

**CITY OF COLONIAL HEIGHTS, VIRGINIA**  
**Special Meeting of City Council**  
**Tuesday, March 19, 2019**

**1. Call to Order.**

**The Special Meeting of City Council was called to order by Mayor Kochuba at 6:00 P.M.**

**2. Roll Call.**

**Present:**  
Councilman Michael A. Cherry  
Councilman Kenneth B. Frenier  
Councilman W. Joe Green, Jr.  
Councilman John E. Piotrowski  
Vice Mayor Elizabeth G. Luck  
Mayor T. Gregory Kochuba

**Absent:**

**Councilman John T. Wood (Arrived at 6:20 P.M.)**

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

**3. Declarations of Personal Interest**

**A Declaration of Personal Interest was read by Messrs. Green and Frenier and filed with the Clerk.**

**The Clerk announced the purpose of the meeting.**

**4. Closed Meeting Pursuant to the Code of Virginia in Accordance with the following provisions:**

- Paragraph A.1 of Virginia Code Section 2.2-3711, to discuss and consider the performance of the City Manager.**
- Paragraph A.5 of Virginia Code Section 2.2-3711, to discuss a prospective business or industry interested in operating at 401 Temple Avenue, where no previous announcement has been made of the business or industry's interest in locating in the community.**
- Paragraph a.8 of Virginia Code Section 2.2-3711, to consult with legal counsel employed by a public body regarding a specific legal matter – namely, an organization's request to be exempted from paying real estate taxes – requiring the provision of legal advice by such counsel.**

**A motion to convene in a closed meeting was made by Mayor Kochuba, seconded by Mr. Cherry.**

**Special Meeting Minutes**

**March 19, 2019**

**Page 2**

**Vote: 6-0**  
**Yes:** Cherry  
Frenier  
Green  
Piotrowski  
Luck  
Kochuba  
**No:** None  
**Absent:** Wood (Arrived at 6:20 P.M.)  
**Abstained:** None

**Motion UNANIMOUS PASS**

Noticing an error on the agenda prior to convening in a closed meeting, a motion was made in the open meeting by Mayor Kochuba, seconded by Mr. Frenier, to amend the closed meeting agenda by replacing the second bullet under Item No. 4 with the following language:

Paragraph A.3 of Virginia Code Section 2.2-3711, to discuss or consider the acquisition of real property – namely, Parcel ID No. 5400020000H, with a street address of 401 Temple Avenue – for a public purpose, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of a public body.

**Vote: 6-0**  
**Yes:** Cherry  
Frenier  
Green  
Piotrowski  
Luck  
Kochuba  
**No:** None  
**Absent:** Wood (Arrived at 6:20 P.M.)  
**Abstained:** None

**Motion UNANIMOUS PASS**

A motion was made by Mayor Kochuba, seconded by Mr. Cherry, to adopt the revised agenda and convene in closed meeting.

**Vote: 6-0**  
**Yes:** Cherry  
Frenier  
Green  
Piotrowski  
Luck

**Special Meeting Minutes**

**March 19, 2019**

**Page 3**

**No:** Kochuba  
**Absent:** None  
**Abstained:** Wood (Arrived at 6:20 P.M.)  
None

**Motion UNANIMOUS PASS**

**5. Voice Vote – Come back into Open Session.**

**A motion to reconvene in open session was made by Mr. Cherry, seconded by Mr. Piotrowski, and carried unanimously on roll call vote at 9:11 P.M.**

**Vote: 7-0**  
**Yes:** Cherry  
Frenier  
Green  
Piotrowski  
Wood  
Luck  
Kochuba  
**No:** None  
**Absent:** None  
**Abstained:** None

**Motion UNANIMOUS PASS**

**As stated by the Clerk, Council was in a closed meeting pursuant to the Code of Virginia in accordance with the following provision:**

- **Paragraph A.1 of Virginia Code Section 2.2-3711, to discuss and consider the performance of the City Manager.**
- **Paragraph A.3 of Virginia Code Section 2.2-3711, to discuss or consider the acquisition of real property – namely, Parcel ID No. 5400020000H, with a street address of 401 Temple Avenue – for a public purpose, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of a public body.**
- **Paragraph A.8 of Virginia Code Section 2.2-3711, to consult with legal counsel employed by a public body regarding a specific legal matter – namely, an organization’s request to be exempted from paying real estate taxes – requiring the provision of legal advice by such counsel.**

**Consideration of the following certification:**

**Each member will now certify that to the best of the member’s knowledge (i) only public business matters lawfully exempted from open meeting requirements of the act and (ii) only such public business matters as were identified in the motion by which the**

**Special Meeting Minutes**

**March 19, 2019**

**Page 4**

closed meeting was convened were heard, discussed or considered in the meeting by the public body. Any member who believes there was a departure from the requirements of clauses (i) and (ii), shall so state prior to the vote, indicating the substance of the departure that, in his judgment, has taken place.

Council members approved this certification, without any stating departure from the requirements of clauses (i) and (ii), by the following roll call vote:

<b><u>Vote:</u></b>	<b>7-0</b>
<b>Yes:</b>	<b>Cherry</b>
	<b>Frenier</b>
	<b>Green</b>
	<b>Piotrowski</b>
	<b>Wood</b>
	<b>Luck</b>
	<b>Kochuba</b>
<b>No:</b>	<b>None</b>
<b>Absent:</b>	<b>None</b>
<b>Abstained:</b>	<b>None</b>

**Motion UNANIMOUS PASS**

**6. A Work Session on the following items:**

**A. Discussion on Capital Improvement Plan**

**Mr. Smith directed Council's attention to the summary page of the CIP, which listed projects included and recommended for funding in the first year of the CIP FY2020. Mr. Smith continued by listing those projects to include:**

- **Boulevard Enhancement Project**
- **River trail project**
- **Various bridge and road/intersection projects**
- **Roundabout Phase I (Landscaping)**
- **Computer work/Windows10 Operating System Upgrade**
- **Several recreation projects**
- **Violet Bank**
- **E911 phone system**

**Addressing the projects previously noted by Mr. Smith, Mayor Kochuba asked which projects were grant funded. Mr. Smith asked Mrs. Minor to provide the requested information, at which time Mrs. Minor advised of certain transportation projects, as well as the 911 Phone System Hardware Refresh, and the Violet Bank Restoration Project.**

**Special Meeting Minutes**

**March 19, 2019**

**Page 5**

**Addressing Mrs. Luck's question relative to assurance that the Cameron Foundation awarded the grant for the Violet Bank restoration, Mr. Smith stated the application was still in the review process. Mrs. Minor stated should the project be appropriated, it would be put on hold until staff presented it to Council for their direction whether to proceed and to determine what other funding would be available for the project.**

**Addressing Mayor Kochuba's question relative to the Windows10 operating system upgrade coming from the General Fund, Mrs. Minor stated staff was anticipating a lease/purchase for the project. Mrs. Minor stated staff was considering this option because the City was currently on a five-year hardware replacement cycle and staff had been effectively budgeting 1/5 of computer inventory to be replaced every year. Mrs. Minor stated, there are approximately three-years' worth of computers which will need to be replaced all at once; therefore, staff recommends to lease/purchase over the next three years in an effort to continue to spread out the cost in an effort to keep the inventory and financing on track.**

**Mayor Kochuba asked for clarification as to why computer purchases were now being seen as a separate item in the CIP as opposed to, as in years past, computer purchases being listed under departmental budgets. Addressing this question, Mrs. Minor stated it was because this was such a large purchase and would require, in all likelihood, lease/purchase or debt financing; therefore, when the \$50,000 threshold is crossed, and staff comes to the point where something outside of the ordinary, as far as financing, they were generally placed in the CIP. Mrs. Minor stated staff would be monitoring the fund balance to see where it ends for FY2019 (current year) at which time, she would like to be able to borrow from within and not from an outside entity; however, that will remain to be seen.**

**Mr. Smith advised that once Council reviews the Operating Budget, they will notice computer listed within the individual departments, which would be those scheduled in the regular rotation. Mr. Smith stated that obviously those listed interdepartmentally would not be from the allocation in the CIP. Continuing, Mr. Smith stated that once the final number was determined (how many additional computers are needed above those listed), staff could adjust the number.**

**Addressing Mr. Cherry's question as to what is done with the old hardware, Mrs. Minor advised there several options:**

- If it is still usable, it will be recycled within another department**
- It will be donated to a non-profit; specifically used for the training of veterans**

**Mr. Cherry commended Public Works staff; specifically transportation, for their efforts in obtaining the significant amount of grant funding obtained. Mr. Cherry stated this was a significant amount of savings to the City and does not go unnoticed. Additionally, Mr. Cherry commended Recreation and Parks staff for their efforts and savings relative to the tennis court projects and the Maddie's Magnificent Play Park.**

**Mr. Wood, directing his comments to Mr. Henley, stated that at the Metropolitan Planning Organizational meeting last week, there was funding approval for several City projects including Phase IV of the River trail, the widening of Lakeview Avenue, the signalization on Temple Avenue and rehabilitation and preservation of City bridges. Mr. Wood asked that Mr. Henley specifically identify the subject bridges. Mr. Henley stated two of the four bridges in the City were removed to accommodate the roundabout; leaving the Ellerslie Avenue railroad overpass and the bridge at Sherwood Hills. Mr. Henley stated the structure crossing the Boulevard at Old Town Creek is a culvert; and an additional culvert on Temple. Mr. Henley advised that the National Bridge Inspection Program administered the culverts as if they were bridges. Additionally, Mr. Henley clarified for Mr. Wood that Phase I of the Roundabout project was for landscaping.**

**Addressing Mr. Frenier's question, Mr. Henley stated that VDOT maintains all bridges over I-95 since they are in the Interstate Highway System. The City has surface maintenance responsibilities.**

**Concluding, Mr. Smith stated the appropriate portions of the CIP would be inserted into the upcoming Operating Budget as well as the first year's allocation.**

**Clarifying Mayor Kochuba's comments relative to the CIP's inclusion of a recommendation to fund \$154,412 of project costs through general fund transfers in FY2019-20, Mrs. Minor stated the \$154,412 represented current-year revenue. Staff was attempting to "bolster" the amount of funds being used in the current-year revenue to fund the CIP; referring to this as a "pay-as-you go." Mrs. Minor stated this was not the only amount transferred from the General Fund; there was also just over \$500M of unassigned and assigned fund balances to support projects. Lastly, Mrs. Minor stated \$256,000 of lease/purchase proceeds for the computers will be represented in the General Fund transfer number. Mrs. Minor advised the General Fund transfer number coming out of the General Fund to the CIP in the proposed budget would appear to be large; approximately \$900,000.**

**B. Colonial Heights Police Department 2018 Annual Report and Policy Review**

**After a brief introduction by Mr. Smith, Chief Faries provided Council with department updates relative to the many other events and activities the Police Department are involved in other than just patrol. Chief Faries reported on the many areas of training his officers have been involved in, as well as the many honors and awards received.**

**Council members commended Chief Faries for his and his department's professionalism and efforts to ensure public safety in the City of Colonial Heights.**

**Chief Faries provided comments relative the department's new pursuit policy, commending the maturity of his supervisors in determining when implementation of the policy was required.**

**Special Meeting Minutes**

**March 19, 2019**

**Page 7**

**In closing, Chief Faries thanked Council, specifically Mrs. Luck, for their support over the years stating he was here to serve.**

**C. 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. Cherry, to move that Council irrevocably decline to exercise its reversion right, also referred to as a “buy-back” right, that is specified in Section 7.7 of the Purchase, Sale and Development Agreement that the City entered into with Kroger Limited Partnership I, as Section 7.7 was modified in the parties’ First and Second Amendments to the Purchase, Sale, and Development Agreement.**

**Mr. Fisher clarified that Council had previously discussed this several times in closed session, but had not formally taken a position on the matter. Mr. Fisher stated it was getting to the point that interest would most likely be expressed on the property, and any potential buyer would want to know whether the City would be interested in buying back the property.**

**With the concurrence of Mr. Fisher, Mayor Kochuba further clarified that this did not mean that the City would give up their veto option for the property.**

**Mr. Green stated for the record, the reason he could not support this was due to the fact that the subject clause had been in the purchase agreement from the beginning, with many delays over a long period of time. Mr. Green stated the City had the opportunity to buy back the property and sell it for more than it was originally sold for, and use the profit for any number of purchases. Mr. Green stated there was neither a specific buyer nor a specific price, which Kroger is offering the property for sale at. Mr. Green stated he sees this as an opportunity and feels Kroger will be selling the property for more than they purchased it for with the improvements the City made to the property and Temple Avenue. Again, Mr. Green stated he felt this as an opportunity to make money and Council was not willing to take advantage of it.**

<b>Vote:</b>	<b>5-2</b>
<b>Yes:</b>	<b>Cherry Frenier Piotrowski Wood Kochuba</b>
<b>No:</b>	<b>Green Luck</b>
<b>Absent:</b>	<b>None</b>
<b>Abstained:</b>	<b>None</b>

**Motion PASS**

**D. Discussion on Proposed Cigarette Tax**

**Mr. Smith recalled the previous discussion at the regular council meeting, at which time, all Council members were not present; therefore, he provided a brief overview of the presentation, highlighting key points of the proposed Cigarette Tax. Mr. Smith stated staff recommends, going into the next budget year, a \$0.35 per pack Cigarette Tax allowing for an additional \$460,000 revenue stream. Mr. Smith stated the additional revenue would help to diversify the city's revenue stream and provide for funding resources; specifically noting Public Safety staffing. Mr. Smith stated the information provided on the presentation, had previously been provided to Council during their Budget briefings.**

**Mrs. Minor stated staff utilized information from sales tax as a proxy to estimate how much revenue, per penny, would be generated. Mrs. Minor stated this method was chosen to determine that there was a direct relationship between a locality's sales tax revenue and the amount the localities were generating per penny on cigarette taxes. Mrs. Minor stated that the estimate of \$460,000 was a conservative estimate; but as with any tax, staff would not be able to determine until some historical data in order to base estimates.**

**Mayor Kochuba asked Mrs. Minor if she felt comfortable building the \$460,000 into the budget knowing it was only a conservative projection; she stated she felt comfortable doing so.**

**Addressing Mrs. Luck's question asking if this estimate was conservative, Mrs. Minor stated she felt it was due to the fact that staff had evaluated the revenue per penny generated by other localities which were similar in size and more, similar in their amount of sales tax generated; believed the City's per penny is conservative. However, staff will not know until historical data is available on which to base figures.**

**Mr. Green stated he was originally opposed to the idea of a cigarette tax; however, Mrs. Minor has "converted him." Mr. Green, stated one of his major concerns was citizens would purchase cigarettes in other localities that most likely would not take the time. Mr. Green stated that Council had the opportunity to take a chance to generate new revenue and if it did not work, could always cancel the tax in a year or two, or three. Mr. Green stated he did not want to not implement this tax for fearing fear itself. Mr. Green thanked Mr. Smith and his staff for their time and energy in coming up with an additional source of revenue which sounds a bit more stable than what he originally thought.**

**Mr. Smith stated he and staff were seeking Council's approval to move forward with the Cigarette Tax in an effort to include it in the upcoming proposed FY2019-2020**

**Special Meeting Minutes**

**March 19, 2019**

**Page 9**

**Budget document which would be presented to Council in the near future with the appropriate ordinance to follow.**

**Mayor Kochuba stated he, like Mr. Green, was originally opposed to the tax; however, the City needed to find a new revenue source to brace for upcoming financial burdens imposed by Chesterfield County. Mayor Kochuba further explained that Chesterfield was implementing a form of activity based management which considers every service every service and activity provided, looking at unit costs, and then passing those costs along to Colonial Heights, who participates in many Chesterfield programs; specifically noting the Appomattox River Water Authority, Riverside Regional Jail, and Social Services. Mayor Kochuba stated he would support the Cigarette Tax because the revenue could absorb the costs that may be facing the City.**

**Mr. Wood stated he was philosophically opposed to the Cigarette Tax; however, the City was constrained by what the General Assembly of Virginia allows, and at the request of Council, staff has come up with a way to address the economic revenue shortfall on the horizon.**

**Mr. Frenier shared his support and comments relative to this item being brought back before Council. Additionally, Mr. Frenier stated society is a society of convenience and does not feel patrons will go outside the City to a locality with does not currently impose a cigarette tax.**

**Mr. Piotrowski concurred with Mr. Frenier's comments relative to individuals will be more concerned about convenience than the addition of a \$0.35 cigarette tax.**

**Mrs. Luck thanked staff for their initiative to find another source of revenue and recalled Council's decision to impose a meals tax; specifically noting the revenue that has been generated.**

**At the suggestion of Mr. Fisher, Mr. Green made a motion, seconded by Mrs. Luck, advising administration to move forward with implementation of a \$0.35 per pack Cigarette Tax and leave the estimated amount of \$460,000, as presented by Mrs. Minor, Finance Director, in the proposed FY2019-2020 Annual Operating Budget and advising the City Attorney to prepare an ordinance at the appropriate time.**

<b>Vote:</b>	<b>6-1</b>
<b>Yes:</b>	<b>Frenier</b>
	<b>Green</b>
	<b>Piotrowski</b>
	<b>Wood</b>
	<b>Luck</b>
	<b>Kochuba</b>
<b>No:</b>	<b>Cherry</b>
<b>Absent:</b>	<b>None</b>
<b>Abstained:</b>	<b>None</b>

**Motion UNANIMOUS PASS**

**E. Solid Waste and Recycling Container Placement Implementation Update**

**Mr. Smith stated staff would be reporting on the implementation of and recommendations on container placement.**

**Mrs. Hall provided an overview on the following areas:**

- **Private Streets**

**Mrs. Hall provided a list of private streets and stated that the HOA of the community provide the enforcement of HOA codes. Mrs. Hall advised that Public Works does not provide services to these private streets; therefore, the trash and recycling can placement is not enforced on private streets.**

- **Attached housing**

**Mrs. Hall provided scenarios of attached housing, which could and could not comply.**

- **CVWMA pick-up service**

**Mrs. Hall stated that CVWMA specifies that the location of the container must be in the site line of the driver. Additionally, Mrs. Hall stated that the list for this service is updated on a monthly basis. Mrs. Hall stated that one option was to exempt all houses on the pick-up list, but this would be difficult for staff.**

**Addressing Mr. Frenier's comments, Mrs. Hall stated the representative from CVWMA stated there were special circumstances where workers would retrieve and return the receptacle to the back of the house, but there was a strong preference to leave it in the site line of the driver.**

**Mrs. Hall provided the enforcement schedule for trash and recycling receptacles. Mrs. Hall stated enforcement of receptacle placement was assigned as a supplemental task to code enforcement; and the first year of enforcement would be a trial period in an effort to determine if additional staffing and/or policies were necessary. Mrs. Hall stated Stage 1 of enforcement would be "reactionary" on a request basis; Stage 2 will be addressing street-by-street. Mr. Hall stated that with the large number of violations, to proactively enforce receptacle placement immediately, staff would have to put off the proactive code enforcement of everything else for approximately 6 months.**

**Mr. Smith provided the following staff recommendations to address receptacle placement:**

- **An ordinance amendment for attached housing with units located on separate parcels, revising the requirement to bring trash/recycling receptacles behind the**

**Special Meeting Minutes**

**March 19, 2019**

**Page 11**

front line of the structure to allow cans to be located near the front of the structure.

- **Properties currently on the CVWMA porch pick-up list be exempt from the requirement to keep trash/recycling receptacle behind the front line of the structure.**

**There being no further discussion, a motion was made by Mayor Kochuba, seconded by Mrs. Luck, to adopt and move forward with the City Manager's recommendations.**

<b>Vote:</b>	<b>7-0</b>
<b>Yes:</b>	<b>Cherry</b>
	<b>Frenier</b>
	<b>Green</b>
	<b>Piotrowski</b>
	<b>Wood</b>
	<b>Luck</b>
	<b>Kochuba</b>
<b>No:</b>	<b>None</b>
<b>Absent:</b>	<b>None</b>
<b>Abstained:</b>	<b>None</b>

**Motion UNANIMOUS PASS**

**F. Appomattox River Greenway Trail – Phase IV Funding Update**

**Mr. Smith recalled Council's prior discussion at the March 12, 2019 meeting, at which time, Mr. Henley provided updates relative to the upcoming Metropolitan Planning Organization Policy Board Meeting and City projects to be considered for funding. Mr. Smith advised he and Mr. Wood met to discuss these projects and asked if he would provide Council with any additional information.**

**Mr. Wood stated the MPO met the previous Thursday, at which time they approved the following:**

- **Temple Avenue Signalization Project**
- **Rehabilitation of City bridges**
- **Lakeview Avenue Widening Project**
- **Phase IV Appomattox River Greenway Trail**

**Mr. Wood provided the rationale behind re-approval of Phase IV; and further advised that the MPO took the initiative to find alternative funding. Mr. Wood advised of CMAC funds offered by the MPO, which were designated for Phase IV of the River Trail providing full funding. Mr. Wood stated once funding was finalized, City staff would be finalized.**

**Special Meeting Minutes**

**March 19, 2019**

**Page 12**

**7. Adjournment.**

**There being no further business, a motion to adjourn the Special Meeting was made by Mr. Cherry, seconded by Mrs. Luck, and carried unanimously on voice vote at 10:41 P.M**

**APPROVED:**

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**T. Gregory Kochuba, Mayor**

**ATTEST:**

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**Pamela B. Wallace, City Clerk**