

AGENDA



CITY OF HOPEWELL

Hopewell, Virginia 23860

AGENDA

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CITY COUNCIL

John B. Partin, Jr., Mayor, Ward #3
Jasmine E. Gore, Vice Mayor, Ward #4
Rita Joyner, Councilor, Ward #1
Michael B. Harris, Councilor, Ward #2
Janice B. Denton, Councilor, Ward #5
Brenda S. Pelham, Councilor, Ward #6
Dominic R. Holloway, Sr., Councilor, Ward #7

Dr. Concetta Manker, City Manager
Danielle Smith, City Attorney
Brittani Williams, City Clerk
Bridetta Williams, Deputy Clerk

September 26, 2023

REGULAR MEETING

Closed Meeting- 6:00 PM
Work Session – 7:00 PM
Regular Meeting-7:30pm

6:00 p.m.

Call to order, roll call, and welcome to visitors

CLOSED MEETING

SUGGESTED MOTION: Move to go into closed meeting pursuant to Va. Code Section §2.2-3711 (A) (1) to discuss and consider personnel matters, including board and commission appointments; the assignment and performance of specific appointee and employees of City Council, and to the extent such discussion will be aided thereby.

Roll Call

RECONVENE OPEN MEETING

CERTIFICATION PURSUANT TO VIRGINIA CODE § 2.2-3712 (D): Were only public business matters (1) lawfully exempted from open-meeting requirements and (2) identified in the closed-meeting motion discussed in closed meeting?

WORK SESSION

WS-1 – City Council Rules Review – Danielle Smith

REGULAR MEETING

7:30 p.m.

Call to order, roll call, and welcome to visitors

Prayer by Reverend Danny Tucker, followed by the Pledge of Allegiance to the Flag of the United

States of America led by Mayor Partin.

SUGGESTED MOTION: To amend/adopt Regular Meeting Agenda Roll Call

CONSENT AGENDA

All matters listed under the Consent Agenda are considered routine by Council and will be approved or received by one motion in the form listed. Items may be removed from the Consent Agenda for discussion under the regular agenda at the request of any Councilor.

C-1 Minutes: August 1, 2023, August 31, 2023, September 12, 2023, September 13, 2023

C-2 Pending List:

C-3 Information for Council Review: August 2, 2023 DDRC Minutes

C-4 Personnel Change Report & Financial Report:

C-5 Public Hearing Announcements: Queen Anne Pump Station

C-6 Routine Approval of Work Sessions:

C-7 Ordinances on Second & Final Reading: Collective Bargaining

C-8 Routine Grant Approval:

SUGGESTED MOTION: To amend/adopt consent agenda

INFORMATION/PRESENTATIONS

1. Queen Anne Pump Station Presentation – Robert Thompson

COMMUNICATIONS FROM CITIZENS

CITY CLERK: A Communication from Citizens period, limited in total time to 30 minutes, is part of the Order of Business at each regular Council meeting. All persons addressing Council shall approach the microphone, give name and, if they reside in Hopewell, their ward number, and limit comments to three minutes. No one is permitted to speak on any item scheduled for consideration on regular agenda of the meeting. All remarks shall be addressed to the Council as a body, any questions must be asked through the presiding officer. Any person who makes personal, impertinent, abusive, or slanderous statements, or incites disorderly conduct in Council Chambers, may be barred by the mayor from further audience before Council and removed, subject to appeal to a majority of Council (See Rules 405 and 406)

UNFINISHED BUSINESS

PUBLIC HEARING

CITY CLERK: *All persons addressing Council shall step to the microphone, give name and If they reside in Hopewell, their ward number, and limit comments to three minutes. No one may address council more than once per meeting, unless granted permission by the presiding officer. Speakers address council as a body, not individual councilors. Questions are asked of councilors and staff through the presiding officer. Any person who makes personal, impertinent, abusive, or slanderous statements, or incites disorderly conduct in the council chamber may be reprimanded by the presiding officer, and removed from the meeting upon a majority vote of councilors present, excluding any councilor who is the subject of the motion. (See Rules 405 and 406)*

- PH-1** – Collective Bargaining – Caleb Kershner, Will Thetford, Vance Stallings (First Reading)
- PH-2** - Amendments to the Transient Occupancy Tax Ordinance -City Attorney, Danielle Smith
- PH-3** - Amendment to the Connection Sewer Fees Ordinance - City Attorney, Danielle Smith
- PH-4** - Amended FOIA Policy language and fees -City Attorney, Danielle Smith

REGULAR BUSINESS

R1- Appropriate funds for SCBA Grant – Chief Ruppert

R2- Gravity Thickener Replacement – Robert Thompson

Reports of City Manager:

Reports of City Attorney:

Reports of City Clerk:

Councilors Request

CR-1 Discussion of Financial Services – (Joyner)

MOTION:

CR-2 – Discussion and review of employee handbook (Pelham)

MOTION:

Presentations from Boards and Commission

Other Council Communications

Adjournment

CLOSED MEETING

RECONVENE OPEN MEETING

WORK SESSION

WS-1

RULES OF CITY COUNCIL
THE CHAIR – POWERS AND DUTIES

(As amended through February 2, 2021)

101. **Robert's Rules of Order; Parliamentary; Presiding Officer** – Where these rules are silent, Robert's Rules of Order prevails (Charter IV.4). The city attorney is parliamentary, whose ruling, when requested by or through the presiding officer, is final and binding, subject only to appeal to and a two-thirds vote of all council members. The presiding officer is the council president (mayor) or, in the mayor's absence, the vice-president (vice mayor) (Charter IV.5). If the mayor and vice mayor are absent, the temporary chair (see Rule 103) is the presiding officer.
102. **Roll Call; Quorum** – The presiding officer takes the chair at the appointed meeting hour, and immediately calls council to order. The city clerk then calls the roll, and enters in the meeting minutes the names of the councilors as present or absent. In the absence of a quorum, the city clerk attempts to procure the attendance of absent councilors. A quorum exists when a majority of all councilors is present (Charter IV.4).
103. **Temporary Chair** – In the absence of the mayor and vice mayor, the city clerk calls council to order, and calls the roll. If a quorum exists, council elects by majority vote of those present one of its members to be temporary chair until the mayor or vice mayor appears.
104. **Appeals** – See Rule 101.
105. **Voting Methods** – Votes upon a motion to adopt an ordinance or resolution are by roll call. All other votes are recorded by "ayes" and "nays" (Charter IV.8), unless the presiding officer requests a roll call. No councilor is excused from voting except on items that consider the councilor's official conduct, or involve the councilor's financial or personal interests (Charter IV.8). Although one cannot be compelled to vote (Robert's Rules), a

councilor (a) who is present but fails to vote without having been excused under this rule, or (b) who, in violation of Rule 209, excused himself or herself from the meeting to avoid voting, may be disciplined (Charter IV.4; Va. Code § 2.2-3711).

106. **Presiding Officer's** Designee – The presiding officer may designate another councilor to preside for a single issue. If the mayor is the presiding officer, the vice mayor is designated. If the vice mayor is unavailable, the presiding officer may designate any other councilor.

MEMBERS – DUTIES AND PRIVILEGES

201. **Seating** – Councilors are seated at the council chamber dais as follows. Mayor: center; vice mayor: immediate left of mayor; most-recent past mayor, if any: immediate right of mayor; remainder of members: in increasing numerical order by ward, starting at the far left of the mayor and the immediate right of the city manager. If the vice mayor is the most-recent past mayor, then the next-most-recent past mayor sits to the right of the mayor. The remaining seats are occupied, from the far left, by the city attorney, the city manager, the city clerk, and the assistant city clerk, respectively.

Sample Seating Chart

[podium]

202. **Addressing Council** – Councilors and others are addressed or referred to as Mr., Mrs., Miss, Ms., Madam, and/or by title. For example, "Madam Mayor," "Vice Mayor Jones," "Councilor Smith," "Mr. Williams," or "the City Manager.
203. **Discussion Limitation** – Councilors shall not ask questions during presentations of regular or special business items. After a presentation concludes, or if no presentation is made, a councilor may speak for no more than two times and for no longer than three minutes total on any item. This limit shall also apply to and include questions, discussion, and debate of an action item after a motion is made and seconded. No councilor shall be entitled to speak for a second time under this rule until every other councilor has had an opportunity to speak. The limitations of this rule shall not apply to public hearings, work sessions, or to points of order. For the purpose of this rule, a substitute or amended motion shall constitute a new action item for which these limitations shall apply.
204. **Voting Order** – Roll call for voting is by ward number. At the first meeting in January, the roll call starts with the Ward 1 councilor, and proceeds numerically, through the Ward 7 councilor. At each meeting thereafter, the roll call is rotated by beginning with the Ward 2 councilor at the second meeting, and so on until each councilor has voted first. Once all councilors have voted first, the process repeats.
205. **Motions** – All motions, except those to adopt ordinances making appropriations, authorizing the contracting of indebtedness, or relating to the issuance of bonds or other evidences of debt, are confined to one subject (Charter IV.8).
206. **RESERVED**
207. **Dissent or Protest** – During debate, a councilor has the right to express dissent from or protest against the adoption of any ordinance or resolution.
208. **Attendance** – Councilors notify the city clerk of absence from a scheduled meeting, at least 12 hours in advance if possible. The city clerk promptly notifies all councilors of the absence, if a quorum might not be present.

209. Excuse During Meeting – Any councilor may excuse himself or herself during a meeting, except to avoid voting.

REGULAR AND SPECIAL MEETINGS; AGENDA

301. Regular Meetings – Regular meetings are held in the council chamber, third floor of the Municipal Building, beginning at 7:30 p.m., at least once each month (Charter IV.6), on such days and at other times or places established at council's annual meeting (Va. Code § 15.2-1416).
302. Special Meetings – Special meetings are called by the city manager, the mayor, or any other councilor (Charter IV.6), upon notice that is reasonable under the circumstance (Va. Code § 2.2-3708.2) but no less than 12 hours. The city clerk immediately notifies, in addition to the public, the city manager, the city attorney, and each councilor by electronic mail or other writing if previously requested by the councilor, of the meeting time and place, and the specific items of business. No other items are considered unless all councilors are present and unanimously consent. Notice is waived if all councilors attend the meeting or sign a waiver (Va. Code § 15.2-1418).
303. Agenda – The regular business of Council shall be as follows unless altered by a vote of the Council: (See Minute Book 25, Page 111, dated March 28, 2000.) All matters to be placed on the agenda shall be submitted to the City Clerk no later than the Monday one week prior to a regularly scheduled meeting, together with all backup and supporting materials by 10:00 a.m. The City Clerk shall reschedule an item to the next meeting's agenda should any supporting documentation be missing from a submission. All Citizen Councilor Requests and supporting documentation shall be submitted no later than 5:00 p.m. on Monday one week prior to the regular scheduled meeting. Agenda meeting can be held on Tuesday^{at} 10:00 a.m. one week prior to the regularly scheduled meeting. The City Clerk shall prepare and submit a final draft to the City Manager, City Attorney, Mayor and Vice Mayor for review no later than 10:00 a.m. on Wednesday prior to the regular scheduled meeting. Their review shall be completed no later than 5:00 p.m. on the same Wednesday. The final agenda and agenda packet shall be given to the City Clerk no later than 3:00 p.m. on the Thursday prior to the regular scheduled meeting. All material to be presented to Council at the Tuesday meeting that is not part of the actual

agenda packet (outside agency requests for funding, financial data supplied by our bond attorney, etc.) must be available to council with the publication of the agenda. Council will not vote on any material presented during the course of the meeting, this item will move to the next regular scheduled meeting. The agenda shall be posted and circulated on the Thursday immediately preceding the regularly scheduled meeting no later than 5 p.m. The order of the agenda may be amended by the majority vote of Council at any time.

Call to order, roll call and welcome to visitors

Amendments to Agenda Before Closed Session (by majority vote of Council)

Closed Meeting – (See Minute Book 24, Pages 474 & 475, 7/14/98.) (See Minute Book 25, Page 411, dated 3/28/00.)

Prayer and Pledge of Allegiance to the Flag of the United States of America

Amendments to Agenda After Closed Session (by majority vote of Council)

Consent Agenda (See Minute Book 25, Page 411, dated 3/28/00.)

City Council Meeting Minutes

Pending List

Information for Council Review

Personnel Change Report

Financial Report (regularly scheduled monthly meeting) (See Minute Book 25, Page 411, dated 3/28/00.)

Set Public Hearing(s) Set date(s) for routine Public Hearing(s) and list subject
(See Minute Book 28, Page ___, 3/23/04)

Set Routine Work Sessions

Ordinances on second reading (See Minute Book 25, Page 411, dated 3/28/00.)

Information/Presentations (10 minute limit for each presentation)

Public Hearings

Communications from Citizens (See Minute Book 26, Page 211, dated March 27, 2001;
See Minute Book 31, Page ___ dated January 22, 2008)

Unfinished Business

Regular Business:

Reports of Boards and Commissions (includes Constitutional Offices)

Reports of the City Manager

Reports of the City Attorney

Reports of the City Clerk

Reports of Council:

Committees

Councilor Requests (No one councilor shall have more than two such requests on a regular meeting agenda)

Presentations from Boards & Commissions (See Minute Book 28, page ___, dated February 3, 2004)

Council Communications

Adjournment

304. **Removing Items from Agenda** -- Once a Councilor places an item on the agenda it can only be removed by that Councilor prior to the adoption of the agenda. Once the agenda is adopted an item can only be removed by a two-thirds (2/3) vote of all members of Council.
305. **Non-agenda Items** -- Only matters appearing on the agenda and transmitted to each Councilor twelve hours or more before a meeting may be considered a matter of regular business. Other matters including resolutions, ordinances, motions, etc., may be introduced under Reports of Council set forth under regular business by any member of Council (including City Administration) but shall be deferred until the next meeting. A two-thirds (2/3) vote of all members may suspend this rule.
306. **Time Limit** - Meetings will have a three-hour time limit from beginning to end. Meetings beginning at 7:30 PM will adjourn at 10:30 PM. Stand-alone Work Sessions or Special Meetings beginning at 6:30 PM will adjourn at 9:30 PM. Any item not addressed within the three (3) hours would be continued to the next meeting, unless Council waives the rules to extend the meeting.

MISCELLANEOUS

401. **Motion stated by Chair** -- When a motion is made and seconded, it may be stated by the Chair before debate, but shall be stated by the Clerk before the vote. Any member may demand that it be reduced to writing.
402. **Motions -- Procedure** -- When a question is before Council, no motion shall be entertained except:
- A. To fix the time at which to adjourn

- B. To adjourn or recess
- C. To lay on the table
- D. The previous question
- E. To postpone to a certain time
- F. To refer
- G. To amend
- H. To postpone indefinitely

Such motion shall have precedent in the foregoing order. A roll call may be ordered at any time to ascertain the number of members present. In any case of precedent, motion to table or move the question is out of order until all Councilors have had an opportunity to speak at least once.

403. **Minutes; Recordings** – Meetings are electronically recorded. In accordance with Robert's Rules of Order, minutes contain a record of what was done at the meeting. A councilor may, however, direct through the mayor that the draft minutes of the meeting include a brief summary of the councilor's remarks regarding an agenda item. Such direction must be given at the same meeting in which the remarks were made and prior to the next agenda item.
404. **Clerk of Council** – The Clerk shall be the custodian of all the papers, correspondence, and records of the Council and shall keep official minutes of proceedings which shall record the motions and votes of Council and only such further detail of matters as may be approved by majority vote or requested publicly "for the record" which may be in writing and shall be attributed to the individual Council member making the request. In the absence of the Clerk, and/or the Backup City Clerk, the Mayor shall appoint a Clerk pro tem to keep the minutes and file same in the office of the City Clerk. Detailed debate shall not be recorded in minutes unless requested by Council at public session and with majority of Council's support. Minutes shall be mainly a record of what was done at the meeting, not what was said by the members (R.R.O.O. Page 389). Any question as to the contents of the minutes may be decided only by a majority of Council at the time the minutes are approved.
405. **Communications from Citizens and Others** – The communications from citizens portion of the regular-meeting agenda is limited to three minutes per speaker and 30 minutes total.

Speakers may contact the clerk in advance of, or sign up in person at, the meeting. They are called in the order they signed up, before others in the audience speak. Each person addressing council approaches the podium, and gives name and, if a Hopewell resident, ward number. No one may address council more than once per meeting, unless granted permission by the presiding officer. Speakers address council as a body, not individual councilors. Questions are asked of councilors and staff through the presiding officer. The presiding officer, subject to free-speech considerations as determined by the city attorney, has the authority to deem a matter inappropriate. Upon motion of any councilor, a majority of councilors present may allow the speaker to continue.

406. **Decorum** – Any person who makes personal, impertinent, abusive, or slanderous statements, or incites disorderly conduct in the council chamber may be reprimanded by the presiding officer, and removed from the meeting upon a majority vote of councilors present, excluding any councilor who is the subject of the motion.
407. **Suspension of Rules (Waive the Rules)** – The rules of Council may be suspended (waived) at any time by the vote of 2/3 of all Council members present.
408. **Safety** – The Mayor shall be responsible for the safety of all participants in a Council meeting and may adjourn a meeting at any time such safety may be in question. In the event of overcrowding, the meeting shall be adjourned (recessed) to a location more suitable or the item resulting in crowding be rescheduled. There shall be no smoking, eating, or drinking allowed during Council sessions; however, members of council and support staff shall be allowed, at the discretion of the Mayor, to have drinks during Council sessions.
409. **The “Virginia Freedom of Information Act”** – Section 2.2-3700, et seq., of the Code of Virginia, 1950, as amended, is hereby incorporated by reference. Whenever a closed meeting is contemplated, the City Attorney shall be advised of the proposed purpose. The City Attorney shall advise the presiding officer on the legality of a closed meeting. (See Minute Book 25, Page 411, dated March 28, 2000.)
410. **Standing Committees**
- A. Standing Committees

1. Standing committees shall be created only by resolution, which shall include the purpose and composition and shall be approved at a regular Council meeting.
2. Members shall be appointed by the Mayor, with the concurrence of members of Council. The Mayor may designate a chairman of the committee. The committee may elect a vice-chairman to serve in the absence of the chairperson.
3. Standing committees shall make periodic reports and recommendations to Council for their information and consideration. (See Minute Book 24, Pages 474 & 475, 7/14/98.)

B. Special Committees

1. Special committees are appointed by the Mayor, with the concurrence of Council for specific purposes.
2. Special committees shall terminate upon completion of the assigned task and report to Council.
3. Any special committee not terminated, shall be terminated on the date of the reorganization meeting at which a Mayor and Vice-Mayor are elected. (See Minute Book 24, Pages 474 & 475, July 14, 1998.)

411. **Work Session Policy** – As required, the City Council of the City of Hopewell may call a special "Council Work Session" beginning at 6:30 PM on the fourth Tuesday of each month. City Council requires that supporting documentation related to the subject material shall be provided to the City Clerk for Council review and perusal pursuant to Section 303, above, and made a part of the agenda packet. Work Sessions shall not be scheduled for the months of July, August, November and December, unless necessary.

Such work sessions are designed to give the Council adequate time to fully discuss and consider business affecting the City and are not considered to be a special meeting or public hearing. Items which would traditionally be considered at a work session are annual budget, service level changes, etc.

To preserve the purpose of the work session the following rules regarding the conduct of the sessions are proposed:

- Work sessions are open to the public, however public comment is appropriate only at the regular meeting where official action is to be taken and at established public hearings.

For Example: Council may hold several work sessions on the annual budget at which the session is not open for public comment or debate. However, in order to give the public adequate opportunity to address the budget, Council will consider approval at two (2) separate Council meetings.

- The City Manager will represent the City's administrative staff at the work session. With Council approval and at the City Manager's recommendation, staff and outside agencies may make presentations to the Council. Again, presentations do not include public comment.
- Unless specifically advertised as a *special meeting* of the City Council, no formal action will be taken by the City Council at a Work Session.
- The subject matter discussed by City Council will be limited to items presented on the agenda. City Council requires that supporting documentation related to the subject material shall be provided to the City Clerk for Council review and perusal, and made a part of the agenda packet.
- Presentation times will not be scheduled.

412. Flowers and Donations

A. Illness

Flowers or gift basket not to exceed \$75.00 to Council members in the hospital.

B. Death

1. Flowers, or in lieu of flowers, a contribution will be sent to a charitable organization in memory of a Council Member, not to exceed \$75.00.
2. Flowers, or in lieu of flowers, a contribution will be sent to a charitable organization in memory of a former member of Council (ten years), not to exceed \$75.00.

3. Flowers, or in lieu of flowers, a contribution will be sent to a charitable organization in memory of a spouse, child, mother, father, brother, or sister of Council Member, not to exceed \$75.00.

NOTE: The above shall also apply to the City Manager, City Attorney, and City Clerk.

The funds for the above will be expended from City Council Budget – Miscellaneous Expenses.

413. **Disclosure** – Members of City Council shall file with the City Clerk on January 15, of each year the Statement of Economic Interest. Members may request assistance from the City Attorney or City Clerk in its preparation.

414. **Council Chamber/Conference Room, Use of** – (Approved June 27, 1995)

The following rules shall govern the use of the City of Hopewell Council Chamber and adjoining Conference Room ("Council Chamber"):

- A. The following uses are priority uses of Council Chamber. No other use shall be scheduled which conflicts with a priority use, and any use which is already scheduled shall be cancelled if Council Chamber is needed at the same time for a priority use.
 1. Meeting of City Council, meetings of any committee of Council, or any public hearings or proceedings being conducted on behalf of Council.
 2. Meetings or hearings conducted by any board, commissions, committee, department, bureau, agency, or office of City government.
- B. Permitted uses of Council Chamber shall be meetings or hearings of other governmental bodies or entities; or use by any other organizations that are not deemed prohibited users of Council Chamber.
- C. The following uses are **prohibited** uses of Council Chamber:

1. Fund raising of any type, whether by payment, by donation, by contribution, by the charging of admissions, by the sale of goods, or otherwise.
2. Use by any for-profit business or commercial enterprise or organization.
3. Use for any criminal or illegal purpose.
4. Use for any disorderly, improper, profane, obscene, indecent, lewd, pornographic, riotous, or immoral purpose; or use at which such conduct occurs, regardless of purpose.
5. Regular periodic meetings of any organization or group. A regular periodic meeting is one that occurs within six (6) months of the previous use.

D. Procedure for making reservations for permitted uses of Council Chamber:

1. Reservations for use of Council Chamber shall be made with the Clerk of the City Council.
2. Applications for use of Council Chamber must be submitted to the Clerk's office within fifteen (15) business days of the proposed activity. The application for the proposed activity must include the name of the organization, the date, time, duration, location and nature of the proposed activity, and the number of participants.
3. Reservations for use of Council Chamber shall include a fifty dollar (\$50.00) key/security deposit. The deposit shall be refunded with the return of the key (minus any damages to the Chamber/Conference rooms.)

E. All decisions about the use of Chambers shall be made by the Clerk of the City Council, subject to appeal to the City Council.

- F. Cancellations by users must be reported as soon as possible to the Clerk's office during normal business hours. No-shows or failure to cancel in a timely manner may result in denial of future use of the facilities.
- G. No eating, drinking (with the exception of water provided for the Council and the speaker's podium), smoking, or chewing of gum shall be permitted in the Council Chamber.
- H. No defacing (tacks, nails, tape, etc.) of the furniture, walls, or equipment is permitted in the Council Chamber, Council Conference Room, lobby, or toilets. Any damage due to user's conduct shall be deducted from security deposit. Permitted user shall be liable for any damage greater than security deposit.
- I. Council Chamber shall not be rearranged by anyone except with the permission of the City Clerk.
- J. The City Clerk shall be the sole keeper of the keys to the Council Chambers.
- K. Use of Council Chamber's equipment shall be with permission of the City Clerk.
- L. User's responsibilities:
 - 1. Ensure that no unauthorized third party shall be granted permission to use the facility, or any portion thereof, without prior approval of the City Clerk.
 - 2. Ensure that event participants shall not be restricted from participation for reasons of race, religion, color, creed, sex, age, national origin, or disability.
 - 3. Ensure that the representative specified in the application for permitted use is present throughout the scheduled event.
 - 4. Ensure that all rules and regulations for permitted use are followed.

5. Provide at least one adult chaperone for every group of fifteen (15) children.
6. Observe contracted time limits.
7. Leave the building and grounds in a clean, neat and orderly condition.

M. Denial of Application/Cancellation of Contracts

1. The City of Hopewell reserves the right to deny any application or cancel any permit when it deems such action to be in the best interest of the City.
2. Any violation of any rules or requirements set forth in this memorandum of permitted uses may be grounds for immediate expulsion and/or denial of future use of this facility. The applicant's signature on the application form constitutes an acknowledgement that the applicant will comply with all regulations as stated.
3. The City shall not be liable for any costs incurred and/or damages suffered by applicants as a result of denial of any application and/or cancellation of any contract for use of Council Chamber.

N. Interpretation of regulations shall be the responsibility of the City Attorney.

415. Travel Policy — (Revised October 25, 1994) — Same policy as in City's Personnel Policy Manual with the exception that the City Manager's approval for Council travel is not required.

Council/Council Committee scheduled group meals may be excluded from the per diem allowances of the Personnel Policy. (Revised 3/10/1995; Revised 7/1/07)

- A. It shall be the policy of the city council of the City of Hopewell to encourage members of the city council to participate in state and national associations and continuing education programs that benefit the city.
- B. The city council shall encourage members of the governing body to attend the annual meetings of the Virginia Municipal League and the National League of Cities.
- C. Travel expenses under \$100 do not require Council approval, provided sufficient funds have been budgeted for such expenses.
- D. Travel reimbursements shall be paid in compliance with city travel policies for employees.
- E. Registration, lodging and commercial transportation for city council shall be arranged by the clerk of council or the city manager's office.
- F. Council travel beyond this policy shall be approved in advance by the governing body or by the mayor if council does not meet in time to meet registration deadlines.

(Passed May 13, 2008 [Minute Book 31, page ____])

416. Land Use Requests — (Passed September 12, 1989 [Minute Book 23, Page 114])

City Council will not act on any specific land use issue requested by a petitioner unless that petitioner or his representative is present to respond to Council's questions. Petitioner must prove that he/she has a vested interest in the property before consideration.

417. Protocol For Open Committee Meetings

- A. All meetings will be announced at least 72 hours prior to the meeting ("*whenever possible*").
- B. Meeting notices will be:
 - (1) sent to the Hopewell News, Progress Index and Richmond Times Dispatch;

- (2) posted on the public bulletin board in the Municipal Building and other locations as used by the City for such notices.
 - (3) Listed on the City's web site;
 - (4) Sent by e-mail to anyone requesting FOIA (Freedom of Information Act) notice by e-mail;
 - (5) Sent by regular mail to anyone requesting notice by regular mail and providing the City with stamped, self-addressed envelopes for such notice;
 - (6) Sent to all Council members.
- C. All meetings will have minutes containing at least the time and date of the meeting, attendees, a listing of the items discussed, a listing of any action taken, and an attachment of any written materials shared at the meeting.
- D. Any Committee Meeting may, with proper motion, go into closed session to discuss specific materials under the same provisions governing closed sessions of the full Council.
- E. Any Committee Meeting may receive confidential materials under the same provisions governing the receipt of confidential materials received by the full Council.
- F. The agenda package of Council meetings will contain all committee meeting agenda, attachments, and minutes as available for receipt and file.
- G. This protocol will apply to City Council as well as to all boards and commissions appointed by and answering to City Council. *(See minutes dated August 13, 2002, Min. Book 27, page 169)*
- H. All Action items for consideration shall be supported by all available documentation used to justify Council's consideration and action. This is to include all recommendations of any Board, Commission, Outside Agency, or Jurisdiction. *(See minutes of February 10, 2004)*

418. Meals, Food, and/or Beverages for Council Meetings and Work Sessions of Council:

The following guidelines are established as Rules and Procedures regarding food for City Council members and/or staff in the Council Chambers or Council Conference Room.

- A. The City Clerk shall confer with the Mayor, who shall decide whether or not food is to be provided during any Regular City Council meeting, Special City Council meeting, or Work Session of Council.
 - 1. With Mayor approval, food shall be made available at any Work Session scheduled at 5:30 PM, and/or immediately followed by a Closed Session at 6:30 PM, and immediately followed by a Regular City Council meeting at 7:30 PM.
 - 2. The City Clerk shall confer with the Mayor whether or not food is to be provided for any Special City Council meeting or Work Session scheduled as a *stand-alone* meeting, which is not followed or preceded by a Regular City Council meeting.
 - 3. Any all-day Work Session, Council Advance, or Special Meeting of Council shall include meals. With some minor modifications City Council's Rules and Procedures shall be similar to the City's Travel Policy in the City's Policies and Procedures Manual.
 - 4. Any Special City Council Meeting or Work Session that is anticipated to last for less than two (2) hours shall not require a meal.
- B. With Mayor approval, food shall be made available for the seven members of City Council, City Manager, City Attorney, and City Clerk. Food shall also be made available for City staff who may be required to attend said Regular City Council meeting, Special City Council meeting, or Work Session.

1. Food shall be defined as a light meal such as a salad, sandwich, cheese and crackers, and/or vegetables and dip, which will be made available in the City Council Conference Room.
2. The City Clerk shall maintain a supply of bottled water and soft drinks in the refrigerator located in the City Council Conference Room. These may be used at the discretion of City Council.

C. The cost of such meals shall be kept within reasonable budgetary constraints. Cost of said meals shall be applied to City Council's Miscellaneous Budget.

419. Presentations by Boards and Commissions:

Each of the City's boards, commissions, authorities, and committees of Council that lack committee members and do not have a full membership shall periodically provide a brief presentation to City Council. Each presentation shall be limited to a total of ten (10) minutes. The purpose of the presentation is to apprise City Council of the recently completed projects, current and future activities of the association. (See City Council minutes dated 11/9/04, Book ____, Page ____)(See City Council minutes dated 1/12/08, Book 30, Page ____)

420. Salaries of Council Employees into Annual Budget Document

This section covers the City Manager, City Attorney and City Clerk, and shall be part of Council Rules and Procedures. The annual cost of living adjustments (COLAs) will be established at the same percentage as employees covered by the last adopted Pay and Compensation Study. COLAs will be effective at the beginning of each fiscal year (July 1). Merit increases will be established based on a yearly performance review. The review and pay adjustment dollar amounts will be completed in May. Figures for individual pay adjustments will be forwarded to the Finance Department no later than June 15 and become effective July 1. (See City Council minutes dated 11/8/05, Book 29, page ____)

421. Council Rules of Council Conduct

City of Hopewell

Council Rules of Conduct
(Approved December 18, 2007)

Council members agree to represent the public interest and work with others to improve the quality of life for Hopewell citizens and visitors. It is further acknowledged that residents and businesses of Hopewell are entitled to have fair, ethical, and accountable local government. Such a government requires that public officials:

- comply with both the letter and the spirit of the laws and policies affecting operations of the government;
- be independent, impartial, and fair in their judgment and actions;
- use their public office for the public good, not for personal gain;
- conduct public deliberations and processes openly, (unless legally confidential) in an atmosphere of respect and civility; and,
- act in a manner that supports the expectations of their constituents and enhances public confidence in the system of local government supporting this Code. Council confirms its commitment to serve public interest with fairness and integrity.

1. Act in the Public Interest

Recognizing that stewardship of the public interest must be their primary concern, Council members shall work for the common good of the people of Hopewell and not for any private or personal interest, and they will endeavor to treat all persons, claims, and transactions in a fair and equitable manner.

2. Respect for Process

Council member duties shall be performed in accordance with the processes and rules of order established by the City Council.

3. Conduct of Public Meetings

City Council members shall inform themselves of public issues, listen attentively to public discussions before the body, and focus on the business at hand.

4. Policy Role of Members

Council members shall respect and adhere to the Council-Manager structure of Hopewell City government as provided in State law and the City Charter.

5. **Positive Work Environment**

City Council members shall support the maintenance of a positive and constructive environment for residents, businesses, and city employees.

6. **Conduct of Members**

City Council members shall refrain from abusive conduct, personal charges, or verbal attacks upon the character or motives of other members of the City Council, boards, commissions, committees, staff, or the public. City Council members agree to be respectful of other Council members, city staff, and the public, and shall not degrade them in oral or written communication.

7. **Comply with the Law**

City Council members shall comply with the laws of the nation, the Commonwealth of Virginia, and the City of Hopewell in the performance of their public duties. These laws include, but are not limited to: the United States and Virginia constitutions; the Hopewell City Charter; laws pertaining to conflicts of interest, election campaigns, financial disclosures, employer responsibilities, and open processes of government; and city ordinances and policies.

8. **Coordination with City Staff**

Appropriate city staff should be involved when City Council members meet with officials from other agencies and jurisdictions to ensure proper staff support as needed and to keep staff informed. City Council members shall coordinate requests for city staff participation in these and other activities with Council-appointed staff only. City Council shall not contact other appointed staff for matters other than citizen request for service.

9. **Use of Public Resources**

Public resources not available to the general public (e.g., city staff time, equipment, supplies or facilities) shall not be used by City Council members for private gain or personal purposes. City Council shall review and approve payments by members of Council without proper documentation prior to payment.

10. Decisions Based on Merit

City Council decisions shall be based upon the merits and substance of the matter at hand.

11. Communication

It is the responsibility of City Council members to publicly share substantive information that is relevant to a matter under consideration that they have received from sources outside of the public decision-making process with all other Council members.

12. Advocacy

To the best of their ability, City Council members shall represent the official policies and positions of the City Council. When presenting their personal opinions or positions, members shall explicitly state that they do not represent the City Council or the City. The Mayor or council-appointed staff shall present the city position on various issues to communities, state, and federal representatives unless otherwise directed by the City Council. The city shall disseminate only those positions.

13. Confidential Information

City Council members shall respect and preserve the confidentiality of information provided to them concerning the confidential matters of the Council. They shall neither disclose confidential information without proper legal authorization nor use such information to advance their personal, financial, or private interests.

14. **Gifts and Favors**

City Council members shall not take advantage of services or opportunities for personal gain by virtue of their public offices, that are not available to the public in general. They shall refrain from accepting gifts, favors, or promises of future benefits that might compromise their independence of judgment or action, or give the appearance of compromising their independence.

15. **Representation of Private Interests**

In keeping with their role as stewards of the public trust, City Council members shall not appear on behalf of the private interests of a third-party before the City Council or any board, commission, committee, or proceeding of the City.

16. **Improper Influence**

City Council members shall refrain from using their position to improperly influence the deliberations or decisions of city staff, boards, commissions, or committees.

17. **Disclosure of Corruption**

All city officials shall take an oath upon assuming office, pledging to uphold the laws of the city, the commonwealth and the Federal Government. As part of this oath, officials commit to disclosing to the appropriate authorities and/or to the City Council any behavior or activity that may qualify as corruption, abuse, fraud, bribery, or other violation of the law.

18. **Implementation**

Ethics standards shall be included in the regular orientations for City Council candidates. Council members entering office shall sign a statement affirming that they have read and understood the City of Hopewell's City Council Rules of Conduct.

19. **Compliance and Enforcement**

City Council members themselves have the primary responsibility to assure that the ethical standards are understood, met, and that the public can continue to have full confidence in the integrity of City government.

422. **Proclamation, Certificate, and Letterhead Guidelines** – Council as a body issues proclamations, certificates of recognition or condolence, and congratulatory letters, in conformance with the attached guidelines. Such proclamations, certificates, and letters are approved and signed by the mayor or, in the absence or disability of the mayor, the vice mayor (Charter IV.5). For personal communications or statements, an individual councilor may use letterhead incorporating the city logo and indicating they are "from the desk of" the councilor. No communication or statement issued by an individual councilor is or may be deemed an official act of the council, the city of Hopewell, or its agencies.

I affirm that I have read and understand the City of Hopewell City Council Rules of Conduct.

Signature

Date

C-1

**MINUTES OF THE AUGUST 1, 2023 CITY COUNCIL REGULAR
MEETING**

A REGULAR meeting of the Hopewell City Council was held on Tuesday
August 1, 2023 at 6:30 p.m.

PRESENT: John B. Partin, Mayor
Jasmine Gore, Vice Mayor
Rita Joyner, Councilor
Michael Harris, Councilor
Janice Denton, Councilor
Brenda Pelham, Councilor
Dominic Holloway, Councilor

OPEN MEETING:

R1- Approval of funding for PMO and Accounting Remediation Services

Presenting tonight is the President and CEO of the Robert Bobb Group-Robert Bobb, Principal with the Robert Bobb Group-Heather Ness and the Managing Director at UHY-Jack Regan. The Robert Bobb Group LLC to discuss PMO and Accounting Remediation Services for the City of Hopewell. The City Council must approve funding for requested services and direct the City Manager to execute the contract agreement between The City of Hopewell and The Robert Bobb Group. The Staff recommends the approval of funding in the amount of \$988,680.00 for PMO and Accounting Remediation Services to be provided by The Robert Bobb Group. The City of Hopewell issued an emergency Request for Proposal (RFP) for a Financial Project Management Office (PMO) and Accounting Remediation Service on June 8, 2023. The RFP closing date was June 29, 2023. A selection committee was formed to review, score and rank the applications/bids. As a result, The Robert Bobb Group was selected to provide services to the City of Hopewell.

Councilor Holloway moves to make a motion to approve funding of \$988,680 for PMO and Accounting Remediation services to be provided by the Robert Bobb Group, the motion was seconded by Vice Mayor Gore;

Vice Mayor Gore makes a Friendly Amendment to the motion on the floor for funds to be taken from ARPA funds and to direct the City Manager to execute and enter into the contract on behalf of the City Manager.

ROLL CAL:	Councilor Harris-	Yes
	Mayor Partin-	Yes
	Vice Mayor Gore-	Yes
	Councilor Denton-	Yes
	Councilor Pelham-	Yes
	Councilor Holloway-	Yes
	Councilor Joyner-	Yes

Motion Passes 7-0

A motion was made to adjourn by Councilor Holloway and Mayor Partin

Johnny Partin, Mayor

Brittani Williams, City Clerk

**MINUTES OF THE AUGUST 31, 2023 CITY COUNCIL SPECIAL
MEETING**

A SPECIAL meeting of the Hopewell City Council was held on Thursday
August 31, 2023 at 7:30 p.m.

PRESENT: John B. Partin, Mayor
 Jasmine Gore, Vice Mayor (Not Present)
 Rita Joyner, Councilor
 Michael Harris, Councilor (Virtual)
 Janice Denton, Councilor
 Brenda Pelham, Councilor
 Dominic Holloway, Councilor(Not Present)

Council Joyner moves to make a motion to allow Councilor Harris to participate virtually. Councilor Denton seconds the motion.

ROLL CALL:

Councilor Joyner-	Yes
Councilor Harris-	Abstain
Mayor Partin-	Yes
Councilor Denton-	Yes
Councilor Pelham-	Yes

Motion Passes 4-0

CLOSED MEETING:

Councilor Pelham Move to go into closed meeting pursuant to Va. Code § 2.2 - 3711(A) (3) to discuss or consider the acquisition of real property for a public purpose or the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body and to the extent such discussion will be aided thereby; Councilor Joyner seconds the motion.

ROLL CALL:

Councilor Joyner-	Yes
Councilor Harris-	Yes
Mayor Partin-	Yes
Councilor Denton-	Yes
Councilor Pelham-	Yes

Motion Passes 5-0

RECONVENE OPEN MEETING:

Councilor Joyner moves to make a motion to reconvene open meeting.
Councilor Pelham seconds the motion.

ROLL CALL:

Councilor Joyner-	Yes
Councilor Harris-	Yes
Mayor Partin-	Yes
Councilor Denton-	Yes
Councilor Pelham-	Yes

Motion Passes 5-0

CERTIFICATION:

Immediately thereafter, council responded to the question pursuant to Virginia § 2.2-3712 (D): Were only public business matters (1) lawfully exempted from open-meeting requirements and (2) identified in the closed meeting motion discussed in closed meeting?

ROLL CALL:

Councilor Joyner-	Yes
Councilor Harris-	Yes
Mayor Partin-	Yes
Councilor Denton-	Yes
Councilor Pelham-	Yes

Motion Passes 5-0

OPEN MEETING

R-1-Grant Approval Request-Charles Bennett This is a request for permission to apply for grant (for \$750,000) to go towards the Preservation of Shiloh Lodge 601 Prince Henry. Mr. Bennett explains the history and gives great details of the property. He describes where the grant money would be applied in relation to the buildings structure. The grant does not include rebuilding the north wing.

The grant is a Non matching grant, meaning no money has to be contributed to receive the grant. However, it is encouraged to put some match towards the application to be more competitive. Council agreed a few months ago to a \$100,000 match for foundation repairs of the Shiloh Lodge but the grant application was denied by the Cameron Foundation. The initial \$100,000 amount has not been allocated. This request to apply for African American Civil Rights (AACR) Program for the preservation and restoration of the Shiloh Lodge is due on 10/10/2023. Charles Bennett is recommending to authorize Economic Development to apply for the AACR grant and spend the \$8,000 to prepare the application.

Councilor Pelham moves to make a motion to authorize the Economic Development department to apply for the AACR Grant and spend \$8,000 from his budget to prepare the application. Councilor Joyner seconds the motion.

ROLL CALL:

Councilor Joyner-	Yes
Councilor Harris-	Yes
Mayor Partin-	Yes
Councilor Denton-	Yes
Councilor Pelham-	Yes

Motion Passes 5-0

R-2- Request for Approval of the support agreement and requested funding
Charles Bennett- The support agreement is for the acquisition of 1.95 acres of Industrial land (M1) and structure identified as historic African American School House Building located at 15 Rev CW Harris Street. The land is valued at \$191,100. This property has been identified in the City of Hopewell as a

significant historical site and industrial development opportunity due to M1 Zoning. The M1 land is the key to the development of a larger piece of property behind it, the city owns, that is landlocked. Mr. Bennett requests the City Council to give a support agreement that conveys the land (7 acres behind), to purchase the land (2 acres) in front of it. The two areas would be combined, to carve off the African American historic cultural site and tourist destination. The non performing land behind and in front of the building would be sold. Mr. Bennett is asking council to approve a support agreement with EDA for property acquisition in Industrial Property 15 Rev CW Harris Street.

Council Joyner moves to make a motion and to Approve the support agreement with EDA for property acquisition industrial property 15 Rev CW Harris Street, to Approve and Resolve the support agreement and requested funding. The support agreement has conveyed the parcel #0480339 as part of the support agreement. Mayor Partin seconds the motion.

ROLL CALL:

Councilor Joyner-	Yes
Councilor Harris-	Yes
Mayor Partin-	Yes
Councilor Denton-	Yes
Councilor Pelham-	No

Motion Passes 4-1

R-3- Public Safety Radio Equipment Request- Ben Ruppert. Chief Ruppert speaks about the loss of the uninterrupted power supply for the radio system. The interrupted power supply they currently have is over 25 years old and was purchased in the late 90's. In 2015 council approved a measure to replace the radio system as it was aging, at the time it was determined to keep the UPS as a cost saving measure and they were able to get another 10 years out of it. This past week it broke and is now no longer repairable. He stated they got a quote from the vendor that the city uses for the other UPS systems that it has. The quote is \$69,000.00 which gives them two hours of power, which is enough time for the generator to start. He stated other jurisdictions are getting three hours of power, and they are only asking for two hours because three would have increased the necessary amount by \$50,000.00. He stated it would have also caused challenges with space in the room. Two hours means no modifications are required with this upgrade. He stated the outline sent over from City Manager shows the remaining balance for ARPA is \$390,000.00 and she recommended \$191,100.00 be used for the African American school house and \$69,000.00 for the UPS system, and the remaining 129,900.00 be reserved for any additional cost that may be associated with the Robert Bobb Group. Councilor Denton made a motion to authorize the city manager to utilize the \$69,000.00 in city funds formerly ARPA to order a new UPS for the city's public safety radio system and also to accept the city managers suggestion of how to designate the left over ARPA funds, Councilor Pelham had a point of order stating that what Councilor Denton said is considered two motions, the city attorney agreed. Mayor Partin confirmed Councilor Denton's motion is to utilize the \$69,000.00 in city funds formerly ARPA to order a new UPS for the city's public safety radio system, Councilor Denton confirmed. Councilor Pelham asked Chief Ruppert did they know the system was going down during budget time and why didn't they add it to their budget. Chief Ruppert responded stating they had an older one they harvested parts from and attempted to make repairs, and unfortunately they were unable to do that, so now the only option is this. Councilor Pelham asked that city manager make a list of all old equipment so it can be included into next year's budget to avoid waiting on something to break down before replacing it. Councilor Pelham asked the Mayor if they needed to go back to add that the money for the African American School house is coming from ARPA Funding, the City Attorney agreed they will need to say where the funding is coming from, they agreed to go back to do that following this motion.

Councilor Denton made a motion to authorize the city manager to utilize the \$69,000.00 in city funds formerly ARPA to order a new UPS for the city's public safety radio system, Councilor Joyner seconds the motion.

ROLL CALL:

Councilor Joyner -	Yes
Councilor Harris -	Yes
Mayor Partin -	Yes
Councilor Denton -	Yes
Councilor Pelham -	Yes

Motion Passed 5-0

R-2- Councilor Joyner moves to make motion to adjust the motion for Open Meeting R-2 item, to specify the funding for the purchase of the school house at **15 Rev CW Harris Street Hopewell VA** come from the City funds formerly ARPA funds. Mayor Partin seconds the motion.

ROLL CALL:

Councilor Joyner -	Yes
Councilor Harris -	Yes
Mayor Partin -	Yes
Councilor Denton -	Yes

Councilor Pelham - No

Motion Passed 4-1

ADJOURNMENT:

Mayor Partin motions to adjourn, motion is seconded by Councilor Denton

Yes- 5

No- 0

Johnny Partin, Mayor

Brittani Williams, City Clerk

**MINUTES OF THE September 12, 2023 CITY COUNCIL REGULAR
MEETING**

A REGULAR meeting of the Hopewell City Council was held on Tuesday
September 12, 2023 at 6:00 p.m.

PRESENT: John B. Partin, Mayor
 Jasmine Gore, Vice Mayor (Virtual)
 Rita Joyner, Councilor
 Michael Harris, Councilor
 Janice Denton, Councilor
 Brenda Pelham, Councilor
 Dominic Holloway, Councilor

Councilor Holloways makes a motion to allow Vice Mayor Gore to participate
in meeting by zoom, Councilor Joyner seconds the motion.

Roll Call:	Councilor Harris -	Yes
	Mayor Partin -	Yes
	Vice Mayor Gore -	Abstain
	Councilor Denton -	Yes
	Councilor Pelham -	Yes
	Councilor Holloway -	Yes
	Councilor Joyner -	Yes

Motion Passes 6-0

CLOSED MEETING:

Councilor Joyner makes a motion to go into closed session pursuant to Va.
Code Section § 2.2-371 1 (A)(I) to discuss and consider personnel matters,
including board and commission appointments; the assignment and

performance of specific appointee and employees of City Council, and to the extent such discussion will be aided thereby, motion is seconded by Councilor Joyner

Roll Call:	Councilor Harris -	Yes
	Mayor Partin -	Yes
	Vice Mayor Gore -	Yes
	Councilor Denton -	Yes
	Councilor Pelham -	Yes
	Councilor Holloway -	Yes
	Councilor Joyner -	Yes

Motion Passes 7-0

Reconvene Open Session

Councilor Holloway makes a motion to come out of closed session motion is seconded by Councilor Joyner.

Roll Call:	Councilor Harris -	Yes
	Mayor Partin -	Yes
	Vice Mayor Gore -	Excused
	Councilor Denton -	Yes
	Councilor Pelham -	Yes
	Councilor Holloway -	Yes
	Councilor Joyner -	Yes

Motion Passes 6-0

CERTIFICATION:

Immediately thereafter, council responded to the question pursuant to Virginia § 2.2-3712 (D): Were only public business matters (1) lawfully exempted from open-meeting requirements and (2) identified in the closed-meeting motion discussed in closed meeting?

Roll Call:

Councilor Harris -	Yes
Mayor Partin -	Yes
Vice Mayor Gore -	Excused
Councilor Denton -	Yes
Councilor Pelham -	Yes
Councilor Holloway -	Yes
Councilor Joyner -	Yes

Motion Passes 6-0

Councilor Denton moves to make a motion to appoint Janice Petit to the Healthy Families Advisory Board, motion is seconded by Councilor Holloway.

Roll Call:

Councilor Harris -	Yes
Mayor Partin -	Yes
Vice Mayor Gore -	Excused
Councilor Denton -	Yes
Councilor Pelham -	Yes
Councilor Holloway -	Yes
Councilor Joyner -	Yes

Motion Passes 6-0

WORK SESSION

WS-1- Jason Cowan begins his presentation with an introduction of himself and his credibility within his position. He also gave a little introduction for Ms. Born and how much experience she has. He states the local government needs to be funded and the real estate taxes makes up between 40 and 60 percent of any given city or county budget. He makes a few points of the value of taxes, stating they are based on value of the property, so you will pay more if the property is nicer. He talks about programs in place for those who struggle to pay their taxes. He explains what the assessor does in order to carry out the assessment function, they discover, list, value and then tax property. He goes over three types of depreciation, which are physical, functional, and economic. He states sales drives the whole process. He explains a ratio study in detail and how the compare the sales and the assessment. He went into detail that it was overall 71 percent when he began the job, and it was divided into 40 different neighborhoods. They are grouped by zoning, location, and style of houses. He goes into detail with his slide that shows all the sales and neighborhoods within the city. He stated at the end of the assessment they were at overall 98 percent. He states the burden relies on the tax payer, state code states assessor's office enjoys the presumption of correctness. Ms. Born stands up and speaks as the newly hired City of Hopewell Assessor and gives a brief introduction and thanks to Mr. Cowan. Councilor Pelham asks Mr. Cowan how the citizens of Hopewell can be alerted of the programs of relief, Mr. Cowan responded he does not know how they are being advertised. She asked how far did he go for his comparisons within the cities, Mr. Cowan responded it depends on the type of property to determine how far he went, he stated sometimes he has gone nationwide for apartments. Councilor Pelham also asked about the 250 people who were concerned about the assessments, but BOE only reviewed 80 cases. Mr. Cowan stated some were settled, but there was a two-step process. Councilor Joyner asked Mr. Cowan about the processes, timing, and timelines and the office structure. She asked in the future will it be city of Hopewell employees. Ms. Born addressed the answer and stated her goal is to hire full time employees. Mr. Cowan stated apartments were not assessed since 2015 or increased for 8 years. Councilors asked other questions in regard to the assessments for apartments and answers were given by Mr. Cowan. Vice Mayor Gore spoke in reference to how BOE met and how completed minutes from each meeting is given to city clerk to be submitted with agenda packets in the future meetings.

REGULAR MEETING

Mayor Partin calls the Regular Meeting to order.

Roll Call:	Councilor Harris -	Present
	Mayor Partin -	Present
	Vice Mayor Gore -	Present
	Councilor Denton -	Present (virtual)
	Councilor Pelham -	Present
	Councilor Holloway -	Present
	Councilor Joyner -	Present

Mayor Partin asked for all to stand for a moment of silence for the victims of 9-1-1.

Prayer by Reverend Danny Tucker, followed by the Pledge of the Allegiance led by Vice Mayor Gore.

Councilor Holloway makes a motion to adopt the Regular Meeting Agenda and second by Councilor Joyner.

Roll Call:	Councilor Harris -	Yes
	Mayor Partin -	Yes
	Vice Mayor Gore -	Yes
	Councilor Denton -	Yes
	Councilor Pelham -	Yes
	Councilor Holloway -	Yes
	Councilor Joyner -	Yes

Motion Passes 7-0

Councilor Denton makes a motion to adopt the Consent Agenda and second by Councilor Holloway

Roll Call:	Councilor Harris -	Yes
	Mayor Partin -	Yes
	Vice Mayor Gore -	Yes
	Councilor Denton -	Yes
	Councilor Pelham -	Yes
	Councilor Holloway -	Yes
	Councilor Joyner -	Yes

Motion Passes 7-0

INFORMATION/ PRESENTATIONS

1. Police Report by Chief Taylor – Chief Taylor went over the September crime report in detail. He began with a crime summary for the violence crime murder rate and aggravated assault and stated there is a 30 percent decrease. There is a 19 percent decrease for property crime in the city, and an overall crime rate decrease of 21 percent. He goes over opioid overdose for 2023. Grand total for opioid overdoses is 78 suspected opioid overdoses. For shots fired through Aug 31, there has been 44, which is a 3-year low since 2020 where there was 47. He went into detail for all upcoming events within the next few months. Councilor Pelham asked if he works with operation ceasefire and Chief stated they are and it is a great and successful program. Councilor Joyner speaks about the positivity with the police department and thanks the department. Mayor Partin asked about the additional 10 technologies and is there a date when it will be up and running. Chief Taylor stated the 10 additional operational goals were

completed and he has two sites left to do additional work to.

2. **Fiscal Turn Around Report** – Robert Bobb – Mr. Bobb begins his presentation by stating he will be at every meeting going forward for the next several months. He thanked all of the staff for being available to his staff and providing all information requested over the last few weeks. He made one comment stating the report received by police is very uplifting giving what is going on within the US right now. He mentions there has been a program office established, and they have had leadership meetings with all city staff and sent out a detailed document of requests list and a drop box. Individual meetings with council have been completed and he thanks them for being available to do so. He goes over all meetings he has had since being on board to include the city treasurer who he states has been very available and very helpful. He stated along the way he needs to make sure he has all the resources they need in order to be successful. He talks briefly about upcoming meetings he has with other parts of the city. He stated there will be a lot more to report at the next meeting. He mentioned if anyone does not cooperate he will take it to the city manager and if there are still no results they will keep moving until they receive the results they need. He opened the floor for any questions. Councilor Pelham asked during interviews did anything stand out. Mr. Bobb responded stating the excellent cooperation from city treasurer which is very critical in being successful. There were further questions asked from councilors and Mr. Bobb responded in detail how the processes go.

Councilor Denton makes a motion to extend the meeting through R4, Mayor Partin seconds the motion.

Roll Call:	Councilor Harris -	Yes
	Mayor Partin -	Yes
	Vice Mayor Gore -	Yes
	Councilor Denton -	Yes
	Councilor Pelham -	Yes
	Councilor Holloway -	Yes
	Councilor Joyner -	Yes

Motion Passes 7-0

3. **Fiscal Year 2019 Audit Report** – Roberson, Farmer, Cox Associates

Before the presentation began there was conversation related to the way the presentation was distributed to the citizens and to the council. The City Attorney answered stating as long as there were copies provided physically to the citizens at the meeting it was legally ok for the team to present their presentation. Mr. David Foley began his presentation with a short interview and went through the main points of the audit with an overview. He explains the scope of what they do in detail. He mentions they look at internal controls and the federal compliance audit as well. He mentions this year they included the annual audit financial report and the report on financial controls and uniform guidance audit in one document. He states they are required to make certain communications with the city council at the end of an audit. He begins to go through a slide presentation in detail of the policies and accountant policy the city uses. He describes estimates or preparing financial statements, or significant statements that are included in the financial report. He moves on to go through the audit results beginning stating there were 3 main pieces of the audit which were financial statements, internal controls, and the federal compliance. Included in the annual comprehensive report there are three different reports. The first is independent audit report. In the report he stated similar to 2018, in 2019 a disclaimer was issued they were unable to obtain sufficient audit evidence to provide a basis of an opinion on the financial statements. Councilor Joyner asked that they began getting information in September of last year, and wants to know why it took a year. Mr., Foley responded stating their work did begin last year and received majority of everything in December, so did not begin until January. Councilor Pelham asked about internal controls and asked is that a policy that is not being followed, and once it is identified it is not being followed is there a process, Mr. Foley responded with an answer to the question.

COMMUNICATIONS FROM CITIZENS

There were no citizens signed up to speak.

PUBLIC HEARING

PH1- Rental Inspection Program Ordinance Amendment – Chris Ward

Mr. Ward began his presentation requesting action be taken on the amendment of the rental inspection program. He stated what the purpose of this program is for in detail. He mentioned what can be reduced, and other benefits of how this program can be helpful to the citizens as well as the landlords. He stated last year council requested the department of development to revive the rental inspection program because of the problems with implementation.

Department was tasked to revise the fees, and in January they came with a proposal and again in May with answers and revisions. They took another look at how to identify who should be subject to the rental inspection program and broke the city up into 15 areas. He stated 300 units per year is a good number to start the rental inspection program on, and after the first year they will come back in front of council with an update. Mr. Ward states that at the May work session council suggested to remove the 100 fee, he states staff has removed that fee. He then went into detail how the fees will be applied for initial inspections, re-inspections, and violations. Councilor Holloway asked Mr. Ward if it is passed tonight, what is the time frame the citizens are given to be trained on the program before they have to comply, Mr. Ward states it will be 60 days from notification. Councilor Holloway then asks is it the court judge that issues the summons for fines. The answer is yes it will be the court judge who imposes fines to include potential court fees. Councilor Holloway asks is there an appeal process for anyone who feels they may have been given violations in error, the answer is answered in detail how the appeal process is done. Mr. Ward then goes into detail the landlord only pays for the new inspections only if there are failed violations if the tenant remains the same within those 4 years. Councilor Pelham asks is the landlord responsible for fixing the violations, and Mr. Ward answers yes to that questions. There are further questions in regard to owner vs tenant and what qualifies them as a tenant vs an owner if it is rent to own tenants.

Mayor Partin opens the floor for public hearing citizens to ask any questions. City Clerk reads public hearing section Code.

1st Citizen – Marsha Lowe – She begins stating her concern with the program is the lack of specifics about what is a minor violation and what is a major violation. She states it seems it is up to the inspector and it should be spelled

out for everyone to be on an even playing field. The request there be an exemption for certain landlords because they are realtors, she does not agree with this and believes it should be applicable to everyone. If there is a list of what they will look at she believes the list needs to be more clear on the standards.

2nd Citizen – Mary Ann White – She stated she is here on behalf of Southside VA Associates of Realtors. She stated they support the program and thanks Mr. Ward for waiving the \$100-dollar fee. She encourages city to make a technical amendment to clarify that requirement for inspection upon a sell is not triggered when the home is sold or transferred to someone who will be an owner occupant.

3rd Citizen – Tyler Cradack – He begins by expressing his appreciation to staff and Mr. Ward. He gave a short introduction of himself and then opened the floor for questions.

4th Citizen – Shana Story – She began with an introduction of who she is and a little information about real estate company. She stated this program is crucial to ensure all residents have a safe place to call home. She asks the city to take blinders off and be proactive when on the streets. She believes that if inspector notices a violation of an adjacent owner occupied dwelling when performing a rental inspection necessary action should be taken.

Mr. Ward speaks on some of the concerns from the public who spoke on the program, and stated there is an available list to view tonight, but in a few weeks the list will be uploaded on the site for residents and landlords to view.

Councilor Holloway makes a motion that rental inspection program amended as is including the amendment of the 450 to 300 would be stated as presented, motion is seconded by Councilor Harris.

Roll Call:

Councilor Harris -	Yes
Mayor Partin -	Yes
Vice Mayor Gore -	Excused
Councilor Denton -	Yes
Councilor Pelham -	Yes

Councilor Holloway - Yes
Councilor Joyner - Yes

Motion Passes 6-0

REGULAR BUSINESS

R1- Amendments to the transient Occupancy – The city attorney gives a brief detail of what is being amended within the transient occupancy, to include the changes that add definitions to ordinance, for example the title of commissioner revenue, person, retail sell, and room charge. She speaks about minor changes as well in detail. She ends presentation by leaving it up to city council to be adopted tonight or continued to the next regular meeting.

Mayor Partin states he believes that amendments should be placed on regular meeting as a public hearing. R1 will be continued to September 25 as a public hearing.

R2 – Amended FOIA policy language and fees – City Attorney begins explaining the general assembly changes are stating the FOIA fee policies to be published to the city website, as well as the fee structure. It is a 2023 amendment to the VA code, and city of Hopewell policies need to be brought into compliance. Councilor Holloway asks has this been adopted yet, City Attorney answered no it has not been. Councilor Denton asked if there is an opinion of city attorney if it should be flat fee, City Attorney answered she believes it should be flat hourly fee. Councilor Pelham asked does the hourly rate based on how ever many people are involved. City attorney responded with the answer and an example. Councilor Holloway asked is there a medium number hourly for the flat rate. City Attorney stated she will provide the medium salary for the city, Councilor Holloway requests the hourly rate vs the salary rate. City Attorney stated she will provide it based on salary and non-salary.

Council recommends this matter be continued as a public hearing at the next regular meeting.

R-3 – Amendment to the Connection Sewer Fee – City Attorney goes over the proposed change, which changes where there is an existing sewer connection that can be used, the fee would be changed from original fee of \$2021.00 to a fee of \$200.00.

Council Agrees that this matter also be continued to the public hearing

Councilor Denton makes a motion to make the corrected changes to the sewer connection fee as presented by the city attorney. There was no one to second the motion. The motion dies for lack of second. This item will be continued for a public hearing at the next regular scheduled meeting.

R-4 – Formal Remaining ARPA Funds – Dr. Manker begins her presentation by stating the remaining of the funds that were declared as loss revenue to be set aside for any outstanding requests that may come about during the remediation process with the audits. Councilor Pelham states she doesn't understand why he is getting these funds as well as the agreed upon amount he is receiving. Dr. Manker stated it is not for Mr. Bobb, but for program upgrades that will be needed that will allow the work performance to take place. Councilor Pelham recommends to bring it to the council as problems arise instead of using the remaining of funds for this. Councilor Holloway states he believes this item should be tabled until the next hearing. Mayor Partin states that a contingency fund for emergencies is the best place to put these funds. He asked if everyone agrees with doing that, Councilor Pelham stated there is a contingency fund in place already. Councilor Joyner asked can it be named as emergency reserve fund, Councilor Pelham says it does not need to be named, it is currently in the general funding and it can stay as is.

Councilor Pelham makes a motion to place the remaining ARPA/loss revenue funds into a contingency line up, Councilor Joyner seconds the motion.

Roll Call:	Councilor Harris -	Yes
	Mayor Partin -	Yes
	Vice Mayor Gore -	Excused
	Councilor Denton -	No
	Councilor Pelham -	Yes
	Councilor Holloway -	Yes
	Councilor Joyner -	Yes

Motion Passes 5-1

Councilor Holloway makes a motion to adjourn the meeting.

Johnny Partin, Mayor

Brittani Williams, City Clerk

MINUTES OF THE September 13, 2023 CITY COUNCIL SPECIAL MEETING

A SPECIAL meeting of the Hopewell City Council was held on Tuesday
September 13, 2023 at 6:30 p.m.

PRESENT:

John B. Partin, Mayor
Jasmine Gore, Vice Mayor (Absent)
Rita Joyner, Councilor
Michael Harris, Councilor
Janice Denton, Councilor (Absent)
Brenda Pelham, Councilor (Late)
Dominic Holloway, Councilor

CLOSED MEETING:

Councilor Holloway makes a motion to go into closed session pursuant to Va. Code Section § 2.2-371 1 (A)(I) to discuss and consider personnel matters, including board and commission appointments; the assignment and performance of specific appointee and employees of City Council, and to the extent such discussion will be aided thereby, motion is seconded by Councilor Harris.

ROLL CALL:

Mayor Partin -	Yes
Councilor Joyner-	Yes
Councilor Harris -	Yes
Councilor Holloway -	Yes

Reconvene Open Session

Councilor Joyner makes a motion to come out of closed session motion is seconded by Mayor Partin.

ROLL CALL:

Mayor Partin -	Yes
Councilor Joyner-	Yes
Councilor Harris -	Yes
Councilor Pelham-	Yes
Councilor Holloway -	Yes

Motion Pass 5-0

CERTIFICATION:

Immediately thereafter, council responded to the question pursuant to Virginia § 2.2-3712 (D): Were only public business matters (1) lawfully exempted from open-meeting requirements and (2) identified in the closed-meeting motion discussed in closed meeting?

ROLL CALL:

Mayor Partin -	Yes
Councilor Joyner-	Yes
Councilor Harris -	Yes
Councilor Pelham-	Yes
Councilor Holloway -	Yes

Motion Pass 5-0

Councilor Holloway motions to adjourn the meeting.

C-3

**MINUTES OF THE AUGUST 2, 2023 MEETING
OF THE DOWNTOWN DESIGN REVIEW COMMITTEE
CITY OF HOPEWELL**

A meeting of the City of Hopewell Downtown Design Review Committee (DDRC) was held on Wednesday, August 2, 2023, in the City Council Conference Room (300 N. Main St.) at 3:30 p.m.

Downtown Design Review Committee Members present:

Drew Dayberry, Chair
Mary French Elder, Vice Chair
Phillip Hughes
J. Paul Lewis, Architectural Advisor

Staff:

Kelly Davis, AICP, Senior Planner
Ankita Parekh, Planning & Economic Development Intern

Guests:

Heather Lyne, Hopewell Downtown Partnership

CALL TO ORDER

Mr. Dayberry called the meeting to order at 3:36 p.m. Ms. Davis conducted the roll call. A quorum was established. Mr. Dayberry welcomed the members and led introductions

ADMINISTRATIVE MATTERS / CONSENT AGENDA ITEMS

Mr. Dayberry asked if there were requests for withdrawal, deferral, or amendment to the agenda. There were none.

Mr. Dayberry asked for any amendments to the minutes. Mr. Hughes made a motion to approve the July 12, 2023, meeting minutes as presented. Ms. Elder seconded. The motion carried 3-0.

CITIZEN COMMENTS

None.

CERTIFICATES OF APPROPRIATENESS (COAs)

1. 206 N. 2nd, Jackie Steadman -- Window Signs

Ms. Davis presented the application for window signage for All Therapeutic Massage. Ms. Davis referenced the exhibits and explained that the request is for the text shown to be placed on a white background. Mr. Dayberry asked whether the other tenant, Good Karma Massage, will be permitted to add additional window signs. Ms. Davis explained that the overall window coverage cannot exceed 20%. Mr. Hughes stated that Good Karma Massage does not have identifying window signage at their current location. Ms. Davis will explain the window coverage requirements to the applicant prior to issuance.

Ms. Elder motioned to approve the application as submitted. Mr. Hughes seconded. The motion carried 3-0.

UNFINISHED BUSINESS

1. Downtown Code Violations

Ms. Davis stated that the Development Department will pursue a comprehensive approach to code enforcement this fall. In September, property owners will receive a post card that explains property maintenance and zoning requirements in the B-1 zoning district. The postcard will be sent to property owners and physical addresses of record. In October, code enforcement will conduct inspections of all Downtown properties and pursue enforcement, as appropriate.

Ms. Elder noted continued overgrown grass at the triangle at Francis St, Kent St, and Canterbury St. Mr. Lewis will forward tall grass complaint to public works and suggest increased mowing frequency.

Ms. Lyne suggested considering code enforcement for storage being conducted at 244 E. Broadway, the former Escape Room building.

2. Ms. Davis stated that there are no updates on the zoning ordinance amendments to the B-1, Downtown Central Business District and newly proposed Historic Preservation Article. Staff will schedule a worksession when a draft is ready to review.

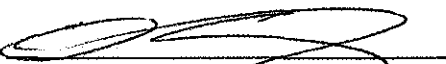
NEW BUSINESS

Ms. Lyne invited members to a tour of the downtown with the Department of Historic Resources (DHR) on August 11th. DHR will be touring several buildings for potential recommendations on appropriate alterations and will visit several properties for potential district expansions.

ADJOURNMENT

Mr. Hughes made a motion to adjourn. Ms. Elder seconded. The motion carried 3-0. The meeting adjourned at 4:29 p.m.

Submitted by,



Drew Dayberry, Chair



Kelly Davis, AICP, Senior Planner

9/13/23
Date

INFORMATION/PRESENTATION

Water Renewal Department

To: Concetta Maker
From: Dickie Thompson *dt*
Date: September 20, 2023
Re: QUEEN ANNE PUMP STATION & FORCE MAIN IMPROVEMENTS

Hopewell Water Renewal (HWR) owns and operates the Queen Anne Pump Station (QAPS) located off of Queen Anne Drive in Hopewell, VA. The QAPS shares a force main with two (2) other pump stations – the Riverside Regional Jail Pump Station (RRJPS) and the Petersburg Federal Correction Facility Pump Station (PFCCPS). The QAPS currently has a rated capacity of approximately 200 GPM. However, the QAPS occasionally receives peak flows of up to 300 GPM. Additionally, development within the QAPS drainage basin is expected to increase peak flows at the station to nearly 400 GPM in the coming years. As such, the City is seeking to perform improvements at the station.

The shared force main that the QAPS ties into is shared by three (3) pump stations and this configuration has caused issues for the QAPS. As a result, there is increased pressure in the force main, which reduces the pumping capacity of the QAPS and has resulted in Sanitary Sewer Overflows (SSOs) that are report to the Department of Environmental Quality (DEQ). In an effort to restore capacity and avoid overflows, HWR is renting multiple back-up, emergency portable pumps at the QAPS. This is not a sustainable operating condition; hence, upgrades to the QAPS and the force main are necessary.

Estimated engineering and construction costs to correct the issues at the QAPS are approximately \$2.5-2.7M. HWR and City staff met with Davenport & Company LLC, financial advisor to the City of Hopewell, to determine the availability of funds within the City's Sewer Service Fund to pay for this project. Davenport, in conjunction with City Staff, determined that there are two distinct funds established under the City's Agreement of Trust that are NOT pledged to bondholders and that can be used to pay for the capital needs. Each of these funds is tracked as a separate fund held in the City's name at LGIP.

Therefore, we are requesting to use the Sewer Improvement and Redemption fund, which currently contains in excess of \$1,125,000, and the Rate Stabilization Fund that has a balance in

excess of \$2,400,000. The Sewer Improvement Fund can be used specifically for capital improvements of the system and is not pledged as security to bondholders and the Rate Stabilization fund is also not pledged as security to bondholders.

The request is as follows:

- Pay the estimated \$2.5-2.7M capital cost, the City could use \$1,125,000 from the Improvement and Redemption Fund and use the additional needed from the Rate Stabilization Fund.
- Beginning with the FY 2025 budget, the City's Sewer Fund would budget up to \$150,000 each year until the Improvement and Redemption Fund is equal to \$1,000,000.
- Once our audits are up to date, Davenport recommends that we review the deposit amount in the Rate and Stabilization Fund to determine if it should be replenished to its prior level.
- Appropriate \$3M from the two funds for contingencies.

COMMUNICATIONS FROM CITIZENS

PUBLIC HEARINGS

PH-1



CITY OF HOPEWELL CITY COUNCIL ACTION FORM

Strategic Operating Plan Vision Theme:

- ☐ Civic Engagement
- ☐ Culture & Recreation
- ☐ Economic Development
- ☐ Education
- ☐ Housing
- ☐ Safe & Healthy Environment
- ☒ None (Does not apply)

Order of Business:

- ☐ Consent Agenda
- ☒ Public Hearing
- ☐ Presentation-Boards/Commissions
- ☐ Unfinished Business
- ☐ Citizen/Councilor Request
- ☐ Regular Business
- ☐ Reports of Council Committees

Action:

- ☐ Approve and File
- ☒ Take Appropriate Action
- ☐ Receive & File (no motion required)
- ☐ Approve Ordinance 1st Reading
- ☐ Approve Ordinance 2nd Reading
- ☐ Set a Public Hearing
- ☐ Approve on Emergency Measure

COUNCIL AGENDA ITEM TITLE: Council Adoption of Collective Bargaining Ordinance

ISSUE: The Hopewell Chapter of the Southern States Police Benevolent Association (SSPBA), in cooperation with the City of Hopewell Police Force, is proposing the adoption of a Collective Bargaining Agreement between the City of Hopewell and members of the police department represented by the Hopewell Chapter of the PBA. To do that, consistent with Virginia Code Section 40.1-57.2, the Hopewell City Council would first have to adopt an ordinance or resolution permitting such a process.

RECOMMENDATION: Hopewell Chapter of the SSPBA requests that the City Council consider and adopt an ordinance permitting police officers and other public employees to collectively bargain as in its proposed ordinance. The current police officers support this ordinance and look forward to participating in the process if the City Council authorizes it.

TIMING: We request and recommend a public hearing on this matter on September 26 so that after the second public hearing on October 10, 2023, Council may vote on this matter.

BACKGROUND: Virginia Code Section 40.1-57.2 was amended in 2020 to allow collective bargaining by municipal employees. Since that time, many jurisdictions have now implemented collective bargaining by adopting collective bargaining ordinances or resolutions, and some have even completed the process to establish their first collective bargaining agreements. Collective bargaining allows employees to have a voice and provides a process by which public employees and the City can proactively and effectively address problems (such as vacancies and turnover) allowing the City and employees to be more effective in their service to the Citizens. Caleb Kershner, part of the legal team for the Hopewell Chapter of the SSPBA presented at the City Council meeting on August 8, 2023.

SUMMARY:

- | Y | N |
|--------------------------|--------------------------|
| <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> | <input type="checkbox"/> |
- Councilor Rita Joyner, Ward #1
Councilor Michael Harris, Ward #2
Mayor John B. Partin, Ward #3
Vice Mayor Jasmine Gore, Ward #4

- | Y | N |
|--------------------------|--------------------------|
| <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> | <input type="checkbox"/> |
- Councilor Janice Denton, Ward #5
Councilor Brenda Pelham, Ward #6
Councilor Dominic Holloway, Sr., Ward #7



Collective Bargaining in the City of Hopewell

By representatives of Hopewell Chapter
Southern States Police Benevolent Association (SSPBA)

Introductions

SSPBA Chapter Leadership

Legal Team

Caleb Kershner

Will Thetford

Vance Stallings

Collective Bargaining in Virginia

Before 1977 some jurisdictions participated in public sector collective bargaining until the Virginia Supreme Court nullified collective bargaining absent express authorization from General Assembly in *Commonwealth v. Arlington County Bd.*, 217 Va. 558 (1977).

40.1 57.2 was amended in 2020 to allow local municipalities to create an ordinance or resolution allowing for Collective Bargaining Process.

City's ordinance provides the outer band of the terms to discuss and the bargaining units involved.

Employee groups can require governing body to take a vote within 120 days of submitting petition evidencing 50% support.

Virginia Jurisdictions Adopting Collective Bargaining Ordinances

City of Alexandria

City of Arlington

City of Richmond

City of Charlottesville

Loudoun County

Fairfax County

Town of Leesburg

Prince William County

Now being considered by
Virginia Beach, Norfolk,
Newport News, Winchester,
and many other jurisdictions.

Why Collective Bargaining?

Creates a procedure for employees and City to create mutually beneficial working arrangements and terms and conditions through negotiation and voluntary discussion.

Incentive for recruitment and retention.

Address vacancies and reduce turnover (~70% of officers currently have 5 years experience or less due to high turnover).

Address issues proactively rather than only once grievances, litigation, or other actions are necessary.

Basics of Collective Bargaining

What is a Bargaining unit? The group of employees who elect and are represented by a “bargaining agent” in collective bargaining with the City.

Commonly Virginia ordinances establish 3-5 bargaining units. E.g., Police, Fire, and General County or divide general county into different sub groups.

What is the proposed Police bargaining unit?

It is traditionally all sworn uniformed employees of the police department *below* a certain rank. The local employees in Hopewell desire that the bargaining unit include those below the rank of deputy chief.

What is an Exclusive Bargaining Agent?

The only labor organization recognized by the City to bargain collectively for the employees in the bargaining unit.

What issues are subject to bargaining?

Terms and conditions of employment, including wages, salaries, and all forms of monetary compensation; benefits;

personnel policies and practices, working conditions, and hours and scheduling of work, subject to management rights.

How Would Collective Bargaining Work Under the Proposed Ordinance

The City will appoint a labor relations administrator (LRA) to create election process regulations and any other necessary regulations.

Interested bargaining units, may petition to have an election once a potential bargaining agent has the support of at least 30% of the unit.

The LRA will administer a secret ballot election for any qualifying bargaining units regarding what eligible organization they want to represent them or if they elect to have no representatives and keep the status quo.

Once there is a bargaining agent representing a unit the agent's bargaining team will work with the City's negotiation team to establish ground rules and submit initial proposals

The parties negotiate proposals.

If the parties are able to negotiate a voluntary agreement on all matters the parties proceed to ratification.

If the parties are unable to reach agreement on some matters (impasse) the parties proceed to impasse mechanism in the City ordinance, which in this case should be the help of a mediator, and if necessary, an arbitrator to break the gridlock.

Ratification. The Agreement is not final until it is not only agreed to by the negotiation teams, but (a) ratified by the organization (usually through its membership) and (b) approved by City Council.

Protections for the City

The City sets boundaries in the Ordinance.

The City does not give up its inherent "Management Rights" by entering collective bargaining.

Virginia law still allows the City Council to have ultimate say on matters of appropriations.

Collective bargaining is designed to cause the parties to come to a voluntary agreement to address matters that are important to all parties.

The initial process takes some time so it would not be for at least one, if not two, fiscal years before any bargained agreement would be implemented.

Strikes, while permitted for private sector employers, are already prohibited for many City employees by State law, are prohibited by the SSPBA for its members, and may be prohibited by the bargaining ordinance (as is a part of proposed ordinance).

Virginia is still a right to work state no one will be forced to join a labor organization if they do not want to.

What are the next steps?

Consider and approve the Ordinance allowing Collective Bargaining

The City will appoint a labor relations administrator (LRA).

Continue in the collective bargaining process.

In order to ensure that there is sufficient time for the ultimate collective bargaining agreement to be worked into the next fiscal year's budgeting process most collective bargaining ordinances have certain time frames to when bargaining must be initiated and completed in order to be included in a particular fiscal year. As proposed

March 1 Written Request to Initiate Bargaining

April 1 Beginning of Negotiations

September 1 Negotiations Conclude or proceed to impasse process

The agreement would then be implemented for the fiscal year beginning the following July 1.

The parties may voluntarily agree to extend these deadlines, but are intended to ensure there is sufficient time between the end of negotiations and the budgeting process in the spring.

Timeline

If the ordinance is passed this year:

The organization and first elections could occur this fall/winter

Collective bargaining initiation and proposals could come as early as March 1, 2024

Negotiations would occur Spring Fall 2024

The ultimate collective bargaining agreement would not take effect until July 1, 2025.



SIMMS SHOWERS LLP

A PARTNERSHIP OF PROFESSIONAL CORPORATIONS

305 Harrison Street, SE, 3rd Floor, Leesburg, Virginia 20175 ■ (703)771-4671 ■ Fax: (703)771-4681 ■ www.simsshowerslaw.com

May 4, 2023

City Council
300 N Main Street
Hopewell, Virginia 23860

Dear City Council,

Our firm represents the Hopewell Chapter of the Southern States Police Benevolent Association (SSPBA) as represents does many other SSPBA chapters and members throughout the state. The SSPBA is dedicated to serving the needs of law enforcement employees as law enforcement personnel, in turn, supports and protects citizens. We have been working closely with local officers, led by Michael Redavid, to initiate the collective bargaining process in the City of Hopewell pursuant to Virginia law.

As you may know, Virginia Code Section 40.1-57.2 was amended in 2020 to allow collective bargaining by municipal employees. Since that time, many jurisdictions have now implemented collective bargaining by adopting collective bargaining ordinances or resolutions, and some have even completed the process to establish their first collective bargaining agreements.

The members of the Hopewell Chapter of the SSPBA reached out to us for assistance in initiating collective bargaining and drafting a proposed Collective Bargaining Ordinance to submit to the City Council. As § 40.1-57.2(C) provides, once the Hopewell County SSPBA submits its petition, the Council has only 120 days to consider and vote on an ordinance on the topic.

However, the members asked us to reach out voluntarily first, as they appreciate the working relationship they have developed with Council and wanted to send a draft to Council to consider without the pressure of a timeline if the Council is willing to engage and consider adopting an ordinance on the subject.

This draft reflects ordinances composed by the City of Alexandria and the City of Fairfax with the assistance of their own counsel as well as taking into consideration other ordinances passed by Virginia municipalities for collective bargaining.

We invite the City of Hopewell to review this Proposed Ordinance as it considers the needs of the City and its law enforcement officers. We understand different stakeholders and others will certainly hold an opinion on this draft. As such, we would like this process to be a participatory experience for all involved. Our firm and the local Chapter would also like to be a resource and involved in this process as well, as our experiences will be valuable.

We look forward to working with the City of Hopewell in this process.

Please feel free to contact our office if you have any questions or concerns at (703) 771-4671 or you can email me at wrt@simsshowerslaw.com.

Sincerely,

A handwritten signature in black ink, appearing to read "William R. Thetford Jr.", written in a cursive style.

William R. Thetford Jr.

J. Vance Stallings

Simms Showers LLP

Counsel to Hopewell Chapter of the SSPBA

ORDINANCE NO. XXXX

An ORDINANCE to amend and reordain Chapter 2 of the Code of the City of Hopewell, Virginia, Administration, *Article III City Employees*, by *adding the following sections*

THE CITY COUNCIL OF HOPEWELL HEREBY ORDAINS:

Section 1:— That the Code of the City of Hopewell, Virginia, as amended, be, and the same hereby is, added as follows:

CHAPTER 2 – ADMINISTRATION

ARTICLE III - COLLECTIVE BARGAINING

Sec. 100 - Statement of Policy.

It is the public policy of the City of Hopewell and the purpose of this article to promote orderly and constructive relationships between the city and its employees subject, however, to the supreme right of the citizens of the city that their government honor guarantees for their health, safety, welfare, and the uninterrupted operations and functions of government. Because unresolved disputes between the city and its employees are detrimental to the public and to city employees, adequate means must be established for their speedy and effective resolution. Within the limitations required by the greater public interest, and recognizing that amicable relationships are required between the city and its employees, the City Council has determined that the overall policies set forth here may best be accomplished by (1) granting to city employees the right to organize and choose freely their representatives; (2) permitting the city to negotiate and bargain in good faith with employee organizations representing city employees and to enter into written agreements evidencing the result of such bargaining; and (3) establishing procedures to provide for the protection of the rights of the city, city employees and the public at large.

The council establishes this policy with the intent that city employees enjoy the right to bargain collectively within parameters that promote a government that provides ethical, effective and efficient services that are responsive to the community and focused on improving quality of life through the services of well-qualified staff who value and work to actively promote policies to advance all things reasonably necessary to achieve organizational excellence, while at all times elevating principles of cooperation, ethics, honesty, initiative, and learning.

Sec. 101 - Definitions.

As used in *this* article, the following terms shall have the meanings ascribed to them in this section:

Administrative employee means an employee whose primary duty is the performance of office or non-manual work directly related to or in furtherance of the management or general business operations and services of the city.

Arbitration means the procedure by which the city and an exclusive bargaining representative when involved in a labor-management dispute, as defined in this article, submit their differences to a third party for a final and binding decision subject to the provisions of this article.

Benefits means all forms of non-wage compensation.

City means the City of Hopewell acting through its City Manager or the City Manager's designee.

Collective Bargaining means to perform the mutual obligation of the City, by its representatives, and the exclusive bargaining representative of employees in an appropriate bargaining unit to meet and negotiate in good faith at reasonable times and places, with the good faith intention of reaching an agreement and remaining in effect until superseded by a new agreement, regarding terms and conditions of employment including terms and conditions of employment, including wages, salaries, and all forms of monetary compensation; benefits; personnel policies and practices, working conditions, and hours and scheduling of work, provided that matters reserved as City management rights in Section 3-10-4 are subject to collective bargaining only as provided therein. Any agreement reached by collective bargaining shall be subject to appropriation of funds by the City Council.

The City shall not negotiate as to matters controlled or preempted by any federal or state constitutional provision, law, rule or regulation.

Collective bargaining agreement means the written legal contract between the City and an exclusive bargaining agent representing the employees in a bargaining unit authorized by this article and resulting from collective bargaining as defined in this section.

Confidential employee means any employee who works in or for:

- (1) the office of the City Council;
- (2) the office of the City Manager;
- (3) the office of the City Attorney;
- (4) the Department of Human Resources or other department or position in which the employee has authorized access to confidential city personnel files;
- (5) the Office of Management and Budget; or
- (6) is a secretary, administrative assistant, management analyst, or any other position, wherever assigned and however those titles may be changed from time to time, with authorized access to confidential information pertaining to City budgetary and fiscal data relevant to subjects within the scope of collective bargaining as set forth in this article.

Employee means any employee of the City, except it does not include anyone who is:

- (1) an employee of the courts or of any local constitutional officer, i.e., officers elected pursuant to Article VII, Section 4 of the Constitution of Virginia;
- (2) a confidential employee, as defined in this section;
- (3) a managerial employee, as defined in this section;
- (4) a supervisor, as defined in this section;
- (5) an intermittent, temporary or seasonal employee, as defined in this section;
- (6) an intern or volunteer;
- (7) a member of a board or commission, or other appointee of any public body as defined by state law; or
- (8) an attorney whose responsibilities include providing legal advice to the City or performing legal research for the City as a client.

Employee organization means an organization in which employees participate, and that exists for the purpose, in whole or in part, of representing employees in collective bargaining concerning labor disputes, wages, hours, and other terms and conditions of employment.

Exclusive bargaining representative and *exclusive bargaining agent* mean the employee organization recognized by the City as the only organization to bargain collectively for all employees in a bargaining unit (as defined in section 105).

Impasse means the failure of the City and an exclusive bargaining representative to reach agreement in the course of collective bargaining negotiations.

Intermittent employee means irregular or variably recurring, hourly employment that is less than full time in any calendar year.

Labor-management dispute means a difference of position as between the City and an exclusive bargaining agent concerning administration or interpretation of the collective bargaining agreement between them; negotiability disputes; action challenged as a prohibited practice under Sec. 115; and questions of eligibility of disputes for resolution by arbitration. It shall not include an individual grievance as defined by Virginia Code Section 15.2-1507(A)(1).

Lockout means any action taken by the City intended to interrupt or prevent the continuity of work properly and usually performed by employees for the purpose of coercing or intimidating employees in the exercise of their rights conferred by this article or influencing their exclusive bargaining agents' positions in collective bargaining contract negotiations.

Managerial employee means any individual who:

- (1) has responsibility for a unit or sub-unit of a division of an agency or department;
- (2) participates in the formulation of policy;
- (3) is significantly engaged in executive or management functions;
- (4) is charged with the responsibility of directing the implementation of management policies, procedures, or practices; or
- (5) is involved in administration of collective bargaining agreements or human resources or personnel decisions, including, but not limited to, staffing, reductions-in force/layoffs, reorganizations, hiring, discipline, evaluations, pay, assignments, transfers, promotions or demotions.

Mediation means an effort by a neutral, third-party factfinder chosen under the terms of this article to assist confidentially in resolving an impasse, as defined in this section, arising in the course of collective bargaining between the City and the exclusive bargaining agent of a bargaining unit, or the first step prior to arbitration of a labor-management dispute other than a prohibited practice claim or charge.

Professional employee means an employee exempt from the Fair Labor Standards Act and whose primary duty is the performance of work:

- (1) Requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction; or
- (2) Requiring invention, imagination, originality, or talent in a recognized field of artistic or creative endeavor.

Seasonal employee means an employee who is hired into a position for which the customary annual employment is four (4) months or less and for which the period of employment begins each calendar year in approximately the same part of the year, such as summer or winter, for reasons related to work demands that arise during those parts of the year.

Supervisor means any individual who customarily and regularly devotes a majority of work time to supervision of two or more employees and has authority to hire, transfer, suspend, layoff, recall, promote, demote, discharge, reward or discipline other employees, or adjust grievances, or effectively to recommend any such actions. With respect to the Fire Department, "supervisor" includes all personnel at the rank of battalion chief or above. With respect to the Police Department, "supervisor" includes all personnel at the rank of deputy chief or above. The City Manager or City Manager's designee shall meet and confer with Police and Fire supervisors ineligible to bargain collectively regarding matters within the scope of collective bargaining as

specified in this article with the specific intent to address salary compression, as commonly defined or understood, resulting from collective bargaining with eligible Police and Fire uniformed employees.

Strike means action of an employee of the City in concert with two or more other such employees for the purpose of obstructing, impeding, or suspending any activity or operation of the City (see Virginia Code § 40.1-55) or inducing, influencing, or coercing a change in the conditions, compensation, rights, privileges, or obligations of City employment.

Technical employee means an individual whose work requires a combination of basic scientific or technical knowledge and manual skill that can be obtained through specialized postsecondary school education or through equivalent on-the-job training.

Temporary employee means an individual who is employed for not more than 180 days in a 24-month period.

Sec. 102 - Employee Rights

- (a) Employees shall have the right to organize, form, join, assist, and pay dues or contributions to employee organizations, to bargain collectively through an exclusive bargaining representative of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid and protection insofar as such activity is not inconsistent with this article or prohibited by any other applicable law. Employees shall also have the right to refrain from any or all such activities.
- (b) A collectively bargained agreement provision that violates the rights of employees set forth in this section shall be void. A collectively bargained agreement provision that establishes a time period for the exercise of an employee right set forth in this section shall not violate this section. The City and each employee organization will refrain from any intimidation, coercion, or harassment of employees who choose to exercise their rights under this article.

Sec. 103 - City's Rights and Authority.

- (a) This article shall not be deemed in any way to limit or diminish the authority of the City to manage and direct the operations and activities of the City to the extent authorized and permitted by law. Thus, to the extent not inconsistent with a collective bargaining agreement, the City retains exclusive rights including, but not limited to, the rights:
 - (1) to determine the type and scope of work to be performed by City employees, and the manner in which services are to be provided;
 - (2) to direct the work of employees and determine the number of employees to perform any work or service;
 - (3) to hire, promote, transfer, assign, retain, classify and schedule all employees and to suspend, demote, discharge, or take other disciplinary action against employees in accordance with applicable law and regulations;

- (4) to relieve employees from duties by layoff or other reduction-in-force due to lack of work, changed working conditions/requirements, budget limitations or for other reasons in the City's reasonable business judgment and not prohibited by law;
 - (5) to introduce new, or different services, methods, equipment, or facilities;
 - (6) to contract for, expand, reduce, sell, transfer, convey, eliminate or change in any way the operations of general government, as well as any department, office or part thereof;
 - (7) to establish and change standards of behavior or performance, staffing levels, job qualifications and job descriptions;
 - (8) to determine the kind, type, location and use of City-owned equipment or facilities, provided that the City does not require use or operation of unsafe equipment or the unsafe operation of equipment;
 - (9) to maintain the efficiency and integrity of the operations entrusted to the City;
 - (10) to do all things reasonable and necessary to carry out the mission of the City; and
 - (11) to retain the ability and authority to continue to implement the current administrative regulation in the management of probationary employees.
- (b) In accordance with Virginia Code §40.1-57.2 and other applicable law, nothing in this section, any provision of this article or the terms of any collective bargaining agreement shall impair or restrict the authority of the City Council to establish its budget and appropriate funds in its discretion.

Sec. 104 – Employee Activity on Official Work Time and Use of City Communication Systems.

- (a) Employees shall have the right to hold informal conversations and interactions with one another to discuss workplace and employee organization issues while on duty, provided that such conversations do not interfere with the employee's job duties. Employee organizations shall not hold formal meetings that interfere with the work time of employees, except as provided for in this Article or in a collective bargaining agreement.
- (b) Employees shall have the right to use City electronic communication systems to discuss employee organization business or activities, or employee organizing activity.
- (c) In the absence of a collective bargaining agreement or a provision in such an agreement governing employee labor relations activity on official time, any employee representing an employee organization that has been recognized as an exclusive bargaining agent in the negotiation of an agreement under this article shall be authorized official time in amounts reasonable for such purposes, including attendance at impasse resolution proceedings.

Sec. 105 - Bargaining Units.

The City shall recognize only the following bargaining units for the purposes of collective bargaining:

- (a) Police: The police employees' bargaining unit shall consist of all sworn employees of the police department, except those excluded by definition in Sec. 101;
- (b) Fire and Emergency Medical Service: The fire and emergency medical services employees' bargaining unit shall consist of the uniformed fire employees, including fire marshals, except those excluded by definition in Sec. 101;
- (c) Other bargaining units may be approved by the City Council which may include any of the following:
 - (1) Labor & Trades: Those eligible classes of employees associated with maintenance and skilled crafts, i.e., job classes of workers performing duties that result directly in the comfort and convenience of the general public, or contribute to the maintenance of capital assets, land and infrastructure of the City, except those excluded by definition in Sec. 101; and
 - (2) Professional: Those non-supervisory and non-managerial employees within the definition of "professional employee" as set forth in Sec. 101; and
 - (3) Administrative and Technical: Those non-supervisory and non-managerial employees within the definition of "administrative employee" or who perform office support work and who are not confidential employees excluded from collective bargaining within the definition set forth in Sec. 101.

Sec. 106 – Labor Relations Administrator.

- (a) A labor relations administrator (LRA or the administrator) shall be appointed by the city manager in the manner set forth in subsection (c) of this section to effectively administer this article as it governs exclusive bargaining representative selection, certification and decertification procedures, labor-management disputes as defined in section 101, and choice of mediator(s) and/or arbitrator(s) as needs arise under this article or under any collective bargaining agreement. The LRA position must be posted within 90 days of the passage of this Ordinance.
- (b) The administrator must be experienced as a neutral in the field of labor relations, and must not be a person who, because of vocation, employment, or affiliation, can be categorized as a representative of the interest of the City or any employee organization, including an exclusive bargaining agent for a bargaining unit permitted under *this* article.
- (c) Subject to confirmation by the City Council, the City manager shall appoint the labor relations administrator who shall be selected for a 4-year term from no more than 3 (three) nominees jointly agreed upon and submitted by: (i) representatives of those employee organizations that have notified the City manager or City manager's designee of their interest

in representing bargaining units permitted by this article, if no exclusive bargaining agents have been recognized at the time the selection process begins, or (ii) by the exclusive bargaining agents of the bargaining units permitted by this article, and (iii) an equal number of designees of the City manager. If the Council does not confirm the appointment on the recommendation of the City manager, an appointment must be made from a new agreed list of 3 (three) nominees compiled in the same manner.

- (d) The administrator's services shall be subject to termination by mutual agreement of the City manager and a majority of the exclusive bargaining agents of the bargaining units permitted by this article, and with council approval.
- (e) If the administrator dies, resigns, becomes disabled, or otherwise becomes unable or ineligible to continue to serve within six (6) months of initial appointment, the City manager shall appoint a new administrator from the list from which that administrator was selected, subject to council confirmation, to serve the remainder of the previous administrator's term. Otherwise, the administrator vacancy shall be filled as provided in subsection (c).
- (f) An administrator appointed under this section may be reappointed as provided in subsection (c).
- (g) The terms of payment for the services of the administrator shall be paid as specified by contract with the City.
- (h) The administrator shall:
 - (1) hold and conduct elections for certification or decertification pursuant to the provisions of this article and issue the certification or decertification or cause these actions to occur.
 - (2) request from the City or an employee organization, and the City or such organization shall provide, any relevant assistance, service, and data that will enable the administrator to properly carry out duties under this article.
 - (3) hold hearings and make inquiries, administer oaths and affirmations, examine witnesses and documents, take testimony, and receive evidence, and compel by issuance of subpoenas the attendance of witnesses and the production of relevant documents in proceedings within the responsibility of the administrator under this article.
 - (4) investigate and attempt to resolve or settle, as provided in Section 113 - Mediation and Arbitration, charges of either the City or an employee organization engaging in prohibited practices as defined in this article. However, if the City and a certified representative have negotiated a labor-management dispute resolution procedure, the administrator must defer to that procedure to resolve any dispute that properly may be submitted to the procedure, absent a showing that the deferral results in the application of principles contrary to this article. The administrator must defer to

state procedures in any matter governed by the Law-Enforcement Officers' or Firefighters and Emergency Medical Technicians' Bill of Rights set forth in the Virginia Code, or to any other such procedure dictated by state statute.

- (5) determine unresolved issues of employee inclusion in or exclusion from the bargaining units permitted under this article
- (6) obtain any necessary support services and make necessary expenditures in the performance of duties, subject to appropriation.
- (7) determine any issue regarding the negotiability of any collective bargaining proposal.
- (8) Exercise any other powers and perform any other duties and functions specified in this article of an administrative nature.

Sec. 107 - Recognition of Exclusive Bargaining Agent.

A bargaining agent shall be the exclusive representative of all employees in an appropriate bargaining unit described in Section 105 if the employee organization is selected by a majority of the employees voting in an appropriate bargaining unit in an election conducted pursuant to this article and rules and procedures adopted by the LRA.

- (a) In the event that more than one (1) employee organization files a request for recognition or for election within ten (10) calendar days after a first request for recognition or for election has been filed, an election to select an exclusive bargaining agent shall be held under the rules and procedures adopted by the LRA. If an employee organization receives a majority of the votes cast by the employees voting in an appropriate bargaining unit, it shall be recognized by the City as the exclusive bargaining agent, provided, however, that the City manager/designee or an employee organization may file exceptions to the election with the LRA alleging that there has been misconduct which has affected the outcome of the election, and the City need not recognize the employee organization pending the resolution of any process to review those exceptions. Any cost of such election shall be shared equally by the parties involved.
- (b) "Administratively acceptable evidence" to support a petition for certification within the meaning of Virginia Code §40.1-57.2(C), for certification by representation election, or for decertification (see Section 109) may consist of a combination of membership cards or a membership roster, evidence of dues payment, or other evidence of bargaining unit employees' desire to be represented by an employee organization for collective bargaining purposes. An authorization that satisfies the Uniform Electronic Transactions Act (Virginia Code § 59.1-479 et seq.) including, without limitation, electronic authorizations and voice authorizations, shall be valid for employees' authorization for representation for purposes of a petition filed by a labor organization for exclusive representation. The determination by the LRA (or of the City manager or manager's designee in the absence of the LRA) of the sufficiency of a showing of majority support or for a representation election shall not be subject to challenge by any person or employee organization or by the City.

Sec. 108 - Request for Election.

- (a) An employee organization may request an election be held by submitting a petition for an election to the LRA who shall notify the City manager pursuant to its rules and procedures. The petition must represent a showing of interest by at least thirty (30) percent of the employees in a bargaining unit permitted by this article.
- (b) Any additional interested employee organization must submit a petition of intervention to the LRA, which must be accompanied by a showing of interest by thirty (30) percent of the employees in the appropriate bargaining unit within ten (10) days of notice of the pending election.
- (c) An election under this article shall be held within forty-five (45) calendar days after written notice to all parties of the determination by the LRA of a valid petition for election in accordance with guidelines established by the LRA. If an employee organization receives a majority of the valid ballots cast by the employees in a permitted bargaining unit, it shall be recognized by the City as the exclusive bargaining agent, provided unless and until the LRA certifies a different organization or otherwise decertifies the agent in accordance with rules set forth in this section. In an election in which none of the choices on the ballot receives a majority, a runoff election shall be conducted in which the ballot shall provide for a selection between the two choices or parties receiving the highest and second highest number of ballots cast in the election. However, the City or the employee organization may file exceptions with the LRA in accordance with its rules, and the City need not recognize the employee organization pending the resolution of any process to review those exceptions.
- (d) Nothing in this article shall require or permit an election in any bargaining unit within twelve (12) months after a previous election has resulted in the recognition of an exclusive bargaining representative or a determination that the employees choose no representation in such bargaining unit.
- (e) No party shall have an advantage over the other in gaining access to employees during organizational or representation campaign activity. Unless there is a recognized bargaining representative, interested employee organizations will receive the same access to bargaining unit employees as is currently provided to outside organizations under City policies and practices for facility use and attendance at any meeting of such organizations under these circumstances is voluntary and open to all prospective bargaining unit employees.

Sec. 109 - Decertification/Withdrawal of Recognition

- (a) Recognition of an employee organization as the exclusive bargaining agent for a bargaining unit permitted by this article shall continue only so long as such organization satisfies the criteria of this article
- (b) If a petition for decertification of a recognized exclusive bargaining agent is presented to the LRA showing that at least fifty (50) percent of the employees in the bargaining unit no

longer want the employee organization to be their bargaining agent, then the LRA shall hold an election pursuant to section 108 of this article.

- (c) A petition for decertification of a recognized exclusive collective bargaining agent in an appropriate unit may be filed in a thirty-day (30) period between the one hundred eightieth (180th) and one hundred fiftieth (150th) day prior to expiration of any existing collective bargaining agreement for that bargaining unit or any time after that collective bargaining agreement has expired.
- (d) For a period of one (1) year following recognition or certification of an exclusive bargaining agent, no decertification petitions may be filed.
- (e) The employee organization no longer shall be recognized as the exclusive bargaining agent of the employees in the bargaining unit if a majority of the employees in the appropriate bargaining unit vote in the decertification election to no longer be represented by the employee organization and a final outcome of that election has been certified by the LRA.

Sec. 110 – Rights Accompanying Exclusive Representation.

Any employee organization recognized as the bargaining agent for employees in an appropriate bargaining unit shall have the following rights:

- (a) To speak on behalf of all members of the unit and shall be responsible for representing the interests of all members of the bargaining unit without discrimination and without regard to employee organization membership.
- (b) To meet at reasonable times and places to engage in good faith collective bargaining on matters that, under this article, may be the subject of collective bargaining, in an effort to reach an agreement, subject to the tentative approval of the City manager or the City manager's designee with responsibility for the employees in the bargaining unit.
- (c) To meet with bargaining unit employees on the premises of the City in non-secure areas during times when the employees are on break or in a non-duty status. Any other employee organization that has submitted a petition and established a valid question concerning representation of the bargaining unit shall also be permitted to meet with bargaining unit employees with the same limitations. This subsection shall not restrict an exclusive bargaining agent and the City from negotiating for greater access to employees by the exclusive bargaining agent as provision of a collective bargaining agreement.
- (d) To receive quarterly a list of all bargaining unit employees, as well as to be informed of all new hires within ten (10) days.
- (e) To meet with newly hired employees, without charge to the pay or leave time of any of the employees for a maximum of 30 minutes, within 30 calendar days from the date of hire, during new employee orientations, or if the City fails to conduct new employee orientation, at individual or group meetings.

- (f) To use City communications systems to communicate with employees regarding collective bargaining, the administration of collective bargaining agreements, the investigation of grievances, other workplace-related complaints and issues, and internal union matters involving the governance or business of the exclusive bargaining agent.
- (g) To be the only labor organization eligible to receive from the City amounts deducted from the pay of employees as authorized by written assignment of the employees, for the payment of regular and periodic dues to the exclusive bargaining agent, unless two exclusive bargaining agents of City employees agree that they can both receive deductions from the same employee. Any such authorization may be revoked in accordance with the terms of the authorization which shall provide a period of irrevocability of not more than one year. An authorization that satisfies the Uniform Electronic Transactions Act (Virginia Code § 59.1-479 et seq.), including, without limitation, electronic authorizations and voice authorizations, shall be valid for employees' authorizations for payroll deductions and authorization for representation for purposes of a petition filed by an employee organization for exclusive representation.
- (h) To be represented at any formal discussion between one or more representatives of the City and one or more employees in the bargaining unit or their representatives concerning (1) any matter that is within the scope of collective bargaining as set forth in the definition of collective bargaining (see Section 101); or (2) any examination of bargaining unit employees by a representative of the City in connection with an investigation if the employee reasonably believes that the examination involves matters covered by any collective bargaining agreement then in effect, and the employee requests representation. The City shall inform the employee that he employee has a right to union representation prior to any such discussion or interview, and the employee shall have a right to request union representation before proceeding with the discussion or interview.
- (i) Notwithstanding any other provision in this section, an individual employee may present a personal complaint, concern or question at any time to the City without the intervention of an employee organization, provided that any such organization that is recognized by the City as the exclusive bargaining agent for the bargaining unit in which the employee is a member is afforded an effective opportunity to be present and to offer its view at any meetings held to adjust the matter and that any adjustment made shall not be inconsistent with the terms of any applicable collective bargaining agreement. Such employee or employees who utilize this avenue of presenting personal complaints, concerns or questions to the City shall not do so under the name, or by representation, of an employee organization.
- (j) The requirements set forth in this section establish the minimum requirements for access to and communication with bargaining unit employees by an exclusive bargaining representative. These requirements shall not prevent the City and the exclusive bargaining representative from bargaining for greater access to or communication with employees.

Sec. 111 - Good Faith Bargaining.

- (a) A written request for bargaining must be submitted by the exclusive bargaining agent to the City manager or the manager's designee no later than March 1, and negotiations must begin by April 1 and conclude by September 1 of any year where an agreement is sought to be effective at the beginning of the next fiscal year, in order to accommodate the City budget process. Failure of the parties to reach agreement by September shall constitute impasse and trigger impasse resolution procedures under this article.
- (b) Nothing in this article requires either party to make any concessions or agree to the other party's proposals.
- (c) Good faith bargaining shall not include submission of or a response to a proposal that:
 - (1) Violates the rights of employees as set forth in 102; or
 - (2) Impairs, restricts, or delegates the authority of the City as set forth in Section 103(b).
- (d) The City manager shall designate or appoint the City's representative (s) in collective bargaining negotiations in the manager's sole discretion.
- (e) If an employee organization serves as the exclusive representative of more than one bargaining unit, it shall consolidate its bargaining with the City and negotiate a common master agreement on all matters not unique to particular bargaining unit.

Sec. 112 - Approval of Tentative Agreement

- (a) When an exclusive bargaining agent and the City reach a tentative agreement, they shall reduce it to writing and execute it signifying the approval of the bargaining agent and the City bargaining representative. No agreement shall be effective or enforceable:
 - (1) unless a fiscal impact study(ies) of the tentative agreement provisions, conducted as bargaining proceeds, has been prepared by the City Office of Management and Budget; and
 - (2) the City Council specifies by resolution no later than the last day of December its good faith commitment to appropriate funding necessary for the City to meet obligations under the tentative agreement as set forth in the fiscal impact study provided for in this section, with the understanding that any such resolution remains subject to actual appropriation. If the Council does not resolve to fund any provision(s) of the tentative agreement requiring appropriation or other Council action, the resolution shall state the reason(s), and the City Manager and the exclusive bargaining agent must re-open negotiations on those provisions only, with the understanding that any such negotiations shall be scheduled as promptly as possible with the good faith objective to negotiate provisions that may be acceptable to the Council for its consideration within the City's budget approval schedule. Upon presentation to the Council of any tentative agreement re-negotiated under this subsection, the Council shall consider and specify by

resolution as soon as practicable its good faith commitment to appropriate funding necessary for the City to meet obligations under the tentative agreement, or its intention not to do so, with the understanding that any such resolution remains subject to actual appropriation; and

(3) the tentative agreement is approved by:

- a. The City Manager or City Manager's designee with supervisory responsibility for the employees in the bargaining unit, as evidenced by signature, which may be an electronic signature made in accordance with applicable state law; and
- b. The exclusive representative by ratification of the tentative agreement in accordance with the bargaining representative's governing procedures, and evidenced by the signature of an authorized agent which may be an electronic signature made in accordance with applicable state law.

(b) A written agreement shall be contrary to public policy and therefore shall not bind the parties or be enforceable by either party to the extent that it is not the result of good faith bargaining as defined in Section 111.

Sec. 113 - Mediation, Dispute Resolution, and Factfinding.

(a) Mediation.

- (1) Labor-Management Disputes: The City and an exclusive bargaining agent shall discuss the feasibility of resolution of labor-management disputes informally by discussion between the parties' designees before resort to formal mediation or arbitration. Failure to actually engage in such informal resolution prior to submitting a labor-management dispute or prohibited practice claim for mediation or arbitration shall not be a ground for dismissal of a claim under this article. In the event that the City and the bargaining agent are unable to informally resolve a labor-management dispute if and when engaged, either party or the parties jointly may submit the dispute to the LRA for mediation or arbitration, if applicable, pursuant to procedures instituted by the LRA.
- (2) Impasse: In the event that the City and the bargaining agent are unable to reach a collective bargaining agreement within one hundred twenty (120) days after their first meeting or October 5, whichever is earlier, an impasse may be called by either party and resolution may be sought by submission of any unresolved issues for mediation by the LRA or a mediator selected through procedures established by the LRA. The parties shall jointly request mediation within five (5) days of a declared impasse. The LRA or other mediator shall set reasonable deadlines for all steps of the mediation process. Negotiations on all matters shall continue throughout impasse procedures.

- (3) The mediation process is advisory only, and the LRA or other mediator shall have no authority to bind either party.
 - (4) The mediation process and any comments, statements, or suggestions from the LRA or other mediator or the parties and any documents evidencing the same made or created during the mediation process shall not be disclosed except as required by law. Communications between an exclusive bargaining representative and the employees that it represents regarding the mediation process shall not constitute public disclosure under this Section.
 - (5) The parties shall share the costs of mediation equally.
- (b) Arbitration: If the City and exclusive bargaining agent are unable to reach agreement resolving any labor-management dispute submitted to mediation as provided for in this article by any deadline set forth in procedures provided in this article or adopted by the LRA, the labor-management dispute shall be submitted to final and binding arbitration subject to the plenary authority of the City Council to determine whether to appropriate funding for the tentative agreement. Such arbitration shall be conducted pursuant to procedures adopted by the LRA which shall, at a minimum, require the parties' joint selection of an arbitrator and shall provide for timing requirements that ensure the conclusion of impasse proceedings on a schedule that complies with Section 112. The parties shall share the costs of arbitration equally. In making a determination under this subsection, the arbitrator shall consider the following factors:
- (1) Stipulations of the parties;
 - (2) The interests and welfare of the public;
 - (3) The financial ability of the employer to meet the financial obligations in the proposed collective bargaining agreement;
 - (4) The overall compensation presently received by the employees involved in the arbitration;
 - (5) Comparison of wages, benefits, and working conditions of the employees involved in the arbitration proceedings with the wages, benefits, and working conditions of other persons performing similar services in the public and private sectors, if applicable;
 - (6) Past collective bargaining agreements between the parties, including the past bargaining history that led to the agreements, or the pre-collective bargaining history of employee wages, benefits, and working conditions;
 - (7) Comparison of working conditions of other City personnel; and

(8) Such other factors that are normally or traditionally taken into consideration in the determination of wages, benefits, and working conditions of employment through voluntary collective bargaining, mediation, arbitration, or otherwise between the parties, in the public sector.

(c) Grievance Procedures: Any grievance, mediation, arbitration, or other resolution procedure negotiated by the parties and available to challenge disciplinary or other personnel actions set forth in Virginia Code Section 15.2-1506, et seq., shall comply with the minimum requirements set forth in the statute(s), as well as any other statutory grievance rights of law enforcement officers and fire and emergency medical employees.

Sec. 114 - Strikes and other Job Actions.

Pursuant to Virginia Code § 40.1-55, any employee of the City or of any agency or authority of the City who, in concert with two or more other such employees, strikes or willfully refuses to perform the duties of their employment shall be deemed by that action to have terminated their employment and shall be ineligible for employment in any position or capacity during the next 12 months by the City, the Commonwealth of Virginia or any county, city, town or political subdivision of the Commonwealth or any department of any such public entities. The City agrees that no lockout shall take place.

Any employee organization determined to have violated this section shall cease to be accorded recognition under this article, shall cease to receive any dues or fees collected by paycheck withholding and shall not be accorded recognition or receive any dues or fees collected by paycheck withholding for a period of one (1) year.

Sec. 115 - Prohibited Practices.

Neither the City nor any exclusive bargaining agent shall refuse to negotiate in good faith with respect to matters within the scope of collective bargaining as defined in Section 101.

(a) The City and its agents shall not:

- (1) Interfere with, restrain or coerce employees in the exercise of rights granted by this article;
- (2) Dominate or interfere in the administration of any employee organization;
- (3) Encourage or discourage membership in any employee organization, committee, or association including by discrimination in hiring, tenure, or other terms and conditions of employment, provided that use of County property and time for meetings and the County's communication system for employee organization business, as may be permitted by this Article or a collective bargaining agreement, shall not be deemed encouragement prohibited by this subsection;
- (4) Discharge, discriminate, or retaliate against any employee because the employee has filed an affidavit, petition, or complaint or given any information or testimony under this article or because the employee has formed, participated in leadership in, joined, or chosen to be represented by any exclusive bargaining agent;

- (5) Deny the rights accompanying certification as the exclusive bargaining agent as conferred by this article;
- (6) Refuse to participate in good faith in any agreed-upon impasse resolution procedures or those set forth in this article; or
- (7) Refuse to reduce a collective bargaining agreement to writing and sign such agreement provided all conditions for an enforceable agreement, as set forth in this article, have been met.

(b) No employee organization or its agents shall:

- (1) Interfere with, restrain, or coerce any employee with respect to rights granted in this article or with respect to selecting an exclusive representative;
- (2) Willfully fail to represent an employee who is in a bargaining unit exclusively represented by the employee organization fairly regarding matters within the scope of collective bargaining, and without discrimination;
- (3) Refuse to bargain collectively with the City as provided in this article; or
- (4) Refuse to participate in good faith in or violate any agreed-upon impasse resolution procedures or those set forth in this article.

(c) Prohibited practice charge procedures:

- (1) Proceedings against a party alleging a violation of this Section shall be commenced by filing a charge with the LRA within 120 days of the alleged violation, or acquiring knowledge thereof, and causing a copy of the charge to be served upon the accused party in the manner of an original notice as provided in Section 116. The accused party shall have 10 days within which to file a written answer to the charge. The LRA may conduct a preliminary investigation of the alleged violation, and if the LRA determines that the charge has no legal or factual basis, they may dismiss the charge. If the charge is not dismissed, the LRA shall promptly thereafter set a time and place for a hearing. The parties shall be permitted to be represented by counsel or other designated representative, summon witnesses, and request the LRA to subpoena witnesses and the production of records on the requester's behalf. Compliance with the technical rules of pleading and evidence shall not be required.
- (2) The LRA may designate a hearing officer to conduct any hearing. The hearing officer shall have such powers as may be exercised by the LRA for conducting the hearing and shall follow procedures adopted by the LRA for conducting the hearing. The decision of the hearing officer may be appealed to the LRA and the

LRA may hear the case de novo or upon the record as submitted before the hearing officer.

- (3) The LRA shall provide for an official written transcript to report the proceedings, the costs of which shall be borne equally by the parties.
- (4) The LRA shall fill its findings of fact and conclusions. If the LRA finds that the party accused has violated any provision of this Section, the LRA may issue an order directing the party to cease and desist engaging in the violation and may order such other reasonable affirmative relief as is necessary to remedy the violation. Under the provisions for court review of arbitration awards set forth in the Uniform Arbitration Act (Virginia Code §§8.01-581.01 et seq.), the LRA may petition the circuit court for enforcement of an order made under this Section.
- (5) Any party aggrieved by any decision or order of the LRA may within 21 days from the date such decision or order is filed, appeal to the circuit court to obtain judicial review pursuant to the provisions for judicial review set forth in the Uniform Arbitration Act, Virginia Code §§8.01-581.01, et seq.

Sec. 116 - Time Limits.

Any time limits in this article may be extended by written agreement of the City, the employee organization, and any other appropriate parties.

Sec. 117 - Notices.

Any notice required under the provisions of this article shall be in writing, but service of any such notice shall be sufficient if mailed by certified mail, return receipt requested, addressed to the last-known address of the parties, unless otherwise provided in this article or by the rules of the LRA, which rules shall provide for the electronic service of documents. Refusal of certified mail by any party shall be considered service. Prescribed time periods shall commence from the date of the receipt of the notice.

PH-2

Transient Occupancy Ordinance Amendments

Presentation to the City Council

for the City of Hopewell

By: Danielle Smith

City Attorney

Definitions

- Changes:

- Changes to the language in “Accommodations provider”.
Does not include someone who is a real estate licensee when acting as a real estate agent.

- Added Terms:

- *Commissioner of Revenue*
- *Person*
- *Retail Sale*
- *Room Charge*

Section 34-148

Additional powers and duties for the
Commissioner in Revenue

List of persons operating a hotel in
Hopewell

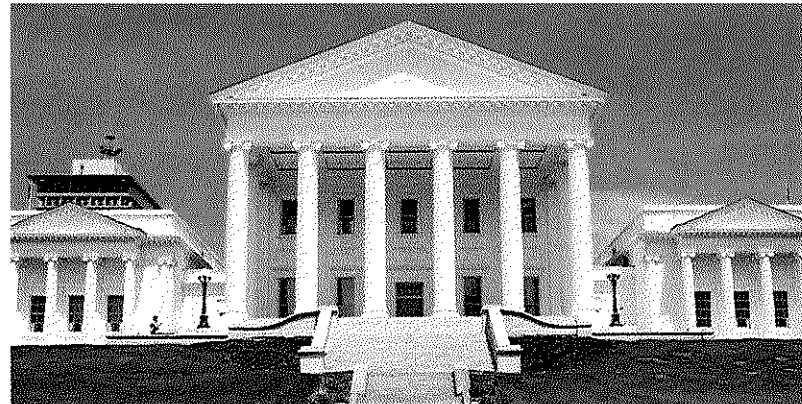
May adopt rules & regulations which
will assist in taxes owed.

Copy of rules & regulations shall be
on file.

- Commissioner in Revenue
- Debra K. Reason
- 300 N. Main Street
- Hopewell, VA 23860
- 804.541.2237 P

Section 34-156

- Requires the tax assessor to report any rate changes to the Virginia Department of Taxation
- Within 30 days.
- Required by House Bill 1442 (2023 Acts of the Assembly, Chapter 410)





The End

ARTICLE IX. - TRANSIENT LODGERS

Sec. 34-146. - Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Accommodations: any room or rooms, space, lodgings, or accommodations in any hotel, motel, inn, tourist camp, tourist cabin, camping grounds, club, house, or any other place in which rooms or accommodations for lodging are regularly furnished to transients for consideration and for which tax is or should be imposed on the retail sale.

Accommodations fee: the amount paid to or retained by the accommodations intermediary for facilitating the sale. The accommodations fee shall be distinctly set out as a separate item and shall not be less than \$0.

Accommodations intermediary: any person other than an accommodations provider who facilitates the sale of an accommodation, charges a room charge to the customer, and charges an accommodations fee, which fee it retains as compensation for facilitating the sale. For the purposes of this definition, "facilitates the sale" includes brokering, coordinating, or in any other way arranging for the purchase of the right to use accommodations via a transaction directly, including via one or more payment processors, between a customer and an accommodations provider.

"*Accommodations intermediary*" does not include a person:

- (1) If the accommodations are provided by an accommodations provider operating under a trademark, trade name, or service mark belonging to that person; or
- (2) Who facilitates the sale of an accommodation if (i) the price paid by the customer to the person is equal to the price paid by the person to the accommodations provider for the accommodations, and (ii) the only compensation received by the person facilitating the sale of the accommodation is a commission paid from the accommodations provider to that person.
- (3) Who is licensed as a real estate licensee pursuant to Article 1 (§54.1-2100 et seq.) of Chapter 21 of Title 54.1, when acting within the scope of such license.
- (d) *Accommodations provider*: any person who furnishes accommodations to the general public for compensation. The term "furnishes" includes the sale of use or possession, or the sale of the right to use or possess.

Commissioner of the revenue: the commission of the revenue of the city of Hopewell, Virginia or any duly authorized deputies or agents.

Hotel: Any public or private hotel, inn, hostelry, tourist home or house, motel, rooming house, or other lodging place within the city offering lodging for compensation to any transient.

Innkeeper: Any person who provides lodging for compensation to any transient.

Lodging: Room or space furnished any transient.

Person: To include but not limited to individuals, firms, partnerships, associations, corporations, persons acting in representative capacity, and combinations of individuals of whatever form and character.

Retail sale: The sale or charges for any room or rooms, lodgings, or accommodations furnished to transients for less than 90 continuous days by any hotel, motel, inn, tourist camp, tourist cabin, camping grounds, club, or any other place in which rooms, lodging, space, or accommodations are regularly furnished to transients for a consideration.

Room charge: The full retail price charged to the transient for the use of the accommodations, before taxes. Room charge includes any fee charged to the customer and retained as compensation for facilitating the sale, whether described as an accommodations fee, facilitation fee, or any other name. Any additional charges made in connection with the rental of accommodations are deemed to be part of the charge for the room and are subject to the tax. For example, additional charges for movies, local telephone calls and similar services are subject to the tax.

Total price paid: The total price charged to the customer. It will include the room charge and the accommodations fee, if any.

Transient: Any person who, for a period of not more than ninety (90) consecutive days, either at his own expense or at the expense of another, obtains lodging at any hotel.

(Ord. No. 83-5, 5-24-83)

Sec. 34-147. - Imposed; amount; use of proceeds.

There is hereby levied and imposed, in addition to all other taxes and fee of every kind now imposed by law, on each transient, a tax equivalent to eight (8.0) percent of the total amount paid for lodging by or for such transient to any hotel or lodging property.

Sec. 34-148. – Commissioner of the revenue – Other powers and duties.

It shall be the duty of the commissioner of the revenue to ascertain the name of every person operating a hotel in the city, liable for the collection of the tax levied by Chapter XVI of the Hopewell Municipal Code. The commissioner of the revenue shall have the power to adopt rules and regulations not inconsistent with the provisions of this chapter for the purpose of determining the amount due to the city under this chapter; and a copy of such rules and regulations shall be on file and available for public examination in the commissioner of the revenue's office. Failure or refusal to comply with any rules and regulations promulgated under this sections shall be deemed a violation of this chapter.

Sec. 34-149. - Duty of innkeeper to collect and remit; innkeeper's reports.

It shall be the duty of every innkeeper, in acting as the tax collection medium or agency for the city, to collect from the transient, for the use of the city, the tax imposed and levied by this article at the time of collecting the amount charged for the lodging, and the taxes collected during each calendar month shall be reported and remitted by each innkeeper to the commissioner of the revenue, on or before the twentieth day of the following calendar month. The taxes collected by an innkeeper shall be deemed to be held in trust by such innkeeper until they have been remitted to the commissioner of the revenue. The required report shall be in such form as may be prescribed by the commissioner of the revenue. All remittances received hereunder by the commissioner of the revenue shall be turned over promptly to the city treasurer.

Sec. 34-149.1 – Determination of tax due by the Commissioner of Revenue.

If any person required to collect and remit tax imposed by this chapter fails to file a report, or if the Commissioner of Revenue has reasonable cause to believe that an erroneous report has been filed, the Commissioner of Revenue may proceed to determine the amount due to the city and in connection therewith shall make such investigations and take such testimony and other evidence as may be necessary and he shall report her determination to the Treasurer; provided, that notice and opportunity to be heard be given to any person who may be liable for the amount owing prior to any determination by the Commissioner of Revenue.

Sec. 34-150. - Report and remittance when collector goes out of business.

Whenever any person required to collect and pay the city a tax pursuant to provisions of this article shall cease to operate, go out of business, or otherwise dispose of his business, any tax then payable to the city shall become immediately due and payable and such person shall immediately make a report and pay the tax due the commissioner of the revenue.

Sec. 34-151. - Penalty and interest for nonremittance.

If any person shall fail or refuse to remit the tax required to be collected and paid under this article, within the time and in the amount as provided for in this article, there shall be added to such tax a penalty in the amount of ten (10) percent thereof, or the sum of ten dollars (\$10.00), whichever shall be greater; provided, however, that the penalty shall in no case exceed the amount of tax due; and interest thereon at the rate of ten (10) percent per annum, which shall be computed upon the tax and penalty from the first day of the month following the date such taxes were due and payable.

(Sec. 34-152. - Procedure upon failure to collect, report and remit.

If any person shall fail or refuse to collect the tax imposed under this article and to make, within the time provided in this article, the reports and remittances required, the commissioner of the revenue shall proceed in such manner as (s)he may deem best to obtain facts and information on which to base the tax due. As soon as the commissioner of the revenue shall secure such facts and information as (s)he is able to obtain upon which to base the assessment of any tax due and payable by any person who has failed or refused to collect such tax and to make such report and remittance, (s)he shall proceed to determine and assess against such person such tax and penalty and interest as in this article provided for, and shall notify such person, by registered mail sent to his last known place of address, of the amount of such tax and interest and penalty, and the total amount thereof shall be payable within ten (10) days after such notice. The commissioner of the revenue shall have the power to examine such records for the purpose of administering and enforcing the provisions of this article as are provided by law.

Sec. 34-153. - Collector's records.

It shall be the duty of every person liable for the collection and payment to the city of any tax imposed by this article to keep and preserve, for a period of two (2) years, such suitable records as may be necessary to determine the amount of such tax as he may have been responsible for collecting and paying to the city. The commissioner of the revenue may inspect such records at all reasonable times.

Sec. 34-153.1. – Levy; amount; collection.

Pursuant to §58.1-3819 of the Code of Virginia, the city may levy and impose, in addition to any other taxes and fees of every kind imposed by law, a tax of 8% of the total price paid or for a customer for use of possession of any lodging accommodations for the continuous occupancy for fewer than 90 days. The tax shall be collected at the time and in the manner provided for in this article.

Sec. 34-154. - Power and duty of city treasurer.

The city treasurer shall have the power and the duty of collecting the taxes imposed and levied by this article.

Sec. 34-155. - Penalty for violation.

It shall be unlawful for any person to violate any of the provisions of this article and any person violating any of the provisions of this article, upon conviction thereof, shall be punished as a Class 2 misdemeanor along with a fine of not less than twenty-five dollars (\$25.00) nor more than two hundred dollars (\$500.00) or by confinement in jail not exceeding thirty (30) days, either or both. Each violation and each day's continuance thereof shall constitute a separate offense. Such conviction shall not relieve any person from the payment, collection, or remittance of the tax as provided in this article.

Secs. 34-156. – Tax Rate reporting to the Department of Taxation.

The tax-assessing officer is required to provide any change in rate to the Department of Taxation (“the Department”) in a manner prescribed by the Department as soon as such information is available after a request by the Department or with at least 30 days’ notice prior to the effective date of any change in the rate.

In the event the City of Hopewell fails to provide to the Department with notice of rate change as required by House Bill 1442 (*2023 Acts of Assembly*, Chapter 410), the City of Hopewell shall continue to apply its preceding effective tax rate until 30 days after notification of such change is provided to the Department. Additionally, if the tax-assessing officer fails without good cause to furnish such information to the Department on demand, House Bill 1442 provides that they are guilty of nonfeasance in office.

Secs. 34-157—34-160. - Reserved.



CITY OF HOPEWELL CITY COUNCIL ACTION FORM

Strategic Operating Plan Vision Theme:

- ☐ Civic Engagement
☐ Culture & Recreation
☐ Economic Development
☐ Education
☐ Housing
☐ Safe & Healthy Environment
☒ None (Does not apply)

Order of Business:

- ☐ Consent Agenda
☒ Public Hearing
☐ Presentation-Boards/Commissions
☐ Unfinished Business
☐ Citizen/Councilor Request
☐ Regular Business
☐ Reports of Council Committees

Action:

- ☐ Approve and File
☐ Take Appropriate Action
☐ Receive & File (no motion required)
☒ Approve Ordinance 1st Reading
☐ Approve Ordinance 2nd Reading
☐ Set a Public Hearing
☐ Approve on Emergency Measure

COUNCIL AGENDA ITEM TITLE: Proposed Transient Occupancy Tax Ordinance

ISSUE: Amendments to the Transient Occupancy Tax Ordinance

RECOMMENDATION: Conduct the public hearing, approve the amendments to the proposed transient occupancy tax ordinance.

TIMING: Public Hearing scheduled for September 26, 2023

BACKGROUND: Legislative updates to the existing Transient Occupancy Tax Ordinance in accordance with statutory changes to the Virginia Code, 1950 as amended.

ENCLOSED DOCUMENTS:

- Proposed Transient Occupancy Tax Ordinance

STAFF: Danielle F. Smith, City Attorney

FOR IN MEETING USE ONLY

MOTION: _____

Roll Call**SUMMARY:**

Y	N	
<input type="checkbox"/>	<input type="checkbox"/>	Councilor Rita Joyner, Ward #1
<input type="checkbox"/>	<input type="checkbox"/>	Councilor Michael Harris, Ward #2
<input type="checkbox"/>	<input type="checkbox"/>	Mayor John B. Partin, Ward #3
<input type="checkbox"/>	<input type="checkbox"/>	Vice Mayor Jasmine Gore, Ward #4

Y	N	
<input type="checkbox"/>	<input type="checkbox"/>	Councilor Janice Denton, Ward #5
<input type="checkbox"/>	<input type="checkbox"/>	Councilor Brenda Pelham, Ward #6
<input type="checkbox"/>	<input type="checkbox"/>	Councilor Dominic Holloway, Sr., Ward #7

PH-3



CITY OF HOPEWELL CITY COUNCIL ACTION FORM

Strategic Operating Plan Vision Theme:

- ☐ Civic Engagement
- ☐ Culture & Recreation
- ☐ Economic Development
- ☐ Education
- ☐ Housing
- ☐ Safe & Healthy Environment
- ☒ None (Does not apply)

Order of Business:

- ☐ Consent Agenda
- ☒ Public Hearing
- ☐ Presentation-Boards/Commissions
- ☐ Unfinished Business
- ☐ Citizen/Councilor Request
- ☐ Regular Business
- ☐ Reports of Council Committees

Action:

- ☐ Approve and File
- ☐ Take Appropriate Action
- ☐ Receive & File (no motion required)
- ☒ Approve Ordinance 1st Reading
- ☐ Approve Ordinance 2nd Reading
- ☐ Set a Public Hearing
- ☐ Approve on Emergency Measure

COUNCIL AGENDA ITEM TITLE: FY24 Operating Budget

ISSUE: Public hearing amended Sewer Connection Ordinance (fee structure changes)

RECOMMENDATION: Conduct the public hearing and approve amended ordinance on 1st reading

TIMING: Public Hearing scheduled for September 26, 2023

BACKGROUND: Amendments made to the existing sewer connection fee ordinance to reflect new fees for sewer connections where there was a previously existing residential structure.

ENCLOSED DOCUMENTS:

- Proposed Sewer Use Fee

STAFF: Danielle F. Smith, City Attorney

FOR IN MEETING USE ONLY

MOTION: _____

Roll Call**SUMMARY:**

Y	N	
<input type="checkbox"/>	<input type="checkbox"/>	Councilor Rita Joyner, Ward #1
<input type="checkbox"/>	<input type="checkbox"/>	Councilor Michael Harris, Ward #2
<input type="checkbox"/>	<input type="checkbox"/>	Mayor John B. Partin, Ward #3
<input type="checkbox"/>	<input type="checkbox"/>	Vice Mayor Jasmine Gore, Ward #4

Y	N	
<input type="checkbox"/>	<input type="checkbox"/>	Councilor Janice Denton, Ward #5
<input type="checkbox"/>	<input type="checkbox"/>	Councilor Brenda Pelham, Ward #6
<input type="checkbox"/>	<input type="checkbox"/>	Councilor Dominic Holloway, Sr., Ward #7

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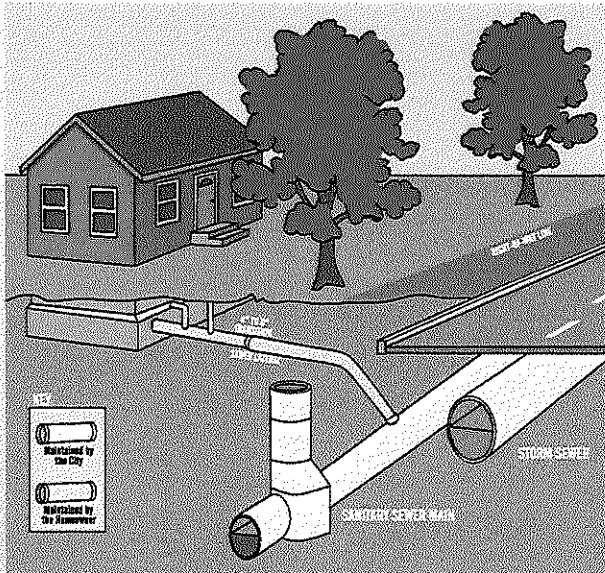
SEWER USE CONNECTION FEE ORDINANCE AMENDMENTS

HOPEWELL CITY COUNCIL

D. SMITH

CITY ATTORNEY

CHANGES



- WHEN A PROPERTY OWNER DIVIDES A COMMONLY OWNED PARCEL INTO 2 OR MORE LOTS...AND
- WHERE THERE IS A SEWER LINE AVAILABLE...AND
- WHERE THE SECONDARY LOT DOES NOT HAVE A SEWER MAIN LINE, THE PROPERTY OWNER'S FEE WILL BE **\$2026 PER NEWLY CREATED LOT, TO BE PAID IN ADVANCE.**

CHANGES



- WHERE A PROPERTY OWNER PURCHASES A LOT WHICH HAS/HAD A STRUCTURE WITH AN EXISTING SEWER LINE
- OWNER REMOVES THE STRUCTURE
- **OWNER'S FEE SHALL BE \$250 FOR CONNECTIVITY FROM THE INITIAL LOT TO THE MAIN SEWER LINE.**



THE END

Sec. 31-10.2. Sewer connection fees.

(a) *Application for sewer service.* A property owner desiring sewer service to a parcel of land, or required to connect to the sewer system, must submit an application to the director, or his designee, along with the applicable sewer connection fee.

(b) *Fees.*

(1) *Connection fee.* A property owner who connects to the sewer system shall be charged a connection fee established by city council. The sewer connection fee is to recapture the capital costs for the infrastructure necessary to serve the demands of the property. The fee is based on the size of the water meter that serves the property, or if the property does not receive water service, the size of the water meter that would serve the property if it received water service. The approved fee structure shall be applied effective July 1, 2009 to all new sanitary sewer connections not previously issued a building permit.

The owner of lot in a plated subdivision that has been approved by city council may receive a fifty (50) percent discount on the sewer connection fee established by city council by prepaying the connection fee for that lot, no later than December 31, 2009. To prepay the connection fee on the lot, the owner of the lot shall pay the current connection fee, less a fifty (50) percent discount to the code enforcement department. The prepayment of the connection fee shall be valid for a period of five (5) years, but not to be transferable to the subsequent owner of the lot.

(2) *Engineering and inspection fees.* The property owner is required to install the sanitary sewer lateral lines necessary to connect to the sewer main line. The line installed by the property owner shall comply with latest recognized version of the International Plumbing Code. The portion of the service lateral connection in the public right-of-way must meet the specifications as determined by the city engineer. Design plans for the sanitary sewer outfall line and service lateral connection lying in the right-of-way shall be approved and permitted by the city engineer prior to the commencement of installation. Once installation is complete, code enforcement officials will inspect the line and connection. The property

owner may be charged a fee for such inspection(s). City council shall adopt the inspection fees and charges.

(c) *Property owner responsible for certain costs.*

(1) *Cost for extending main line.* When the sewer main line is not available to the property, the property owner shall pay to the city, in advance, the full cost for extending the main line to the property.

- a. Such costs shall include any land or utility easement acquisition costs that the city may incur if the line cannot be run along a public right-of-way to the property.
- b. The cost of extending the sewer line to the property shall be set at a per linear foot as established by city council.
- c. Should the director determine that there is a need for an oversized line to be installed, or a line longer than may be necessary to serve the property, the additional costs for the augmented line size or length shall not be charged to the property owner.
- d. If the sewer main line extension work is to be done under a city issued permit and contract agreement, the property owner shall be responsible for the full cost to perform the scope of work as shown on an approved plan. The city may require the property owner to enter into a development agreement and a surety to cover the proposed work.
- e. **Where a property owner divides a commonly owned parcel into two or more new lots and a sewer main line is available on the initial lot and where the secondary lot does not have a sewer main line, the property owner shall incur, from the city, a fee of \$550 which represent the cost for extending the main line to the newly created lot only.**
- f. **Where a property owner purchases a lot or parcel of land which has or had a structure with an existing sewer line, and the owner or builder removes the structure, the owner or builder shall incur a new sewer connection fee of \$550 for connectivity to the main sewer line.**

-
- g. Where a property owner divides a commonly owned parcel into two or more new lots and a sewer main line is not available on the initial lot and where the secondary lot also does not have a sewer main line, the property owner shall pay to the city, in advance, the full cost for extending the main line to the newly created lot.**
- (2) Developers of new subdivisions shall install all sewer lines and facilities internal to the development in accordance with the subdivision ordinance, the design specifications as determined by the city engineer, and development agreements approved by the city engineer.
- (d) *Credit allowed for oversized or extended internal line.*
- (1) If the city requires the property owner to install a sewer line larger than is necessary to serve the development or use proposed for the property, to run a line further, or to make any other improvements not necessitated by the development or use, the property owner shall receive a credit for such augmented costs which may be applied against the connection fee. The amount of the credit shall be the difference in costs of the sewer line proposed by the property owner and the augmented requirements imposed by the city. The director shall establish the amount of the credit based on cost estimates provided by the city engineer.
- (e) *Installment payments.* Upon written request, any property owner may enter into an agreement with the city, at the sole discretion of the city, to pay the connection fee for the property in up to twelve (12) equal monthly installments which shall include a service fee of one and one-half (1.5) percent per month.
- (f) *Exemption from connection fee.* No connection fee shall be charged for a connection where a three-quarter ($\frac{3}{4}$) of an inch or smaller water meter is installed that serves any business that is located in an authorized enterprise zone as designated by the Commonwealth of Virginia if the business is connecting to the city sewer system for the first time.
- (g) *Change in use.* Should the zoning use, use group, or occupancy change to a more intensive use, or the existing use be expanded or converted to a more intensive use and new construction or reconstruction of existing structures occurs, a new connection fee shall be required.

SEWER (WASTEWATER) CONNECTION FEES

Wastewater Connection Fees by Size		
Meter Size	Equivalency Ratio*	Connection Fee
½ and ¾ inch	1.50	\$ 2,026.00
1 inch	2.50	5,065.00
1½ inch	5.00	10,130.00
2 inch	8.00	16,208.00
3 inch	16.00	32,416.00
4 inch	25.00	50,650.00
6 inch	50.00	101,300.00
8 inch	80.00	162,080.00
10 inch	115.00	232,990.00

For those connections larger than six (6) inches and/or projected average daily flows in excess of one hundred thousand (100,000) gallons per day, applications must be made directly to the HRWTF director who will evaluate the proposed connection and based on equivalency size ratios determine the cost.

WASTEWATER CONNECTION FEES BY TYPE

Allocated on Basis of Equivalent Residential Unit*		
Residential single dwelling	1	\$2,026.00
Residential duplex (per unit)	1	2,026.00
Hotel or motel (per room)	.5	1,013.00
Restaurant	3	6,078.00
Hospital (per bed)	2	4,052.00
Nursing home (per bed)	.5	1,013.00
Laundromat (per washer)	.2	405.00
Church	1	2,026.00
Theater	2	4,052.00
Service station	1	2,026.00
Service station (car wash)	2	4,052.00
Office building (per 5,000 square feet)	1	2,026.00
Jails (per bed)	.5	1,013.00

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*Equivalent residential unit is a measure where one (1) unit is equivalent to wastewater effluent from one (1) home, which is two hundred fifty (250) gallons per day per home. This amount is based on most wastewater pollution textbooks estimating an average of one hundred (100) gallons per day per person and the national home average of 2.5 persons.

(Ord. No. 2012-08 , 9-12-12)

PH-4



CITY OF HOPEWELL CITY COUNCIL ACTION FORM

Strategic Operating Plan Vision Theme:

- ☐ Civic Engagement
- ☐ Culture & Recreation
- ☐ Economic Development
- ☐ Education
- ☐ Housing
- ☐ Safe & Healthy Environment
- ☒ None (Does not apply)

Order of Business:

- ☐ Consent Agenda
- ☒ Public Hearing
- ☐ Presentation-Boards/Commissions
- ☐ Unfinished Business
- ☐ Citizen/Councilor Request
- ☐ Regular Business
- ☐ Reports of Council Committees

Action:

- ☐ Approve and File
- ☐ Take Appropriate Action
- ☐ Receive & File (no motion required)
- ☒ Approve Ordinance 1st Reading
- ☐ Approve Ordinance 2nd Reading
- ☐ Set a Public Hearing
- ☐ Approve on Emergency Measure

COUNCIL AGENDA ITEM TITLE: FY24 Operating Budget

ISSUE: 2023 Amendment Virginia Code §2.2-3704.1 requires the posting of rights and responsibilities by state and local public bodies of a plain English explanation for the FOIA request procedure and local governing body must establish a written policy as to how the public body assesses charges for accessing and searching for requested records (§2.2-3704.(1)(A)(7)).

RECOMMENDATION:

TIMING: Regular Meeting on September 2023.

BACKGROUND: 2023 statutory changes to Virginia Code §2.2-3704.1 require that city council create a written policy that governs the assessment of FOIA fees for citizens.

ENCLOSED DOCUMENTS:

- Virginia Code Section 2.2-3704.1

STAFF: Danielle F. Smith, City Attorney

FOR IN MEETING USE ONLY

MOTION: _____

SUMMARY:

Y N

- ☐ Councilor Rita Joyner, Ward #1
- ☐ Councilor Michael Harris, Ward #2
- ☐ Mayor John B. Partin, Ward #3
- ☐ Vice Mayor Jasmine Gore, Ward #4

Y N

- ☐ Councilor Janice Denton, Ward #5
- ☐ Councilor Brenda Pelham, Ward #6
- ☐ Councilor Dominic Holloway, Sr., Ward #7



FOIA Policy

Presentation to Hopewell City Council

By: Danielle Smith, City Attorney

Reason for Policy Change

- ▶ HB 307 amending §§ 2.2-3704 and 2.2-3704.1 (2022)
- ▶ Provides that a public body subject to FOIA shall make all reasonable efforts to supply records requested by a citizen at the lowest possible cost; however, no such public body shall charge for the provision of certain scholastic records, outlined in the bill. **The bill requires a public body, prior to conducting a search for records, to notify the requester in writing of the public body's right to make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for requested records** and inquire of the requester whether he would like to request a cost estimate in advance of the supplying of the requested records. Finally, the bill provides that any costs incurred by a public body in estimating the cost of supplying requested records shall be applied toward the overall charges to be paid by the requester for the supplying of such records.

Current Policy

- ▶ City of Hopewell currently charges the hourly rate of the salaried employee who retrieves/extracts/secures the requested documentation.
- ▶ Example:
- ▶ John Doe earns 40k annually equaling \$19.23 per hour. A FOIA request requires him to spend 2 hours retrieving documentation. The invoice will equal \$38.46.

HB 307 Requirements & Options

- ▶ Every locality will need to decide their FOIA policy and post the same on the website.
- ▶ Keep the policy the same.
- ▶ Charge a flat rate per hour
- ▶ Charge a flat rate per page.

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The End

VIRGINIA ACTS OF ASSEMBLY -- 2023 SESSION

CHAPTER 599

An Act to amend and reenact § 2.2-3704.1 of the Code of Virginia, relating to the Virginia Freedom of Information Act; posting of fee policy.

[H 2007]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-3704.1 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-3704.1. Posting of notice of rights and responsibilities by state and local public bodies; assistance by the Freedom of Information Advisory Council.

A. All state public bodies subject to the provisions of this chapter, any county or city, any town with a population of more than 250, and any school board shall make available the following information to the public upon request and shall post a link to such information on the homepage of their respective official public government websites:

1. A plain English explanation of the rights of a requester under this chapter, the procedures to obtain public records from the public body, and the responsibilities of the public body in complying with this chapter. For purposes of this section, "plain English" means written in nontechnical, readily understandable language using words of common everyday usage and avoiding legal terms and phrases or other terms and words of art whose usage or special meaning primarily is limited to a particular field or profession;

2. Contact information for the FOIA officer designated by the public body pursuant to § 2.2-3704.2 to (i) assist a requester in making a request for records or (ii) respond to requests for public records;

3. A general description, summary, list, or index of the types of public records maintained by such public body;

4. A general description, summary, list, or index of any exemptions in law that permit or require such public records to be withheld from release;

5. Any policy the public body has concerning the type of public records it routinely withholds from release as permitted by this chapter or other law; and

6. The following statement: "A public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for the requested records and shall make all reasonable efforts to supply the requested records at the lowest possible cost. No public body shall impose any extraneous, intermediary, or surplus fees or expenses to recoup the general costs associated with creating or maintaining records or transacting the general business of the public body. Any duplicating fee charged by a public body shall not exceed the actual cost of duplication. Prior to conducting a search for records, the public body shall notify the requester in writing that the public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for requested records and inquire of the requester whether he would like to request a cost estimate in advance of the supplying of the requested records as set forth in subsection F of § 2.2-3704 of the Code of Virginia."; and

7. A written policy (i) explaining how the public body assesses charges for accessing or searching for requested records and (ii) noting the current fee charged, if any, for accessing and searching for such requested records.

B. Any state public body subject to the provisions of this chapter and any county or city, and any town with a population of more than 250, shall post a link on its official public government website to the online public comment form on the Freedom of Information Advisory Council's website to enable any requester to comment on the quality of assistance provided to the requester by the public body.

C. The Freedom of Information Advisory Council, created pursuant to § 30-178, shall assist in the development and implementation of the provisions of subsection A, upon request.

Danielle F. Smith

From: Marta Leon
Sent: Thursday, August 10, 2023 3:00 PM
To: Danielle F. Smith
Subject: FW: FOIA Fees - Add to June CC meeting agenda
Attachments: Virginia Acts of Assembly - 2023 (Amendment to 2.2-3704.1.pdf)

Just wanted to circle back on this one.

From: Danielle F. Smith <dsmith@hopewellva.gov>
Sent: Thursday, June 1, 2023 3:01 PM
To: Concetta Manker <cmanker@hopewellva.gov>
Cc: Marta Leon <mleon@hopewellva.gov>
Subject: FOIA Fees - Add to June CC meeting agenda

Dr. Manker,

As of March 26, 2023, there has been a law change to Virginia Code section 2.2-3704.1 with regard to FOIA. The amendments to the Code requires Hopewell to do two things:

1. Update the language available to the public that explains the current process for FOIA requests (Our office has already sent the slight tweaks to the Floyd for inclusion on the website).
2. City Council (the public body) will need to decide how and how much to charge for FOIA requests.

The amended code section is attached to this email. To assist in the creation of a new FOIA policy, I have included the language from other jurisdictions that has developed a fee schedule and changed their FOIA policy, which has been published to their website. City Council may decide which one works best for Hopewell.

Blacksburg, Virginia

City policy on charges for accessing or searching for requested records as required by Virginia Code § 2.2-3704.1. The town does not have a fixed charge for accessing or searching for requested records. Charges for accessing or searching for requested records are based on the hourly rate of the person searching for the records in question. To keep costs down, the town attempts to use the lowest paid staff members capable of retrieving the requested records in responding to a request. However, in situations where a staff member is required to search through his or her own email and files, the staff member will search for the requested records and the search charge will be based on that employee's hourly rate.

Colonial Heights, Virginia

Colonial Heights uses a flat rate approach and charges \$40/hour (in 15 minute increments) to process a request. The \$40 per hour rate applies to the time to research a request; retrieve records; and review them, including making redactions. The City policy states that the first five pages copied are free, and additional copies are 10 cents a page. However, if a request can be responded to in a short amount of time (perhaps 15 minutes), The City Attorney advises the city staff person to waive charging a fee. Also, typically we waive charging the press for spread sheets which provide information on employee positions, salaries, tenure, etc.

I don't anticipate that this matter will be very involved or complex. Let me know if it can be added so I can work to bring Hopewell into compliance with the amended Virginia Code section.

Colonial Heights uses a flat rate approach and charges \$40/hour (in 15 minute increments) to process a request. (The rate was increased from \$20/hour just three months ago.) The \$40 per hour rate applies to the time to research a request; retrieve records; and review them, including making redactions. The City policy states that the first five pages copied are free, and additional copies are 10 cents a page.

However, if a request can be responded to in a short amount of time (perhaps 15 minutes), I advise the City staff person to waive charging a fee. Also, typically we waive charging the press for spread sheets we create to provide information on employee positions, salaries, tenure, etc. (As a practical matter, it is not worth picking a fight with the press.)

Danielle Ferguson Smith

City Attorney

City of Hopewell

300 N. Main Street

Hopewell, Virginia 23860

(804) 541-2247 ext. 135

(804) 415-4001 facsimile

REGULAR BUSINESS

R-1



CITY OF HOPEWELL CITY COUNCIL ACTION FORM

Strategic Operating Plan Vision Theme:

- ☐ Civic Engagement
- ☐ Culture & Recreation
- ☐ Economic Development
- ☐ Education
- ☐ Housing
- ☐ Safe & Healthy Environment
- ☐ None (Does not apply)

Order of Business:

- ☐ Consent Agenda
- ☐ Public Hearing
- ☐ Presentation-Boards/Commissions
- ☐ Unfinished Business
- ☐ Citizen/Councilor Request
- ☐ Regular Business
- ☐ Reports of Council Committees

Action:

- ☐ Approve and File
- ☐ Take Appropriate Action
- ☐ Receive & File (no motion required)
- ☐ Approve Ordinance 1st Reading
- ☐ Approve Ordinance 2nd Reading
- ☐ Set a Public Hearing
- ☐ Approve on Emergency Measure

COUNCIL AGENDA ITEM TITLE: Appropriate \$324,110.50 of which \$29,464.60 matching portion to the Fire Department budget to procure new SCBA.

ISSUE: Hopewell Fire Department's Self Contained Breathing Apparatus (SCBA) are aging and need replacement. Appropriation is needed for the Fire Department to receive the AFG grant, and procure the SCBAs.

RECOMMENDATION: Staff recommends that Council appropriate \$324,110.50 including the City's \$29,464.60 matching portion, to the Fire Department budget to procure new SCBAs.

TIMING: Council action is requested on 9/26/23

BACKGROUND: SCBA's are a critical component of Fire Department operations, as they allow us to operate in IDLH (immediately dangerous to life and health) environments. This includes everything from fires to hazardous materials incidents, and many things in between. The Fire Department's current deployment of SCBAs are well worn, reaching end of life, and are no longer compliant with the current NFPA national standard. They are also no longer compatible with all of our mutual aid partners. All of our neighbors have moved on to the new generation of packs and bottles, meaning that we can no longer share equipment on the scene of a fire. This is critical given the amount of mutual aid that we depend on. This grant will replace all of our current packs and replace the spare bottles that we carry on our trucks to re-supply on scene.

ENCLOSED DOCUMENTS: FEMA AFG Award Package

SUMMARY:

Y N

- ☐ ☐ Councilor Rita Joyner, Ward #1
- ☐ ☐ Councilor Michael Harris, Ward #2
- ☐ ☐ Mayor John B. Partin, Ward #3
- ☐ ☐ Vice Mayor Jasmine Gore, Ward #4

Y N

- ☐ ☐ Councilor Janice Denton, Ward #5
- ☐ ☐ Councilor Brenda Pelham, Ward #6
- ☐ ☐ Councilor Dominic Holloway, Sr., Ward #7

STAFF: Benjamin Ruppert, Fire Chief,

FOR IN MEETING USE ONLY

MOTION: _____

Roll Call

SUMMARY:

- | Y | N | |
|--------------------------|--------------------------|-----------------------------------|
| <input type="checkbox"/> | <input type="checkbox"/> | Councilor Rita Joyner, Ward #1 |
| <input type="checkbox"/> | <input type="checkbox"/> | Councilor Michael Harris, Ward #2 |
| <input type="checkbox"/> | <input type="checkbox"/> | Mayor John B. Partin, Ward #3 |
| <input type="checkbox"/> | <input type="checkbox"/> | Vice Mayor Jasmine Gore, Ward #4 |

- | Y | N | |
|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Councilor Janice Denton, Ward #5 |
| <input type="checkbox"/> | <input type="checkbox"/> | Councilor Brenda Pelham, Ward #6 |
| <input type="checkbox"/> | <input type="checkbox"/> | Councilor Dominic Holloway, Sr., Ward #7 |

Award Letter

U.S. Department of Homeland Security
Washington, D.C. 20472

Effective date: 08/25/2023



Michael Terry
CITY OF HOPEWELL
150 W. RANDOLPH ROAD
HOPEWELL, VA 23860

EMW-2022-FG-09252

Dear Michael Terry,

Congratulations on behalf of the Department of Homeland Security. Your application submitted for the Fiscal Year (FY) 2022 Assistance to Firefighters Grant (AFG) Grant funding opportunity has been approved in the amount of \$294,645.90 in Federal funding. As a condition of this grant, you are required to contribute non-Federal funds equal to or greater than 10.0% of the Federal funds awarded, or \$29,464.60 for a total approved budget of \$324,110.50. Please see the FY 2022 AFG Notice of Funding Opportunity for information on how to meet this cost share requirement.

Before you request and receive any of the Federal funds awarded to you, you must establish acceptance of the award through the FEMA Grants Outcomes (FEMA GO) system. By accepting this award, you acknowledge that the terms of the following documents are incorporated into the terms of your award:

- Summary Award Memo - included in this document
- Agreement Articles - included in this document
- Obligating Document - included in this document
- 2022 AFG Notice of Funding Opportunity (NOFO) - incorporated by reference

Please make sure you read, understand, and maintain a copy of these documents in your official file for this award.

Sincerely,

A handwritten signature in black ink, appearing to read "P. Williams", written in a cursive style.

PAMELA WILLIAMS
Assistant Administrator, Grant Programs

R-2



CITY OF HOPEWELL CITY COUNCIL ACTION FORM

Strategic Operating Plan Vision Theme:

- ☐ Civic Engagement
- ☐ Culture & Recreation
- ☐ Economic Development
- ☐ Education
- ☐ Housing
- ☐ Safe & Healthy Environment
- ☐ None (Does not apply)

Order of Business:

- ☐ Consent Agenda
- ☐ Public Hearing
- ☐ Presentation-Boards/Commissions
- ☐ Unfinished Business
- ☐ Citizen/Councilor Request
- ☐ Regular Business
- ☐ Reports of Council Committees

Action:

- ☐ Approve and File
- ☒ Take Appropriate Action
- ☐ Receive & File (no motion required)
- ☐ Approve Ordinance 1st Reading
- ☐ Approve Ordinance 2nd Reading
- ☐ Set a Public Hearing
- ☐ Approve on Emergency Measure

COUNCIL AGENDA ITEM TITLE: Replacement of Gravity Thickener Equipment

ISSUE: Critical solids conditioning/processing equipment failure at the Hopewell Water Renewal facility.

RECOMMENDATION: Staff recommends City Council to appropriate a total of \$1,000,000 from Hopewell Water Renewal (HWR) Fund 32 excess revenue (cash account) to fund the project and approve budget resolution.

TIMING: Action is requested at September 26, 2023 regular council meeting.

BACKGROUND: HWR has two Gravity Thickeners at the facility that are part of the sludge conditioning process before dewatering and ultimately the incinerator (or landfill when needed). We only have 1 in service right now and this is creating a severe bottleneck in the sludge removal process. Without the other thickener in service, we routinely have to recycle solids from the thickener in service to the head of the domestic plant. Essentially, treating the same solids more than once. Replacement/repair of this equipment is critical to plant operations and environmental compliance as well as redundancy and resiliency of the treatment facility. Through research of communication with the manufacturer and the previous Operation's Manager as well as the previous Director of HWR, this project was originally quoted over five years ago for repair.

ENCLOSED DOCUMENTS: Minutes from Special Commission Meeting held on September 7, 2023; Frim Proposal from Evoqua Water Technologies for equipment and installation; Sole Source letter from Evoqua Water Technologies.

SUMMARY:**Y N**

- ☐ ☐ Councilor Rita Joyner, Ward #1
- ☐ ☐ Councilor Michael Harris, Ward #2
- ☐ ☐ Mayor John B. Partin, Ward #3
- ☐ ☐ Vice Mayor Jasmine Gore, Ward #4

Y N

- ☐ ☐ Councilor Janice Denton, Ward #5
- ☐ ☐ Councilor Brenda Pelham, Ward #6
- ☐ ☐ Councilor Dominic Holloway, Sr., Ward #7

STAFF: Dickie Thompson, Hopewell Water Renewal

FOR IN MEETING USE ONLY

MOTION: _____

Roll Call

SUMMARY:

- | Y | N | |
|--------------------------|--------------------------|-----------------------------------|
| <input type="checkbox"/> | <input type="checkbox"/> | Councilor Rita Joyner, Ward #1 |
| <input type="checkbox"/> | <input type="checkbox"/> | Councilor Michael Harris, Ward #2 |
| <input type="checkbox"/> | <input type="checkbox"/> | Mayor John B. Partin, Ward #3 |
| <input type="checkbox"/> | <input type="checkbox"/> | Vice Mayor Jasmine Gore, Ward #4 |

- | Y | N | |
|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Councilor Janice Denton, Ward #5 |
| <input type="checkbox"/> | <input type="checkbox"/> | Councilor Brenda Pelham, Ward #6 |
| <input type="checkbox"/> | <input type="checkbox"/> | Councilor Dominic Holloway, Sr., Ward #7 |

**A RESOLUTION
AMENDING THE FISCAL YEAR 2023-2024 OPERATING BUDGET**

WHEREAS, the City Council of the City of Hopewell accepted and adopted its original budget on June 30, 2023 for FY24; and

WHEREAS, the Hopewell Water Renewal Commission held a Special Meeting on September 07, 2023 to discuss Gravity Thickener Replacement; and

WHEREAS, the Hopewell Water Renewal requests an emergency purchase of Gravity Thickener to prevent the plant from recycling waste solids throughout the plant and to improved performance and treatment of both industrial and domestic wastewaters; and

WHEREAS, the Hopewell Water Renewal Commission voted 7-0 to Replace the Gravity Thickener; and

WHEREAS, the Hopewell Water Renewal Commission approves \$1M to be allocated from the miscellaneous/excess revenue from HWR Facility Fund (Fund 32) for this project; and

HWR Facility Fund – FUND 32	AMOUNT
Appropriations	
1. Gravity Thickener Replacement	\$1,000,000.00
Total	\$1,000,000.00

ADOPTED BY THE CITY COUNCIL OF THE CITY OF HOPEWELL ON SEPTEMBER 26, 2023.

Witness this signature and seal

Johnny Partin, Mayor
City of Hopewell

VOTING AYE:
VOTING NAY:
ABSTAINING:
ABSENT:

ATTEST:

Brittani Williams, City Clerk
City of Hopewell



To:

Date 8/23/2023

Dickie Thompson,

Hopewell Water Renewal

To whom it may concern:

This is to confirm that Evoqua Water Technologies is the sole source for all Envirex™, US Filter™, Siemens™.

We are the original equipment manufacturer for all legacy brands Envirex™, US Filter™, Siemens™, Thus, retain all drawings and proprietary rights on this equipment.

Heyward Incorporated of Virginia is our Sales Representative for your area.

Nobody else is legally authorized to sell, solicit or manufacture our products in your area.

If you should have any questions regarding this matter, please feel free to contact me.

Sincerely,

A handwritten signature in black ink on a light blue rectangular background. The signature reads "Jeremy Finnel" in a cursive script.

Jeremy Finnel

Evoqua Water

2607 N Grandview Blvd. Suite 130

Waukesha, WI 53188

Tel: 262-521-8468

Fax: 262-521-8272

FIRM PROPOSAL

REPLACEMENT GRAVITY THICKENER HOPEWELL, VA

Quotation No: 431592 – 8/10/2023

Questions related to this Proposal should be directed to Evoqua's area sales representative:

SOUTHEAST REGIONAL SALES REPRESENTATIVE

Jeremy Finnel
Evoqua Water Technologies
N19 W23933 Ridgeview Drive Suite 200
Waukesha, WI 53188
Phone: +1 (262) 521-8202
Email: Jeremy.finnel@evoqua.com
www.evoqua.com



To: City of Hopewell, VA

1. SUMMARY

Evoqua Water Technologies LLC (Evoqua) proposes to furnish the equipment specified in this Quotation in accordance to the scope of supply described in this quotation and subject to the Clarifications/Exceptions and Standard Terms of Sale stated herein.

Addenda received: 0

The information in this quotation is confidential and/or proprietary and has been prepared solely for the recipient's use in considering the purchase of the equipment and/or services described herein. Transmission of all or any part of this information to others, or use by the recipient, for other purposes is expressly prohibited without Evoqua's prior written consent.

ITEM & DESCRIPTION	PRICE
Gravity Thickener Equipment	477,206 USD
Install	452,768 USD

Evoqua's price includes only the specific items detailed in this quotation. Items not specifically identified herein are to be furnished by others. Please refer to the excluded items in Section 4 of this quotation for a list of items to be furnished by others.

A. OPTIONS: An order for items quoted as an extra cost option, if any, will be accepted only when included with the basic equipment order.

B. FREIGHT: Pricing is FCA shipping point with standard freight allowed to the job site. Our price does not include any costs for unloading, transporting on the site, phased shipments or storage.

C. QUOTATION VALIDITY: This quotation is valid for a period of sixty (60) days unless extended in writing by Evoqua. Due to current raw material price fluctuation, Evoqua reserves the right to re-quote the equipment proposed herein after that time.

Due to volatility in material costs, prices quoted in this proposal will be adjusted to reflect changes in the Metal and Metal Products Index (MMPI) published by the U.S. Department of Labor, Bureau of Labor Statistics. The most recent published MMPI is 314.4(P) for June 2023. If the MMPI exceeds 320.6 at the time the Equipment is released for manufacture, then the price will be increased by the same percentage as the MMPI exceeds 314.4.

Further Evoqua's price does not account for increased costs, delays and inefficiencies associated with current regulations and guidelines concerning COVID-19. Should these, or any additional, restrictions be implemented by any governing body, the CDC, or the customer or user of the Equipment to address COVID-19, Evoqua reserves the right to request a change order to the extent its costs or time for performance are increased by additional restrictions.

D. FIELD SERVICES: Evoqua's pricing includes the services of a factory field service technician for checking the installed equipment and instruction of Owner's personnel; all of which shall be performed over a total of two (2) trip with three (3) days on site per clarifier.

E. SERVICE MANUALS: Our pricing includes an electronic version of the operation and maintenance (O&M) manual as an Adobe PDF file format only. If requested, Evoqua will supply hard copies of the service manual at the customer's expense. Drawings will be supplied in an unchangeable TIF, bitmap, or PDF file format only. The rights to the content of Evoqua O&M manuals and drawings belong solely to Evoqua and Evoqua reserves the right to make changes to content at any time.

F. PAYMENT AND PRICE TERMS: The terms of payment are net 30 in accordance with the following milestones:

- 20% on order
- 20% on drawing submittal delivery
- 20% on release for fabrication
- 20% on shipment of equipment or offer to ship
- 20% completed installation

G. CANCELLATION POLICY: If Evoqua is issued an order and the Buyer cancels or suspends its order for any reason other than Evoqua's breach, the Buyer shall promptly pay Evoqua for work performed prior to cancellation or suspension and any other costs incurred by Evoqua as a result of such cancellation or suspension. At a minimum, cancellation after executed contract will result in a cancellation fee of 10% of the total order value.

Evoqua's prices are exclusive of any taxes. If this project is not subject to sales or use tax, please issue a Tax-Exempt Certificate with any ensuing purchase order (P.O.). If applicable, please provide a copy of payment bond information with the P.O. With no exemption or if this project is subject to sales or use tax, the Purchaser will be invoiced for taxes at the then-current rate of sales, use or other tax for the jobsite location.

2. DRAWING AND SHIPPING INFORMATION

Evoqua will furnish shop drawing submittals and equipment per the following project schedule:

- Submittal Drawings: Within 18 to 20 weeks from the date of final agreement by both parties.
- Submittal Drawing Reviews/Approvals: Within 4 weeks from Evoqua's delivery of Submittal Drawings.
- Shipment of Equipment: Within 22 to 24 weeks after approval of Submittal Drawings.
- Installation: Within 4-6 weeks from delivery of equipment.

Evoqua has provided typical standard times and shipment dates. Actual times will be provided upon receipt of a Purchase Order based upon current backlog. Evoqua will work closely with the General Contractor and/or Engineer to provide delivery dates to meet the overall project schedule as possible.

If Submittal Drawing Reviews/Approvals are not received by Evoqua in accordance with the project schedule noted above, Evoqua shall be entitled to a reasonable extension of the *Shipment of Equipment* times and/or a reasonable increase in the contract price to cover costs incurred because of Submittal Drawing Review/Approval delays unless the delay is the fault of Evoqua.

3. EQUIPMENT SCOPE

The following equipment and services are included in Evoqua's scope of work:

No.	Description	Quantity
1.	95' diameter Gravity Thickener	1

GRAVITY THICKENER MECHANISM

EQUIPMENT

Evoqua proposes to furnish one (1) Envirex® Type H pier supported side-feed gravity thickener mechanism for installation in an existing concrete basins, 95'-0" diameter x 10'-0" SWD. The basin floor will pitch to the center at a slope of 2-3/4 on 12.

Equipment will consist of the following:

- Pony truss type access bridge with 1-1/4" aluminum grating walkway, mechanically fastened aluminum handrail, center service platform with 3/16" aluminum floor plate and aluminum toe plate
- Drive mechanism with micro-switch overload device and shear pin
- Center drive cage
- Center column
- Influent flocculation well supported from the platform
- Two (2) truss arms with plow blades, hopper scrapers and squeegees
- Influent pipe supports
- Associated anchor bolts and attachment bolts

EMBEDDED ITEMS

Embedded items included are:

- Center pier anchor bolt template
- Adhesive anchors for center pier
- Adhesive anchors for access bridge

WEIRS AND BAFFLES

Effluent weirs and baffles are not included in Evoqua's scope of supply.

SPARE PARTS

No spare parts are included.

No special tools are required for the installation or maintenance of this equipment.

ERECTION INFORMATION

Equipment for each mechanism will be shipped as follows:

Bridge One (1) section
 Center column One (1) section
 Center cage One (1) section
 Influent well Four (4) sections
 Truss arms One (1) section/each

Skimmer blades, squeegees, tie bars and baffle plates will be shipped loose for field assembly.

The handrail will be shipped in sections for field assembly.

The bridge will be approximately 44'-0" long and will weigh approximately 2,700 lbs.

The completely assembled drive will weigh approximately 7,440 lbs.

Because of the size and nature of this equipment, it will not be shipped completely boxed, crated or otherwise packaged.

SURFACE PROTECTION

Evoqua's price is based on the following surface protection, unless stated otherwise in this quotation:

- A. Submerged and non-submerged components will be hot-dip galvanized after fabrication per ASTM-A123.
- B. Shafting and exposed machined surfaces: solvent wiping, followed by one (1) coat of Evoqua's standard shop preservative.
- C. Wood, nonferrous materials, stainless steel, and galvanized surfaces: unpainted.
- D. Drive units and controls: manufacturer's standard.

Touch-up and all additional coats shall be furnished and applied by others at the site.

Prices are based on paints and surface preparations as outlined in this quotation. In the event an alternate paint system is selected, purchaser's order must advise of its selection. Evoqua will, at its sole discretion, either adjust its price as necessary to comply or ship the material unpainted if compliance is not possible due to price considerations, application problems or environmental controls.

ERECTION:

- Evoqua proposes to furnish labor, equipment and expendable materials to install the equipment purchased on this proposal.
- Evoqua is responsible for offloading the equipment supplied by Evoqua.
- Evoqua is responsible for removing items being replaced as described in this proposal. All items removed by Evoqua to be disposed of on site.
- Evoqua is responsible for installing supplied equipment by normal fabrication and welding procedures.
- Evoqua is responsible for providing the necessary construction equipment for erection (crane, welding machines, cutting equipment, etc.).

- The Purchaser shall be responsible to have clarifier drained and clean when Evoqua crew arrives on site.
- Work hours by Evoqua at the site shall be as determined by Evoqua. The purchaser shall not define working hours, number of work days per week or prohibit Evoqua from working evenings, week-ends, holidays, etc., when deemed to be advisable by Evoqua.

4. EXCLUDED ITEMS

The price from Evoqua includes only those items listed in this Quotation. The items listed below are excluded:

- Influent piping.
- FRP effluent weirs and scum baffles.
- Electrical, hydraulic, or pneumatic controls.
- Wiring of motors or controls, control panels, or panel supports.
- Piping, valves, wall sleeves, gates, drains.
- Floor grating, stairways, ladders, platforms, handrailing (except on bridge).
- Concrete, grout, mastic, sealing compounds, shims.
- Lubricants, grease piping, grease gun.
- Machinery or bearing supports, shims.
- Detail shop fabrication drawings.
- Tools or spare parts.
- Equipment offloading and installation of any kind.
- Modifications to existing equipment or structures.
- Supervisory services; laboratory, shop, or field testing.
- Underwriters Laboratory inspection of electrical controls.

5. CLARIFICATIONS/EXCEPTIONS

The equipment specified herein shall conform to the specification sections referenced in Section 1 of Evoqua's Quotation to the extent they are technically applicable to Evoqua's scope of supply as described in this Quotation and subject to the following clarifications:

Article, Section	Clarifications/Proposed Modifications
Influent Piping	Evoqua understands that the existing influent piping is to be re-used. Therefore, new influent piping will not be provided.

Evoqua's standard terms and conditions, including without limitation Evoqua's warranty obligations in Article 7 govern the purchase and sale of equipment, products, and related services, referred to in Evoqua's proposal. Evoqua's offer or acceptance is expressly conditioned on Buyer's assent to these terms. Evoqua rejects all additional or different terms in any of Buyer's forms or documents.

The Influent and Effluent criteria listed in the Bid Documents was used as the basis of design for equipment selection. Evoqua makes no express or implied performance warranty by offering equip-

ment under this specification, unless specifically included in Evoqua's proposal. System performance may be impacted by factors outside of Evoqua's control. These factors may include but are not limited to site conditions including variation in flows and loadings, operator inputs, temperature, pH, toxic or inhibitory substances, and failure or limitations of other unit processes.

6. ADDITIONAL FIELD SERVICES

Should the Purchaser feel that additional services will be required, they can be purchased from Evoqua. Additional services may be purchased at the per diem rate stated below.

Evoqua's price does not include service of a factory field service technician during the time of installation of the equipment items.

In the event Purchaser wishes to videotape the Evoqua field service personnel during start-up and/or field service, Purchaser must execute Evoqua's standard "Videotape Agreement" in which the Purchaser shall expressly waive any claim against Evoqua, for injury or damage caused by inaccuracies or errors in such videotape(s), and acknowledge that such videotaping is done by Purchaser at its sole risk.

TERMS GOVERNING FIELD SERVICES: Services of a factory field service technician to inspect installation and/or first operation of the products specified in the quotation can be furnished by Evoqua at the following rates:

- A. Supervision or consultation of a process service technician within the continental limits of the United States: \$1,400 per eight (8) hour day, Monday through Friday inclusive.
- B. Supervision or inspection of a field service technician within the continental limits of the United States: \$1,200 per eight (8) hour day, Monday through Friday inclusive. Overtime Monday through Friday and Saturday work is charged at time and one-half. Time worked on Sunday will be charged double time; time worked on U.S. Holidays will be charged triple time.
- C. Traveling, living and incidental expenses at cost, including shipping charges on tools and other equipment which the factory field service technician has shipped to the construction site.
- D. Travel time will be charged to and from Purchaser's construction site, and weekend or holiday travel request or required by Purchaser will be charged at the overtime rates.
- E. Rescheduling or cancellation of a field service trip once booked will incur the greater of either a \$1,500 cancellation or re-scheduling charge, or actual costs.

Rates shown above apply only to additional services performed within twelve (12) months from the date of Quotation. Additional services performed after twelve (12) months from the date of Quotation shall be subject to Evoqua's current rates at the time such service is provided. Except for the direct acts or omissions of the factory field service technician, the responsibility for the installation and/or first operation shall be Purchaser's. Evoqua will assume responsibility for workmen's compensation coverage of Evoqua employees only and will provide umbrella liability coverage during installation. All other insurance coverage and necessary materials to accomplish installation shall be provided by Purchaser.



Quotation No.: 431592

QUOTATION SUBMITTED BY EVOQUA WATER TECHNOLOGIES LLC

Signature below indicates acceptance of this quotation including the Standard Terms of Sale attached hereto and will act as the purchase order document between Evoqua Water Technologies LLC, the Seller, and the Buyer. The Standard terms of Sale shall form the complete and only set of terms for this order.

Accepted by Buyer:

Hopewell Water Renewal - City of Hopewell, Virginia
Company

Dickie Thompson
Printed Name

Interim Director
Title

Dickie Thompson
Signature

9/19/2023
Date

PO Box 969
Billing Address

231 Hummel Ross Rd
Shipping Address

Acknowledged by Seller:

Evoqua Water Technologies LLC
Company

Printed Name

Title

Signature

Date

Evoqua Water Technologies LLC
N19 W23993 Ridgeview Pkwy, Suite 200
Waukesha, WI 53188
Address

Please submit the signed proposal to TWEL@evoqua.com along with the Billing Address, Shipping Address, Tax-Exempt Certificate, and a Copy of Payment Bond. It is clarified that the purchase order price does not include sales tax and that sales tax is to be added to the sale price unless the Seller receives a Tax-Exempt Certificate or Resale Certificate.

EVOQUA WATER TECHNOLOGIES LLC

STANDARD TERMS OF SALE

1. **Applicable Terms.** These terms govern the purchase and sale of equipment, products, related services, leased products, and media goods if any (collectively herein "Work"), referred to in Seller's proposal ("Seller's Documentation"). Whether these terms are included in an offer or an acceptance by Seller, such offer or acceptance is expressly conditioned on Buyer's assent to these terms. Seller rejects all additional or different terms in any of Buyer's forms or documents.
2. **Payment.** Buyer shall pay Seller the full purchase price as set forth in Seller's Documentation. Unless Seller's Documentation specifically provides otherwise, freight, storage, insurance and all taxes, levies, duties, tariffs, permits or license fees or other governmental charges relating to the Work or any incremental increases thereto shall be paid by Buyer. If Seller is required to pay any such charges, Buyer shall immediately reimburse Seller. If Buyer claims a tax or other exemption or direct payment permit, it shall provide Seller with a valid exemption certificate or permit and indemnify, defend and hold Seller harmless from any taxes, costs and penalties arising out of same. All payments are due within 30 days after receipt of invoice. Buyer shall be charged the lower of 1 ½% interest per month or the maximum legal rate on all amounts not received by the due date and shall pay all of Seller's reasonable costs (including attorneys' fees) of collecting amounts due but unpaid. All orders are subject to credit approval by Seller. Back charges without Seller's prior written approval shall not be accepted.
3. **Delivery.** Delivery of the Work shall be in material compliance with the schedule in Seller's Documentation. Unless Seller's Documentation provides otherwise, delivery terms are Ex Works Seller's factory (Incoterms 2010). Title to all Work shall pass upon receipt of payment for the Work under the respective invoice. Unless otherwise agreed to in writing by Seller, shipping dates are approximate only and Seller shall not be liable for any loss or expense (consequential or otherwise) incurred by Buyer or Buyer's customer if Seller fails to meet the specified delivery schedule.
4. **Ownership of Materials and Licenses.** All devices, designs (including drawings, plans and specifications), estimates, prices, notes, electronic data, software and other documents or information prepared or disclosed by Seller, and all related intellectual property rights, shall remain Seller's property. Seller grants Buyer a non-exclusive, non-transferable license to use any such material solely for Buyer's use of the Work. Buyer shall not disclose any such material to third parties without Seller's prior written consent. Buyer grants Seller a non-exclusive, non-transferable license to use Buyer's name and logo for marketing purposes, including but not limited to, press releases, marketing and promotional materials, and web site content.
5. **Changes.** Neither party shall implement any changes in the scope of Work described in Seller's Documentation without a mutually agreed upon change order. Any change to the scope of the Work, delivery schedule for the Work, any Force Majeure Event, any law, rule, regulation, order, code, standard or requirement which requires any change hereunder shall entitle Seller to an equitable adjustment in the price and time of performance.
6. **Force Majeure Event.** Neither Buyer nor Seller shall have any liability for any breach or delay (except for breach of payment obligations) caused by a Force Majeure Event. If a Force Majeure Event exceeds six (6) months in duration, the Seller shall have the right to terminate the Agreement without liability, upon fifteen (15) days written notice to Buyer, and shall be entitled to payment for work performed prior to the date of termination. "Force Majeure Event" shall mean events or circumstances that are beyond the affected party's control and could not reasonably have been easily avoided or overcome by the affected party and are not substantially attributable to the other party. Force Majeure Event may include, but is not limited to, the following circumstances or events: war, act of foreign enemies, terrorism, riot, strike, or lockout by persons other than by Seller or its sub-suppliers, natural catastrophes or (with respect to on-site work), unusual weather conditions.
7. **Warranty.** Subject to the following sentence, Seller warrants to Buyer that the (i) Work shall materially conform to the description in Seller's Documentation and shall be free from defects in material and workmanship and (ii) the Services shall be performed in a timely and workmanlike manner. Determination of suitability of treated water for any use by Buyer shall be the sole and exclusive responsibility

of Buyer. The foregoing warranty shall not apply to any Work that is specified or otherwise demanded by Buyer and is not manufactured or selected by Seller, as to which (i) Seller hereby assigns to Buyer, to the extent assignable, any warranties made to Seller and (ii) Seller shall have no other liability to Buyer under warranty, tort or any other legal theory. The Seller warrants the Work, or any components thereof, through the earlier of (i) eighteen (18) months from delivery of the Work or (ii) twelve (12) months from initial operation of the Work or ninety (90) days from the performance of services (the "Warranty Period"). If Buyer gives Seller prompt written notice of breach of this warranty within the Warranty Period, Seller shall, at its sole option and as Buyer's sole and exclusive remedy, repair or replace the subject parts, re-perform the Service or refund the purchase price. Unless otherwise agreed to in writing by Seller, (i) Buyer shall be responsible for any labor required to gain access to the Work so that Seller can assess the available remedies and (ii) Buyer shall be responsible for all costs of installation of repaired or replaced Work. If Seller determines that any claimed breach is not, in fact, covered by this warranty, Buyer shall pay Seller its then customary charges for any repair or replacement made by Seller. Seller's warranty is conditioned on Buyer's (a) operating and maintaining the Work in accordance with Seller's instructions, (b) not making any unauthorized repairs or alterations, and (c) not being in default of any payment obligation to Seller. Seller's warranty does not cover (i) damage caused by chemical action or abrasive material, misuse or improper installation (unless installed by Seller) and (ii) media goods (such as, but not limited to, resin, membranes, or activated carbon media) once media goods are installed. THE WARRANTIES SET FORTH IN THIS SECTION 7 ARE THE SELLER'S SOLE AND EXCLUSIVE WARRANTIES AND ARE SUBJECT TO THE LIMITATION OF LIABILITY PROVISION BELOW. SELLER MAKES NO OTHER WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR PURPOSE.

8. **Indemnity.** Seller shall indemnify, defend and hold Buyer harmless from any claim, cause of action or liability incurred by Buyer as a result of third party claims for personal injury, death or damage to tangible property, to the extent caused by Seller's negligence. Seller shall have the sole authority to direct the defense of and settle any indemnified claim. Seller's indemnification is conditioned on Buyer (a) promptly, within the Warranty Period, notifying Seller of any claim, and (b) providing reasonable cooperation in the defense of any claim.

9. **Assignment.** Neither party may assign this Agreement, in whole or in part, nor any rights or obligations hereunder without the prior written consent of the other party; provided, however, the Seller may assign its rights and obligations under these terms to its affiliates or in connection with the sale or transfer of the Seller's business and Seller may grant a security interest in the Agreement and/or assign proceeds of the agreement without Buyer's consent.

10. **Termination.** Either party may terminate this agreement, upon issuance of a written notice of breach and a thirty (30) day cure period, for a material breach (including but not limited to, filing of bankruptcy, or failure to fulfill the material obligations of this agreement). If Buyer suspends an order without a change order for ninety (90) or more days, Seller may thereafter terminate this Agreement without liability, upon fifteen (15) days written notice to Buyer, and shall be entitled to payment for work performed, whether delivered or undelivered, prior to the date of termination.

11. **Dispute Resolution.** Seller and Buyer shall negotiate in good faith to resolve any dispute relating hereto. If, despite good faith efforts, the parties are unable to resolve a dispute or claim arising out of or relating to this Agreement or its breach, termination, enforcement, interpretation or validity, the parties will first seek to agree on a forum for mediation to be held in a mutually agreeable site. If the parties are unable to resolve the dispute through mediation, then **any dispute, claim or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this agreement to arbitrate, shall be determined by arbitration in Pittsburgh, Pennsylvania before three arbitrators** who are lawyers experienced in the discipline that is the subject of the dispute and shall be jointly selected by Seller and Buyer. **The arbitration shall be administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures. The Arbitrators shall issue a reasoned decision** of a majority of the arbitrators, which shall be the decision of the panel. Judgment may be entered upon the arbitrators' decision in any court of competent jurisdiction. The substantially prevailing party as determined by the arbitrators shall be reimbursed by the other party for all costs, expenses and charges, including without limitation reasonable attorneys' fees, incurred by the prevailing party in connection with the arbitration. For any order shipped outside of the United States, any dispute shall be referred to and finally determined by the International Center for Dispute Resolution in accordance with the provisions of its International Arbitration Rules, enforceable under the New York Convention (Convention on the Recognition and Enforcement of Foreign Arbitral Awards) and the governing language shall be English.

12. **Export Compliance.** Buyer acknowledges that Seller is required to comply with applicable export laws and regulations relating to the sale, exportation, transfer, assignment, disposal and usage of the Work provided under this Agreement, including any export license requirements. Buyer agrees that such Work shall not at any time directly or indirectly be used, exported, sold, transferred, assigned or otherwise disposed of in a manner which will result in non-compliance with such applicable export laws and regulations. It shall be a condition of the continuing performance by Seller of its obligations hereunder that compliance with such export laws and regulations be maintained at all times. BUYER AGREES TO INDEMNIFY AND HOLD SELLER HARMLESS FROM ANY AND ALL COSTS, LIABILITIES, PENALTIES, SANCTIONS AND FINES RELATED TO NON-COMPLIANCE WITH APPLICABLE EXPORT LAWS AND REGULATIONS.

13. **LIMITATION OF LIABILITY.** NOTWITHSTANDING ANYTHING ELSE TO THE CONTRARY, SELLER SHALL NOT BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE OR OTHER INDIRECT DAMAGES, AND SELLER'S TOTAL LIABILITY ARISING AT ANY TIME FROM THE SALE OR USE OF THE WORK, INCLUDING WITHOUT LIMITATION ANY LIABILITY FOR ALL WARRANTY CLAIMS OR FOR ANY BREACH OR FAILURE TO PERFORM ANY OBLIGATION UNDER THE CONTRACT, SHALL NOT EXCEED THE PURCHASE PRICE PAID FOR THE WORK. THESE LIMITATIONS APPLY WHETHER THE LIABILITY IS BASED ON CONTRACT, TORT, STRICT LIABILITY OR ANY OTHER THEORY.

14. **Rental Equipment / Services.** Any leased or rented equipment ("Leased Equipment") provided by Seller shall at all times be the property of Seller with the exception of certain miscellaneous installation materials purchased by the Buyer, and no right or property interest is transferred to the Buyer, except the right to use any such Leased Equipment as provided herein. Buyer agrees that it shall not pledge, lend, or create a security interest in, part with possession of, or relocate the Leased Equipment. Buyer shall be responsible to maintain the Leased Equipment in good and efficient working order. At the end of the initial term specified in the order, the terms shall automatically renew for the identical period unless canceled in writing by Buyer or Seller not sooner than three (3) months nor later than one (1) month from termination of the initial order or any renewal terms. Upon any renewal, Seller shall have the right to issue notice of increased pricing which shall be effective for any renewed terms unless Buyer objects in writing within fifteen (15) days of issuance of said notice. If Buyer timely cancels service in writing prior to the end of the initial or any renewal term this shall not relieve Buyer of its obligations under the order for the monthly rental service charge which shall continue to be due and owing. Upon the expiration or termination of this Agreement, Buyer shall promptly make any Leased Equipment available to Seller for removal. Buyer hereby agrees that it shall grant Seller access to the Leased Equipment location and shall permit Seller to take possession of and remove the Leased Equipment without resort to legal process and hereby releases Seller from any claim or right of action for trespass or damages caused by reason of such entry and removal.

15. **Miscellaneous.** These terms, together with any Contract Documents issued or signed by the Seller, comprise the complete and exclusive statement of the agreement between the parties (the "Agreement") and supersede any terms contained in Buyer's documents, unless separately signed by Seller. No part of the Agreement may be changed or cancelled except by a written document signed by Seller and Buyer. No course of dealing or performance, usage of trade or failure to enforce any term shall be used to modify the Agreement. To the extent the Agreement is considered a subcontract under Buyer's prime contract with an agency of the United States government, in case of Federal Acquisition Regulations (FARs) flow down terms, Seller will be in compliance with Section 44.403 of the FAR relating to commercial items and those additional clauses as specifically listed in 52.244-6, Subcontracts for Commercial Items (OCT 2014). If any of these terms is unenforceable, such term shall be limited only to the extent necessary to make it enforceable, and all other terms shall remain in full force and effect. The Agreement shall be governed by the laws of the Commonwealth of Pennsylvania without regard to its conflict of laws provisions. Both Buyer and Seller reject the applicability of the United Nations Convention on Contracts for the international sales of goods to the relationship between the parties and to all transactions arising from said relationship.

May 2015

7. EVOQUA WATER TECHNOLOGIES LLC

8. General Terms and Conditions for Erection Work

These terms are in addition to and subject to the Sellers terms of sale.

1. **Equipment location.** Equipment location and staking, including plant orientation, influent and effluent location, is the responsibility of the Purchaser and/or his engineer.
2. **Equipment Elevation.** The elevation of equipment above or below grade must be determined by the purchaser and/or his engineer and entered upon the approved drawings. Purchaser is responsible for establishing benchmark at site for Seller's erection crew.
3. **Site Access/Erection.** Purchaser agrees to provide a clear level work area at least 35 feet wide around the periphery of the erection site. Prior to starting erection, any obstructions in the work area, such as excavations, overhead lines, fences, trees, shrubbery, etc., shall be removed by and at the expense of the purchaser. The purchaser shall keep the site properly drained and free from surface water during erection, and until the work has been completed and accepted. The site and site access shall be capable of supporting a crane up to and including 50-ton capacity and other erection equipment. Any fill or dewatering necessary to accomplish the above, or additional costs of oversized or special equipment required due to poor site conditions, will be the responsibility of the Purchaser. Site leveling, grading, etc., after erections, shall be the responsibility of the Purchaser. Seller shall be responsible for the cleanup and removal of trash, scrap materials, etc., left from Seller's erection work.
4. **Site Access.** Purchaser agrees to provide site access and site working area capable of supporting the delivery trucks (70,000-75,000 pounds gross weight). Purchaser agrees to maintain site access and working area, daily if required, to allow Seller's erection crew to perform work during all weather conditions. Should Seller have to stop work and return to the site when access and/or work area permits or experience delays due to the site and site access being unsuitable for work due to Purchaser's failure to prepare and/or maintain the above, the Purchaser agrees to compensate Seller for cost incurred and agrees Seller shall be indemnified and held harmless from all loss or damages resulting from delays of job progress, that are directly or indirectly a result of the Purchaser's responsibility.
5. **Labor Relations.** Seller's erection personnel are non-union and all work will be by non-union personnel. In case of interference in erection work due to labor problems by persons not employed by Seller, or the imposition of requirements concerning labor, working conditions, wage rates, etc., which were not clearly defined prior to Seller's acceptance of the erection job, Seller shall have the right to stop work without prejudice until such interference or condition is satisfactorily removed or resolved. If additional costs are incurred by Seller due to such conflict, the Purchaser hereby agrees to reimburse Seller for the additional costs incurred.

Evoqua is an Equal Opportunity Employer and shall comply with government regulations pertaining to fair and equal employment.

Work hours by Seller at the site shall be as determined by Seller. The Purchaser shall not define working hours or number of work days per week, nor prohibit Seller from working evenings, weekends, holidays, etc., when deemed to be advisable by Seller.

6. **Insurance.** During the period of erection of the equipment contemplated herein, Seller will maintain the following insurance:
 - (a) Workmen's Compensation and Employer's Liability.
 - (b) Occupational Disease.
 - (c) Contractual Liability.
 - (d) Public Liability Insurance, Personal Injury and Property Damage.
 - (e) Automobile Liability, Personal Injury and Property Damage.

Any insurance required by Purchaser in addition to the above mentioned coverage shall not be considered to be included in the purchase price as set forth herein and shall be charged to the Purchaser.

7. **Unloading of Equipment.** Seller is responsible for unloading of equipment which is to be erected by Seller. Purchaser is responsible for unloading any equipment or accessories shipped to Purchaser for his installation. (Such as base channels to be embedded in concrete foundation by Purchaser, blowers or other accessories to be installed by Purchaser).
8. **Purchaser Acceptance of Erected Equipment.** When erection of the equipment nears completion Seller shall give Purchaser seventy-two hours verbal notice that the equipment shall be ready for inspection and acceptance. Purchaser agrees to provide, on seventy-two hours' notice, an authorized agent to meet at the site with Seller's erection personnel, to inspect the erected equipment, and accept same for/on behalf of the Purchaser. Any backordered items not installed at that time shall be listed on the acceptance agreement with written understanding that Seller is responsible for installing the subject equipment. Backordered items shall be received by the Purchaser at the "Backordered Address" previously provided and stored until Seller's installation is scheduled.

9. **Preparation for Start-up of Erected Equipment.** Upon completion of erection Seller shall inform the Purchaser that the erected equipment is ready to be placed in service. The Purchaser shall make all preparations for which he is responsible, such as influent and effluent connections, installation of the required electrical power supply and circuitry, filling tanks with clean water for testing and start-up, etc. If any deficiencies in Seller's materials or workmanship are discovered by the Purchaser while performing this work, the Purchaser shall immediately notify Seller so that corrective action can be taken. Seller is responsible for providing start-up supervision as defined in this Quotation. For scheduling purposes, ten days notice of desired start-up date is required.
10. **Security and Protection of Equipment.** Purchaser is responsible for security of equipment stored on his site after delivery and prior to arrival of Seller's crews to begin erection; and for any backordered material delivered to Purchaser after departure of Seller's erection crews. Seller shall not be responsible for deterioration, theft, vandalism or damage to equipment which is stored on site or left inoperative after installation due to delays in start-up. Purchaser agrees to be responsible for security and protection of such equipment.
11. **Back-charges.** Seller will accept no back-charges, for any reason, which have not been approved in writing by an authorized manager of the company prior to any work being performed. Purchaser agrees to contact Seller and receive written authorization prior to incurring any costs related to back-charges.
12. **Licenses and Permits.** Unless specifically stated in Seller's Quotation, Seller is not responsible for licenses, permits or fees required to perform the work defined in this Quotation.
13. **Delays.** Seller shall not be liable for delays due to: (1) causes beyond its reasonable control; (2) acts of God, acts of customer, prerequisite work by others, acts of civil or military authority, government priorities, fires, strikes or other labor disturbances, floods, epidemics, war, riot, delays in transportation; or (3) inability to obtain or delay in obtaining, due to causes beyond its reasonable control, suitable labor, materials, or facilities.

In the event of any such delay; the time of performance shall be extended for a period equal to the time lost by reason of the delay.

In the event Seller is delayed by acts of the customer or by prerequisite work by other contractors or suppliers of the customer, Seller shall be entitled to an equitable price adjustment in addition to extension of the time of performance.

14. **Subcontract.** Seller reserves the right to subcontract any of the work to one or more subcontractors.

ADJOURNMENT