

The Franklin City Council held a work session on Monday, July 14, 2008 at 5:30 p.m. in Council Chambers, 207 W. Second Avenue.

Council members in attendance: James P. Councill, III, Mayor, Vice Mayor Raystine Johnson, Barry Cheatham, Benny Burgess, Rosa Lawrence and Mary Hilliard. ABSENT: Mark Fetherolf.

Appointment of Vice Mayor

On motion made by Mrs. Hilliard and seconded by Mrs. Lawrence, Raystine Johnson was reappointed to serve as the Vice Mayor for the City of Franklin. The vote on this motion was as follows: AYE: Mr. Cheatham, Mr. Burgess, Mrs. Lawrence, Ms. Johnson, Mrs. Hilliard and Mr. Councill. ABSENT: Mr. Fetherolf.

Setting Dates and Times for Council Meetings

2008 – July 28, August 11 and 25, September 8 and 22, October 27, November 10 and 24, December 8.

2009 – January 12 and 26, February 9 and 23, March 9 and 23, April 13 and 27, May 11, June 8 and 22, July 12.

On motion made by Ms. Johnson and seconded by Mr. Burgess, the dates for the 2008-2009 City Council meetings were approved by Council. The vote on this motion was as follows: AYE: Mr. Cheatham, Mr. Burgess, Mrs. Lawrence, Ms. Johnson, Mrs. Hilliard and Mr. Councill. ABSENT: Mr. Fetherolf.

Closed Session

On motion made by Ms. Johnson and seconded by Mr. Burgess it was unanimously RESOLVED that Council meet in closed session to discuss (1) the possible sale of the Hayden School property, (2) appointments to boards and committees, (3) a personnel matter not related to public business and (4) employment contract for City Attorney as permitted by Virginia Code Section 2.2-3711(A)(7), (1) and (4). The vote on this motion was as follows: AYE: Mr. Cheatham, Mr. Burgess, Mrs. Lawrence, Ms. Johnson, Mrs. Hilliard and Mr. Councill. ABSENT: Mr. Fetherolf.

Certification

On motion made by Ms. Johnson and seconded by Mr. Burgess, it was unanimously RESOLVED that City Council hereby certifies that to the best of the knowledge of each member only public business matters identified in the motion which the closed meeting was convened were discussed, heard or considered. The vote on this motion was as follows: AYE: Mr. Cheatham, Mr. Burgess, Mrs. Lawrence, Ms. Johnson, Mrs. Hilliard and Mr. Councill. ABSENT: Mr. Fetherolf.

Regular Meeting

The Franklin City Council held a regular meeting on Monday, July 14, 2008 at 7:00 p.m. in Council Chambers, 207 W. Second Avenue.

Council members in attendance: James P. Councill, III, Mayor, Vice Mayor Raystine Johnson, Barry Cheatham, Benny Burgess, Rosa Lawrence and Mary Hilliard. ABSENT: Mark Fetherolf.

Staff in attendance: Rowland Taylor, City Manager, H. Taylor Williams, IV, City Attorney, Phil Hardison, Chief of Police, Carolyn Joyner, Personnel Manager, Sheryl Frazier, Director of FRHA, Russ Pace, Director of Public Works, Mark Carr, Deputy Director of Emergency Services, Beth Reavis, Director of Social Services, Donald Goodwin, Director of Community Development, Connie Burgess, Director of Western Tidewater Smart Beginnings, Amanda Crocker, City Planner, Dexter Trump, Interim Director of Power & Light and Erin Turner, Executive Assistant.

Others in attendance: Dan Howe, Downtown Franklin Association Director.

Invocation

Mayor Councill offered the invocation.

Introduction of New Employees

Chief Hardison introduced the City's newest police officers, David Greer, Randall Bailey and Karl Boone.

Russ Pace introduced Alexander Sweat and Anthony Holliday as the newest additions to the Public Works Department.

Beth Reavis introduced Sybil Lane-Moorer, the City's newest Eligibility Worker Supervisor.

Recognition of Social Services for Assistance to Low Income Citizens for Income Tax Preparation

Mayor Councill recognized Beth Reavis, Director of Social Services, and her staff for their assistance to the citizens of Franklin in the preparation of filing income tax returns.

Citizens' Time

Jim Hart. Mr. Hart stated that Mr. Wrenn needs to be removed from the Incubator and SPSA Boards because the City is in need of change. Mr. Hart also requested more open session meetings and for Council to gain more input from citizens. Mr. Hart was further concerned about the Assessor that he spoke with during the hearings. He was advised that the gentleman was not licensed.

Robert Edwards. Dr. Edwards asked that Council respond to citizen’s concerns during public meetings.

Everett Williams. Mr. Williams stated that the most significant need of the City right now is to gain back the trust of its citizens. He hopes that the new Council members stay true to their promises as the citizens are trusting them to do so. Mr. Williams believes that Mr. Wrenn has lost the confidence of citizens and it is counter-productive that he represent the City on two boards.

Ellis Crum. 125 Queens Lane. Mr. Crum was concerned with the legality of an procedure followed by Council during the selection of the At-Large School Board seat. On March 24, 2008, Council received nominations for the At-Large School Board seat during a public hearing at a regular meeting of City Council. On April 1, 2008, interviews were held by Council. On April 4, 2008, letters were received by the nominees that Council had made a selection. Sometime during the meeting on April 1, 2008 a vote was made to appoint someone to fill that seat, however, no minutes were created from that meeting. Further, no notices were posted that a meeting was going to be held. It was not publicized in the Tidewater News, the library, the City Manager’s office or the King Center. The lack of notice was a violation of the Virginia Code. Mr. Crum would like Council to vacate the At-Large School Board seat, send letters of apology to the other nominees, publish an apology in The Tidewater News, and conduct another public hearing to fill the At-Large School Board seat.

Approval of Minutes of the June 23, 2008 meeting

On motion made by Mrs. Hilliard and seconded by Mr. Cheatham, it was RESOLVED that the minutes for the June 23, 2008 meeting were approved with the addition that Mr. Burgess and Mr. Cheatham were present during the Closed Session. The vote on this motion was as follows: The vote on this motion was as follows: AYE: Mr. Cheatham, Mr. Burgess, Mrs. Lawrence, Mrs. Hilliard and Mr. Council. ABSTAIN: Ms. Johnson. ABSENT: Mr. Fetherolf.

Consent Agenda

- 1. **Financial Matters** – Budget Amendment 2008-49.

BUDGET AMENDMENT 2008-49

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FRANKLIN, VIRGINIA that the 2007-2008 City Budget is hereby amended to recognize additional revenues and to appropriate such revenues for new uses.

	2007-2008 BUDGET	AMENDED BUDGET	INCREASE (DECREASE)
220 FOUNDATION GRANTS			

REVENUE

220 18990 3002			
Other Donations	\$0.00	\$1,000.00	<u>\$1,000.00</u>

TOTAL **\$1,000.00**

EXPENDITURES

220 91450 4017			
Western Tidewater Hurricanes	\$2,000.00	\$3,000.00	<u>\$1,000.00</u>

TOTAL **\$1,000.00**

***Donation received May 2, 2008.**

On motion made by Ms. Johnson and seconded by Mr. Cheatham, the Consent Agenda was approved by Council. The vote on this motion was as follows: AYE: Mr. Cheatham, Mr. Burgess, Mrs. Lawrence, Ms. Johnson, Mrs. Hilliard and Mr. Council. ABSENT: Mr. Fetherolf.

Appointment of Ward 3 School Board Representative

On motion made by Mrs. Hilliard and seconded by Mrs. Lawrence, Council reappointed Johnetta Nichols as the Ward 3 School Board Representative. The vote on this motion was as follows: AYE: Mr. Cheatham, Mr. Burgess, Mrs. Lawrence, Ms. Johnson, Mrs. Hilliard and Mr. Council. ABSENT: Mr. Fetherolf.

Paid Time Off (PTO) Policy

CITY OF FRANKLIN

EFFECTIVE DATE: 7/1/97

REVISION DATE: 03/24/03-04/13/03-05/12/03

402 PAID TIME OFF

07/28/03-08/25/03-01/24/05

Paid time off (PTO) is available to employees to provide opportunities for rest, relaxation, personal pursuits and for periods of temporary absence due to illness or injuries suffered. All full-time permanent employees shall be entitled to PTO. If an employee's need for sick leave is minimal, all remaining time is available for use as vacation time. PTO is allocated to employees on the first of the calendar year based upon their length of service with the city. Effective January 1, 2009 PTO is allocated to employees as follows: employees will receive 1/26th of their annual allotment of PTO each pay period. PTO unused in the year of allocation may be carried over to the following year. The chart set forth below shows the amount of PTO which accrues annually to each employee **beginning in calendar year 2003** and **further** shows the maximum amount of PTO which may be carried over from year to year.

ALL CITY EMPLOYEES

(EXCEPT POLICE OFFICERS & FIRE AND RESCUE PERSONNEL ON SHIFTS)

<u>Years of Service</u>	<u>Annual PTO Hours</u>	<u>PTO Hours which may be carried over</u>
0-3 years	136	272
4-7 years	160	320
8-12 years	184	368
13-20 years	208	416
21+ years	232	464

POLICE OFFICERS ON 12 HOUR SHIFTS

<u>Years of Service</u>	<u>Annual PTO Hours</u>	<u>PTO Hours which may be carried over</u>
0-3 years	143	286
4-7 years	168	336
8-12 years	193	386
13-20 years	218	437
21+ years	244	487

FIRE AND RESCUE PERSONNEL ON 24 HOUR SHIFTS

<u>Years of Service</u>	<u>Annual PTO Hours</u>	<u>PTO Hours which may be carried over</u>
0-3 years	190	381
4-7 years	224	448
8-12 years	258	515
13-20 years	291	582
21+ years	325	650

New employees will start earning PTO at the beginning of their employment, and the number of PTO hours allocated to them for the first calendar year of their employment will be prorated based upon their start date.

PTO must be used in increments of one-half hour, but for no less than one hour and should be scheduled in advance with the employees' supervisors when possible. The length of notification will depend upon specific departmental policies. Employees should give notice to their supervisors of PTO used due to illness or injury as soon as they reasonably can. In the event that an illness or injury extends for a period of three days or more, employees must provide to their supervisors a physician's statement verifying the illness or injury and its beginning and expected ending dates.

All unused sick leave accrued as of January 1, 2002 will be placed in a "sick leave bank" which may be used in the event of illness or injury in lieu of using PTO. Banked sick leave may also be used for the sickness of an immediate family member. The following shall be considered immediate family members: mother, father, spouse, children, brothers, sisters, parents of spouse, grandchildren, aunts, uncles, nieces, nephews or guardian or legal ward of any relative residing with the employee. Employees with 5 years or more of continuous service who leave employment or the estate of an employee who dies shall be paid for 25% of their sick leave balance based upon their final rate of pay, but in an amount not exceeding \$2,500. If fourteen calendar days written notice of resignation is not given by an employee, all terminal sick leave payments shall be forfeited.

All unused vacation leave will be added to PTO to be used like any other PTO. However, the maximum used vacation days plus PTO which may be carried over at the end of the calendar year may not exceed the amounts set forth in the chart above. Employees who separate from employment with the city will be paid for any unused PTO, which will be pro-rated for the year of separation based upon the date of separation. However, in no case shall an employee be paid for an amount in excess of the total number of PTO which may be carried over from year to year. If fourteen calendar days written notice of resignation is not given by an employee, the equivalent of eight hours shall be deducted from PTO payments for each day that the employee failed to give notice of resignation up to a fourteen day maximum. In the event of the employee's death, the estate of an employee shall be entitled to payment for any accrued PTO.

Annual PTO will be reduced on a pro-rata basis for any leave of absence without pay including leave of absence for active military service.

Employees who use up all of their PTO and/or banked sick leave, who are not on any other approved leave and who do not report to work as scheduled are considered absent without leave and, as such, will not be paid for the time of their absence and are subject to disciplinary action under Section 801. In addition, an employee who absents himself or herself from duty for a cumulative total of twenty-four or more hours within any calendar year shall be deemed to have resigned from service, provided however that the

City Manager, in extraordinary circumstances, may grant the employee personal leave pursuant to Section 502 for all or a portion of the time the employee is absent without leave.

Any employee when hired back within a year's time to have any previous years of service counted for them in determining where they would fall on the "years of service" chart in order to determine their PTO allotment.

Example:

An employee of the City who has worked for 3 years or less will receive 136 hours of PTO on an annual basis. This year, on July 1, 2008, the employee will be given half of his/her PTO hours. This sum amounts to 68 hours ($136 / 2 = 68$). Beginning January 1, 2009, and thereafter, an employee who has worked for the City 3 years or less will have his/her PTO hours allotted at a rate of $1/26^{\text{th}}$ for each pay period. $136 / 26 = 5.23$ hours per pay period.

On motion made by Mr. Burgess and seconded by Mr. Cheatham, the amendments to the PTO policy were approved by Council. The vote on this motion was as follows: AYE: Mr. Cheatham, Mr. Burgess, Mrs. Lawrence, Ms. Johnson, Mrs. Hilliard and Mr. Council. ABSENT: Mr. Fetherolf.

Amendment to Chapter 9 of the Erosion and Sediment Control

AN ORDINANCE AMENDING CHAPTER 9 OF THE CITY CODE OF THE CITY OF FRANKLIN, VIRGINIA RELATING TO EROSION AND SEDIMENT CONTROL

BE IT ORDAINED BY THE CITY OF FRANKLIN, VIRGINIA AS FOLLOWS:

Chapter 9 of the City of Franklin Code is hereby amended to read as follows:

Chapter 9 EROSION AND SEDIMENTATION CONTROL*

*Cross references: Building regulations, Ch. 6; subdivision ordinance, app. C; zoning ordinance, app. D.

State law references: Erosion and Sediment Control Law, Code of Virginia, §§ 10.1-560-10.1-571; local control programs, Code of Virginia, § 10.1-562.

Article I. In General

Sec. 9-1. Title.

Sec. 9-2. Purpose and authority.

Sec. 9-3. Definitions.

Sec. 9-4. City erosion and sediment control program.

Sec. 9-5. Application for plan approval.

Sec. 9-6. Noncontrolled activities.

Sec. 9-7. Submission and approval of plans, bonds and permits.

Sec. 9-8. Inspections, notice of noncompliance, revocation of permit.
Sec. 9-9. Erosion impact areas.
Sec. 9-10. Utility, pipeline and railroad companies.
Sec. 9-11. Appeals.
Sec. 9-12. Violations or exceeding scope of approval.
Sec. 9-13. Penalties, injunctions and other legal actions.
Sec. 9-14. Compliance with chapter.
Sec. 9-15. Severability.
Secs. 9-16--9-19. Reserved.
Article II. Control Plan for Land-Disturbing Activities
Sec. 9-20. Submission and approval required.
Sec. 9-21. Contents; format; standards and specifications to be used in preparation.
Sec. 9-22. Approval or disapproval.
Sec. 9-23. Amendment of approved plan.
ARTICLE I. IN GENERAL*

*Editor's note: An ordinance adopted Mar. 13, 2000, amended and reenacted Art. I to read as herein set out. Formerly, Art. I pertained to similar subject matter, and derived from Ord. No. 102, §§ 1--4, 6, 9, and 12--14, adopted Feb. 14, 1977.

Sec. 9-1. Title.

This article shall be known as the "Erosion and Sediment Control Ordinance of the City of Franklin."

(Ord. of 3-13-2000)

Sec. 9-2. Purpose and authority.

(a) The purpose of this chapter is to conserve the land, water, air and other natural resources of the city by establishing requirements for the control of erosion and sediment and by establishing procedures by which those requirements shall be administered and enforced.

(b) This chapter is authorized by Code of Virginia, § 10.1-560 et seq. known as the Virginia Erosion and Sediment Control Law.

(Ord. of 3-13-2000)

Sec. 9-3. Definitions.

As used in this chapter the following words have the following meanings:

Agreement in lieu of a plan means a contract between the city and the owner which specifies conservation measures which must be implemented in the construction of a single-family residence; this contract may be executed by the owner and the plan-approving authority in lieu of a formal site plan.

Applicant means any person submitting an erosion and sediment control plan for approval or requesting the issuance of a permit authorizing land-disturbance activities to commence.

Board means the Virginia Soil and Water Conservation Board.

Certified inspector means an employee of the city who (1) holds a certificate of competence from the board in the area of project inspection, or (2) is enrolled in the board's training program for project inspection and successfully completes such program within one year after enrollment.

Certified plan reviewer means an employee of the city who (1) holds a certificate of competence from the board in the area of plan review, (2) is enrolled in the board's training program for plan review and successfully completes such program within one year after enrollment, or (3) is licensed as a professional engineer, architect, landscape architect or land surveyor pursuant to Code of Virginia, § 54.1-400 et seq.

Certified program administrator or administrator means an employee of the city who (1) holds a certificate of competence from the board in the area of program administration or (2) is enrolled in the board's training program administration and successfully completes such program within one year after enrollment.

City means the City of Franklin.

City of Franklin Erosion and Sediment Control Program means an outline of the various methods employed by the city to regulate land-disturbing activities and thereby minimize erosion and sedimentation in compliance with the state erosion and sediment control program and may include ordinances, policies, guidelines, technical materials, inspections, enforcement and evaluation.

Clearing- means any activity which removes the vegetative ground cover including, but not limited to, root mat removal or top soil removal.

Department means the Department of Conservation and Recreation

Development- means a tract of land developed as a single unit under single ownership or unified control which is to be used for any business or industrial purpose or is to contain three or more residential dwelling units.

Director means the director of the department of conservation and recreation.

Erosion and sediment control plan or plan means a document containing material for the conservation of soil and water resources of a parcel or parcels of land submitted to the city for approval. The plan shall indicate all major conservation decisions made which give assurance that the entire parcel or parcels of land will be treated in such a way that required conservation objectives are achieved.

Erosion impact area means an area of land not associated with current land-disturbing activities, but subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into state waters. This definition shall not apply to any lot or parcel of land of 10,000 square feet or less used for residential purposes.

Excavating- means any digging, scooping or other methods of removing earth materials.

Filling- means any depositing or stockpiling or other methods of removing earth materials.

Grading- means any excavating or filling of earth material or any combination thereof, including the land in its excavated or filled conditions.

Land-disturbing activity means any land change which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands of the commonwealth, including but not limited to, clearing, grading, excavating, transporting and filling of land.

Land-disturbing permit means a permit issued by the city for the clearing, grading, excavating, transporting and filling of land or any combination thereof or for any other purpose set forth herein.

Local Erosion and Sediment Control Program or local control program- means an outline of the various methods employed by to regulate land-disturbing activities and thereby minimize erosion and sedimentation in compliance with the state program and may include such items as local ordinances, policies and guidelines, technical materials, inspection, enforcement, and evaluation.

Natural channel design concepts- means the utilization of engineering analysis and fluvial geomorphic processes to create, rehabilitate, restore, or stabilize an open conveyance system for the purpose of creating or recreating a stream that conveys its bankfull store event within its bands and allows larger flows to access its bankfull bench and its floodplain.

Owner means the owner or owners of the freehold of the premises or a lesser estate therein, a mortgagee or vendee in possession, an assignee of rents, a receiver, executor, trustee, lessee or other person, firm or corporation in control of the property.

Peak flow rate- means the maximum instantaneous flow from a given storm condition at a particular location.

Permittee means the person to whom the permit authorizing land-disturbing activities is issued or the person who certifies that the approved plan will be followed.

Person means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, county, city, town or other political subdivision of the commonwealth, any interstate body or any other legal entity.

Plan approving authority means the city department of public works.

Program authority means the City of Franklin.

Responsible Land Disturber- means an individual from the project or development team, who will be in charge and responsible for carrying out a land-disturbing activity covered by an approved plan or agreement in lieu of a plan, who (i) holds a Responsible Land Disturber certificate of competence, (ii) holds a current certificate of competence from the Board in the areas of Combined Administration, Program Administration, Inspection, of Plan Review, (iii) holds a current Contractor certificate of competence for erosion and sediment control, or (iv) is licensed in Virginia as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article 1 (Sec. 54.1-400 et seq.) of this chapter

Runoff volume- means the volume of water that runs off the land development project from a prescribed storm event.

Single family residence- means a noncommercial dwelling that is occupied exclusively by one family.

State erosion and sediment control program or state program means the program administered by the Virginia Soil and Water Conservation Board pursuant to statute, including regulations designed to minimize erosion and sedimentation.

State waters means all waters on the surface and under the ground wholly or partially within or bordering the commonwealth or within its jurisdiction.
(Ord. of 3-13-2000)

Transporting- means any moving of earth materials from one place to another place other than such movement incidental to grading, when such movement results in destroying the vegetative ground cover either by tracking or the buildup of earth materials to the extent that erosion and sedimentation will result from the soil or earth materials over which such transporting occurs.

Water Quality Volume- means the volume equal to the first one-half inch of runoff multiplied by the impervious surface of the land development project.

Sec. 9-4. City erosion and sediment control program.

(a) Pursuant to Code of Virginia, § 10.1-562, the regulations, references, guidelines, standards and specifications promulgated by the Virginia Soil and Water Conservation Board for the effective control of soil erosion and sediment deposition, including but not limited to the Virginia Erosion and Sediment Control Regulations, the Virginia Erosion and Sediment Control Handbook and the Design and Construction Standards and Procedures, as amended from time to time, are hereby adopted and incorporated by reference, as if set forth herein.

(b) Before adopting or revising regulations, the City shall give due notice and conduct a public hearing on the proposed or revised regulations, except that a public hearing shall not be required when the City is amending its program to conform to revisions in the state program. However, a public hearing shall be held if the City proposes or revises regulations that are more stringent than the state program.

(c) In accordance with § 10.1-561 of the Code of Virginia, stream restoration and relocation projects that incorporate natural channel design concepts are not man-made channels and shall be exempt from any flow rate capacity and velocity requirements for natural or man-made channels.

(d) In accordance with § 10.1-561 of the Code of Virginia, any land-disturbing activity that provides for stormwater management intended to address any flow rate capacity and velocity requirements for natural or manmade channels shall satisfy the flow rate capacity and velocity requirements for natural or manmade channels if the practices are designed to (i) detain the water quality volume and to release it over 48 hours; (ii) detain and release over a 24-hour period the expected rainfall resulting from the one year, 24 hour storm; and (iii) reduce the allowable peak flow rate resulting from the 1.5, 2, and 10 year, 24-hour storms to a level that is less than or equal to the peak flow rate from the site assuming it was in a good forest condition, achieved through multiplication of the forested peak flow rate by a reduction factor that is equal to the runoff volume from the site when it was in a good forested condition divided by the runoff volume from the site in its proposed conditions and shall be exempt from any flow rate capacity and velocity requirements for natural or manmade channels.

(e) Pursuant to Section 10.1-561.1 of the Code of Virginia, an erosion control plan shall not be approved until it is reviewed by a certified plan reviewer. Inspections of land-disturbing activities shall be conducted by a certified inspector. The Erosion and Sediment Control Program of the City of Franklin shall contain a certified program administrator, a certified plan reviewer, and a certified inspector, who may be the same person.

(f) The City of Franklin hereby designates the department of public works as the plan-approving authority.

(g) The program and regulations set forth by reference in this section are available for public inspection at the office of the director of public works.
(Ord. of 3-13-2000)

Sec. 9-5. Application for plan approval.

(a) Except as provided in subsection (c) or section 9-6, no person may engage in any land-disturbing activity in the city until such person has submitted to the department of public works an erosion and sediment control plan for such activity and until such plan has been approved by the department of public works. **Where land-disturbing**

activities involve lands under the jurisdiction of more than one local control program, an erosion and sediment control plan, at the option of the applicant, may be submitted to the Board for review and approval rather than to each jurisdiction concerned. Where the land-disturbing activity results from the construction of a single-family residence, an agreement in lieu of a plan may be substituted for an erosion and sediment control plan if executed by the plan approving authority.

(b) No agency or department authorized under any other ordinance or law to issue building or other permits for activities involving land-disturbing activities covered by this chapter may issue such permits unless the applicant submits with the application a copy of an approved erosion and sediment control plan or a permit from the department of public works indicating approval of such plan.

(c) **The standards contained within the “Virginia Erosion and Sediment Control Regulations”, the Virginia Erosion and Sediment Control Handbook as amended are to be used by the applicant when making a submittal under the provisions of this ordinance and in the preparation of an erosion and sediment control plan. The plan-approving authority, in considering the adequacy of a submitted plan, shall be guided by the same standards, regulations, and guidelines. When the standards vary between the publications, the State regulations shall take precedence.**

(d) Where the land-disturbing activity will result from the construction of a single-family residence, an agreement in lieu of a plan may be substituted for an erosion and sediment control plan. **If a violation occurs during the land-disturbing activity, then the person responsible for carrying out the agreement in lieu of a plan shall correct the violation and provide the name of an individual holding a certificate of competence as provided by Code of Virginia Section 10.1-561 of the Virginia Erosion and Sediment Control Law. Failure to provide the name of an individual holding a certificate of competence shall be a violation of this ordinance.**

(Ord. of 3-13-2000)

Sec. 9-6. Noncontrolled activities.

In no instance shall the provisions of this chapter be construed to apply to the following activities:

- (1) Such minor land-disturbing activities as individual home gardening, landscaping, repairs and maintenance;
- (2) Individual service connections;
- (3) Maintenance or installation of underground public utility lines in paved or hard-surfaced areas;
- (4) Septic tank lines or drainage fields unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system;
- (5) Surface or deep mining;
- (6) Exploration or drilling for oil and gas including the well site, roads, feeder lines and off-site disposal areas;

- (7) Livestock feeder operations, tilling, planting or harvesting of agricultural, horticultural or forest crops, except that this exception only applies to harvesting of forest crops in which the area harvested is reforested in accordance with Code of Virginia, § 10.1-1100 et seq. or is converted to bona fide agricultural or improved pasture use as set forth in Code of Virginia, § 10.1-1163(B);
 - (8) Agricultural engineering operations, including but not limited to, the construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the provisions of the Dam Safety Act (Code of Virginia § 10.1-604 et seq.), ditches, strip cropping, lister furrowing, contour furrowing, contour cultivating, land drainage and land irrigation;
 - (9) Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities and related structures and facilities of a railroad company;
 - (10) Disturbed land areas less than 5,000 square feet in size;
 - (11) Installation of fence and sign posts, utility poles and other posts and poles;
 - (12) Shore erosion control projects on tidal waters, when the projects are approved by local wetland boards, the Marine Resources Commission or the United States Army Corps of Engineers; and
 - (13) Emergency work to protect life, limb or property and emergency repairs, provided that if the land disturbing activity would have required an approved erosion and sediment control plan if a non-emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of this chapter and the directives of the department of public works.
- (Ord. of 3-13-2000)

Sec. 9-7. Submission and approval of plans, bonds and permits.

- (a) Erosion and sediment control plans shall be submitted to the department of public works in triplicate along with a permit fee of \$300.00. Such plans shall detail the methods and techniques to be utilized to control erosion and sediment in accordance with the standards incorporated by reference in the city erosion and sediment control program. Where the land-disturbing activity results from the construction of a single family residence, an agreement in lieu of a plan executed by the owner and an authorized representative of the department of public works may be substituted for an erosion and sediment control plan, and the permit fee shall be waived.
- (b) A certified plan reviewer in the department of public works shall review such plans for compliance with the standards incorporated by reference in the city erosion and sediment control program.
- (c) The department of public works, within 45 days of submission of the plans, shall approve such plan, if it is determined that the plan meets the requirements of the city of the city erosion and sediment control program, and if the person responsible for carrying out the plan certifies that such person will properly perform the erosion and sediment control measures included in the plan and will conform to the provisions of this article. If no formal action has been taken within 45 days, the plan shall be deemed approved and the person submitting the plan is authorized to proceed with the proposed land-disturbing activity.

(d) In the event that the plan is disapproved, the applicant shall be notified in writing, within 45 days of its submission, of the disapproval, the reasons therefor and the changes that would be required for approval.

(e) When a land-disturbing activity will be required of a contractor performing construction work pursuant to a construction contract, the obtaining of a permit under this chapter, together with the required plan submissions, shall be the responsibility of the person owning the property. **In addition, as a prerequisite to engaging in the land disturbing activities shown on the approved plan, the person responsible for carrying out the plan shall provide the name of an individual holding a certificate of competence, to the program authority as provided by Section 10.1-561, of the Virginia Erosion and Sediment Control Law, who will be in charge and responsible for carrying out the land disturbing activity. Failure to provide the name of an individual holding a certificate of competence prior to engaging in land disturbing activities may result in revocation of the approval of the plan and the person responsible for carrying out the plan shall be subject to the penalties provided in this ordinance. However, the plan approving authority may waive the certificate of competence requirement for agreement in lieu of a plan for construction of a single family residence. If a violation occurs during the land disturbing activity, then the person responsible for carrying out the agreement in lieu of a plan shall correct the violation and provide the name of an individual holding a certificate of competence, as provided by Section 10.1-561 of the Virginia Erosion and Sediment Control Law. Failure to provide the name of an individual holding a certificate of competence shall be a violation of this ordinance.**

(f) Prior to the issuance of a permit for a land-disturbing activity by a department of the city, the owner of the property or an agent of the owner shall execute and file with such department a performance bond with surety, cash escrow, letter of credit or any combination thereof to ensure that measures could be taken by the issuing department at the permittee's expense should the permittee fail, after proper notice, within the time specified to initiate or maintain appropriate conservation action which may be required of the permittee by the approved plan. The amount of the bond or other security for performance shall not exceed the total of the estimated cost to initiate and maintain appropriate conservation action based on the unit price for new public or private sector construction in the city and a reasonable allowance for estimated administrative costs and inflation which shall not exceed 25 percent of the estimated cost of the conservation action. If such department takes such conservation action upon such failure by the permittee, the said department may collect from the permittee for any additional cost should the amount of the reasonable cost of such action exceed the amount of the security held. Any performance bond with surety or letter of credit utilized hereunder shall be approved by the city attorney and shall guarantee that the required control measures will be properly and satisfactorily undertaken and maintained.

(g) After approval of the plan is obtained and the required performance bond, cash escrow or letter of credit is filed or the applicant has a fully executed agreement in lieu of a plan, a permit for the land-disturbing activity may be issued, which permit shall be valid for a period of one year from the date of issuance. The permit shall reserve a right

of entry by certified inspectors to conduct inspections of the measures being taken to control erosion and sediment resulting from the land-disturbing activities. The permit may be extended for additional periods by written approval of the issuing department, upon receipt of evidence of reasonable progress toward completion of the approved project and current compliance with all the conditions of the plan.

(h) An approved plan may be changed by the department of public works in the following cases:

(1) Where an inspection has revealed that the plan is inadequate to satisfy applicable regulations; or

(2) Where the person responsible for carrying out the approved plan finds that because of changed circumstances or for other reasons, the approved plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of this chapter, are agreed to by the department of public works and the person responsible for carrying out the plan.

(i) Within 60 days of the achievement of adequate stabilization of the land-disturbing activities in accordance with the plan or amended plan, the bond, cash escrow or letter of credit, or the unobligated or unexpended portion thereof shall be either refunded to the applicant or terminated.

(Ord. of 3-13-2000)

(j) Variances: The plan-approving authority may waive or modify any of the standards that are deemed to be too restrictive for site conditions, by granting a variance. A variance may be granted under these conditions:

(1) At the time of plan submission, an applicant may request a variance to become part of the approved erosion and sediment control plan. The applicant shall explain the reasons for requesting variances in writing. Specific variances which are allowed by the plan-approving authority shall be documented in the plan.

(2) During construction, the person responsible for implementing the approved plan may request a variance in writing from the plan-approving authority. The plan-approving authority shall respond in writing either approving or disapproving such a request. If the plan-approving authority does not approve a variance within 10 days of receipt of the request, the request shall be considered to be disapproved. Following disapproval, the applicant may resubmit, a variance request with additional documentation.

Sec. 9-8. Inspections, notice of noncompliance, revocation of permit.

(a) The administrator shall provide for periodic inspections of the land-disturbing activity by certified inspectors within the department of public works or in the office of the building official and may, in appropriate cases, require monitoring and reports from the person responsible for carrying out the plan to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in

controlling erosion and sediment. The owner, permittee or person responsible for carrying out the plan shall be given notice of the inspection.

(b) If the administrator determines that there is a failure to comply with the plan, notice shall be served upon the permittee or person responsible for carrying out the plan by registered or certified mail to the address specified in the permit application or in the plan certification or by delivery at the site of the land-disturbing activities to the agent or employee supervising such activities. Where the administrator serves notice, a copy of the notice shall also be sent to the department issuing the land-disturbing permit. The notice shall specify the measures needed to comply with the plan and shall specify the time within which such measures should be completed. Upon failure to comply within the time specified, the permit may be revoked and the permittee or person responsible for carrying out the plan shall be deemed to be in violation of this chapter and subject to the penalties provided herein.

(c) Upon receipt of a sworn complaint of a substantial violation of this chapter from a certified inspector, the administrator may, in conjunction with or subsequent to a notice to comply as specified in subsection (b) above, issue an order requiring that all or part of the land-disturbing activities permitted on the site be stopped until the specified corrective measures have been taken, or, if land-disturbing activities have commenced without an approved plan or any required permits, requiring that all land-disturbing activities be stopped until an approved plan or any required permits are obtained.

(d) Where the alleged noncompliance is causing or is imminent danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth, or where the land-disturbing activities have commenced without an approved plan or any required permits, such an order may be issued whether or not the alleged violator has been issued a notice to comply as specified in subsection (b) above. Otherwise, such an order may be issued only after the alleged violator has failed to comply with the notice to comply.

(e) The order referenced in subsections (c) and (d) above shall be served in the same manner as the notice to comply, and shall remain in effect for seven days from the date of service pending application by the city or the alleged violator for appropriate relief to the Circuit Court of Southampton County. If the alleged violator has not obtained an approved plan or all required permits within seven days from the date of service of the order, the administrator may issue an order to the owner requiring that all construction and other work on the site, other than corrective measures, be stopped until an approved plan and all required permits have been obtained. Such an order shall be served upon the owner by registered or certified mail to the address specified in the permit application or the land records of the city.

(f) The owner may appeal the issuance of an order to the Circuit Court of Southampton County. Any person violating or failing, neglecting or refusing to obey an order issued by the administrator or his designee may be compelled in a proceeding in said court to obey same and to comply therewith by injunction, mandamus or other

appropriate remedy. Upon completion and approval of corrective action or upon obtaining an approved plan or any required permits, the order shall immediately be lifted. Nothing in this section shall prevent the administrator from taking any other action specified in this chapter.

(Ord. of 3-13-2000)

Sec. 9-9. Erosion impact areas.

(a) The city council may designate areas in the city which shall be classified as erosion impact areas. Any such designation and classification shall be deemed to be a component of the city's erosion and sediment control program.

(b) Consistent with the city's erosion and sediment control program and in order to prevent further erosion, the administrator may require the approval of a conservation plan for any erosion impact area. If required, the owner must submit the conservation plan. Such plan shall be subject to all review, bonding, inspection and enforcement provisions of this chapter which apply to erosion and sediment control plans.

(Ord. of 3-13-2000)

Sec. 9-10. Utility, pipeline and railroad companies.

Whenever electric, natural gas and telephone utility companies, interstate and intrastate natural gas pipeline companies or railroad companies undertake any of the activities included in subsections (1) and (2) below, they shall be considered exempt from the provisions of this article.

(1) Construction, installation or maintenance of electric transmission, natural gas or telephone utility lines or pipelines; or

(2) Construction of the tracks, rights-of-ways, bridges, communications facilities and other related structures and facilities of railroad companies.

Projects not included in subdivisions (1) and (2) above, shall comply with the city erosion and sediment control program.

(Ord. of 3-13-2000)

Sec. 9-11. Appeals.

Final decisions of the department of public works or the administrator under this chapter shall be subject to review by the Southampton County Circuit Court, provided that an appeal is filed within 30 days from the date any written decision adversely affecting the rights, duties or privileges of the person engaging in or proposing to engage in land-disturbing activities.

(Ord. of 3-13-2000)

Sec. 9-12. Violations or exceeding scope of approval.

(a) Any person who engages in or causes any regulated land-disturbing activity, without first receiving plan approval and a permit for such activity as prescribed by this chapter, shall be in violation of this chapter, and such person shall be subject to civil penalties set forth below in section 9-13.

(b) Any person who violates or causes to be violated any condition of approval of a plan under this chapter or who exceeds the scope of approval of any such plan shall be in violation of this article, and such person shall be subject to civil penalties set forth below in section 9-13.

(Ord. of 3-13-2000)

Sec. 9-13. Penalties, injunctions and other legal actions.

(a) The civil penalty for any one violation of this chapter shall be \$100.00, except that the civil penalty for commencement of land-disturbing activities without an approved plan shall be \$1,000.00. Each day during which the violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same operative set of facts result in civil penalties which exceed a total of \$3,000.00, except that a series of violations arising from the commencement of land-disturbing activities without an approved plan for any site shall not result in civil penalties which exceed a total of \$10,000.00.

(b) A civil action for a violation of this chapter shall be brought by the administrator or a certified inspector who shall issue a summons for the collection of the civil penalty. The case shall be heard in the City of Franklin General District Court. In such action the city shall have the burden or proof to show the liability of the violator by a preponderance of the evidence. An admission or finding of liability shall not be a criminal conviction for any purpose. Any civil penalties assessed by the court shall be paid into the city treasury, except that where the violator is the city or its agent, the court shall direct that the penalty be paid into the state treasury.

(c) The administrator or the owner of property which has sustained damage or which is in imminent danger of being damaged, may apply to the Southampton County Circuit Court to enjoin a violation or threatened violation of this chapter without the necessity of showing that an adequate remedy at law does not exist; however, an owner of property shall not apply for injunctive relief unless (1) he has notified in writing the person who has violated the city's erosion and sediment control program and the city that a violation of the said program has caused, or creates a probability of causing, damage to his property, and (2) neither the person who has violated the said program nor the city has taken corrective action within 15 days of such notice to eliminate the conditions which have caused, or create the possibility of causing, damage to his property.

(d) In addition to any civil penalties provided under this chapter, any person who violates any provision of this chapter may be liable to the city or the board, as appropriate, in a civil action for damages.

(e) Without limiting the remedies which may be obtained in this section, any person violating or failing, neglecting or refusing to obey any injunction, mandamus or other remedy obtained pursuant to this section shall be subject, in the discretion of the court, to a civil penalty not to exceed \$2,000.00 for each violation. A civil action for such violation or failure may be brought by the city with reference to property located in the city. Any civil penalties assessed by the court shall be paid into the city treasury, except

that where the violator is the city or its agent, the court shall direct that the penalty be paid into the state treasury.

(f) With the consent of any person who has violated or failed, neglected or refused to obey any regulation or order of the board, the director, the department of public works or a permit-issuing authority or any condition of a permit or any provision of this chapter, the board, the director, the department of public works or the permit-issuing authority may provide, in an order against such person, for the payment of civil charges for violations in specific sums not to exceed the limits specified in subsection (c) hereinabove. Such civil charges shall be instead of any appropriate civil penalties which could be imposed under subsections (a) and (e) hereinabove.

(g) The city attorney, upon request of the city, shall take legal action to enforce the provisions of this chapter.

(h) Compliance with the provisions of this ordinance shall be prima facie evidence in any legal or equitable proceeding for damages caused erosion, siltation, or sedimentation that all requirements of law have been met, and the complaining party must show negligence in order to recover damages.

(Ord. of 3-13-2000)

Sec. 9-14. Compliance with chapter.

Compliance with the provisions of this article shall be prima facie evidence in any legal or equitable proceeding for damages caused by erosion or sedimentation that all requirements of law have been met, and the complaining party must show negligence in order to recover any damages.

(Ord. of 3-13-2000)

Sec. 9-15. Severability.

If any provision of this chapter shall be held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the remaining provisions hereof.

(Ord. of 3-13-2000)

Secs. 9-16--9-19. Reserved.

ARTICLE II. CONTROL PLAN FOR LAND-DISTURBING ACTIVITIES

Sec. 9-20. Submission and approval required.

(a) No person shall engage in any land-disturbing activity, until such person has submitted to the city manager four copies of an erosion and sedimentation control for such land-disturbing activity and until such plan has been reviewed and approved by the city manager.

(b) **In accordance with the procedure set forth by Section 10.1-563(E) of the Code of Virginia, any person engaging in the creation and operation of wetland mitigation banks in multiple jurisdictions, which have been approved and are**

operated in accordance with applicable federal and state guidance, laws, or regulations for the establishment, use, and operation of mitigation banks, pursuant to a permit issued by the Department of Environmental Quality, the Marine Resources Commission, or the U.S. Army Corps of Engineers, may, at the option of that person, file general erosion and sediment control specifications for wetland mitigation banks annually with the Board for review and approval consistent with guidelines established by the Board.

(Ord. No. 102, §§ 2, 5, 2-14-1977)

State law references: Similar provisions, Code of Virginia, § 10.1-563.

Sec. 9-21. Contents; format; standards and specifications to be used in preparation.

(a) The erosion and sedimentation control plan shall detail those methods and techniques to be utilized in the control of erosion and sedimentation. As a minimum, such plan shall follow the format detailed in chapter 6 of the "Virginia Erosion and Sediment Control Handbook, Second Edition, 1980," and as may be amended from time to time, which by reference is adopted as part of this chapter.

(b) Approved standards and specifications for control techniques to be utilized in preparing the erosion and sedimentation control plan are set forth in chapter 3 of the "Virginia Erosion and Sediment Control Handbook, Second Edition, 1980," and as may be amended from time to time, which by reference is adopted as a part of this chapter.

(Ord. No. 102, § 7, 2-14-1977; Ord. No. 184, 9-14-1981)

Sec. 9-22. Approval or disapproval.

An erosion and sedimentation plan submitted under the provisions of this article shall be acted on by the ~~city manager~~ **department of public works**, within 45 days from receipt thereof, by either approving or disapproving the plan, in writing, and giving specific reasons for disapproval. If no formal action has been taken by the ~~city manager~~ **department of public works** within 45 days after receipt of the plan, the plan shall be deemed approved.

(Ord. No. 102, § 8, 2-14-1977)

State law references: Similar provisions, Code of Virginia, § 10.1-563.

Sec. 9-23. Amendment of approved plan.

An approved erosion and sedimentation plan may be amended by the ~~city manager~~ **department of public works**, if on-site inspection indicates that the approved control measures are not effective in controlling erosion and sedimentation or, because of changed circumstances, the approved plan cannot be carried out, provided such amendments are agreed to by the person responsible for carrying out the plan.

(Ord. No. 102, § 11, 2-14-1977)

State law references: Similar provisions, Code of Virginia, § 10.1-563.

On motion made by Ms. Johnson and seconded by Mrs. Hilliard, the Amendment to Chapter 9 – Erosion and Sediment Control was unanimously approved by Council. The

vote on this motion was as follows: AYE: Mr. Cheatham, Mr. Burgess, Mrs. Lawrence, Ms. Johnson, Mrs. Hilliard and Mr. Councill. ABSENT: Mr. Fetherolf.

Old/New Business

Sheryl Frazier spoke to Council about the needs of the Revitalization and Redevelopment Committee. There have been some issues with the number of representatives on the committee and the group would like to increase membership from five members to eleven members. The Committee has voted in favor of making the recommendation to Council for the six vacancies. Mrs. Frazier was also requesting that a consultant be hired to guide the committee in the right direction. The committee has several ideas, but would like to seek professional advice as to how to carry out the group's mission. The committee could do an RFQ to see how much a consultant would cost, but it is likely to be approximately \$35,000-\$45,000.

Mayor Councill recommended that Mrs. Frazier contact the Hampton Roads Planning District Commission for consultants first. Because the City of Franklin is a participating member, the HRPDC may be able to offer professional advice at a discounted cost.

On motion made by Ms. Johnson and seconded by Mr. Burgess, authorization was given to the Redevelopment and Housing Authority to add six seats to the Redevelopment and Revitalization Committee by wards first and then to fill as necessary. The vote on this motion was as follows: AYE: Mr. Cheatham, Mr. Burgess, Mrs. Lawrence, Ms. Johnson, Mrs. Hilliard and Mr. Councill. ABSENT: Mr. Fetherolf.

Mayor Councill stated that he was concerned about the upcoming Reassessment Hearings and suggested that citizens, staff and Council prepare a list of questions to present to the Assessor so that he may explain the process at an upcoming Council meeting.

On motion made by Mr. Cheatham and seconded by Mr. Burgess, City Council would not be subject to a 2% pay increase for the 2008-2009 fiscal year. The vote on this motion was as follows: AYE: Mr. Cheatham, Mr. Burgess, Mrs. Lawrence, Ms. Johnson and Mrs. Hilliard. ABSTAIN: Mr. Councill. ABSENT: Mr. Fetherolf.

On motion made by Mr. Cheatham and seconded by Ms. Johnson, Council requested a copy of the job descriptions and duties for the Finance Director, Network and Systems Administrator and City Attorney at the next Council meeting. The vote on this motion was as follows: AYE: Mr. Cheatham, Mr. Burgess, Mrs. Lawrence, Ms. Johnson, Mrs. Hilliard and Mr. Councill. ABSENT: Mr. Fetherolf.

Mr. Cheatham inquired about the sale of water to Riverdale Elementary School. Mr. Taylor advised that there wouldn't be much of a difference since the City was supplying water to the old Hunterdale Elementary School and those students would be transferring to the new location. Mr. Cheatham requested that the meters be tracked and Council be provided with that information.

Mr. Cheatham requested information on City-owned vehicles that are taken home by employees (the list of cars, their purpose, who drives them, why and where), a list of credit card or gas card purchases for gas during the month of March 2008, a list of employees with an auto allowance and a list of employee cell phone usage during the month of March 2008 (which employees have phones, why, how many minutes used and cost to the City).

On a motion made by Mr. Cheatham and seconded by Ms. Johnson, a Business Friendly Committee was formed with Mr. Cheatham/Mr. Burgess serving as Chairman and members to be the new City Manager, Donald Goodwin, an Engineer from the Incubator and five businessmen or women with the purpose being to create a set of regulations for City Departments. The vote on this motion was as follows: AYE: Mr. Cheatham, Mr. Burgess, Mrs. Lawrence, Ms. Johnson, Mrs. Hilliard and Mr. Council. ABSENT: Mr. Fetherolf.

Ms. Johnson requested that citizens be invited to speak before each agenda item or be free to ask questions during Council discussions.

Ms. Johnson reminded Mr. Taylor of the policies she and Mrs. Hilliard requested.

Ms. Johnson requested information on the \$715,000 paid in cash for generators by the Electric Department.

Mr. Burgess requested more Citizen Time interaction between Council the speakers. Mr. Burgess also requested that Council speak loudly into their microphones so that everyone in the audience could clearly hear Council.

On motion made by Mr. Burgess and seconded by Mr. Cheatham, a hiring freeze was approved with the exception of first responders and those positions approved by Council on a case-by-case basis. The vote on this motion was as follows: AYE: Mr. Cheatham, Mr. Burgess, Mrs. Lawrence, Ms. Johnson, Mrs. Hilliard and Mr. Council. ABSENT: Mr. Fetherolf.

On motion made by Mr. Burgess and seconded by Mr. Cheatham, the employee positions listed as vacant in the 2008-2009 budget are removed which saves the City approximately \$360,000. The vote on this motion was as follows: AYE: Mr. Cheatham, Mr. Burgess, Mrs. Lawrence, Ms. Johnson, Mrs. Hilliard and Mr. Council. ABSENT: Mr. Fetherolf.

Mr. Burgess requested information on the retirees that participate on the City's insurance plans (how many participants, individual or family plans, cost to the city, etc.) to be provided at the next City Council meeting.

Mr. Burgess requested that Financial Matters be removed from the Consent Agenda and that the Director of Finance report to Council regularly.

Mr. Burgess requested that the committee on which the Mayor is a member continue to meet with Judge Brewbaker regarding the youth in our area. Mr. Burgess further requested that the Mayor provide updates to Council on the group's progress.

On motion made by Mr. Burgess and seconded by Mr. Cheatham, authorization was granted to Mayor Councill and Mr. Taylor to continue negotiations with Isle of Wight and Southampton County regarding the Franklin Municipal Airport. The vote on this motion was as follows: AYE: Mr. Cheatham, Mr. Burgess, Mrs. Lawrence, Ms. Johnson, Mrs. Hilliard and Mr. Councill. ABSENT: Mr. Fetherolf.

Mr. Burgess suggested an "old fashioned barn raising" for the construction of the Farmer's Market and allowing citizens to participate in the assembly of the structure. Mr. Williams warned against possible liabilities resulting from the lack of a contract and proper insurance.

Mr. Burgess inquired as to the status of the City and what direction it was moving towards. He stated that it appears to be broken into three groups – Housing Authority, Schools and the City services. Mr. Burgess would like to see programs and duties overlap to cut costs.

Ms. Johnson thanked Sheryl Frazier and the staff at the Housing Authority for supporting her in Richmond at a convention for Funeral Directors.

On motion made by Mr. Cheatham and seconded by Mr. Burgess, authorization was given for staff to interview candidates for the Network and Systems Administrator position, but not hire yet. The vote on this motion was as follows: AYE: Mr. Cheatham, Mr. Burgess, Mrs. Lawrence, Ms. Johnson, Mrs. Hilliard and Mr. Councill. ABSENT: Mr. Fetherolf.

Closed Session

On motion made by Ms. Johnson and seconded by Mr. Burgess it was unanimously RESOLVED that Council meet in closed session to discuss (1) the possible sale of the Hayden School property, (2) appointments to boards and committees, (3) a personnel matter not related to public business and (4) employment contract for City Attorney as permitted by Virginia Code Section 2.2-3711(A)(7), (1) and (4). The vote on this motion was as follows: AYE: Mr. Cheatham, Mr. Burgess, Mrs. Lawrence, Ms. Johnson, Mrs. Hilliard and Mr. Councill. ABSENT: Mr. Fetherolf.

Certification

On motion made by Ms. Johnson and seconded by Mr. Cheatham, it was unanimously RESOLVED that City Council hereby certifies that to the best of the knowledge of each member only public business matters identified in the motion which the closed meeting was convened were discussed, heard or considered. The vote on this motion was as

follows: AYE: Mr. Cheatham, Mr. Burgess, Mrs. Lawrence, Ms. Johnson, Mrs. Hilliard and Mr. Council. ABSENT: Mr. Fetherolf.

Appointments to Various Boards and Committees

On motion made by Mr. Burgess and seconded by Mr. Cheatham, the following appointments were made: Benny Burgess was appointed to serve on the Western Tidewater Regional Jail Board for an indefinite term; Rosa Lawrence was appointed to serve on the Hampton Roads Planning District Commission for a term that begins immediately and expires on June 30, 2009; Holt Livesay was appointed to replace Benny Burgess on the Franklin Redevelopment and Housing Authority for a term that begins immediately and expires December 31, 2009; and Benny Burgess was appointed to replace Charles Wrenn on the Incubator Development Board for an indefinite term. The vote on this motion was as follows: AYE: Mr. Cheatham, Mr. Burgess, Mrs. Lawrence, Ms. Johnson, Mrs. Hilliard and Mr. Council. ABSENT: Mr. Fetherolf.

On motion made by Mr. Johnson and seconded by Mr. Cheatham, Dexter Trump's appointment to the VMEA was ratified by Council. The vote on this motion was as follows: AYE: Mr. Cheatham, Mr. Burgess, Mrs. Lawrence, Ms. Johnson, Mrs. Hilliard and Mr. Council. ABSENT: Mr. Fetherolf.

City Attorney Contract Renewal

On motion made by Mr. Cheatham and seconded by Mrs. Hilliard, the contract for H. Taylor Williams, IV, to serve as City Attorney was authorized on the condition that there may be other duties assigned by Council. The vote on this motion was as follows: AYE: Mr. Cheatham, Mr. Burgess, Mrs. Lawrence, Ms. Johnson, Mrs. Hilliard and Mr. Council. ABSENT: Mr. Fetherolf.

Adjournment

There being no further business, on motion duly made, seconded and unanimously adopted the meeting was adjourned at 11:15 P.M. The vote on this motion was as follows: AYE: Mr. Cheatham, Mr. Burgess, Mrs. Lawrence, Ms. Johnson, Mrs. Hilliard and Mr. Council. ABSENT: Mr. Fetherolf.

Mayor

Clerk to City Council