

**MINUTES OF THE CITY COUNCIL MEETING  
MAY 13, 2019 7:00 P.M.  
REGULAR SESSION**

**PRESENT:** The Honorable W. Eugene Hunt, Jr., Mayor  
The Honorable Carey L. Freeman, Vice Mayor  
The Honorable Herbert R. Green, Jr.  
The Honorable Thomas J. Cannella II  
The Honorable David A. Hux  
The Honorable Charles M. Southall III  
The Honorable Jana D. Andrews  
  
J. Randall Wheeler, City Manager  
Evie Insley, City Clerk  
D. Wayne Moore, City Attorney

**ABSENT:** None

**MEETING CALLED TO ORDER:**

Mayor Hunt called the meeting to order at approximately 7:02 p.m.

**INVOCATION AND PLEDGE OF ALLEGIANCE:**

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

**SPECIAL PRESENTATIONS:**

**House Resolution No. 308 Commending Mary-Martha Catlett – Delegate Gordon Helsel**

Delegate Gordon Helsel presented Mary-Martha Catlett House Resolution No. 308 for her excellent volunteer work organizing the Skate for our Servicemen event to benefit the Wounded Warrior Project and support in the men and women who have served and sacrificed in defense of our nation. Ms. Catlett was inspired by her grandfather Dabney Gills, Sr. a veteran of the Vietnam War, and her great grandfathers who served in World War II to create community fundraisers through the Wounded Warrior Project. Delegate Helsel also presented Ms. Catlett a Commonwealth Flag that had been flown over the Capital building in her honor.

**House Resolution No. 268 Commending Percy F. Ward Jr. – Delegate Gordon Helsel**

Delegate Gordon Helsel advised Council of his misunderstanding of the schedule in reference to the House Resolution that was to be given to Percy F. Ward Jr. Delegate Helsel would like to present the resolution at the next scheduled Council meeting.

**Presentation of Proclamation – Delegate Gordon Helsel**

Mayor Hunt presented a Proclamation to Delegate Helsel, who announced his retirement this year, for all of his dedication and work representing the 91<sup>st</sup> District of the Virginia General Assembly House of Delegates.

**Virginia General Assembly Update – Delegate Gordon Helsel**

Delegate Helsel provided Council with a brief update on the items in Virginia General Assembly that have been accomplished during his tenure such as the bills that will benefit waterman, the appointment of new Judges, Langley Air Force Base and the support of the schools.

**AUDIENCE FOR VISITORS:**

None

**APPROVAL OF THE MINUTES:**

1. Councilman Green moved, seconded by Councilman Cannella, to adopt the minutes of the regular session held on May 13, 2019 as amended. Recorded vote on the motion:

**YES:** Councilmembers Southall, Cannella, Hux, Green, Vice Mayor Freeman and Mayor Hunt

**NO:** None

**ABSTAIN:** Councilmember Andrews

2. Councilman Green moved, seconded by Councilman Cannella, to adopt the minutes of the work session held on May 13, 2019 as submitted. Recorded vote on the motion:

**YES:** Councilmembers Cannella, Southall, Hux, Green, Vice Mayor Freeman and Mayor Hunt

**NO:** None

**ABSTAIN:** Councilmember Andrews

**PUBLIC HEARINGS:**

1. **Amendment to Article III – Nonconforming Uses and Structures, Section 3-6.3(1) of the Zoning Ordinance to Clarify Fire Rated Material Requirements and Apply Them Consistently Across the Three Single Family Zoning Districts**

Director of Community Development Wally Horton presented Council with an amendment to Article III – Nonconforming uses and structures, Section 3-6.3(1) of the Zoning Ordinance to

clarifying fire rated material requirements and apply them consistently across the three single family zoning districts.

The properties in the RS zoning district are currently at a disadvantage as the exterior portion of the structure nearest the adjacent property neighboring the side yard must be constructed using two hour rated fire materials, as defined by the Virginia Uniform Statewide Building Code.

Side yard setbacks on properties in the R-1 and R-2 zoning districts, which typically require two 15-foot side yard setbacks, can be reduced to anywhere from 14 feet to 10 feet before requiring the two hour fire rating; however, properties in the RS zoning district, which requires two 20-foot side yard setbacks, must use two hour fire rated materials if the side property lines are reduced to anywhere from 19 feet to 10 feet. Since the fire rating requirement is a more of a safety than a zoning item it seems logical to provide consistency across all three single-family zoning districts by requiring the fire rated materials for any setback less than 15 feet.

This requirement was intended for walls, not doors and windows. Therefore, to clarify this requirement, the exclusion of fire rated doors and windows has been added to the amendment which now reads:

Primary structures, located on residential lots not meeting the minimum lot frontage or lot area requirement for their district, may encroach into the required side yard area provided that they maintain a side yard setback of no less than ten feet. Additionally, for lots fronting on more than one street that have at least one front of insufficient width, primary structures may encroach into any required side yard area on the property provided that they maintain a side yard setback of no less than ten feet.

In addition, the following criteria must be met:

- (1) The exterior portion of the any primary structure that will be located less than 15 feet from the side property line through this provision, nearest the adjacent property neighboring the side yard, must be constructed using two hour rated fire materials, excluding doors and windows, as defined by the Virginia Uniform Statewide Building Code.
- (2) No principal structure shall exceed the maximum allowable width for a principal structure located on a minimally conforming lot in its respective zoning district.

Lots meeting the minimum lot frontage and lot area requirements are not subject to these allowances and must meet the minimum side yard setback requirements established for their zoning district.

The proposed change would provide consistency across the three single-family zoning districts and a more practical fire safety requirement. The Planning Commission, following its April 15, 2019 public hearing, voted 5-0 to recommend approval to City Council of this proposed amendment.

Mayor Hunt opened the Public Hearing. Having no one come forward the public hearing was closed.

Councilman Green moved, seconded by Councilman Cannella, to adopt the ordinance approving an amendment of the zoning ordinance by revising Appendix A, Article III, Section 3-6.3(1) pertaining to nonconforming uses and structures. Recorded vote on the motion:

**YES:** Councilmembers Hux, Southall, Green, Andrews, Cannella, Vice Mayor Freeman and Mayor Hunt

**NO:** None

**2. Amendment to Appendix A, Section 1-3 of the Zoning Ordinance to Update the Definition of “Financial Institution”**

Director of Community Development Wally Horton presented Council an amendment to existing Zoning Ordinance to update Appendix A, Section 1-3 “Financial Institution”.

As part of a review of the City Land Use Ordinances, Staff noted that the definition of “Financial institution” could be interpreted to include Pay Day Loan and Pawn Broker operations. Since this may not be the intent of the definition it would be advised to revise the definition of “Financial institution” in the definition section of the Zoning Ordinance. Recently, Staff has been queried in regard to pay day loans, title loans, and pawn brokerage establishments and opined that the intent of the definition of “Financial institution” is not intended to include such uses.

In an effort to keep the change as simple as possible and to avoid confusion, Staff is advocating a change in the “financial institution” definition, which would read:

**Section 1-3. - Definitions.**

*Financial institution:* The retail offices of traditional banks, savings and loan offices and other financial service institutions, with or without automatic teller machines, providing walk-in service to customers. Services include but are not limited to accepting deposits, cashing checks and offering loans, and does not include pay day loans, title loans, money lending associated with a pawn shop-type establishment and/or similar uses. Drive-through facilities are a separately designated and regulated component.

This change would clarify a financial institution’s intended definition. Pay day loans, title loans, money lending associated with a pawn shop-type establishment and/or similar uses would be allowed by approval of a conditional use permit.

The proposed change would increase clarity on the issue of Financial Institutions. The Planning Commission recommended approval by a 5-0 vote at its April, 15, 2019 public hearing.

Mr. Wheeler stressed that this amendment did not mean a pawn shop or payday/title loans could not be established in the City, but they would have to go before Council for approval of a Conditional Use Permit.

Mayor Hunt opened the Public Hearing. Having no one come forward the public hearing was closed.

Councilman Green moved, seconded by Councilman Cannella, to adopt the amending Appendix A, Section 1-3 of the zoning ordinance to update the definition of “Financial Institution”. Recorded vote on the motion:

**YES:** Councilmembers Green, Hux, Cannella, Southall, Andrews, Vice Mayor Freeman and Mayor Hunt

**NO:** None

**UNFINISHED BUSINESS:**

**1. Second Reading and Final Adoption of the FY 2020 Annual Plan**

City Manager Randy Wheeler presented Council with the second reading and final adoption of the FY 2020 annual plan in accordance with the work session meeting held on April 22, 2019 and is reflected in the revised ordinances. The total proposed budget of \$29,982,000 remains unchanged. The net change to the Capital Project Fund is an increase of \$12,520. All other funds remain unchanged and there will be no proposed tax increases. The budget also includes two items that Council felt were priorities which are competitive pay for employees, which includes school employees and support of the Master Infrastructure Plan. The budget will include an increase in Solid Waste fees however the decrease in the Sewer fees should offset that cost slightly.

There are five Ordinances to be considered to adopt the budget and they are as follows:

- Ordinance establishing the real estate tax rate
- Ordinance establishing the personal property, watercraft and all privately owned camping trailers and motor homes tax rate
- Ordinance updating Chapter 66 Section 66-42 and Section 66-63 relating to the increase in solid waste fees and to reflect the current combined income utilized by the City to reduce fees for qualified applicants based on the annual adjustment as determined by Section 66-63(a)(3)
- Ordinance updating Chapter 82 Section 82-40 relating to the decrease in sewer service fees and to reflect the current combined income utilized by the City to reduce fees for qualified applicants. In addition, the ordinance reflects the percentage of reduction versus actual dollars to eliminate redundancy in further ordinance changes as it relates to sewer service fees
- Revised ordinance appropriating the funds by the Proposed Annual Financial Plan for Fiscal Year 2020

Councilman Green moved, seconded by Councilman Southall to adopt the ordinance to lay a \$1.14 Levy per \$100 assessed value on all real estate in the City of Poquoson, Virginia, for the general operation of the various departments of the City government.

**YES:** Councilmembers Cannella, Andrews, Green, Southall, Hux, Vice Mayor Freeman, and Mayor Hunt

**NO:** None

Councilman Green moved, seconded by Councilman Southall to adopt the ordinance to lay a \$4.15 levy on all personal property, a \$.00001 levy on all watercraft, a \$1.50 levy on all privately owned camping trailers and motor homes, and a \$1.14 levy on all vehicles without motive power, used or designed to be used as manufactured homes in the City of Poquoson, Virginia, for the general operation of the various departments of the City government.

**YES:** Councilmembers Southall, Hux, Green, and Mayor Hunt

**NO:** Councilmembers Cannella, Andrews and Vice Mayor Freeman

Councilman Green moved, seconded by Councilman Cannella to adopt the ordinance amending Chapter 66, Article II, Section 66-42 solid waste collection charges and Article III, Section 66-63 exemption; eligibility generally and reduced collection charges of the code of ordinances of the City of Poquoson, Virginia.

**YES:** Councilmembers Andrews, Southall, Cannella, Hux, Green, Vice Mayor Freeman and Mayor Hunt

**NO:** None

Councilman Green moved, seconded by Councilman Cannella to adopt the ordinance amending Chapter 82, Article II, Section 82-40(b) sewer service charges of the code of ordinances of the City of Poquoson, Virginia.

**YES:** Councilmembers Andrews, Cannella, Southall, Hux, Green, Vice Mayor Freeman and Mayor Hunt

**NO:** None

Councilman Green moved, seconded by Councilman Cannella to adopt the ordinance to appropriate funds to the various governmental funds of the City of Poquoson, Virginia for FY 2020

**YES:** Councilmembers Hux, Southall, Green, Andrews, Cannella, Vice Mayor Freeman and Mayor Hunt

**NO:** None

**NEW BUSINESS:**

**1. Resolution Making a Nomination for an Alternate to the Board of Equalization**

A resolution making a nomination for an alternate to the Board of Equalization was presented to Council. Councilman Green moved, seconded by Vice Mayor Freeman to nominate James A. Bales to serve as alternate to the Board of Equalization. Recorded vote on the motion:

**YES:** Councilmembers Green, Hux, Cannella, Southall, Andrews, Vice Mayor Freeman and Mayor Hunt

**NO:** None

**COMMENTS OF THE CITY MANAGER:**

City Manager Randy Wheeler thanked Council for their work with staff on the budget. Mr. Wheeler also advised Council that at the next meeting there will be a Public Hearing for consideration of School Board members for Western and Eastern districts. Interested candidates should fill out a Board Bank application or advise Council at the Public Hearing. Only those names brought forward at the public hearing can be considered for appointment at the June 24<sup>th</sup> meeting.

**COUNCIL DIRECTIVES:**

Councilman Hux encouraged anyone that would like to serve on any board or committee to fill out a Board Bank application and return to the City Manager's Office.

Councilman Cannella thanked City staff for all of the work on the budget. Councilman Cannella also thanked Delegate Helsel for attending and for all of his work for the City of Poquoson as Delegate and as former Mayor.

Councilman Southall commended Mary-Martha Catlett for all of her dedication to the Wounded Warrior Projects.

Vice Mayor Freeman recognized Councilman Cannella for graduating from Christopher Newport University.

**ADJOURNMENT:**

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

**YES:** Councilmembers Cannella, Green, Southall, Hux, Vice Mayor Freeman and Mayor Hunt

**NO:** None

The meeting was adjourned at approximately 7:58 p.m.