

**WILLIAMSBURG CITY COUNCIL
MINUTES
NOVEMBER 12, 2010**

The Williamsburg City Council held its regular monthly meeting on Friday, November 12, 2010, at 2:00 p.m., in the Council Chambers of the Stryker Building, 412 N. Boundary Street, Williamsburg, Virginia. The date for this meeting was changed from November 11 due to the Veterans Day holiday.

CALL TO ORDER

Mayor Clyde A. Haulman called the meeting to order.

ATTENDANCE

Present in addition to Mayor Haulman were Vice-Mayor Paul T. Freiling, and Council members Ms. Judith N. Knudson, and Messrs. D. Scott Foster, Jr. and Douglas G. Pons. Also present were City Manager Jack Tuttle, City Attorney Christina Shelton and Council Clerk Donna Scott.

Staff Attending: Assistant City Manager Jodi Miller, Economic Development Director Michele DeWitt, Communications Specialist Kate Hoving, Planning Director Reed Nester, Finance Director Phil Serra, Parks & Recreation Director Lori Rierson, Police Chief Dave Sloggie, Fire Chief Pat Dent, Chris Powell representing Human Services Director Peter Walentisch, Public Works & Utilities Director Dan Clayton and IT Director Mark Barham.

COUNCIL MINUTES

Mr. Pons moved that the minutes of the October 14 Regular Meeting be approved as submitted. Ms. Knudson seconded the motion which carried by roll call vote of 5-0.

Recorded Vote on the Motion:

Aye: Knudson, Pons, Haulman, Freiling, Foster
No: None
Absent: None

MATTERS OF SPECIAL PRIVILEGE

Green Business Challenge Recognition

Mayor Haulman said in October the City received a Platinum Award in the 2010 Virginia Municipal League (VML) Green Government Challenge. The City's Green Team, made up of employees from all departments, decided to continue the momentum by creating their own challenge to businesses located within the City of Williamsburg and operate under an active Business License. He said it is fitting to acknowledge this challenge in conjunction with the national "America Recycles Day" on November 15.

He noted that Jodi Miller, Assistant City Manager and Chair of the City's Green Team, said the City's recognition as a Green Government is just part of the Williamsburg community, and we know there are businesses in the City who are also committed to environmental sustainability. We want to acknowledge them and their employees who work every day to reduce their carbon footprints and hope to inspire other businesses to do the same.

It was noted that it was clear as the Green Team reviewed the applications, that the businesses are green because of a commitment by the owners and managers as well as the staff members; they make the decision to be greener. To qualify, businesses needed to be able to check off at least 12 activities they are currently doing in any or all of the following areas:

- Waste Reduction
- Water Conservation
- Energy Conservation
- Transportation
- Recycling
- General/Staff Education

Mayor Haulman presented certificates to the City of Williamsburg "Green Businesses":

- **A Williamsburg White House Inn**
- **Aberdeen Barn**
- **Aromas Specialty Coffees & Gourmet Bakery**
- **College of William & Mary**
- **Colonial Connections**
- **Colonial Williamsburg Foundation**
- **Compass Wealth Strategies**
- **Fife & Drum Inn**
- **Goodyear**
- **Greater Williamsburg Chamber & Tourism Alliance**
- **Retro's**
- **Ripley's Believe It or Not!**
- **Subway High Street**
- **Virginia Gazette**
- **Virginia Regional Ballet**
- **Williamsburg Hospitality House**
- **Williamsburg Manor, Inc.**

There was audience applause honoring the businesses and institutions committed to environmental sustainability.

Certificate of Distinction from the ICMA Center for Performance Measurement (CPM)

Mr. Tuttle said the City has been awarded the Certificate of Distinction from the International City/County Management Association (ICMA), and Williamsburg is among only 18 jurisdictions in the country receiving such an honor this year. Mr. Tuttle particularly recognized Phil Serra, the coordinator for performance measurement and Mark Barham who oversees the computer system. He showed a copy of the Comparative Performance Measures Report distributed by the ICMA Center which compares a number of measures between Williamsburg and other communities around the country. Mr. Tuttle said this information is distributed to all departments in order to help them improve. Mayor Haulman thanked Mr. Tuttle and noted that this is an award not only to the City but to all staff who do a terrific job for the City.

The award recognizes superior performance management efforts and criteria for the Certificate of Distinction include:

- Reporting of performance data to the public through budgets, newsletters, and/or information provided to elected officials

- Data verification efforts to ensure reliability
- Staff training
- Use of performance data in strategic planning and operational decision making
- Sharing of performance measurement knowledge with other local governments through presentations, site visits, and other networking

The ICMA provides member support; publications, data, and information; peer and results-oriented assistance; and training and professional development to nearly 9,000 city, town, and county experts and other individuals and organizations throughout the world. The management decisions made by ICMA's members affect 185 million individuals living in thousands of communities. Mr. Tuttle noted that there is one level higher than the Certificate of Distinction, the Certificate of Excellence, which is now the City's goal.

PUBLIC HEARINGS

City Charter Amendment, *Proposed Ordinance #10-17*

City Attorney Shelton said that currently Section 8.1 of the City Charter provides that vacancies on the City Council are filled by appointment that is valid until the next general council election. In July 2010, Sections 24.2-226 and 24.2-682 of the Code of Virginia was amended by House Bill 1014 requiring that localities hold special elections to fill mid-term vacancies on City Council. The requirement of the statute expressly supersedes existing provisions of the city charters. Adoption of this ordinance amending the Williamsburg City Charter would bring the Charter into conformity with the superseding State Code provisions.

Mr. Freiling moved that City Council adopt *Proposed Ordinance #10-17* amending the City Charter and further authorize the City Attorney to forward the approved amendment to Section 8.1 of the Williamsburg City Charter to the Delegate and Senator for the City of Williamsburg for introduction and sponsorship of the appropriate legislation during the 2011 Session of the Virginia General Assembly. Ms. Knudson seconded the motion which carried by roll call vote of 5-0.

Recorded Vote on the Motion:

Aye: Knudson, Pons, Haulman, Freiling, Foster
No: None
Absent: None

{Adopted Ordinance #10-17}

REPORTS

Monthly Financial Statement

Mr. Tuttle noted four months into the fiscal year, before any significant real estate tax money has been received, \$2.8 million more has been spent than we've taken in to operate City government. However, this will change dramatically over the next two months once the first half of real estate taxes come in.

Mr. Pons asked how liquid the \$17 million in the investment pool is and if there are some inherent risks involved in leaving the money in this type vehicle as interest rates rise; does the rate of return on this start to deplete? Mr. Tuttle responded that it is completely liquid; we can obtain it on daily notice and because it is based on short-term rates, the rate of return tends to follow fairly short-term money instruments. The risk is fairly low and the City could withdraw

money at any time and put it in a long-term investment. The City's investment policy allows us to go up to three years out on an investment, so if the opportunity was there, we could move the money from the Local Government Investment Pool (LGIP) to longer-term investments in the hope of getting a better interest rate. He added that although the rates are currently comparable to the LGIP, a year or so ago the City was able to invest in CDs at local banks.

Monthly Departmental Operating Reports

Mr. Pons noted the three recent reassignments of Police Department Majors and asked Chief Sloggie to explain the functions of the three departments. Chief Sloggie said Majors Geary, Barker and Riley were reassigned. He said that one of his goals is to get everyone equal experience in all the different bureaus, and to put the right people in the right seats. Andy Barker who has been on the force for 25 years was the best choice for the Uniformed Bureau and will be involved in all the special events and anything related to uniformed police officers. Major Geary will be in charge of Support Services and will take care of almost every support function of the Police Department. Major Riley who has been in Support Services for five months, is moved to the Special Operations Bureau where he will be in charge of special investigations and all major criminal investigations. Mr. Pons congratulated Chief Sloggie on having three majors qualified for the reassignments.

City Manager Reports

Purchase of Replacement Fire Pumper

Fire Chief Pat Dent presented the proposal to purchase a new fire pumper to replace Reserve Engine 10 which is a 1988 pumper with 68,454 miles. The current front-line vehicle which is a 2000 model will be moved to a reserve status and will help reduce some of the maintenance costs on that vehicle. The new pumper will be a 2011 Pierce Quantum pumper and will provide advantages such as the latest technology and improved safety measures. The 1988 pumper will be removed from the fleet and either sold at auction or used as a trade-in on the purchase of the new pumper.

The bid has been awarded to Atlantic Emergency Solutions for a contract price of \$634,615. This price reflects a \$22,448 discount for a 90% prepayment made at the time of the order. The funding for the pumper was budgeted in the City's Vehicle Replacement Plan for FY2011 at \$650,000.

In response to Mr. Freiling's question regarding the enhanced technology and the need to make the purchase now, Chief Dent said these advanced technological enhancements include a compressed foam system which provides a better smothering effect and reduces the weight of the hoses; electronic gage improvements which calculates a lot of the discharge water pressure automatically; breathing apparatus is no longer mounted on the firefighter's back but rather is recessed and they can put it on as they move down the road; there is increased visibility on the apparatus with markings on the tail board and on the front and back of the engine which are new requirements to protect firefighters; ladders have been moved into compartments inside the vehicle instead of on the outside which reduces injury to firefighters from taking the ladders off the sides as well as protecting the ladders from roadway dirt and grit.

Regarding why it's important to make this purchase now, Chief Dent said the current reserve pumper is a 1988 pumper and it's getting difficult to find replacement parts and if found, they are very expensive. He said there have been some maintenance issues with the front-line

model and even repairs for the 2000 model are becoming a lot more expensive. Recently maintenance costs for that one piece of apparatus were about \$53,000. Mr. Pons noted that if anyone has any hesitation in making this purchase of the pumper now due to the economy, we need to remember the danger involved if a fire truck were to break down; this purchase would be an investment in safety.

Mr. Freiling moved that City Council authorize the City Manager to enter into a purchase agreement with Atlantic Emergency Solutions for the purchase of a new replacement pumper in the amount of \$634,615. Mr. Foster seconded the motion which carried by roll call vote of 5-0.

Recorded Vote on the Motion:

Aye: Knudson, Pons, Haulman, Freiling, Foster
No: None
Absent: None

Adoption of 2011-2012 Goals, Initiatives and Outcomes

Mayor Haulman noted there have been multiple discussions devoted to this document, including joint sessions with both the EDA and the Planning Commission as well as public meetings and work sessions. Changes have been made as a result of those discussions and hopefully this improved iteration is close to the final document. Mr. Freiling thanked staff for their work and members of the community for sharing their comments which has helped to make this a better document and better results for the City. He thanked the Mayor for the adjustments in the process that have helped make a lot of this possible. Mr. Foster agreed adding that it will have considerable community impact and is something to be proud of. There has been as much opportunity for input into this document as there should be; it's very good. Mr. Pons echoed previous comments and repeated that he thinks it is a living document, different from the Comprehensive Plan. Staff has done a great job putting together what we have heard from the community; it is a document worthy of approval today. Mayor Haulman noted the metrics included in the document and the importance of being able to measure progress toward the established goals. He particularly thanked staff for the hard work that went into the document.

Mr. Freiling moved that City Council adopt the 2011-2012 Goals, Initiatives, and Outcomes. Ms. Knudson seconded the motion which carried by roll call vote of 5-0.

Recorded Vote on the Motion:

Aye: Knudson, Pons, Haulman, Freiling, Foster
No: None
Absent: None

Mayor Haulman again thanked everyone who contributed; this truly was a community effort.

City Attorney Report --None

UNFINISHED BUSINESS -- None

NEW BUSINESS

Appointments to Boards and Commissions

Mr. Freiling moved that City Council reappoint:

- **ROBERT LANE & LOWELL RUFF** to the Architectural Review Board for four-year terms to expire December 31, 2014;
- **STEWART GODDIN** to the Board of Zoning Appeals for a five-year term to expire December 31, 2015;
- **NANCY CARTER** to the Historic Triangle Bicycle Advisory Committee for a three-year term to expire December 31, 2013;
- **SEAN DRISCOLL & DANIEL QUARLES** to the Planning Commission for four-year terms to expire December 31, 2014;

Mr. Freiling also moved that Council appoint:

- **DENNIS KISER** to the Board of Building Code Appeals for a five-year term to expire on December 31, 2015; and
- **CLAYTON ASHBY** to the Regional Issues Committee for a three-year term to expire December 31, 2013.

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

Recorded Vote on the Motion:

Aye: Knudson, Pons, Haulman, Freiling, Foster
No: None
Absent: None

OPEN FORUM

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

Patricia Gray, 107 John Tyler Lane, said that timing is everything in life, and it is very appropriate that City Council is being concerned about appropriate timing for expression of their concern about the Surry coal plant. She introduced Robert Burnley, former Director of the Virginia Department of Environmental Quality and currently an environmental consultant. Also, Tom Cormons, of Wise Energy for Virginia Coalition, to offer professional insights on the approval process and what timing will have the most impact. She added that both gentlemen will be glad to answer questions after their statements.

Tom Cormons, 1116 Forest Hills Avenue, Charlottesville, Virginia, said he represents the Appalachian Voices and the Wise Energy for Virginia Coalition. For three years their coalition of organizations, represented in the legal arena by the Southern Environmental Law Center, has worked with communities being asked to bear the externalized costs of the two biggest polluters proposed anywhere in Virginia in recent years, Dominion's Wise County Coal Plant and the coal plant nearly three times as big currently proposed by the Old Dominion Electric Cooperative (ODEC). Mr. Cormons said that while ODEC has promised proffers, tax revenue, and jobs to Surry County and Dendron in return for the Plant's pollution, ODEC can make no

such promises to those surrounding and downwind communities like Williamsburg. Citizens of Williamsburg would receive only pollution of their air and water and none of the Plant's purported benefits. He said it's important that the law does not leave it solely to ODEC and Surry County to weigh in on whether one of the biggest polluters in the state should be built here. Because of its jurisdiction over the wetlands where ODEC wants to build, the National Environmental Policy Act (NEPA) requires the Army Corps to complete a broad environmental review of the proposal that goes well beyond the wetlands impact to look at the entire environmental consequences of the Plant. The very serious air and water impacts on localities throughout the Hampton Roads area should be at the forefront of the Corps concerns as it weighs the Plant's pros and cons. If the Corps determines through this environmental review that the Plant is not needed or that environmentally preferable alternatives to constructing it exist, the Corps has the authority to deny the wetlands permits outright. He said they cannot emphasize enough the importance of this proceeding because no agency other than the Army Corps of Engineers is charged with taking such a holistic view of the whole proposal and then deciding, weighing all the factors, whether what ODEC is proposing makes any sense. He said they also cannot over-emphasize the importance of weighing in with the Army Corps now while it is actually in the process of assembling its environmental review from the ground up. As the Corps develops its analysis, it needs to know at the outset of how concerned area residents are about the health, environmental and economic implications of ODECs pollution. Currently, as it develops the Environmental Impact Statement, the Corps is getting nearly all of its input from ODEC and is working with a consultant chosen by ODEC.

Mr. Cormons concluded his comments by saying that it is critical that the Corps is made aware that downwind localities understand that this process is not just about ODEC and that the Corps primary duty is owed to the citizens of Williamsburg and other localities that would suffer the repercussions from the Plant's pollution. ODEC is aggressively defending the local law suit against rezoning for the Plant, is securing rights of way for water pipelines, and is moving full steam ahead with the Army Corps of Engineers. To be most effective the concerns of the affected communities need to be expressed now before the process moves any further.

Bob Burnley, 5632 St. James Court in Richmond, VA, said he is an environmental advisor. He began his comments by congratulating Council and all the winners on the Green Business Challenge program which is a terrific opportunity for people to be challenged and show what they can do.

He said he is here today on behalf of Wise Energy for Virginia Coalition which is a coalition of clean energy and clear air advocates. He said there has been some confusion about ODECs intent since they have withdrawn air permit applications. In the company's own words, they have not abandoned this Plant, but have extended the timeline. At last month's Hampton Roads Planning District Commission's meeting, the ODEC spokesman made it very clear that they intend to build the Plant and intend to operate it. The questions regarding ODECs intent because of the withdrawal of these permit applications, has caused a lot of confusion with downwind communities and they are beginning to wonder when they should communicate their concerns to the state and federal regulators and decision makers. He said that he was one of those regulators and decision makers for decades and would like to share some of his thoughts with Council on the issue of when to weigh in.

Mr. Burnley said that knowing that the air emissions from this Plant are going to negatively impact the health of the citizens, the quality of life in Williamsburg, opportunities for economic development, tourism and the general health of the environment, he strongly believes that decisions about how and when the City weighs in are critical and that the time to do that is now. The DEQ's air, water and landfill permit formal comment opportunities will be for 30 days following release of the draft permits. Mr. Burnley emphasized that comments from local governments are different in nature and significance to the comments that are received during the public comment period by individual supporters or individual opponents or even by environmental interest groups. If Council waits until the EIS, or the draft permit is released, those comments are expected to address those draft permits, and there will be hundreds and hundreds of pages of very specific scientific and engineering decisions that have already been made and will be defended by those scientists and engineers who developed the drafts. Most local governments don't have the staff to be able to read and make substantive comments on the permits once they're released in draft form before they're finalized. The same applies to the Corps and the environmental impact statement which will be written by a consultant over a period of a year or more and will be a thorough evaluation of all the environmental impacts that the proposed project will influence; it will be detailed and lengthy.

Local governments are uniquely positioned to have a real impact on these projects, but timing is the big issue. He said he does not believe you get the biggest bang from your buck through the formal public comment period, but rather to whom comments are addressed, when they are received, and the issue they address. He suggested communicating with Colonel Backus at the Corps that there are very serious concerns about the environmental impacts to the Chesapeake Bay, air quality, and to citizen health. He also suggested that it be communicated that the City of Williamsburg would like the Corps to conduct an extraordinarily rigorous analysis of all these threats. Communication with Governor McDonnell, Secretary Dominitch and members of the General Assembly was suggested to let them know that Council is not satisfied with a routine review of the impacts from this huge new source of pollution nor are they satisfied with permits that will protect only minimal environment and health standards. This is a critical point; these permits are going to be written to protect only minimal standards; and he said he knows minimal standards are not going to be satisfactory to either Council or the citizens of Williamsburg. Tell them now before the permits are developed that you're concerned about the impacts of this plant on tourism and on future development. This has to be done, before the agency digs in their heels and in defense of their work. It has to be done now while the ability to influence is at its greatest. In closing, Mr. Burnley urged Council to send a resolution and/or write a letter to all of the persons previously mentioned, as quickly as possible.

Mayor Haulman stated that Council has asked staff to draft a letter to the Corps and various officials expressing concerns. Mr. Burnley responded that is a wonderful step in the right direction and added that both he and Mr. Cormons would be happy to assist Council with any of the letters or resolutions.

Gary Shelly, 205 Indian Springs Road, welcomed the two newest members of Council and noted the traits we all have in common such as a belief in transparency in our government, honesty, accountability of our City employees, and oversight provided by City Council.

For the benefit of the two newest members of Council he gave a brief history of a troubling incident that happened a few years ago at 306 South Boundary Street when the City removed items belonging to his tenants from the backyard and replaced them when a call to the police

was threatened. When taken to court, although he and the three tenants wished to testify, Deputy City Attorney, Ms. Shelton, said the “debris” had been cleaned up; he said he had done no such thing. Mr. Shelly said he is mentioning this today because he wants it as background of what did and did not happen then when Council decided not to follow up on it and how it led to what happened this summer.

Mr. Shelly said the injunction against him received this summer regarding mowing grass at his property at 115 Mimosa, cost the City a lot of money, time and effort. Mr. Shelly submitted a copy of the seven page injunction to the Clerk. He noted a couple of examples of points of frustration and inconsistencies in the injunction, e.g. a letter from the City stating he has the right to appeal, but the injunction states there is no appeal process. Mr. Shelly further explained the case and said in the spirit of reconciliation, he would like to meet with Mayor Haulman, anyone else on Council who would like to, and Ms. Shelton could be invited. He proposed they all go to the property and Ms. Shelton can show Council exactly what she states was done on the property; one person is correct and the other is wrong.

He also asked, as a favor to him and to get to the bottom of what happened three years ago which will fester until Council fully investigates, is simply to ask Ms. Shelton if she is the person who knowingly and willfully leaked the fictitious account of what happened at 306 South Boundary Street to the Virginia Gazette. He added that when the document was given to the Gazette it was clearly for the purpose to harass and he has been unable to find the responsible person.

Bill Dell, 322 Indian Springs Road, said that his reason for appearing today is to give some of his observations from yesterday’s Forum on Impacts of Growth held at the College of William & Mary. A committee of 12 faculty members and students has been investigating the potential impact of adding 50 students a year to the College of William & Mary student body. Freshman classes have increased over the past two years and the college has begun to face outside pressure from legislators to add more in-state students.

He said he was initially upset because there was no community input, at least prior to the forum, and he thought this may be one of the topics Mayor Haulman could address with President Reveley at their next meeting. He noted that the committee was looking at what the impact would be if and when a decision was made to increase enrollment, and the consensus at the meeting was that growth at this time was not appealing. The fact is that over the past few years, the College has increased enrollment by 50 per year and will more than likely continue in that direction.

He said putting growth aside, the scary thing to him is that the College’s figures show there will be 650 students next year on the wait list for housing. These 650 students include 350-400 new admissions, 150 readmissions and 150-280 transfers; where are they going to live? If we don’t act proactively now, we all know the answer to that question is that they will be living in our neighborhoods.

He noted in the Goals and Initiatives that Council just adopted, one of the big parts was the pledge to protect and enhance the quality of the residential neighborhoods. This has been in the Goals for years and significant efforts are being made to accomplish this. However, right now we have a truly unique opportunity to live with this problem. The College President has stated his position publicly that it’s the College’s responsibility to provide housing and that the

students really don't belong in the City's residential neighborhoods. He added that this is nothing against the students, it's just a fact that students should not be housed in residential neighborhoods. Over the past months the City has made efforts to identify alternative housing, e.g. vacant motels, apartment buildings, as well as changed zoning and encouraged new construction. Residents have also made efforts to provide owner-occupied rental opportunities, and several of these are working out very well. However, the neighborhoods close to the College have reached their saturation point, and without undue damage to our neighborhoods, we cannot absorb any more.

Mr. Dell said in his view there is only one way for us to proceed:

- Rigid enforcement of our zoning and single-family residential rental ordinances;
- Immediate proactive involvement by the Council in working with the College to insist on the identification of any wait-listed students. Have the College make arrangements at one of the previously identified alternative housing sites and require those students to live there until on-campus housing can be made available. He noted that he is addressing those students who want to live on campus, not those who want to live off campus;
- Such action will reduce the influx of these students into our neighborhoods because they will have a definitive place to live, and remove the incentive for investors to buy and convert the houses to rental units in the neighborhoods close to the College. This is a critical issue.

Mr. Dell said although this may initially sound harsh, Council's constituents deserve no less than this level of involvement by their Council. To do less would ultimately result in our neighborhoods close to the College deteriorating to the point that real estate values and neighborhood conditions drop to a point that they will be a blight in the community. He respectfully requested that Council actively and proactively get involved now with the College and College administration to identify where these students can live and not just bury our heads in the sand as we have done many times in the past.

There being no additional comment the Open Forum was closed.

Mr. Pons noted that one of the speakers made some accusations and the public and members of Council need to hear the other side of the story. He said he would be more comfortable if there would be an opportunity to get some input regarding the other side of the story. {Copies of the injunction will be distributed to Council members.} Mr. Foster agreed adding that hopefully Council could work toward closure. Mayor Haulman said he will take this suggestion under advisement and talk with the City Manager and the City Attorney.

ADJOURNMENT

There being no additional business before the Council, at 3:10 p.m. Mr. Freiling moved and Ms. Knudson seconded the motion to adjourn the City Council meeting of November 12, 2010. The motion carried by unanimous roll call vote.

Approved: December 9, 2010

Clyde A. Haulman, Mayor

Donna Scott, City Council Clerk