

**WILLIAMSBURG CITY COUNCIL
MINUTES
MAY 13, 2010**

The Williamsburg City Council held its regular monthly meeting May 13, 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 Council members Ms. Judith Knudson, and Messrs. Robert Braxton and Paul Freiling. Vice-Chairman Clyde Haulman was absent. Also present were City Manager Jack Tuttle, City Attorney Joe Phillips and Council Clerk Donna Scott.

Staff Attending: Assistant City Manager Jodi Miller, Deputy City Attorney Christina Shelton, Economic Development Director Michele DeWitt, Communications Specialist Kate Hoving, Planning Director Reed Nester, Public Works and Utilities Director Dan Clayton, Parks and Recreation Director Lori Rierson, Police Chief Mike Yost, Deputy Police Chief Dave Sloggie, Fire Chief Pat Dent, Director of Human Services Peter Walentisch and Commissioner of Revenue Judy Fuqua.

COUNCIL MINUTES

Ms. Knudson moved that Council approve the minutes of the April 5 Work Session, the April 8 Regular Meeting and the Special Meeting of April 19, 2010 as submitted. Mr. Freiling seconded the motion which carried by roll call vote of 4-0.

Recorded Vote on the Motion:

Aye: Freiling, Braxton, Zeidler, Knudson

No: None

Absent: Haulman

MATTERS OF SPECIAL PRIVILEGE

Resolution Honoring Chief of Police Mike Yost

Mayor Zeidler said the presentation of the following Resolution of Commendation and Appreciation for Police Chief Mike Yost is a bitter/sweet one. She said he has earned respect across the board during his long and distinguished career, and will be retiring May 28, 2010 after serving the City of Williamsburg effectively and honorably for over 34 years; as Police Chief since 1996.

The Mayor noted a number of the Williamsburg Police Department's accomplishments under Chief Yost's tenure, and said he has led Williamsburg's police with absolute integrity, setting standards of excellence and championing continuing education and leadership training for his staff. He has forged exceptional partnerships with all City agencies, notably the Williamsburg Fire Department; with partners like Colonial Williamsburg Security, William and Mary Police; and with other federal, state and local law enforcement agencies.

Chief Yost was recognized for his dedication, professionalism and modesty which have earned him the utmost respect of citizens and colleagues. Mayor Zeidler said that on behalf of the citizens of the City of Williamsburg, the City Council expresses its sincere gratitude for Chief Yost's many years of leadership and service, and we congratulate him upon his retirement and wish him many years of happiness.

Chief Yost accepted the Resolution of Commendation and Appreciation, but said any honors or acknowledgments should go to the men and women on the Police force that really do the job; he's just spent many years trying to keep out of their way. He thanked Mayor Zeidler, City Council members, the City Manager, and all the City staff for the support throughout the years and all the trust they put in the Police Department. To the citizens of the City of Williamsburg, he said thank you so much; he said he has made some great friends here, and you are guaranteed continued good service under Dave's (Sloggie) leadership.

There was a standing ovation for Chief Yost.

Mayor Zeidler noted the order of agenda has been changed to accommodate the next speaker.

NEW BUSINESS

Report and Determination from Core Group on the Arts and Creative Economy

Mayor Zeidler introduced Monty Mason, Chairman of the Economic Development Authority. Mr. Mason gave a brief overview of the *Report and Determinations of the Core Group on the Arts and Creative Economy*.

At the direction of City Council in December 2009, the City Manager directed the City's Economic Development Director to work with the Economic Development Authority and the Planning Director on the development of an arts district or other Creative Economy initiatives in the City. In January 2010, the Mayor designated a Core Group on the Arts and Creative Economy whose purpose it was to advise City Staff and the EDA on the creation of an arts district and to be a resource for consultants who were hired by the EDA to conduct a pre-feasibility study on a potential arts district area in the City.

The Core Group consisted of sixteen members representing a diverse, multi-disciplinary group, including Mayor Jeanne Zeidler, Economic Development Director Michele DeWitt and Planning Director Reed Nester. The efforts of this group included the review of background materials, researching other arts districts around the country and working with consultant, *Artspace*. *Artspace* was created in 1979 in response to the desire to create, foster, and preserve affordable space for artists and arts organizations, and is now a national leader in the field of developing affordable space for artists through the adaptive reuse of old warehouses, schools, and commercial buildings.

The Core Group has determined, based on analysis from Artspace, its own research and public input, that it is feasible and strategic for the City of Williamsburg to establish an arts district. The next steps recommended by the Core Group are:

1. Examine the unique characteristics of Williamsburg properties for live and work space for artists

2. Develop an Arts and Culture District Ordinance for City Council's consideration and a plan to attract artists, art organizations, anchor activities and creative entrepreneurs to the Arts District
3. Investigate the detail, timing and funding of an Artspace Artist Market Survey. Explore opportunities for Colonial Williamsburg, the College of William & Mary, the Williamsburg Visual Art Center, and other arts organizations to benefit from the survey.

Mayor Zeidler thanked Mr. Mason on behalf of the City Council and for the work of the Core Group and EDA. They have laid the groundwork for an important economic tool.

Michele DeWitt, Economic Development Director, said City Council's "Goals, Initiatives and Outcomes" identify the enhancement of the cultural life of the City and using the arts as a way to diversify the economy and enhance tourism. She noted the additional visitors who would be attracted to our community and the economic impact this would have. As part of the Preliminary Feasibility Report from Artspace and analysis by the Core Group, pros and cons are noted for each of the potential sites for the District. The City's role includes encouraging artists to live here and assisting in the creation and facilitation of a hub.

Mayor Zeidler thanked Ms. DeWitt for the great job they are doing and asked that she also thank the Core Group for their time and efforts. She said this is an initial step and the next step will be based on the characteristics and needs of this community. Today Council needs to determine whether they believe the EDA should proceed with the idea of an Arts District or not. Consensus of Council members was to move forward to the next steps in the process.

PUBLIC HEARINGS -- None

REPORTS

Monthly Financial Statement

Mr. Tuttle noted we have two months remaining in this fiscal year and the second half Real Estate taxes yet to come in; he is encouraged by our position relative to last year. As we did last year, we will end the fiscal year in the black, hopefully with a better margin.

Mr. Tuttle also noted the Room/Meal and Sales Tax revenues, with six months' performance on the Sales Tax which exceeds the prior year, four months exceeding the prior year on Meal Tax and finally we see improvement on Room Tax. All are indicators that we are moving in the right direction.

Monthly Departmental Operating Reports

Mr. Tuttle said that although the data is based on a limited number of sales, the assessments to sales ratio is another positive sign with last month showing a 95% ratio, meaning that the assessments on those sales were a little under the actual sales on those properties. He said we should end the year at 101% which means the two are pretty much level. He added that we would like to see the sales exceeding assessments by a degree, knowing our assessments are where they should be. Mr. Freiling noted that there is a perception in the community and around the country that property values have plummeted or dropped significantly and that property owners' assessments and resulting taxes should go down commensurately. However, the really good news is that property values have stayed strong in our area, and across the board according to this report, properties are selling above the assessed value.

Noting comparative statistics for the Police Department, Mr. Braxton noted the decrease in the number of Police Department "Calls for Service" from 2960 in the month of April 2009 to 2302 for April 2010. He also noted the increased use of the parking garage. In response to Ms. Knudson's question, Mr. Tuttle responded that the capacity of the parking garage is 325 vehicles.

Planning Report – None

City Manager Reports

Riverside Water Tank Agreement

Dan Clayton reported he and City Attorney Joe Phillips have been working with the Riverside Group on the infrastructure requirements for the development, the water tank being part of the hospital facility. By proffers, Riverside has agreed to pay for the tank up to \$1.65 million and the City will be responsible for anything over that amount. Mr. Clayton said that in November an unsolicited PPE proposal was received to design and build the tank. As required by the Private Public Education Act (PPEA) Guidelines which were adopted in 2007, we must post a public notice for 45 days and accept other competing proposals. One other proposal was received, from Chicago Bridge and Iron along with Timmons Engineering, and was better than the first. Their base cost was \$1.644 million with several options presented for our consideration; the base cost of \$1.644 million is within the amount of the proffer from Riverside, \$1.65 million. He added that there are some options to be considered as well as the allowance of some level of contingencies; so the City will have to pay for a portion of the water tank.

In accordance with the PPEA Guidelines, a two-step agreement process will be used. There will first be an Interim Agreement in the amount of \$125,000 which provides for site design services, including the foundation analysis and securing the necessary approvals from the various agencies such as the City Planning Commission, the Department of Health, the FAA and VDOT/James City County for the tank access off Route 60. Once the first step is completed, we will enter into a Comprehensive Agreement for the construction of the tank. The final price will then be established based on the original proposal price adjusted for any requirements discovered during the Interim Agreement work and any of the options we select. He said they anticipate signing the Interim Agreement in August/September 2010 and the tank construction will take about one year. Mr. Clayton said that in addition to paying for the majority of the water tank, Riverside has also given the City fee-simple ownership of the tank site and will bring the water line to the tank site. He noted we are anticipating our cost to be in the \$200,000 range, an amount included in the FY 2011 Utility Fund CIP.

In response to Mr. Braxton's question regarding a tank guarantee or maintenance agreement, Mr. Clayton responded there will be a one-year guarantee on the water tank; after that year the maintenance will be the City's responsibility.

Mr. Freiling asked about the initial payment for the work; is it paid out of the Utility Fund and then reimbursed by Riverside; since it will be a significant amount of money, is there a bond that's being held to guarantee the payment of Riverside? City Attorney Phillips responded that when we enter into the binding contract Riverside is obligated to pay us their portion of the funds.

Mr. Freiling asked about ownership of the tank and if it could possibly be used in the future for cell antennae from which revenue could be generated. Mr. Clayton said that could be done and is one of the options previously mentioned. Regarding the visual impact the tank will have on the corridor, Mr. Clayton said it will be comparable to the tank across from Busch Gardens and holds 750,000 gallons.

Mr. Freiling asked about the necessity for the water tank and the impact on this section of the community. He added that he's asking the question because of the visual impact being rather undesirable in his mind as we try to preserve the aesthetic appearance of the entrance corridors into the City. Mr. Tuttle said the water tank is absolutely necessary for the hospital in order to maintain adequate water pressure for use as well as for fire safety. It will also serve the entire Riverside project and gives the City an expansion of its water infrastructure that allows us to serve the entire southeast portion of the City. The locations of tanks require high ground and should be situated whenever possible at the end of the line. He noted that City tanks are never used for any type logos and are painted with a certain type camouflage paint allowing for maximum blending in. Regarding notification of adjacent property owners, Mr. Tuttle noted that Riverside is the surrounding property owner and across the railroad tracks, we have consulted with and will continue to consult with James City County since Route 60 and the frontage along Route 60 is in the County.

Ms. Knudson moved that Council authorize the City Manager to execute the Interim Agreement with CB&I for \$125,000 and further authorize the City Manager to enter into a Comprehensive Agreement satisfactory to the City Attorney for the construction of the Riverside Water Tank based upon available funds. Mr. Braxton seconded the motion which carried by roll call vote of 4-0.

Recorded Vote on the Motion:

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

Amending Terms of WRHA Commissioners and Members of the Social Services Advisory Board, Proposed Ordinances #10-11 and #10-12

City Attorney Joe Phillips stated that the purpose of Proposed Ordinances #10-11 and #10-12 is to bring the beginning and ending dates of appointive terms for the Williamsburg Redevelopment & Housing Authority and for the Social Services Advisory Board into conformity with most other appointments, July 1/June 30. Further, with the recent amendment of the City Charter, the term of a City Council member appointed to serve as a WRHA Commissioner is for two years instead of the four years as in the case of the other WRHA Commissioners.

Mr. Braxton moved that Council approve Proposed Ordinances #10-11 and #10-12 amending the terms of WRHA Commissioners and members of the Social Services Advisory Board. Mr. Freiling seconded the motion which carried by roll call vote of 3-0.

Recorded Vote on the Motion:

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

Adopted Ordinances #10-11 and #10-12

City Attorney Report -- none

BUDGET ADOPTION

Budget for the fiscal Year Commencing July 1, 2010, Resolution #10-03

Schedule A – Proposed Budget; Schedule B – Local Tax Levy; and Schedule C – Capital Improvements

Mr. Tuttle noted that Resolution #10-03 covers the proposed budget, the local tax levy and capital improvements and that it includes 12% funding.

Mayor Zeidler commented that there have been numerous meetings regarding the proposed budget with the opportunity for citizen input. She added that although Vice-Mayor Haulman is absent from the meeting today, he had previously stated his support of the proposed budget to her.

Mr. Freiling moved that Council adopt Resolution #10-03, adopting the budget for the fiscal year 2011 commencing July 1, 2010.

Ms. Knudson seconded the motion which carried by roll call vote of 4-0.

Recorded Vote on the Motion:

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

Approved Resolution #10-03

Proposed Water Rate of \$4.20 per 1,000 gallons, Proposed Ordinance #10-07

Mr. Freiling moved that Chapter 19, Article IV of the Code of the City of Williamsburg be amended to read as stated in *Proposed Ordinance #10-07*:

Sec. 19-76. Water and sewer service charges.

(a) The rates to be charged for water service to all users of City water shall be based on quarterly meter readings for non-commercial accounts and monthly meter readings for commercial accounts, and shall be at the following rates:

Inside City rate, per 1,000 gallons . . . \$4.20

Outside City rate (1.2 times city rate), per 1,000 gallons . . . \$5.05

The “Outside City rate” applies to all outside water customers except as otherwise established by separate agreement.

Mr. Braxton seconded the motion which carried by roll call vote of 4-0.

Recorded Vote on the Motion:

Aye: Freiling, Braxton, Zeidler, Knudson

No: None

Absent: Haulman

Adopted Ordinance #10-07

UNFINISHED BUSINESS

Appointment to Boards and Commissions

Mr. Braxton moved that City Council approve the following appointments to the specified Boards and Commissions:

To the Williamsburg Area Arts Commission, **Patricia Albert**, for a three-year term to expire June 30, 2013; to the Williamsburg Redevelopment & Housing Authority, **Shelia Crist**, for a four-year term to expire June 30, 2014; and to the Colonial Community Criminal Justice Board, **Dave Sloggie** to replace Mike Yost upon his retirement.

Ms. Knudson seconded the motion which carried by roll call vote of 4-0.

Recorded Vote on the Motion:

Aye: Freiling, Braxton, Zeidler, Knudson

No: None

Absent: Haulman

NEW BUSINESS – as noted above

OPEN FORUM

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

Randy O’Neill, 109 Sheffield Road in James City County, spoke about his great concern for students in our community and their health. He said there is not enough time devoted to physical activity, training to be fit, and teaching good health practices. His concern is that vast amounts of money are going into brick and mortar for buildings to the detriment of student health.

Gary Shelly, 205 Indian Springs Road, said when he spoke at last month’s Council meeting about legacies, he failed to mention Tim Davis, another fine officer in the City’s Police Department deserving special recognition.

At last month’s Council meeting Mr. Shelly had spoken about students who had items removed from their backyard by the City, the unacceptable response from the City, and the lack of response from this Council. He again expressed his concern with the message this sends to the students and others.

Mr. Shelly mentioned another incident when he was accused of making an apartment within one of his houses. One of the members of the City staff entered the house without knocking, no doorbell, and very much upset the fellow who was living there. Mr. Shelly said that when he brought the incident up before Council, not a word to him or to the tenant came from

Council members. Mr. Shelly noted a memorandum from City Attorney Phillips and said he would like to give Mr. Phillips the opportunity to defend himself. He went through the items mentioned in the memorandum stating their inaccuracy and denied the existence of a number of the items mentioned to have been in the backyard. He noted comments about access to his property through a neighbor and pictures that were not provided by City staff in court. He concluded his comments by saying he would like to hear a response from the Council.

There being no additional comment the Open Forum was closed.

CLOSED SESSION

At 3:20 p.m. Mr. Braxton moved that City Council go into Closed Session pursuant to Section 2.2-3711 of the Code of Virginia for the purpose of discussing one legal matter per subparagraph 7, for the purpose of consultation on specific legal matters requiring the provision of advice by counsel, concerning State Corporation Commission Tax Assessments. The motion was seconded by Mr. Freiling and carried by roll call vote of 3-0.

Recorded Vote on the Motion:

Aye: Braxton, Zeidler, Freiling

No: None

Absent: Haulman, Knudson

The Mayor called for a five-minute recess prior to going into Closed Session.

OPEN SESSION

At 3:30 p. m. Council again met in Open Session for certification of the closed meeting.

CERTIFICATION OF CLOSED MEETING

Date: May 13, 2010

Mr. Braxton moved to approve the certification of a closed session pursuant to Section 2.2-3712 of the Code of Virginia. The motion carried by roll call vote of 4-0.

WHEREAS, the City Council of the City of Williamsburg has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by the Committee that such meeting was conducted in conformity with Virginia Law.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Williamsburg hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed session were heard, discussed or considered by the City of Williamsburg.

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May 13, 2010

Recorded Vote on the Motion:

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

Absent During Vote: Haulman
Absent During Meeting: Haulman

ADJOURNMENT

There being no additional business before the Council, the City Council meeting of May 13, 2010 was adjourned by unanimous roll call vote at 3:32 p.m.

Approved: June 10, 2010

Jeanne Zeidler, Mayor

Donna Scott, City Council Clerk