

**WILLIAMSBURG CITY COUNCIL
MINUTES
JUNE 10, 2010**

The Williamsburg City Council held its regular monthly meeting June 10, 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, 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, Finance Director Phil Serra, Public Works and Utilities Director Dan Clayton, Parks and Recreation Director Lori Rierson, Police Chief Dave Sloggie, Fire Chief Pat Dent, and Director of Human Services Peter Walentisch.

COUNCIL MINUTES

Ms. Knudson moved that Council approve the minutes of the May 10 Work Session and the May 13, 2010 Regular Meeting as submitted. Mr. Braxton seconded the motion. The motion carried unanimously by roll call vote of 5-0 for the May 10 minutes, and the May 13 minutes by 4-0-1.

Recorded Vote on the Motion:

Aye: Freiling, Braxton, Zeidler, Knudson, Haulman

No: None

Abstain: Haulman (from May 13 minutes because he was absent from the meeting)

Absent: None

Mayor Zeidler passed the gavel to Vice-Mayor Haulman.

MATTERS OF SPECIAL PRIVILEGE

Resolution Honoring Mayor Jeanne Zeidler

Vice-Mayor Haulman took the gavel and presented Mayor Zeidler with a Resolution of Commendation and Appreciation which noted some of her many accomplishments during her long and distinguished career serving on the Williamsburg City Council. She was first elected to Council in 1994, served as Vice-Mayor from 1996 to 1998, and as the first female Mayor of Williamsburg from 1998 to June 30, 2010.

Mayor Zeidler's leadership and commitment to openness, collaboration and excellence has resulted in a strong, effective city government and full partnership with citizens, businesses, and Williamsburg's exceptional education institutions, the Colonial Williamsburg Foundation and the College of William & Mary.

On behalf of the citizens of Williamsburg, the City Council of the City of Williamsburg expressed in the Resolution its deep gratitude for Jeanne Zeidler's vision, compassion, leadership and service, and wished her well as she embarks on a new challenge.

Along with the framed Resolution, Vice-Mayor Haulman presented Mayor Zeidler with the personalized gavel she has used during her tenure.

Mayor Zeidler said it has been an honor and a privilege to serve on the Council of the City of Williamsburg and feels she is very fortunate to call Williamsburg her home and to be able to serve this amazing city. She added that one of the honors has been working with incredible City staff, City Manager and diverse and dedicated Council members.

There was a standing ovation in honor of Mayor Jeanne Zeidler.

Resolution Honoring Council Member Robert A. Braxton (Bobby)

Mayor Zeidler recognized Bobby Braxton and presented him with a framed Resolution of Commendation and Appreciation.

Robert (Bobby) Braxton was elected to the City Council of the City of Williamsburg in May 2006 serving until June 30, 2010. Bobby has deep roots in the Williamsburg community, as a native of Williamsburg, and as a member of the Braxton family which has made innumerable contributions to the City over many generations.

Noting Bobby's leadership in the community and service organizations, the Resolution states that he has been at the forefront of initiatives to create affordable housing for workers and seniors and has been a strong supporter of public safety programs.

On behalf of the citizens of Williamsburg, the City Council of the City of Williamsburg thanked and commended Robert Braxton for his years of leadership and public service and extended to him and his family best wishes for continued success and happiness.

Mr. Braxton said it has been a pleasure working with City staff, but he is not going underground.

There was a standing ovation in honor of Councilman Robert A. Braxton.

Mayor Zeidler noted that Joseph Phillips, who has been City Attorney for 36 years and has always offered sound advice and steered the City in the right direction, will be retiring from the position on June 30, 2010. At City Council's reorganization meeting on July 1, Mr. Phillips will be recognized and honored for his many years of service.

PUBLIC HEARINGS

PCR #09-010: Request of Brooks Land Corporation for a special use permit to convert offices to apartments at 110 Westover Avenue

Deputy Planning Director Murphy reviewed the request for a special use permit to convert two offices to apartments, adding to the existing two dwelling units on the property. One of the apartments will be on the first floor and the other will be on the second floor; the two proposed units combined with the two existing units will be the maximum number of units allowed on the

property. The Zoning Ordinance allows a density increase from 8 to 14 dwelling units per net acre with a special use permit and the proposal meets the criteria as stated in Sec. 21-43 of the Zoning Ordinance.

Ms. Murphy noted that the Comprehensive Plan designates this area as Mixed Use Land Use that is intended to provide a degree of flexibility in land uses to be developed in areas suitable for a mixture of residential and commercial uses. Because there are no exterior changes to the existing building, Architectural Review Board approval is not required, and the Site Plan Review Committee reviewed the request in July 2009, had no concerns, and recommended approval.

Ms. Murphy stated that Adam Nash and Tyler Brooks, representing the applicant, G.T. Brooks, were present to respond to any questions Council might have.

Mr. Freiling asked if the building has always been used as office space, and Ms. Murphy replied that the structure was originally built for residential use. In February 2008 the property was rezoned to LB-2 to allow for mixed uses such as office, commercial and residential uses. Since this time, there has been less interest in the property for office use with one unit being vacant for one year and another for three years. A special use permit was approved in August 2008 for the conversion of an office to an apartment for a total of two units on the property. Since the lot size allows for up to four rental units on the property, the proposed two units will maximize the number of units allowed on the property.

Mayor Zeidler opened the Public Hearing.

There being no comment the Public Hearing was closed.

Mr. Haulman said this would be a good use of the property, creating additional housing. Other Council members agreed with this assessment and Mr. Freiling moved that City Council approve the special use permit to convert the two offices to apartments. Mr. Braxton seconded the motion which carried by roll call vote of 5-0.

Recorded Vote on the Motion:

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

Appeal by the Mahone Family Limited Partnership of the decision of the ARB to deny the requests to demolish two houses and detached garages on Capitol Landing Road

ARB #10-023 – 1011 Capitol Landing Road

ARB #10-024 – 1039 Capitol Landing Road

Deputy Planning Director Carolyn Murphy reported that on May 11, 2010 the Architectural Review Board denied by a vote of 6-0 the above-referenced applications for the demolition of two single-family dwellings and two detached garages at 1011 and 1039 Capitol Landing Road. Ms. Murphy noted the reasons for the Board's denial:

- The dwellings are unique and rare survivors of modest houses that existed in the City before the Restoration of Williamsburg in the 1930s, making their historic and architectural value important to the City and the surrounding area. The dwellings were built in 1919 & 1920.

- The subdivision can be easily redesigned to retain these dwellings.
- One of the goals of Architectural Preservation is to retain and restore dwellings unless a compelling case is made for removal. The applicant has not demonstrated a compelling reason for the demolition of these structures.
- The owner's statement notes the houses are currently structurally sound.

Ms. Murphy noted that the Architectural Review article of the Zoning Ordinance states that the same standards shall be applied by the Council as are established for the Board in deciding the case. These standards include the "Criteria for Approval" listed in Section 21-855(c), the "Design Review Guidelines" adopted by City Council on March 9, 2006, and the "Goals for Historic Preservation and Urban Design" from the 2006 Comprehensive Plan. Ms. Murphy concluded her comments by saying the City Council action needed is to decide whether to affirm, reverse or modify, in whole or in part, the decision of the Architectural Review Board to deny ARB #10-023 and #10-024, the request of Mahone Family Limited Partnership for properties located at 1011 and 1039 Capitol Landing Road. She added that Architectural Review Board member, Jeff Klee, was present to make comments after the applicant's statements.

Mayor Zeidler opened the Public Hearing.

William T. McDaniel, Attorney in Fact for his mother, Helen Mahone, was present. He noted that his mother is not present today, but is the 99% owner of the Mahone Family Limited Partnership. The other 1% is owned by the children, brother John McDaniel and sister Sarah Lutz; and he added that his brother Richard McDaniel is here at the meeting today. He said that unfortunately, their mother is in the dementia section of Patriot's Colony, but he'd like to offer her sentiment to Council members. He said she would lecture all of us in the room, saying that her family got here in 1610; that would be a big deal to her. She would then say that she has been a lifetime member of the Association for the Preservation of Virginia Antiquities. Thirdly, she would say that those are her houses and she has the right to do anything she wants with them. Mr. McDaniel said that he and his brother Richard, being more diplomatic, would like to convince City Council to reverse the Architectural Review Board's decision to deny the demolition. They will not be lecturing anyone, but they think they can share some facts that may not be currently known that will support the reversal of the ARB's denial.

Mr. McDaniel showed the site plan and pointed out specific surrounding properties. He said the City owns the property at the entrance of the location of 1011 Capitol Landing Road, and in 2000 demolished a two-story, substantive house. Although he did not know the date of the construction of that dwelling because those records have been destroyed, it was a 1884 square feet structure. He said they have been working with the City, with Reed Nester, and they have given up a lot of lots. They began with 50 lots and the loss was not because of any ratio between green space and the building infrastructure, it was to accommodate future development in the area. He said they have moved roads and added a sanitary pump station so it can be sustained with the current labor force in the City; they have made a lot of accommodations which amount to hundreds of thousands of dollars they will lose to acquiesce to the City's desires.

Mr. McDaniel said that although he had not planned to mention one of the items, since it was one of the reasons noted for the decision to deny the request, he will mention it after all. The notion that the subdivision can be easily redesigned; it is only easy if cost and schedule are no

issue. He said he is responsible to his mother and it costs \$65,000 annually to sustain her just at Patriot's Colony. Having concluded the motive portion of the appeal, he said he would move on to the facts part.

Regarding "compelling reasons," he felt he had given some very compelling reasons, but obviously the ARB did not agree. He said he lived for seven months at 1011 when he got out of the military and if you haven't been inside you cannot know what sad shape it is in and how difficult it is to renovate. The reason given about "unique and rare survivors," he said is absolutely not true. There are still 122 units in the City of Williamsburg in the vintage of 1900-1925, and in York County there are another 116. He added that he does not know what "rare" means, but he does agree with the word "survivors," and like most survivors, they are not looking well.

Mr. McDaniel said there is some kind of metaphysical or physical association with these houses being in the City prior to the Restoration. This is not true; they were in York County, incorporated into the City in 1964, so there is no association with the City in an historical sense. They are two outlying houses, and again, they are not rare.

Regarding the historic and architectural value, he said he does not know how to argue that; he does not know why the City would be interested in 1919 and 1920. He went through the history books and sees no relationship to any kind of primordial reason that the City would want to put any value into something like that, unless some historical figure had lived in that house, or some other reason. When looking at the ordinance, there is no codification of why a 1919 or 1920 house would be any import whatsoever.

Addressing why they think the dwellings should be demolished, Mr. McDaniel gave what they feel are compelling reasons to proceed:

- Increased tax revenue. When the two houses are demolished, three more lots will take their place. The homes will be at least \$400,000 and could be four to six times the current revenue.
- Expanded green space. From the creek to the new entrance would be all green space and this is a major corridor into the City. The houses in the development would not be visible from the street; the only people who will see the houses are the people in the new development.
- A high-end Colonial Village is planned. Although not final, the intent is to put in a high-end Colonial Village, "Queen Mary's Port," the name before Capitol Landing. This would protect the 18th Century site; they have done the Phase 2 and the whole corridor from the entrance down to the creek was a major area. During Phases 1 and 2 there were all kinds of findings, and there will be access to it so more archaeological digs can be done if desired.
- Architectural harmony. These two houses do not offer architectural harmony with the intended development.
- Increased property values. Not just for the residents of the new development, but also for nearby Brandywyne. These two houses add no value to those properties surrounding them.
- Three lots will be gained. The lots could yield between a quarter and a half million dollars of profit and, he added, they are not agnostic to making money for their mother.

Mr. McDaniel said the basic argument is that there is no objective criteria in the ordinance, so you leave it to the engineers and/or the archaeologists to make that determination. He asked what slice of history is to be maintained; why are 1919 & 1920 important? But the more important point is the ordinance itself and the right of the owner to be able to demolish the structure after one year.

The predictable future is that the houses can't be moved. He said he's talked with Habitat for Humanity and although they would like the scraps from the houses for their restore store, they don't have the land for the houses and the cost is prohibitive. Housing Partnerships has said they can't move the houses; they are impossible to move. You can't move the houses and can't preserve them, but again if you were able to move them that would violate the intent of the ARB to have these existing houses somewhere near the Williamsburg area. They won't sell. He said he's had no formal offer from the City but has had an informal offer that they would be willing to buy the land next to their land for \$250,000. So, if the City Council does not reverse the ARB decision, they will try to sell the land, will put it on sale for one year, according to the ordinance. The house is assessed at \$100,000, so they will put it on the market for \$350,000. The Catch 22 is that you can't demolish the house. No one wants that house, so what will happen is that the renters will be dragged through the year and then the house will be demolished in 2011.

Mr. McDaniel concluded his comments by asking why delay the inevitable for one year? They ask that Council reverse the ARB's decision and let the project that is worthy of the Williamsburg label proceed.

Mr. Freiling asked about the timeline and Mr. McDaniel answered there are four siblings involved, and it may be as early as the end of the year. More important is what is put there. If they go with the Colonial Village, it will probably be sooner than later due to the recession.

Mr. Braxton asked about the condition of the dwellings and Mr. McDaniel said the utilities are the problem and the furnace is on its last legs. He acknowledged that they are being rented to two public servants, one of them is a friend and the other is a close associate. He added that the renters are very content with the amount of rent they are paying and the level of the quality of life in the houses.

Jeff Klee, 115 Berkeley Lane, serving on the Architectural Review Board as an Architectural Historian, said he has served on the Board since 2004. He thanked Mr. McDaniel and said although they disagree on what the resolution ought to be today, the meeting with him was one of the more enjoyable ones they've had on the ARB in a long time and really went to the heart of what preservation is about in the City. He added that he hopes that conversation will continue here today.

Mr. Klee thanked Council for the opportunity to respond to the Mahone family's request to demolish two houses on their property. One of the houses was built in 1919 and the other in 1920. He said it is admittedly disappointing to have the ARB's carefully considered judgment called into question, however he is grateful to have a public discussion of the limits of this community's commitment to preservation; he added that he expects the demolition of these two houses falls well within those limits. Despite Mr. McDaniel's misgivings, these little

houses, now nearly a century old, have value. They are part of a small and shrinking number of buildings left in town that predate the Colonial Williamsburg Restoration, and the ARB has been consistent in making their preservation a high priority.

In 2006 the developers of the Health Evaluation Center requested permission to demolish the circa 1920 Lawson House. Their builder and their engineer felt that its lower level floor framing was beyond repair and that its outdated systems were not up to building codes and that, therefore, the building should be demolished. They argued that the house could be rebuilt for less money and with a better result for the City. The ARB disagreed. The house was instead beautifully restored and is an ornament to Scotland Street.

Mr. Klee noted that preservation must always be balanced against other priorities. A few houses stood in the way of the Capitol Landing Green project; all in states of disrepair, all more than 50 years old. The ARB allowed the demolition of the smallest and youngest and the developer moved and renovated the two oldest, making them the centerpieces of the subdivision. Where a worthy project could not proceed without demolition of a building, and where historic buildings have been so deteriorated to make them uninhabitable, it has been allowed. Neither criterion applies in this case. The houses Mr. McDaniel proposes to demolish are sound enough to rent out, and they are sound enough to restore. With a little adjustment of the site plan, they would not be in the way of any proposed construction. Applicants often insist that early 20th Century buildings are not worth preserving; they are too ordinary or too small or architecturally undistinguished or they were built by the applicant's parents. These arguments are short sighted as a little local history demonstrates.

One aspect of the Restoration of Williamsburg in the 1920 and 1930s, was the demolition of 19th Century buildings. Mr. Klee said that most of us agree that the Restoration was a worthy enterprise, but he said he thinks we can also agree that the removal of our antebellum building stock was a loss to the community. Of course in 1930, a house built in 1860 was only 70 years old, by comparison houses on the Mahone property are now 90 years old. No doubt most of these were architecturally undistinguished and a few needed a little tender loving care, but in their aggregate they told the story of Williamsburg and a period that has received little attention. So too with the early 20th Century buildings. Together they are an important reminder that there was life here between Thomas Jefferson's departure and John D. Rockefeller's arrival.

Finally, Mr. McDaniel makes the point that these two bungalows of roughly 1200 and 1600 square feet, are much smaller than the large and expensive houses he proposes for this development. Their modest size, far from being a liability, needs to be understood as an asset. As much as we struggle to get affordable housing built in Williamsburg, it is foolish and wasteful for us to allow our existing stock of affordable housing to be destroyed. Though this last quality did not enter into the ARB's deliberations, it should certainly be factored into Council's. This project can go forward without demolishing these houses; they are part of an important and shrinking group of early 20th Century buildings and whether or not they are restored, they provide decent, affordable housing. The ARB made a good, unanimous decision to deny this application; he hopes Council will see it the same way.

There being no additional comment the Public Hearing was closed.

Mayor Zeidler asked City Attorney for confirmation of her understanding that if the City Council upholds the ARB decision and the property is put up for sale and does not sell within some specified period of time, it can be demolished anyway. Mr. Phillips confirmed that understanding noting that the time period would be one year and if the property is not sold within that time for at least a defined value, then it can be demolished. When asked whether there is a precedent for this, Mr. Phillips answered that although it has never been done, it is mandated by Virginia Code. He added that there was one that came close to it some years ago but it didn't happen after all and the house on England Street was refurbished and is still there.

Ms. Murphy said this property is unique in that in order for them to use the one-year time limit, these houses would have to be on individual lots. She proceeded to explain the procedure as stated in the ordinance. She noted that the one-year time period doesn't begin until the lots are legal and the applicant has filed a statement of intent with the Zoning Administrator. Mr. McDaniel stated that this would be done with 24 hours and the only holdup would be actually plotting it out and getting the plot approved as an acceptable plot.

Mr. Haulman asked who determines the value of the properties, and Ms. Murphy responded that the value is the fair market value as determined by the City assessor. Mr. Phillips added that it would also depend on the lay of the lots. In response to Mr. Freiling's questions, Ms. Murphy confirmed that the applicant would need to carve out specific lots for each house. If the houses are not sold after the one-year period, they can be demolished and the lot lines can be readjusted as part of a subdivision if there is a new development plan submitted.

Ms. Knudson asked if these houses are on the architectural preservation list, but can be demolished anyway after the one-year time period, what is the value of the list? Ms. Murphy responded that the procedure in the ordinance follows State Code. If the City believes these houses are precious and should be kept to the greatest extent possible, they are placed on the list; the Code offers some relief if there has been a concerted effort to sell the property. Ms. Murphy confirmed that the houses do not have to be fixed up or upgraded in order to go on the market. Mr. Braxton noted that actually there is no way to protect these houses. Ms. Murphy responded that they are protected through the ordinance to the greatest extent possible. She noted the house on South England Street that sold through the process.

Mr. Freiling noted that earlier Mr. McDaniel had used the term "acquiesced" to the City's desires. He said that although he can appreciate the applicant's sentiment, he looks at it more of whether the City is going to follow the applicable guidelines that are already in place. Looking at the "Razing, Demolition or Moving Criteria" in the **Design Review Guidelines**, the five key items are:

1. The historic and architectural value of the building or structure.
2. The effect of the proposed razing, demolition or moving on the surrounding area.
3. The impact of the proposed razing, demolition or moving on the Comprehensive Plan's goals for historic preservation.
4. The condition of the building or structure.
5. The economic feasibility of restoring the building or structure.

Mr. Freiling continued by saying Council has now heard from the City's designated body, the ARB, that these buildings do have historic and architectural value. Although there may be some systems issues, we've heard that the condition of the building or structure is sound. When looking at the **Guidelines**, Mr. Freiling said it is hard for him to see what basis Council

would have for overriding the ARB's well-considered decision. When looking at examples of these homes around our community, as Ms. Knudson said, what's the point of having these guidelines if someone can just go through another process, wait a year, and then demolish the building anyway. This would be making the assumption that these houses were put up for sale and that no one would buy them.

Mr. Freiling said another thing worth keeping in mind is what the timeline encourages a developer to do. Rather than go through the process, which may be considered a burdensome period of delay, the time would be provided to find a creative way to incorporate these two valuable existing structures into the design of the community they want to create. This may mean using complementary design styles that tell the story of the history of life in this community; it does not mean that all the architectural styles need to be identical, that is what we don't want because then we would get into a suburban look that most people would find displeasing. It's the diversity of the character of the structure, when done in harmony, that can really have a positive impact. The Capitol Landing Green project was cited as an example, the newer houses that are going to be built are not identical to those that were saved. Another example Mr. Freiling noted were the Tyler Street townhouses that don't mirror the architecture of the surrounding homes, but do blend in. He noted several other examples that have been an addition to the community and said this is the value of the preservation list. The reason eventual demolition is there is so that it doesn't become an overly burdensome situation if nothing can be done with the houses in the long term. He concluded his comments by saying it is his personal opinion that the ARB made a good decision and he intends to uphold it.

Mayor Zeidler agreed with Mr. Freiling. She said that as they were told at the beginning of this appeal, Council is to use the same criteria in making their decision that the ARB considered in their decision. She said she was surprised that after a period of time the houses could be demolished anyway, although she understands that not to be able to demolish the houses could be a burden, and she is not looking to create extended time periods or burdens for the applicant. She agreed that the ARB made the right decision.

Mr. Haulman echoed Mr. Freiling's comments adding that the houses on the list have a higher standard to uphold before something can happen to them. The standard is that the applicant needs to look at them and see what possibilities exist. The size of these houses doesn't preclude something happening like an architectural compatible renovation. Mr. Haulman said it seems fair to him that the State is protecting property owners' interests by saying this can't go on forever, and placing a limited time on it, but it also seems fair to him that there is a period of time during which some alternative use can be considered. He added that they are the size, and possibly the price, that would be appropriate for affordable workforce housing. He agreed to uphold the ARB's decision which will allow the opportunity to see what can be done with the houses.

Mr. Braxton said he is very sensitive to the ARB because he's followed their **Guidelines** extensively in a couple of cases. One was when about 80% of the house was gutted and the reason he had to do that was because of the sensitivity of the structure itself. He also had one where he had to add on via the ARB's instructions, and he followed the **Guidelines** specifically.

Regarding moving the houses, Mr. Braxton said the applicant has contacted Habitat for Humanity and Housing Partnerships. He said that in the past there was a home that was being considered to be moved but ultimately could not be moved because of the structure itself. Mr. Braxton said that what finally occurred was that they got quotes from a mover, as well as an opinion of where it could be moved, and offered to pay to move it; he asked if this was an option the applicant considered. Mr. McDaniel responded that this option was considered and all the experts that he talked with have told them that these houses cannot be moved, so that is not an option. Mr. McDaniel noted that he thought the point was that it's where the houses are that makes them important. If they were moved that would negate the whole rationale. If it's just to provide housing for people somewhere, he said he's missed the point. Also, regarding whether they are structurally sound, it is the renters responsibility to keep him informed and he has not done an assessment since his father died. He doesn't know if they really are structurally sound since he last lived there in 1997.

Ms. Knudson moved that City Council affirm the decision of the Architectural Review Board to deny ARB #10-023 and #10-024, the request of Mahone Family Limited Partnership for properties located at 1011 and 1039 Capitol Landing Road. Mr. Braxton seconded the motion which carried by roll call vote of 5-0.

Recorded Vote on the Motion:

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

REPORTS

Monthly Financial Statement

There were no additional comments from staff.

Monthly Departmental Operating Reports

There were no additional comments from staff.

Ms. Knudson asked about the lower number of rental inspections this year compared to last and Mr. Nester responded that the Rental Inspection Program is on a four-year cycle and this figure reflects a function of when the initial inspections are done.

Planning Report – None

City Manager Reports

Heritage Tree Ordinance, Proposed Ordinances #10-08 and #10-09

Mr. Tuttle presented an ordinance to establish a Heritage Tree Program and, in anticipation of Council approving the establishment of the Program, another ordinance designating certain heritage trees which were identified and nominated by the Heritage Tree Committee. The Committee is comprised of a City representative, (Will Fidler, City of Williamsburg Landscape Superintendent), a Colonial Williamsburg representative (Tony Craig, on-staff arborist) and a College of William & Mary representative (Matthew Trowbridge, on-staff arborist). An extensive review of both ordinances was provided at the City Council work session earlier this week.

Mr. Haulman moved that City Council adopt Proposed Ordinance #10-08 establishing the Heritage Tree Program. Mr. Braxton seconded the motion which carried by roll call vote of 5-0.

Recorded Vote on the Motion:

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

Ms. Knudson moved that City Council adopt Proposed Ordinance #10-09 designating the initial list of heritage trees. Mr. Freiling seconded the motion which carried by roll call vote of 5-0.

Recorded Vote on the Motion:

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

Adopted Ordinances #10-08 and #10-09

Colonial Services Board Name Change, Proposed Resolution #10-07

As required by Section 37.2-501 of the Code of Virginia, 1950, the City of Williamsburg, along with York County, James City County and Poquoson, established a Community Services Board (CSB) in 1968. Over the years the CSB has been known as either the "Colonial Services Board" or by its legal name, "Colonial Mental Health and Mental Retardation Services Board for Williamsburg, York County, James City County and Poquoson," and now wishes the legal name to be changed to "Colonial Behavioral Health." Mr. Tuttle noted that David Coe, Executive Director, Colonial Services Board, was present for any questions Council might have.

In response to Mr. Freiling's query, Mr. Phillips said the requested name change must be approved unanimously by all four localities.

Mr. Freiling moved that City Council adopt *Proposed Resolution #10-07*, authorizing a name change from the Colonial Services Board to Colonial Behavioral Health. Ms. Knudson seconded the motion which carried by roll call vote of 5-0.

Recorded Vote on the Motion:

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

Adopted Resolution #10-07

FY 2010 Year End Budget Amendment, Proposed Resolution #10-05

It is necessary to amend the FY 2010 budgets of four City funds before the close of the fiscal year. These amendments are to the General, Utility, CDBG, and Law Enforcement Block Grant funds.

Mr. Freiling moved that City Council approve Proposed Resolution #10-05 amending the four funds. Mr. Braxton seconded the motion which carried by roll call vote of 5-0.

Recorded Vote on the Motion:

Aye: Freiling, Braxton, Zeidler, Knudson, Haulman

No: None

Absent: None

Adopted Resolution #10-05

Virginia Retirement System – Pick Up of Employee Contribution, Proposed Resolution #10-06

Mr. Tuttle said that as discussed last month, Council needs to elect to either require City employees hired after July 1 to pay the 5% Virginia Retirement System (VRS) employee contribution, or to “pick up” that contribution as is now the case for existing employees. He added that a third option allows the City to pick up a portion of the 5% contribution.

Mr. Tuttle noted that contrary to what was understood and reported last month, the City’s election is not irrevocable. Rather, the election to pick up lasts at least to June 30, 2011, and continues until changed. However, if changed to require employees hired after July 1, 2010 to pay all or part of the 5% contribution, it will apply to all employees hired after July 1, 2010, not just those hired after the date of the change.

Mr. Haulman stated that this is a good idea and would ensure that all City of Williamsburg employees would be treated the same. He then moved that City Council adopt *Proposed Resolution #10-06* electing to pick up the 5% employee VRS contribution for employees hired after July 1, 2010. Ms. Knudson seconded the motion which carried by roll call vote of 5-0.

Recorded Vote on the Motion:

Aye: Freiling, Braxton, Zeidler, Knudson, Haulman

No: None

Absent: None

Adopted Resolution #10-06

City Attorney Report -- none

UNFINISHED BUSINESS -- none

NEW BUSINESS

Appointment of City Attorney

Mr. Tuttle stated that Christina Shelton has provided legal services to the City of Williamsburg in various capacities for the last ten years, since July 1, 2007 as Deputy City Attorney. Based on her qualifications, prior job performance, and interview with the City Council she is eminently qualified to assume the duties of City Attorney. Should City Council wish to appoint Christina Shelton as the Williamsburg City Attorney, effective July 1, 2010, Council will need to authorize the Mayor to execute the Employment Agreement on behalf of the City of Williamsburg.

Mayor Zeidler said she is pleased with and proud of the service Ms. Shelton has already provided the City and will be happy to execute the Employment Agreement if so directed by Council.

Mr. Freiling moved that Council appoint Christina Shelton as the Williamsburg City Attorney, effective July 1, 2010 and authorize the Mayor to execute the Employment Agreement on behalf of the City of Williamsburg. Mr. Braxton seconded the motion which carried by roll call vote of 5-0.

Recorded Vote on the Motion:

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

OPEN FORUM

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

Gary Shelly, 205 Indian Springs Road, suggested that it is City Council that tortures William & Mary students and that he has come before Council many times speaking on the students' behalf. Input from citizens has been requested and over the years he has done that, always on behalf of the students. When he first came before this Council he spoke about some dissatisfaction the students had with our City and with our Council. He said he was rebuffed, rebuked, and told that such conditions don't exist, and was asked who he thought he was to be speaking for students.

Mr. Shelly raised issues from past years involving the City and Council and noted that he has never gotten responses to his comments or questions. He said that every issue involving students that has come before Council, students have found to come to an unsatisfactory conclusion.

After knocking on numerous doors during this last campaign, he said he disagrees with the statement in the newspaper that Town and Gown relations are better than they ever have been. He said even he was shocked at the depth of anger the students have toward the City, and particularly the Council. There has been a divide between students and townspeople like never existed before. But, he looks to the future with new hope. There will soon be a new Council, new direction, and student involvement; it's a good thing. Hopefully some people will now be listening to their side.

He said he's come before Council speaking of all the benefits students bring to the community. The \$350 million and the 330,000 hours of community service on an annual basis. They are a vital part of this community. He concluded by saying he looks forward to the future and hopes Council's involvement can be counted on to try to improve relations.

Mr. Shelly thanked Mayor Zeidler for the many years of service she's given the City and wished her well in her personal life.

There being no additional comment the Open Forum was closed.

CLOSED SESSION

At 3:15 p.m. Mr. Haulman 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 personnel matter per subparagraph 1, concerning annual personnel evaluation. The motion was seconded by Mr. Freiling and carried by roll call vote of 5-0.

Recorded Vote on the Motion:

Aye: Braxton, Zeidler, Freiling, Haulman, Knudson

No: None

Absent: None

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: June 10, 2010

Mr. Haulman 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 5-0.

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.

Recorded Vote on the Motion:

Aye: Braxton, Zeidler, Knudson, Freiling, Haulman

No: None

Absent: None

Absent During Vote: None

Absent During Meeting: None

ADJOURNMENT

There being no additional business before the Council, the City Council meeting of June 10, 2010 was adjourned by unanimous roll call vote at 3:32 p.m.

Approved: July 8, 2010

Clyde Haulman, Mayor

Donna Scott, City Council Clerk