

**MINUTES OF THE CITY COUNCIL MEETING
FEBRUARY 22, 2010, 7:00 P.M.
REGULAR SESSION**

PRESENT: The Honorable Gordon C. Helsel, Jr., Mayor
The Honorable Carey L. Freeman
The Honorable E. T. "Tom" Meree
The Honorable Traci-Dale Crawford
The Honorable Frank A. Kreiger
The Honorable W. Eugene Hunt, Jr.

J. Randall Wheeler, City Manager
Judy F. Wiggins, City Clerk
D. Wayne Moore, City Attorney

MEETING CALLED TO ORDER:

Mayor Helsel called the meeting to order at approximately 6:40 p.m.

CLOSED SESSION

Councilman Hunt moved, seconded by Councilman Freeman, to go into Closed Session pursuant to Sections 2.2-3711(A)(1) and (A)(3) of the Code of Virginia (1950), as amended to discuss personnel matters and the disposition of publicly held real property; i.e. use of public access. Recorded vote on the motion:

YES: Councilmembers Freeman, Meree, Crawford, Kreiger, Hunt and Mayor Helsel.

NO: None.

RECONVENEMENT:

Upon reconvening from closed session, Councilman Hunt moved, seconded by Councilman Meree to adopt a resolution certifying that only personnel matters and the disposition of publicly held real property were discussed in the closed session. Recorded vote on the motion:

YES: Councilmembers Freeman, Meree, Crawford, Kreiger, Hunt and Mayor Helsel.

NO: None.

INVOCATION AND PLEDGE OF ALLEGIANCE:

Mayor Helsel rendered the invocation and led the audience in the Pledge of Allegiance.

AUDIENCE FOR VISITORS:

There were no speakers.

APPROVAL OF THE MINUTES:

Councilman Meree moved, seconded by Councilman Kreiger, to adopt the minutes of the regular session held February 8, 2010. Recorded vote on the motion:

YES: Councilmembers Meree, Freeman, Kreiger, Hunt, Crawford and Mayor Helsel.

NO: None.

Councilman Hunt moved, seconded by Councilman Kreiger, to adopt the minutes of the work session held February 8, 2010. Recorded vote on the motion:

YES: Councilmembers Crawford, Hunt, Kreiger, Freeman, Meree and Mayor Helsel.

NO: None.

PUBLIC HEARINGS

**1. REQUEST OF MCDONALD'S GARDEN MARKET, L.L.C. FOR A
CONDITIONAL USE PERMIT**

Deborah L. Vest, Coordinator of Community Development, made a brief presentation on the McDonald's Conditional Use Permit application. She explained that approval of the requested Permit as proposed would enable the applicant to establish a seasonal open-air retail garden supply center on vacant commercially zoned property located at 7 and 9 Little Florida Road once a year, March 1st and July 31st for a 3-year period. Although this specific type of business is permitted in the Business District, the Use Permit is being required because the applicant does not want to establish permanent improvements on site, but will use facilities at adjoining establishments and share existing parking in the Poquoson Shopping Center. She pointed out that the Planning Commission, by a vote of 4 to 3, recommended denial of the Conditional Use Permit. In conclusion, Ms. Vest informed Council that staff was recommending that certain conditions be applied if the Conditional Use Permit is approved.

Mayor Helsel opened the public hearing.

Mr. Mark Anderson of McDonald's Garden Market showed a brief video that provided an overview of the business and what it has to offer the City. He explained that due to the seasonal nature of garden market sales, it would be financially difficult to keep the market open year-round. Mr. Anderson alluded that approximately 40% of their sales last year were by non-residents who probably patronized other local businesses while in the City.

Ms. Cathie-Abel Nelson, local business owner (Iris's); Ms. Brenda Messer, 1 Hopkins Court; Ms. Winette Jeffery, 121 River Road; and Ms. Kathy Steinebaugh, 19 Valmoore Drive, voiced support for the requested Conditional Use Permit stating that the Garden Market brought additional shoppers into the City last year; hired Poquoson residents to work at the Market; beautified the previously unsightly vacant parcel; offered quality products with great customer service; and they freely publicized Poquoson Business Alliance establishments in their Garden Market brochure.

Mr. Barry Tignor, resident (33 Ferguson Street) and local business owner (Dreamscapes), voiced opposition to the request stating that approval of the requested Use Permit would be unfair to the existing year-round businesses that pay real estate taxes and provide all required improvements to their respective sites.

Since there were no other speakers, the public hearing was closed.

In response to Council queries, Ms. Vest explained that Mr. Anderson could lease one of the Poquoson Shopping Center storefronts and then by-right sell seasonal products only on the subject outparcel.

Council applauded Mr. Anderson for his integrity as a businessman and the positive impact the Market had upon the community last year. However, several Councilmembers expressed concern that approval of the requested Use Permit would set a precedent for other similar part-time businesses and that it would not be fair to existing businesses that provide all the required improvements.

Councilman Meree moved, seconded by Councilman Freeman, to deny the requested Conditional Use Permit. Recorded vote on the motion:

YES: Councilmembers Freeman, Meree, Crawford, Hunt and Mayor Helsel.

NO: Councilmember Kreiger.

2. ORDINANCE AMENDING THE ZONING ORDINANCE RE: DEFINITION OF HEIGHT OF BUILDING

City Manager, J. Randall Wheeler, stated that the proposed Zoning Ordinance amendment revises the definition of *height of building* making it similar to that of surrounding localities. An ordinance approving the Zoning Ordinance amendment was presented for consideration.

Mayor Helsel opened the public hearing.

Mr. Robert Duckett, Director of Public Affairs for the Peninsula Housing & Builders Association, voiced support for the proposed zoning amendment since it was comparable to the regulations in other local jurisdictions.

Since no one else came forward, the public hearing was closed.

Councilman Hunt moved, seconded by Councilman Kreiger, to adopt the ordinance on first reading. Recorded vote on the motion:

YES: Councilmembers Hunt, Kreiger, Crawford, Meree, Freeman and Mayor Helsel.

NO: None.

A second reading of the ordinance will be held at the next meeting.

3. PRE-BUDGET PUBLIC HEARING, 2ND QUARTER FINANCIAL ANALYSIS AND REVENUE PROJECTIONS

The City Manager gave a brief overview of the City's second quarter financial analysis and revenue projections. He pointed out that the report reveals an overall deficit in revenues of approximately \$50,200 and a deficit in budgeted expenditures of \$1,200, for an overall deficit of \$51,400. While local revenues remain flat and appear to have stabilized, the City's decrease in revenue is attributable to reductions at the State level. These reductions include reimbursements for Constitutional Officers and the Electoral Board as well as funding for fire, police and library. With expected State budget cuts to localities and probable increases in expenditures, i.e. increases in VRS contributions, life and health insurance premiums, the City's initial deficit in the General Fund is expected to be approximately \$600,000. This combined with the possible \$2.2 million decrease in State support for education equates to an approximate \$2.8 million possible deficit in fiscal year 2011.

Dr. Jennifer Parish, School Superintendent, reminded Council that the State cut the Schools' FY 2010 Budget by \$1.2 million and with the likely FY 2011 reductions, school services will be greatly impacted. She stated that the School System's primary goal will be to maintain quality education for our children; however, some services will have to be reduced and/or eliminated. In conclusion, Dr. Parish stated that additional School budget information could be found on the School website and that the School Board will submit its recommended budget to Council by March 31st.

Mayor Helsel and Council commended Dr. Parish and the School Board for their hard work and their positive working relationship with the City in an effort to appropriately resolve the State funding deficits. It was suggested that a work session be scheduled with the School Board to discuss the budget.

Mayor Helsel opened the public hearing.

Mr. Robert Cox, 14 Poquoson River Drive, stated that he did not support a tax increase to fund City operations, but that a tax increase may be necessary to support the Schools in light of expected State reductions for education. He suggested cutting manpower,

offering early retirement, job sharing, etc. as ways to prevent a tax increase. He also stated that needed infrastructure improvements should not be deferred.

Mr. Don Baker, 9 Evans Circle, expressed concern that contractors are allowed to perform work in the City's right-of-ways without making the subsequent needed repairs which ends up costing the City additional money. He also recommended outsourcing more of the City's work as a way to save money.

Since there were no other speakers, the public hearing was closed.

In conclusion, Council agreed that educating the public about the upcoming budget will be crucial this year.

4. CAPITAL IMPROVEMENTS PROGRAM FOR FISCAL YEARS 2011 AND BEYOND 2015

The City Manager explained that the proposed CIP was somewhat different this year in that it extended beyond the normal 5-year timeframe; however, it was in many ways very similar to the Plan approved by Council last year. He itemized the new projects that had been added to the Plan this year and pointed out that the Plan, if implemented, would have significant monetary implications. In conclusion, he stated that the proposed FY 2011 projects would have no impact on the General Fund Budget and that, if Council directs, the Middle School HVAC system could be included in the City's debt restructuring.

Dr. Jennifer Parish, School Superintendent, thanked Council for recently touring the Middle School to see firsthand its deteriorating condition. She pointed out that the proposed CIP initiates a 20-year bus replacement schedule which is sorely needed due to the age and mileage of the School's existing bus fleet.

Mayor Helsel opened the public hearing. Since no one came forward, the public hearing was closed.

The Planning Commission considered the Capital Improvements Plan at its December 2009 meeting and by a vote of 5 to 2 recommended its adoption as presented.

The City Manager stated that Council's proposed recommendations would be incorporated into the Plan and that it would be brought back in March for final consideration.

NEW BUSINESS:

1. RESOLUTION AUTHORIZING THE COLONIAL SERVICES BOARD (CSB) TO BORROW MONEY

The City Manager explained that the Colonial Services Board was seeking authorization from City Council to establish a line of credit to be used as an additional source of cash flow in unforeseen emergencies. He pointed out that there is no guarantee or moral obligation required by the City. A resolution authorizing the CSB to borrow funds was presented for Council's consideration.

Councilman Hunt moved, seconded by Councilman Meree, to adopt the resolution.
Recorded vote on the motion:

YES: Councilmembers Freeman, Meree, Crawford, Kreiger, Hunt and Mayor Hesel.

NO: NO.

2. ORDINANCE AMENDING THE CODE OF ORDINANCES BY REVISING CHAPTER 26 PERTAINING TO EMERGENCY MANAGEMENT

The City Manager reminded Council that at its last meeting the City's Emergency Operations Plan was adopted. The adopted Plan specifically designates the City Manager as the Director of Emergency Management and delegates the day-to-day activities to the Emergency Coordinator. An ordinance amending Chapter 26 of the City Code reflecting the designation of the Director and Coordinator of Emergency Services was presented for Council's consideration.

Councilman Meree moved, seconded by Councilman Kreiger, to adopt the ordinance.
Recorded vote on the motion:

YES: Councilmembers Hunt, Kreiger, Crawford, Meree, Freeman and Mayor Hesel.

NO: None.

3. ORDINANCE APPROPRIATING FUNDS FOR LEGAL ASSISTANCE

An ordinance appropriating funds for legal assistance necessary to complete the CDBG elevation project was presented for consideration.

Councilman Hunt moved, seconded by Councilman Freeman, to dispense with the second reading and adopt the ordinance. Recorded vote on the motion:

YES: Councilmembers Meree, Freeman, Kreiger, Hunt, Crawford and Mayor Hesel.

NO: None.

4. RESOLUTION MAKING AN ALTERNATE APPOINTMENT TO THE WETLANDS BOARD

A resolution appointing an alternate member to the Wetlands Board was presented for Council's consideration.

Councilman Meree moved, seconded by Councilman Hunt, to adopt a resolution reappointing Michael McCarthy as an alternate member of the Wetlands Board and to insert his name in the resolution. Recorded vote on the motion:

YES: Councilmembers Crawford, Hunt, Kreiger, Freeman, Meree and Mayor Helsel.

NO: None.

COMMENTS OF THE CITY MANAGER:

City Manager, J. Randall Wheeler, reported the following:

- That as soon as the State adopts its budget, the City will be able to finalize its proposed budget for FY 2011 and begin educating the public on its contents.
- That authorization to award the contract for the Sewer Pump Station #2 project will be considered by Council at its next meeting.
- That a meeting with the developers in the Pump Station #2 service area has been scheduled to discuss a possible recreational area in the Western Precinct.

COUNCIL DIRECTIVES:

Councilwoman Crawford thanked the many citizens who volunteer at the schools and encouraged them to continue doing so, especially in light of increased budget cuts.

Councilman Meree commended the Sidewalk Committee for the outstanding presentation made during the work session prior to the regular meeting. He thanked the Committee members for their report, their recommendations/plan and for identifying sidewalk/bike path grants that will pay 90% of the project costs. He asked that the Sidewalk Committee Report be placed on the City's website and he encouraged more citizens to volunteer for this Committee that will evolve into an advocacy group. He applauded Joseph Carter, Principal Planner, for guiding the Committee through the process. In conclusion, he asked City staff to follow-up on Mr. Baker's comments made during the Pre-Budget public hearing.

Mayor Helsel stated that he and the City Manager had participated in a recent teleconference with Federal and State representatives during which the City confirmed its support for NASA. He indicated that he would be meeting with a citizen this week to discuss the possibility of establishing a community center in our City and would relay any pertinent information to Council immediately afterwards. He stated that dialogues with VDOT and the City of Hampton continue in an effort to initiate the needed bridge and causeway improvements, including associated sidewalk/bike path, to provide a second emergency evacuation route for our citizens.

ADJOURNMENT:

There being no further business, Councilman Meree moved, seconded by Councilman Freeman, to adjourn the meeting. Recorded vote on the motion:

YES: Councilmembers Hunt, Kreiger, Crawford, Meree, Freeman and Mayor Helsel.

NO: None.

The meeting was adjourned at approximately 9:03 p.m.