

CITY OF COLONIAL HEIGHTS, VIRGINIA
Special Meeting of City Council
Tuesday, September 15, 2020

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 late)

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. Frenier, Green and Piotrowski then 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 Section 2.2-3711, to discuss or consider the salary of the City Attorney.**
- **Paragraph A.5 of Section 2.2-3711, to discuss prospective businesses or industries locating on a 10.84 acre parcel with parcel ID number 5400020000H and a street address of 401 Temple Avenue, where no previous announcement has been made of the businesses' or industries' interest in locating in the community.**

A motion to convene in closed meeting was made by Mayor Kochuba, seconded by Mr. Piotrowski, at 6:04 P.M.

Vote: 6-0
Yes: Cherry
Frenier

	Green, Jr. Piotrowski Wood Luck Kochuba
No:	None
Absent:	Wood (arrived late)
Abstained:	None

Motion UNANIMOUS PASS

5. Voice Vote – Come back into Open Session.

A motion to reconvene in open session was made by Mayor Kochuba, seconded by Mrs. Luck, and carried unanimously on roll call vote at 7:15 P.M.

Vote:	7-0
Yes:	Cherry Frenier Green, Jr. 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 Section 2.2-3711, to discuss or consider the salary of the City Attorney.**
- Paragraph A.5 of Section 2.2-3711, to discuss prospective businesses or industries locating on a 10.84 acre parcel with parcel ID number 5400020000H and a street address of 401 Temple Avenue, where no previous announcement has been made of the businesses' or industries' interest in locating in the community.**

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

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and (ii) only such public business matters as were identified in the motion by which the 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:

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

Motion UNANIMOUS PASS

6. Work Session on the following items:.

A. South Central Wastewater Authority plant upgrade Project

B. AN ORDINANCE NO 20-FIN-18

(First Reading) To amend the General Fund Budget for the fiscal year beginning July 1, 2020 and ending June 30, 2021, by appropriating \$157,000 consisting of 1) \$60,000 in anticipated grant funds for GIIS enhancements; 2) \$35,000 in assigned fund balance for the replacement of the City's gas pumps; and 3) \$62,000 in unassigned fund balance for repairs at 608 Hamilton Avenue.

A motion was made by Mr. Green, seconded by Mr. Frenier, to adopt Ordinance No. 20-FIN-18.

Mr. Smith provided brief comments relative to the proposed ordinance and stated staff was available to address any questions from Council.

Addressing Mr. Frenier's question relative to the replacement of the gas pumps, Mrs. Minor stated the cost was only to replace the pumps and not the in-ground tanks. Mayor Kochuba asked that Mr. Smith provide Council with an update of the condition of the in-ground tanks in his monthly Manager's Report.

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Mrs. Minor, at the request of Mrs. Luck, clarified the difference between the \$35,000 in assigned fund balance and the \$62,000 in unassigned fund balance stating that the assigned funds were funds budgeted and set aside at the end of the year for known items which would come up such as the pending failure of the gas pumps. Continuing, Mrs. Minor clarified that the \$62,000 in unassigned fund balance for repairs at 608 Hamilton Avenue were funds which were not set aside as this was an unexpected expense.

At the request of Mayor Kochuba, Mr. Fisher provided Council with a detailed timeline of the events pertaining to 608 Hamilton Avenue. Mr. Fisher specifically noted his work with the City's Building Official, Fire Marshall, and Planning Director; and their collective decision to make repairs to the property rather than demolition.

Mr. Piotrowski expressed his concerns with the proposed repair of the property versus demolition, stating that if the City took action to make repairs to dilapidated property, this may "open Pandora's Box."

Mrs. Luck expressed her concerns, concurring with those same concerns Mr. Piotrowski shared previously. Mr. Fisher explained the course of action he followed at the request of Council.

Mr. Green stated he appreciated Council's concern and; however, Council had spent many years discussing community appearance and improvement as well as pursuing the homeowner in an effort for her to maintain the property. Mr. Green stated it was not like the City was making these upgrades for free; the money will be recouped though a lean on the property. Mr. Green stated he felt this was the City taking responsibility for trying to improve the property under extreme circumstances and this action was the exception and not the norm.

There was continued discussion relative to the timeframe for the City to recoup its money with Mr. Fisher stated that time would be at the sale of the home or transfer to a son or daughter. Continuing, Mr. Fisher addressed Mr. Frenier's question relative to taxes, stating that he was not prepared to address the question but though he did think she would be in arrears and the City would be able to collect once the property was transferred.

Mr. Cherry also expressed his concerns relative to the proposed amount invested into a property which may not have the value to recoup that which the City was proposing to invest on repairs and shared other Council members' opinions that this may open Pandora's Box. Mr. Cherry shared his thought process relative to fixing the property vs. demolition.

Mayor Kochuba expressed his concerns relative to the use of unassigned funds, although there was no way to know how much repairs would cost. Mr. Smith added there were other sources to consider such as proceeds from the Kroger property.

Mayor Kochuba added that he too, like Mr. Piotrowski did not want to “open Pandora’s Box” nor use taxpayer dollars to repair individual’s houses.

Mr. Fisher stated he did not believe pursuing demolition of the property was realistic. Mr. Fisher explained he and staff employed multiple ways to obtain service on the property owner, which was extremely difficulty; and it was only by the owner’s mistake that the court and Mr. Fisher were able to take action. Mr. Fisher stated the odds were remote that the owner would make the same mistake again and did not think demolition was a realistic option, aside from what the Building Official said.

Addressing Mr. Wood’s comments, Mr. Fisher stated that although his office had advised several of the neighbors of the process, and that the City would be responsible for the costs associated with the repairs, they are now upset that the City, and not the owner, is funding the repairs.

At this time, a motion was made by Mrs. Luck, seconded by Mr. Piotrowski, to remove from Ordinance No. 20-FIN-18 the appropriation of \$62,000 in unassigned fund balance for repairs at 608 Hamilton Avenue.

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

A motion was then made by Mrs. Luck, seconded by Mr. Piotrowski, to approve Ordinance No. 20-FIN-18 as amended by the preceding vote.

<u>Vote:</u>	6-1
Yes:	Cherry Frenier Green, Jr. compass Piotrowski Wood Luck Kochuba
No:	None
Absent:	None
Abstained:	None

There was discussion relative to Mr. Fisher bringing this item back before Council; however, Mr. Fisher interjected that it may be worthwhile for him to check the wording of the order on 608 Hamilton Avenue to determine whether the City was “authorized” or “ordered” to complete the work.

It was the consensus of Council that Mr. Fisher provide the above-referenced clarification.

C. COVID-19 Grant Funding Update

Mr. Smith drew Council’s attention to the list of grant-funded sources for COVID-related expenditures which he and Mrs. Minor would be reviewing and providing updates on some of the items. Mr. Smith reminded Council this was a working list with numbers and amounts to be amended as expenses are received and/or reallocated to a different item.

First, Mr. Smith noted the proposed allocation for the schools further stating this may be a potential discussion item between Council and the School Board at a future joint meeting. Mr. Smith advised that through the CARES Act, the City is able to assist the schools; therefore, Dr. Sroufe provided items to help with classroom and virtual instruction. Continuing, Mr. Smith advised that the separate CARES allocation to be received by the schools has a much longer spending life.

Mrs. Minor further advised that the schools funding time-frame from the state extends through 2021 into 2022; as they are expecting a much longer term use of funds to address long-term changes resulting from COVID. Mrs. Minor reminded Council that there were multiple sources of funding and each funding source had different deadlines by which the funding must be applied for and or spent and this was one of the school’s concerns in that they must provide long-term and repeated expenditures for adjusting COVID over the time period they were receiving from the Department of Education. Continuing, Mrs. Minor reviewed the proposed COVID-19 Recovery Spending Plan, specifically noting that the information provided was organized by categories that the City was now required to report.

Addressing Mrs. Luck’s questions relative to hazard pay for first responders, Mrs. Minor provided further explanation as to how the pay was separated and listed on those pay checks; specifically noting that any COLA was not included on anything except base pay. Mrs. Luck thanked Mrs. Minor and stated that she did not want any current benefit to be detrimental in the future. Mr. Smith added that a possible second twelve-weeks of pay was being looked at and if some of the funding is CARES-eligible, staff would further discuss with Council before moving forward.

Mrs. Minor touched briefly on Personal Protective Equipment; however, provided more detailed information relative to Public Health Expenses and the City Buildings Access control system for which staff was proposing a card system for entry to various City facilities in an effort to determine who has been in the building and at what time.

Additionally, Mrs. Minor advised of the possibility of a payment and services kiosk in an outside facility.

Mrs. Minor provided brief comments relative to the dedicated COVID ambulance and the Prisoner Transport Vehicle with Mr. Smith noting that the amount for the ambulance was coming in slightly higher than the amount listed. Mrs. Minor reminded Council the numbers listed were, at this point, estimates with very few actuals due to the ongoing situation.

Mrs. Minor advised of the request by the Police Department of a police shelter to assist with a number of situations requiring events where social distancing is required.

At the request of Mr. Smith, Mrs. Minor provided an update on the financial impacts to Riverside Regional Jail (RRJ) relative to COVID. Mrs. Minor advised that although RRJ was seeking their own funding opportunities to meet COVID related expenses, a significant portion of their operating funding comes from member localities. Mrs. Minor advised that those members have agreed to put forth the idea of sharing a proportionate share based upon the localities prison population funding the additional expense of COVID through their own CARES applications.

At the request of Mr. Green, Mr. Smith advised he would look into providing further assistance over the current amount allocated for District 19.

There being no further discussion, Mayor Kochuba asked if Council was in favor of the information presented and for staff to move forward with the proposed plan as presented; Council was in agreement to move forward.

Before moving on, Mr. Smith addressed Mr. Wood's concerns relative to allocations and the federal guidelines. Additionally, Mrs. Minor addressed Mr. Wood's questions relative to staff's identification of any incurred expenses which were not COVID specific.

Mrs. Minor provided information relative to the City's decision not to participate in the President's Executive Order regarding the payroll tax stating staff felt it would cause much confusion and anger among employees. Mrs. Minor stated that she had not heard of any surrounding localities seeking to implement such and furthermore, she did not feel the existing system could handle it.

D. Discussion regarding employee compensation

Mr. Smith recommended to Council as a concept as recognition for other employees who did not receive hazard pay, a one-time bonus of \$600 for full-time employees and \$300 for part-time employees. Mr. Smith advised the total cost estimate would be approximately \$90,000. Mr. Smith stated funds had been budget for a COLA but those funds had been shifted to contingency with a total amount budgeted of approximately

\$400,000. Mr. Smith stated he would not be looking to make an immediate budget adjustment; however, an ordinance would be necessary for approval.

Mr. Green expressed his concern relative to the condition of the sales revenue and did not want to over-extend without first being sure revenues were stable. Addressing Mr. Green's concerns, Mrs. Minor stated that the July sales revenue came in 10% higher than 2019 and she did not feel it would be a problem as it was a one-time payout.

E. Revisions to the Assistant Director of Public Works – Engineering Job Description

Mr. Todd Flippen, Public Works Director, presented Council with information relative to Mr. Smith's recommendations relative to revisions to the existing Assistant Director of Public Works' job description. Mr. Flippen presented the current job duties and responsibilities as well as the proposed new technical requirements and revised experience requirements. Mr. Flippen stated that the proposed changes to the existing job description would 1) expand the applicant pool to include nearby Fort Lee personnel; 2) allow for promotional opportunities for existing and future staff members; and 3) better reflects the shifting responsibilities within the Engineering division.

At the conclusion of the presentation, there were brief comments from Council after which time Mayor Kochuba polled Council for an informal vote with a vote of six to one, with Mr. Wood dissenting, to support staff's recommendation.

F. Discussion concerning possible new agenda item: Council Member Comments

Mrs. Luck recalled her request to bring this item before Council for discussion and stated her proposed criteria for the addition of a Council comment section at the end of the Regular Meeting Agenda. Mrs. Luck provided the following suggestions:

- The item should be at the end of the agenda as not to take time away from public comment.**
- Prior publishing of the requested Council members item on the regular agenda**
- Advise other Council members there will be an item on the agenda and whether or not action will or will not be required.**
- Must have a specified time limit, suggesting the same as that for public comments to alleviate less lengthy conversations.**

At the end of Mrs. Luck's suggestions, Mayor Kochuba agreed that there should be an item on the agenda, as suggested by Mrs. Luck, and felt if there was going to be an action item with discussion, Council needs to know ahead of time what the item is to be discussed in an effort to be prepared as a Council member to vote as necessary.

Mr. Green concurred with the previous comments; however, he felt there needed to be a five-minute time limit and whatever is being proposed be presented as a future agenda item; giving Council the opportunity to offer their support for future discussion, or not.

Mr. Wood ask if would be possible that the item being brought forward by a Council member be placed under the Presentations of the existing agenda. Secondly, Mr. Wood stated, there were times in which developments occur quickly and unanticipated and the Council members should not be prevented from speaking on a very imminent condition which just developed and should not be called out by the City Attorney or the City Manager. Thirdly, if there were to be such a discussion, Mr. Wood felt the discussion should be at the beginning of the meeting rather than at the end of the meeting. Mr. Wood felt that if the Council member deemed the subject to be sufficiently important, than it should be done earlier in the meeting rather than later. Mayor Kochuba clarified that Mr. Wood was referencing the item should be placed under Presentations.

There were additional comments by Mayor Kochuba and Mr. Wood with Mr. Wood's comments supporting his opinion that the addition of a proposed item be at the beginning of the agenda and not at the end.

Mr. Cherry expressed his opinion stating at if a council member had such an item, they should be allowed to propose a change to the agenda; at which time the Council could determine if it would be heard right then or not. Continuing, Mr. Cherry stated that if the Council members still feels the need to speak on the item Council deemed not to amend the agenda for; at that point, the Council members should be treated as a normal citizen and receive five minutes for presentation of the item during the non-agenda portion of the regular agenda. Mr. Cherry stated it was frustrating and he did not feel it was fair to other Council members to be presented with controversial items without prior time to prepare and reference prior incidences where this had happened.

Mr. Green stated he was in favor of the idea of being able to suggest an item; however, he was not in favor of placing the item under Presentations should the discussion be lengthy and upset others from the public in attendance at the meeting. Directing his comments to Mr. Cherry, Mr. Green stated he concurred with his previous comments. Additionally, Mr. Green stated he felt it was his responsibility to address his concerns and/or questions with the administrative staff; then determining if the subject matter needed to be brought before Council and if so, advising the administrative staff of the intention to do so. Mr. Green stated he felt there should be limitations to control any Council member to become out of control and upset the rest of the agenda for the remainder of the meeting.

Mr. Fisher asked to make a few comments, beginning with stating that the Freedom of Information Act frowns on adding things to the agenda once it is published. However, Mr. Fisher feels it is acceptable to make some amendments to the agenda once it has been published. However, he stated he feels the addition of any action items once the agenda has been published should be avoided. Mr. Fisher stated the reason behind his statement is that there may be an item placed on the agenda that the public has a lot of

interest in; however, they would not attend the meeting, because they did not know about it. Mr. Fisher stated he would not place additional actions on the agenda once it has been published; and if there is a pressing item which needs to be acted upon quickly, call a special meeting. Mr. Fisher stated this may seem inefficient; however, this is the way the law is currently written. Mr. Fisher added that it was totally Council's decision to add a Council Comment section to the agenda.

Mrs. Luck added that she was amenable to placing the item on the agenda under Presentations; however, she felt there needed a time limit. Responding, Mr. Fisher stated that the normal procedure is to place such an item at the end of the agenda; but it was Council's decision.

Mrs, Wallace stated, and Mr. Fisher concurred, Written Petitions and Communications would be a better place on the agenda for the proposed item to be placed.

A motion was made by Mrs. Luck, seconded by Mr. Piotrowski, for the addition of a subsection A. Public Comments and subsection B. Council Comments under Item 9 – Written Petitions and Communications.

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

At the time of Mr. Wood's vote, he provided additional comments, during which time Mr. Cherry called him out of order, noting that the time for discussion had passed and it was time for the vote. Mr. Cherry asked Mr. Fisher for a ruling on whether Mr. Wood was out of order, and Mr. Fisher concurred that he was.

7. Adjournment.

A motion to adjourn the Special Meeting was made by Mayor Kochuba, seconded by Mrs. Luck, and carried unanimously on voice vote at 9:38 P.M.

APPROVED:

T. Gregory Kochuba, Mayor

ATTEST:

Pamela B. Wallace, City Clerk