.** In order to assure construction of all of Battery Boulevard in the City, it is required that 80% of net Cash Flow from sale or ground leasing of property in the ED District, except for the hospital and adjacent medical office(s) containing not more than 200,000 square feet, be placed in escrow. The maximum amount to be placed in escrow is \$5,500,000.00. The escrow will terminate upon the first of (i) the date when all CDA bonds issued to finance the entirety of Battery Boulevard have been paid in full or (ii) the completion of the entirety of Battery Boulevard in the City.

Mr. Nester said he would be happy to respond to any questions Council might have and noted the presence of Paul Gerhardt, Kaufman & Canoles, P.C., representing Riverside, who is also available to answer Council questions.

Although there is no requirement for a Public Hearing, Mayor Zeidler said Council members have received a number of e-mails regarding the request and opened the floor for comments from the audience.

Kelly Place, said he is a Williamsburg water customer, although he lives at 213 Waller Mill Road in York County. He thanked Mayor Zeidler for her years of service to the community and for her patience and civility with him.

Mr. Place said he’s a little concerned about the proffers; it seems the development has had a lot of shifting base lines. Looking back at the original proposal, there were several hundred residential units, over time it went to 500, 700 and now 1100 or 1200. He said he’s not urging Council to take any specific action or non-action on this, but one of the requests to again change what they are obligated to do, comes at the end of a long series of changes they have made over time, regards the water tank. He said he thinks it was \$1,650,000 that they were required to put forward for a water tank, but it appears that they have capped the cost of the water infrastructure that they were required to provide at \$1,650. He asked if this means that any costs they accrue beyond that amount would be the responsibility of the water customers or City taxpayers. He noted he had wanted to get to the meeting in time to complain about the

water rate increase, however, he missed that opportunity. He added that it needs to be pointed out that the increase to \$4.20 per 1000 gallons of water, is \$5.05 for those customers on the City's outskirts; he added that he thinks that is the highest in the region.

Although he is glad they are proposing to construct the hospital before the other portion of the development, Mr. Place said his main concern is that they are always wanting to amend the proffers to their benefit and to the detriment of the taxpayers. Riverside should be required to pay for any infrastructure, especially water, that is required for the project and not the water bill payers at large.

Paul Gerhardt, responded to Mr. Place's comments about the water tower. He said Riverside has not changed the amount that it will be contributing; it has always been \$1,650,000. What has been done is they have worked with the City to accelerate the time for the water tower to be built to take advantage of current pricing.

There were no additional comments.

Mr. Haulman noted the discussion at Monday's work session where there were a number of questions and clarifications. He said he wishes times were different and that this project could move ahead; one of the benefits of having a second hospital will be the positive impact on the provision of health care. He added that we're looking 50 years down the road and this is good for the City.

Ms. Knudson said that her questions were answered at the Monday work session.

Mr. Braxton said his questions were also answered at the work session, and added that he is glad to see the project moving along and the water tank constructed ahead of schedule.

Mr. Freiling said that when Council last considered the project, the tax proffers were nice but not a deciding factor for him in determining whether or not this is a worthy project. Although the tax proffers were welcome, the master planning of the project, the sensitivity to the natural surroundings, the preservation of Redoubt Park, and the infrastructure improvements were significant. He said we recognize circumstances have changed, and there is a period of abatement of ten years, during which time the City will still collect what could be significant real estate taxes on a non-profit entity. This is another example of cooperating in a difficult environment to see that worthy projects are done. Mr. Freiling said he thinks the community still wants the hospital in that location and that is what we're striving to make happen. At this time, he doesn't think there is any pressing need for destination retail, which is the area that would be displaced by moving the hospital to this new location, and there is also no pressing need for residential development; if these components are completed later than originally planned, that is fine. He concluded by saying that Sentara Williamsburg Community Hospital provides a terrific service to this community and we're all proud to have it here and pleased to be able to use the services, but additional services would be beneficial.

Mr. Haulman moved that City Council approve *Proposed Ordinance #10-10*. Mr. Freiling seconded the motion which carried by roll call vote of 5-0.

Recorded Vote on the Motion:

Aye: Freiling, Braxton, Zeidler, Haulman, Knudson
No: None
Absent: None

Adopted Ordinance #10-10

City Attorney Report

Adoption of City Code Supplement #22, Proposed Ordinance #10-06

Deputy City Attorney Shelton stated the adoption of the latest Code Supplement would fulfill an annual housekeeping chore that formalizes approval of all changes to the Code since the last Supplement.

Ms. Knudson moved that City Council adopt *Proposed Ordinance #10-06*, Williamsburg City Code Supplement #22. Mr. Braxton seconded the motion which carried by roll call vote of 5-0.

Recorded Vote on the Motion:

Aye: Freiling, Braxton, Zeidler, Haulman, Knudson
No: None
Absent: None

Adopted Ordinance #10-06

UNFINISHED BUSINESS -- None

NEW BUSINESS

Appointment to Boards and Commissions

Mr. Haulman moved City Council approve the following reappointments to the specified Boards and Commissions:

To the Colonial Community Criminal Justice Board, **GAIL ALBERT** for a three-year term to expire June 30, 2013;

To the Economic Development Authority, **TONYA BOONE** for a four-year term to expire June 30, 2014;

To the Finance & Audit Committee, **GWEN WILLIAMS** and **ROBERT TAYLOR** for two-year terms to expire June 30, 2012;

To the Middle Peninsula Juvenile Detention Commission, **PHIL SERRA** for a four-year term to expire June 30, 2014;

To the Olde Towne Medical Center Board, **TOM MAINOR** for a two-year term to expire June 30, 2012;

To the Peninsula Agency on Aging, **MARIAN ROSS** for a three-year term to expire June 30, 2013;

To the Quarterpath Community Development Authority, **CHANNING HALL** and **LOUIS ROSSITER** for four-year terms to expire June 30, 2014;

To the Social Services Advisory Board, **SANDRA LENTHALL** for a four-year term to expire June 30, 2014; and

To the Williamsburg Area Arts Commission, **TERRY BUNTROCK** for a three-year term to expire June 30, 2013.

Mr. Haulman also moved the appointment:

To the Library Board, **VICKIE HERRICK** for a four-year term to expire June 30, 2014;

and that Council recommend to the Circuit Court Judge the following one-year appointments to the Board of Equalization:

BARBARA BAGANAKIS

DAVID HERTZLER, II

JOHN MARSTON

SHARON BAKER

ROBERT "TEX" TURNER

Ms. Knudson seconded the motion which carried by roll call vote of 5-0.

Recorded Vote on the Motion:

Aye: Freiling, Braxton, Zeidler, Haulman, Knudson

No: None

Absent: None

Returning to Mr. Place's comments, Mr. Freiling asked if when the City provides water to customers who live outside the City, does that fee include sewer costs? Mr. Tuttle answered that for the most part, it does not; they pay an additional fee for their sewer service because they are not on City sewer.

OPEN FORUM

Mayor Zeidler opened the Open Forum portion of the meeting for comments on any topic.

Gary Shelly, 205 Indian Springs Road, said he'd like to talk a little about legacies. He noted the Mayor's comment earlier about City employees giving good service and he'd like to amend that by saying that by and large they provide outstanding service. In almost every department he has dealt with he has found terrific service; it's been prompt and he's been more than satisfied. He noted significant retirements coming up, the Mayor's, the City Attorney, but first he'd like to say something about Police Chief Yost. He said he cannot say enough good things about his service; he and his family always felt safe, comfortable and knew they could count on either the Chief or one of his staff to respond. He mentioned some of the police staff who have worked for Chief Yost over the years: Frank Brookman, Dave Sloggie, Steve Gilbert, Carl Hosey, Dennis Baines; people he's gotten to know through the work that they've done. They were always professional, following Chief Yost's lead. Mr. Shelly said the Chief is a public servant of the first class type.

Mr. Shelly noted an incident that happened in February 2009 when a college student came before the Council and spoke about difficulties he was having with the parking situation. He made some very good points; there seemed to be some inconsistencies in the information pamphlets that had been distributed. Chief Yost was in attendance at the Council meeting and went up to the student afterward; he showed concern and promised to look into it. The Chief listened very carefully and followed up on it. Mr. Shelly noted that such action instills confidence and is a great example of how all our employees should act.

Another situation involved a young woman who was a student at the college. She related a shocking experience she had at her house when the City, orchestrated by the City Attorney's office, came in and removed her possessions from her back yard. The possessions included things like her wading pool, cushions that were made for the outdoors, chairs made for the outdoors, a chaise lounge, and tools. She and her roommates were very vehement and didn't want these things taken. They sat on the items trying to prevent the City from taking them, but this didn't work and the City loaded them on a truck. They made a call to the police and it was at this point that the City changed their mind and the items were returned to the back yard. Mr. Shelly said the student related how disturbing the experience was to her friends, her neighbors, her family, her parents, and other students. However, he said what is most upsetting is, unlike Chief Yost who immediately dealt with the situation, nobody on the City Council contacted her—she holds this against you. Mr. Shelly noted that Ms. Knudson was not on Council at the time of this incidence. Mr. Shelly concluded his comments by saying the message from the Council was loud and clear; If you're a student, we don't care.

There being no additional comment the Open Forum was closed.

ADJOURNMENT

There being no additional business before the Council Mr. Freiling moved for adjournment at 3:35 p.m. Mr. Braxton seconded the motion which carried by roll call vote of 5-0.

Approved: May 13, 2010

Jeanne Zeidler, Mayor

Donna Scott, City Council Clerk