

CITY OF COLONIAL HEIGHTS, VIRGINIA
Regular Meeting of City Council
Tuesday, March 12, 2019

1. Call to Order

The Regular Meeting of City Council was called to order by Mayor Kochuba at 7:00 P.M.

2. Roll Call

The following members of Council and Council's staff were present for roll call by the Clerk:

Present: Councilman Kenneth B. Frenier
Councilman W. Joe Green, Jr.
Councilman John E. Piotrowski
Mayor T. Gregory Kochuba

Absent: Councilman Michael A. Cherry
Councilman John T. Wood
Vice Mayor Elizabeth G. Luck

Also Present: Mr. Douglas E. Smith, City Manager
Mr. Hugh P. Fisher, III, City Attorney
Mrs. Pamela B. Wallace, City Clerk

3. Devotion

A devotional prayer was led by Mr. Frenier.

4. Pledge of Allegiance

The Pledge of Allegiance was led by Mayor Kochuba.

5. Adoption of Agenda

A motion was made by Mr. Green, seconded by Mr. Piotrowski, to adopt the agenda as presented.

Vote: 4-0
Yes: Frenier
Green, Jr.
Piotrowski
Kochuba
No: None
Absent: Cherry

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Wood

Luck

Abstained: None

Motion: UNANIMOUS PASS

6. Declarations of Personal Interest

A Declaration of Personal Interest was read by Mr. Frenier and filed with the Clerk. Mr. Fisher announced Mr. Green previously read a declaration prior to the closed meeting.

7. Commendations and Presentations

A. Recognizing Touchstone Bank as the Beautification Committee's Business of the Month

B. Introduction of New City Employee Hired by the Finance Department

8. Reading of Manner of Addressing Council.

Mr. Fisher read the Manner of Addressing Council.

9. Written Petitions and Communications

There were none.

10. Advertised Public Hearing

A. Presentation of the FY20-24 Proposed Capital Improvement Plan Presentation

Mrs. Minor stated she would touch on the highlights of the proposed CIP noting a total of \$69M in projects requested with a City cost of \$51.1 M. Mrs. Minor stated that Council would find, throughout the CIP, staff was using and leveraging other sources of funding outside the City to maximize capital dollars. Mrs. Minor stated that the projects proposed for funding in the proposed CIP were listed in the front of the document, noting \$27 M in actual project costs, but only a \$9.25 M cost to the City. Mrs. Minor stated this was due to the fact the City was leveraging \$6.3 M in state and federal transportation funds for specific projects.

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Mrs. Minor stated the City has approximately \$42 M in unfunded capital improvement simply because in the process of identifying what staff had available funding for, and departmental priorities, it came out that there was approximately \$40 M in capital projects that remain unfunded. Mrs. Minor stated these projects will be considered again next year's CIP process.

Mrs. Minor presented the projects which had been proposed to Council for the first year of the CIP. Mrs. Minor asked that Council note that in the first year of the CIP, once the project are approved, they will be appropriated in the operating budget. Mrs. Minor stated this is where the leveraging previously noted, would come to light, as there are a number of projects that are fully funded by state and federal Rail and Public Transportation. Mrs. Minor identified the net costs to the City and listed the projects to be funded in the proposed CIP first year (FY 20):

- Boulevard enhancement and streetscape (James Avenue to A Avenue and also from A Avenue to Temple Avenue)**
- Remaining two phases of the Appomattox River Greenway Trail**
- Holly Avenue and Jamestown Road pavement repair**
- Rehabilitation and preservation of Sandy Ridge**
- Boulevard at Westover Avenue intersection improvement**
- Branders Bridge**
- Animal Shelter improvements I and II**
- Gateway Roundabout Phase I**
- Update of City computers operating on Windows software predating Windows 10 – approximately 200 computers**
- Contribution to the All Inclusive/Barrier Free Playground and Recreation Fund**
- Colonial Heights Middle School Tennis Court Replacement**
- Violet Bank Restoration Project, Phase I**
- HVAC replacement for City Hall**
- E911 phone system hardware update**

Mrs. Minor stated the relative cost was very small for a number of the projects; however, the “big ticket” items will be merged into FY 2022, as this was the City's next debt issuance plan.

Mrs. Minor provided graphs that illustrated the following:

- The General Fund and Schools Debt Services as a % of general fund and school expenditures**
- Water and sewer debt service as a percentage of operating expenses**
- Stormwater debt service as a percentage of operating expenses**

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Mrs. Minor noted March 19, 2019 would be the Council work session for the CIP; and the City Manager's proposed Operating Budget would be presented at the April 9, 2019 regular meeting, with the work session following on April 16, 2019. Additionally, a public hearing will be held April 23, 2019 on the proposed budget, tax rates, the school budget, and the first reading of the CIP and annual operating budget with final approval at the May 14, 2019 regular Council meeting.

At this time, the Mayor opened the floor for public comment.

Larry Brown, 311 Brookedge Drive – Mr. Brown asked what previously unfunded projects would be funded in the new CIP.

Mr. Smith directed Mr. Brown's question to Mrs. Minor, who was unable to recall the information at that time.

Council Comments:

Mr. Green stated he was excited to see the number of unfunded projects moved up to the second year for funding.

- B. AN ORDINANCE NO 19-3
(First Reading) Granting an easement to Virginia Electric and Power company d/b/a Dominion energy Virginia to lay underground power lines on City-owned property with an address of 501 Lake Avenue (known by parcel identification number 080001000010).**

A motion was made by Mr. Green, seconded by Mr. Frenier, to adopt Ordinance No. 19-3.

After a brief overview of the ordinance, Mr. Fisher asked Council to recall that in the lease agreement Precision Cell executed, Council granted Precision Cell permission to lease the property for the purpose of placing a monopole cell tower. Mr. Fisher noted that a plat sketch, attached to the lease agreement, identified the specific area where the utility lines would be located at the appropriate times. Mr. Fisher stated that the monopole now has a tenant, Verizon, and there needs to be power to the monopole; therefore, it is necessary to grant Dominion Energy the right to provide power to the tower.

Public Comment:

Clair Novak, NB+C – Ms. Novak stated she was a representative from Verizon and was present to ensure everything went smoothly.

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There were no comments from Council.

Vote: 4-0
Yes: Frenier
Green, Jr.
Piotrowski
Kochuba
No: Cherry
Luck
Wood
Absent: None
Abstained: None

Motion: UNANIMOUS PASS

- C. AN ORDINANCE NO 19-FIN-2**
(Second Reading) To amend the General Fund Budget for the fiscal year beginning July 1, 2018 and ending June 30, 2019, in the aggregate amount of \$39,050 to appropriate 1) \$1,500 in sanctions relinquished to the Police Department and City Attorney; 2) \$2,000 in donations from the Southside Virginia Association of Realtors to the Police and Fire & EMS Departments; and 3) \$35,000 in Rescue Squad Assistance Grant Funds to the Fire and EMS Department.

To amend the Capital Projects Fund Budget by \$1,000,000, to appropriate State of Good Repair Funding from the Virginia Department of Transportation for the resurfacing of Temple Avenue.

A motion was made by Mr. Green, seconded by Mr. Piotrowski, to adopt Ordinance No. 19-FIN-2.

Mayor Kochuba noted the reason for the public hearing on the ordinance was due to the amendment of the Capital Projects Fund Budget to appropriate \$1,000,000 for the resurfacing of Temple Avenue.

Mr. Fisher noted for the record that it was after the first reading of Ordinance No. 19-FIN-2 that Mrs. Tomlin, Mr. Fisher's Paralegal, caught the error and advised that it was necessary to hold a public hearing.

There were no comments from the public or Council.

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No: Cherry
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Absent: None
Abstained: None

Motion: UNANIMOUS PASS

11. Hearing of Citizens Generally on Non-Agenda Items

Larry Brown, 311 Brookedge Lane – Mr. Brown discussed his concerns relative to the roundabout and suggested there be increased monitoring of the area because of reckless drivers.

Addressing Mayor Kochuba’s comments, Mr. Smith stated, other than the most recent accident involving an overturned truck that knocked one of the light poles over, he was not aware of any additional accidents at this time. He advised he would check with Mr. Henley for that information.

Mr. Green recalled other roundabouts in the Commonwealth; specifically noting the additional directional signage, and felt it may be helpful to add some additional directional signage in an effort to direct those who are not familiar with the area.

Addressing Mayor Kochuba’s comments, Mr. Henley stated he was not aware of VDOT coming back to evaluate or “check on” projects as a routine practice. Mr. Henley stated it was something that Council could request if it was of great concern.

12. Consideration of Uncontested Minutes, Ordinances, Resolutions, and Motions in accordance with the Consent Agenda.

- A. January 18-19, 2019 Retreat Minutes**
- B. February 12, 2019 Special Meeting Minutes**
- C. February 12, 2019 Regular Meeting Minutes**

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A motion was made by Mayor Kochuba, seconded by Mr. Piotrowski, to approve the Consent Agenda as presented.

Vote: 4-0
Yes: Frenier
Green, Jr.
Piotrowski
Kochuba
No: Cherry
Luck
Wood
Absent: None
Abstained: None

Motion: UNANIMOUS PASS

13. Introduction and Consideration of Ordinances and Resolutions

A. AN ORDINANCE NO 19-1

(First Reading) To approve a special use permit for Roslyn Farm Corporation to allow a 19 square foot monument sign on a parcel located on East Roslyn court known by parcel identification number 69011100012. The sign will be advertising an off-site business also located on East Roslyn Court.

A motion was made by Mr. Green, seconded by Mr. Frenier, to adopt Ordinance No. 19-1.

Mrs. Hall stated that the public hearing would be held at the April meeting. Additionally, Mrs. Hall stated that the purpose of the special use permit was due to the fact that the sign is off-site advertisement. Mrs. Hall stated that the requested site was currently vacant.

Mrs. Hall advised the Planning Commission approved the request as long as it expires on the sale of the property and that it be made of a permanent material. Mrs. Hall advised the sign was of modest size and was mostly directional.

There was discussion and clarification relative to the exact location of the sign. Mr. Fisher stated that the applicant could, if the special use permit is approved, use the sign to advertise any off-site business; even though the intention is to advertise SRMC.

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Vote: 4-0
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Luck
Wood
Absent: None
Abstained: None

Motion: UNANIMOUS PASS

- B. AN ORDINANCE NO 19-4**
(First Reading) Awarding the City Attorney a 3% bonus.

A motion was made by Mr. Frenier, seconded by Mr. Green.

Mayor Kochuba stated this bonus was based upon Mr. Fisher's annual performance review, which generated a 3% bonus.

Vote: 4-0
Yes: Frenier
Green, Jr.
Piotrowski
Kochuba
No: Cherry
Luck
Wood
Absent: None
Abstained: None

Motion: UNANIMOUS PASS

- C. A RESOLUTION NO 19-18**
Authorizing the City Manager to enter into a "License and Services Agreement" with Tyler Technologies, Inc. for a new financial software system known as an Enterprise Resource Planning System.

A motion was made by Mr. Green, seconded by Mr. Piotrowski, to adopt Resolution No. 19-18.

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At the request of Mr. Smith, Mrs. Minor provided comments relative to the new financial system. Mr. Smith recognized Ms. Smith and their team for their efforts during the planning process.

Mrs. Smith recalled the process leading up to entering into the agreement and expressed her gratitude to Mr. Fisher for his efforts in the contract negotiations. Mrs. Minor stated that the total contract, as stated, was \$556,806.00 and asked Council to recall the total budget being \$1.3M; however, the Tyler Technologies, Inc. contract was a fraction of the total project. Mrs. Minor stated staff had already purchased an email server to facilitate the email traffic caused by the system notifications as well as built-in contingencies. Mrs. Minor advised that even with the additional items, the project was still on budget.

Mrs. Minor advised that final implementation point is May 1 of 2021, if everything remains on schedule.

Addressing Mr. Green's comments relative to the upgrade of computer software noted in the CIP, Mrs. Minor stated that currently there was a mixture of Microsoft 7 and 10 among staff; however, with the January 2020 deadline for implementation, all finance staff must be using Windows 10 prior to implementation.

Mayor Kochuba congratulated Mrs. Minor on this milestone; and also thanked Mr. Fisher for his efforts in reviewing the contract. Additionally, Mayor Kochuba requested that Mrs. Minor update Council on a regular basis as to the ongoing schedule of implementation.

Vote: 4-0
Yes: Frenier
Green, Jr.
Piotrowski
Kochuba
No: Cherry
Luck
Wood
Absent: None
Abstained: None

Motion: UNANIMOUS PASS

14. Unfinished Business, Contested Ordinances and Resolutions, And Items Removed From the Consent Agenda.

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A. Council Discussion and Action on the Re-Purchase of 401 Temple Avenue.

Council discussion and action relative to the re-purchase of Parcel ID No. 5400020000H, with a street address of 401 Temple Avenue, from Kroger Limited Partnership I.

A motion was made by Mayor Kochuba, seconded by Mr. Frenier, to table discussion until the April regular meeting.

Although the item was tabled for discussion to the next meeting, Mr. Fisher provided a brief explanation as to the action. Mr. Fisher stated that in the original Purchase, Sale, and Development Agreement, which the City executed with Kroger Limited Partnership I a number of years ago, there was a provision giving the City a reversionary right or a buy-back option with a repurchase price of \$2.4M by December 2014. Mr. Fisher advised that the 2014 was changed in the first amendment of the agreement to July 2015. Additionally, there was a second amendment to the agreement, which provided the City the right to repurchase the property for \$2.4M as long as Kroger did not start construction of a grocery store within 90 days after closing on the property. With Kroger abandoning the plans for construction of a store, Mr. Fisher advised that the City still has the option to repurchase the property for \$2.4M.

Mr. Fisher stated this was the decision before Council; which has been tabled for further discussion and action until all members of Council were present.

At the request of Mayor Kochuba, Mr. Fisher explained that another provision in the contract states that if the City relinquishes its right to repurchase the property, the City continued to have the right to say “Yay” or “Nay” as to the sale of the property from Kroger to a subsequent purchaser.

Vote: 4-0
Yes: Frenier
Green, Jr.
Piotrowski
Kochuba
No: Cherry
Luck
Wood
Absent: None
Abstained: None

Motion: UNANIMOUS PASS

15. Reports of Officers and Documents Related Thereto.

A. City Manager

1. Presentation on Proposed Cigarette Tax

Mr. Smith provided an overview presentation regarding staff's proposal for a Cigarette Tax. Mr. Smith stated this was a tax that the Commonwealth allows localities to levy, one of which the City did not currently levy. Mr. Smith provided research information that staff had conducted, which noted specific localities and the amount of cigarette tax charged per pack by the locality. Mr. Smith stated the taxes ranged from \$0.14 to \$0.90 per pack, and noted the surrounding localities that did not impose such a tax, and how staff could consider buyer behavior.

Mr. Smith stated that staff was aware that the Sam's Club in the city was selling cigarettes to Petersburg businesses and staff anticipates many Colonial Heights businesses may also purchase from Sam's Club. Mr. Smith noted that staff was investigating the implementation of applying the stickers to the cigarette packs, but would further investigate the process.

As stated by Mr. Smith, staff would recommend the implementation of a \$0.35 per pack beginning in FY 2020 with estimated revenue of \$460,000 for the upcoming budget. Mr. Smith stated this was giving a different type of revenue stream which will help to diversify the City's types of revenue should one revenue source be decreased, this would be an alternate revenue source which would help fill in the gap and help with public safety staffing and other budget needs.

Mr. Smith asked Mrs. Minor to continue with the presentation. Mrs. Minor provided Council with data from various localities, which showed a wide range of rates being charged per pack of cigarettes, as well as a wide range of revenue generated. Mrs. Minor stated staff gathered data from sales tax generated rather than population, theorizing that the retail presence in the locality would be the item that drives the tax revenue. Mrs. Minor stated the cigarette tax transaction occurs where the retail business that sells the cigarettes is located; therefore, retail establishments in the City would have a direct relationship with the amount of revenue the City would receive. Mrs. Minor stated staff conducted an analysis, which found a correlation between the amount of sales tax the localities were receiving and the amount per penny they generate on the cigarette tax. With this information, Mrs. Minor stated staff was able to estimate the amount per penny the City made based upon our sales tax and used that to come up with a \$460,000 estimate, which is included in the budget. Mrs. Minor stated staff felt this was a conservative estimate and as with any revenue source, would continue to monitor closely.

Mrs. Minor continued by providing information relative to the process for implementation of the cigarette tax; specifically noting the City would have to purchase stamps to be placed on each pack of cigarettes similar to the Commonwealth's stamp which is already affixed to the pack. Mrs. Minor stated staff would find a discount through the retailer for affixing the stamp. Mrs. Minor stated staff was still researching this with other localities to determine where there was a wide variety of discounts that are provided.

Mrs. Minor stated that the City would collect the revenue when the stamps are sold to the citizen. As Mr. Smith indicated earlier, Mrs. Minor advised that this would give the City the opportunity to diversify and not have the burden bourn solely by City residents.

Regarding enforcement, Mrs. Minor states staff was discussing site visits with the Commissioner of Revenue; however, the stamps would be the enforcement mechanism.

In conclusion, Mrs. Minor stated staff was looking for Council's direction on a recommendation to include the estimated revenue from the proposed cigarette tax in the upcoming budget. Mr. Smith advised that a formal ordinance would need to be drafted and approved by Council as a new revenue source as a tax.

After additional discussion by Council relative to formal approval to move forward, it was the consensus of Council, at the request of Mayor Kochuba, to table and further discussion and approval until all Council members were present for the vote.

2. General Activity Report

Mr. Smith provided information on the upcoming dates of interest as well as the upcoming Council Work Session and the items tables for further discussion and vote at that time. Mr. Smith stated that the proposed budget would be presented and discussed during April at the regular and work session meetings.

At the request of Mr. Smith, Mr. Henley provided Council with an update relative to the recent Technical Advisory Committee of the Metropolitan Plan Organization (MPO) discussion and recommendations regarding City funding applications as well as an update on the Temple Avenue resurfacing project. Mr. Henley stated that the Technical Advisory Committee (TAC) of the MPO had approved a recommendation to the Policy Board to provide additional funding for Phase IV of the Appomattox River Greenway Trail as

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well as for three other projects the City is engaged in. Mr. Henley advised that the TAC was approving \$627,000 in trail funding which would come from a current balance in a Federal aid program and other transfers from existing projects. Mr. Henley stated that the funding would be made available in the current year; however, due to the cancelation of Phase IV of the Trail Project by VDOT, it is considered a new project which must be included in the state-wide improvement program. Mr. Henley stated meetings for this program begin in April and May at which time the Commonwealth Transportation Board will take action, assuming the MPO adopts staff's recommendations. Mr. Henley stated funding should be available July 1 for the trail. Mr. Henley stated that from July 1 moving forward, staff would request that VDOT continue with their certification that all requirements for federal aid for the Trail Projects have been met. Mr. Henley stated due to the length of time required by VDOT, construction on the project would not begin until March of 2020.

Mrs. Minor added that she had neglected to mention during the CIP presentation that staff had updated the CIP, which had been presented to the Planning Commission for the changes in figures that were provided by the TAC in hopeful anticipation of approval.

Mr. Henley also noted that in addition to recommendation of approval by the TAC of funding for the trail project, they also recommended approval for another \$300,000 in the current fiscal year, for other City projects. In addition to current year funding, Mr. Henley stated the TAC was recommending the allocation of an additional \$1.5M in federal aid funding for the Lakeview Avenue Project, which is currently underway.

Continuing, Mr. Henley provided a schedule for the upcoming projects:

- Phase IV of the River Trail - March 2020
- Rehabilitation of City bridges – June 2019
- Temple Avenue signal coordination – Winter 2020
- Lakeview Avenue – February 2020

Mr. Henley provided Council with an update of the Temple Avenue resurfacing project to begin the evening of March 17 and be conducted only during the evening hours. Mr. Henley advised the contracts state the projects are to be completed by June 1, 2019; however, he is confident they will be completed prior to June 1.

Addressing Mayor Kochuba's questions relative to the start of the Dupuy Avenue Project, Mr. Henley stated the City had open bids and has made an

award to Shoemith Construction and staff was cautiously optimistic that a more timely result will be accomplished than in the past.

Addressing Mr. Frenier's questions relative to the project at Conduit Road and Ellerslie Avenue, Mr. Henley stated there were open bids on the project with work to begin in April.

Continuing, Mr. Henley addressed Mr. Piotrowski's comments with regard to pothole repair stating that staff tries to make the repairs on a regular basis; specifically when asphalt is received. Mr. Henley asked that if someone is aware of a pothole, please notify staff and it would be added to the list for repair.

In closing, Mr. Henley addressed Mayor Kochuba's question relative a possible crosswalk across Temple Avenue from Southpark Crossing Shopping Center to Southpark Mall by advising that Mr. Smith was coordinating with the commander at Ft. Lee; and staff has included a pedestrian accommodation at the intersection in the Temple Avenue signal optimization project.

B. City Attorney

Mr. Fisher reported on the following items:

- The City had received the first year's rent from the leasing of the monopole cell tower located at 501 Lake Avenue.
- Council would be receiving a request for a special use permit for a monopole cell tower on the Archileti property.
- An application/petition has been received from a non-profit organization in the City for a tax exemption from paying real estate taxes, which will be on the Council agenda for the work session.
- Notification was received from the Virginia Department of Environmental Quality (DEQ) that a Show Cause Petition had been filed against Container First Services (CFS) asking them to appear at a hearing at DEQ to show cause why its permit to operate the landfill in Petersburg should not be terminated. Mr. Fisher reported that the petition states that DEQ wants the landfill shut down; and the only activity that CFS would be allowed to engage in at the landfill would be closure and post- closure activity.

To address some of the same concerns residents previously expressed regarding the cell tower in the Briarcliff area, Mr. Green asked if there was some way the public could be educated on a new cell tower request prior to escalation of the citizens' concerns.

Mr. Fisher stated that there would be a public hearing before the Planning Commission and members of the public would be welcome to speak and share their comments; as well as a public hearing before Council where members of the public will be equally welcome. Mr. Fisher stated that the applicant searched for the least visible and least obtrusive site in the City.

There was continued discussion relative to the possibility of educating the public on this matter with Mr. Fisher adding that the applicant took the preemptive step to hold an information meeting with the residents.

C. Director of Planning and Community Development

Mrs. Hall reported the special use permit, as previously noted by Mr. Fisher, would be on the April 2, 2019 Planning Commission Agenda and there were no other applications for the meeting. Mrs. Hall stated the Planning Commission, at its March meeting, was presenting the CIP, and a site plan for Mission BBQ to be located in the Gabe's parking lot at Southgate Shopping Center, as well as the subdivision plat for Briarcliff Section IV.

16. Adjournment

There being no further business, a motion was made by Mayor Kochuba, seconded by Mr. Frenier, and carried unanimously on voice vote to adjourn the meeting. The meeting was adjourned at 8:34 P.M.

APPROVED:

T. Gregory Kochuba, Mayor

ATTEST:

Pamela B. Wallace, City Clerk