

December 8, 2009

**MINUTES OF THE CITY COUNCIL MEETING HELD DECEMBER 8, 2009**

A Regular meeting of the City Council of the City of Hopewell, Virginia, was held Tuesday, December 8, 2009, at 7:30 PM in the City Council Chambers, Municipal Building, 300 North Main Street, Hopewell, Virginia.

PRESENT: Brenda S. Pelham  
N. Gregory Cuffey, Vice mayor  
Christina J. Luman-Bailey, Councilor  
Curtis W. Harris, Councilor  
Kenneth B. Emerson, Councilor  
Gerald S. Stokes, Councilor  
K. Wayne Walton, Councilor  
  
Edwin C. Daley, City Manager  
Thomas E. Lacheney, City Attorney  
Ann M. Romano, City Clerk

Mayor Pelham opened the meeting at 6:30 PM. Roll call was taken as follows:

Mayor Pelham	-	present
Vice Mayor Cuffey	-	present
Councilor Bailey	-	present
Councilor Harris	-	present
Councilor Emerson	-	present
Councilor Stokes	-	present
Councilor Walton	-	present

**CLOSED SESSION**

**Motion** was made by Councilor Emerson, and seconded by Councilor Harris, to convene into Closed Session to discuss Legal Matters, Economic Development, Personnel (*Performance Evaluations: City Manager and City Clerk*); and, Boards & Commissions, in accordance with Virginia Code Sec. 2.2-3711 (A)(1) (3) and (7). Upon the roll call, the vote resulted:

Councilor Stokes	-	yes
Councilor Walton	-	yes
Mayor Pelham	-	yes
Vice Mayor Cuffey	-	yes
Councilor Bailey	-	yes
Councilor Harris	-	yes
Councilor Emerson	-	yes

**OPEN SESSION**

At 7:45 PM Council convened into Open Session. Councilors responded to the question: "Were the only matters discussed in the Closed Meeting public business matters lawfully exempted from open meeting requirements; and public business matters identified in the motion to convene into Closed Session?" Upon the roll call, the vote resulted:

Councilor Stokes	-	yes
Councilor Walton	-	yes
Mayor Pelham	-	yes
Vice Mayor Cuffey	-	yes
Councilor Bailey	-	yes

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Councilor Harris - yes  
Councilor Emerson - yes

**REGULAR MEETING**

Mayor Pelham opened the regular meeting at 7:45 PM. Roll call was taken as follows:

Councilor Stokes - yes  
Councilor Walton - yes  
Mayor Pelham - yes  
Vice Mayor Cuffey - yes  
Councilor Bailey - yes  
Councilor Harris - yes  
Councilor Emerson - yes

Prayer was offered by Rev. Dr. Blanding, followed by the Pledge of Allegiance to the Flag of the United States of America.

**CONSENT AGENDA**

**Motion** was made by Councilor Emerson, and seconded by Councilor Harris to approve the Consent Agenda: Minutes: City Council Regular Meeting 11/17/09; Pending List; Information for Council Review: Recreation Commission meeting cancellation 11/11/09 & Highlights 11/2/09; Riverside Regional Jail 2010 Schedule of meetings; HRHA minutes 9/14/09, 11/9/09 meeting rescheduled to 11/16/09, minutes 11/12/09, minutes 11/16/09; School Board minutes 11/12/09; Hopewell Twinning Assn. minutes 10/19/09 & Friends of Hopewell Assn. minutes 10/26/09; TSB minutes 10/6/09; Personnel Change Report & Financial Report; Public Hearings Announcements: none; Routine Approval of Work Sessions: none; Ordinances on second and final reading: **Ord. No. 2009-22-Floodplain District; Ord. No. 2009-23-Site Plan; Ord. No. 2009-24 Curfew; and Ord. No. 2009-26-First Baptist Church & First Baptist Church of City Point.** Upon the roll call, the vote resulted.

Councilor Stokes - yes  
Councilor Walton - yes  
Mayor Pelham - yes  
Vice Mayor Cuffey - yes  
Councilor Bailey - yes  
Councilor Harris - yes  
Councilor Emerson - yes

**Ordinance No. 2009-22**

**An Ordinance repealing Article XV, Flood Plain District, and enacting Article XV, Floodplain District, of the Zoning Ordinance of the City of Hopewell**

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HOPEWELL**, that Article XV of the Zoning Ordinance of the City of Hopewell, inclusive, be, and hereby is, repealed, and that Article XV, Floodplain District, of the Zoning Ordinance of the City of Hopewell be enacted as follows:

**ARTICLE XV – FLOODPLAIN DISTRICT**

**A. Purpose and Intent**

The purpose of these provisions is to prevent: the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:

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1. regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies;
2. restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding;
3. requiring all those uses, activities, and developments that do occur in flood-prone districts to be protected and/or flood-proofed against flooding and flood damage; and
4. protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

**B. Applicability**

These provisions shall apply to all lands within the jurisdiction of the City of Hopewell and identified as being in the 100-year floodplain by the Federal Insurance Administration.

**C. Compliance and Liability**

1. No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this ordinance and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this ordinance.
2. The degree of flood protection sought by the provisions of this ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that districts outside the floodplain district, or that land uses permitted within such district will be free from flooding or flood damages.
3. Records of actions associated with administering this ordinance shall be kept on file and maintained by the zoning administrator.
4. This ordinance shall not create liability on the part of City of Hopewell or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

**D. Abrogation and Greater Restrictions**

This ordinance supersedes any ordinance currently in effect in flood-prone districts. However, any underlying ordinance shall remain in full force and effect to the extent that its provisions are more restrictive than this ordinance.

**E. Severability**

If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this ordinance. The remaining portions shall remain in full force and effect; and for this purpose, the provisions of this ordinance are hereby declared to be severable.

**F. Penalty for violations**

Any person who fails to comply with any of the requirements or provisions of this article or directions of the director of development or any authorized employee of the City of Hopewell shall be guilty of a Class 1 misdemeanor and subject to the penalties therefore.

In addition to the above penalties, all other actions are hereby reserved, including an action in equity for the proper enforcement of this article. The imposition of a fine or penalty for any violation of, or noncompliance with, this article shall not excuse the violation or noncompliance or permit it to continue; and all such persons shall be required to correct or remedy such violations or non-compliances within a reasonable time. Any structure constructed, reconstructed, enlarged, altered or relocated in noncompliance with

this article may be declared by the City of Hopewell to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this article.

**G. Definitions**

1. Base flood - The flood having a one percent chance of being equaled or exceeded in any given year.
2. Base flood elevation - The Federal Emergency Management Agency designated one hundred (100)-year water surface elevation.
3. Basement - Any area of the building having its floor sub-grade (below ground level) on all sides.
4. Board of Zoning Appeals - The board appointed to review appeals made by individuals with regard to decisions of the Zoning Administrator in the interpretation of this ordinance.
5. Development - Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
6. Elevated building - A non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, or columns (posts and piers).
7. Encroachment - The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.
8. Existing manufactured home park or subdivision - a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.
9. Expansion to an existing manufactured home park or subdivision - the preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
10. Flood or flooding -
  - a. A general or temporary condition of partial or complete inundation of normally dry land areas from
    - i. the overflow of inland or tidal waters; or,
    - ii. the unusual and rapid accumulation or runoff of surface waters from any source.
  - b. The collapse or subsistence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph 1 (a) of this definition.
  - c. Mudflows which are proximately caused by flooding as defined in paragraph (a)(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
11. Flood Insurance Rate Map (FIRM): an official map of a community, on which the administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.
12. Floodplain or flood-prone area - Any land area susceptible to being inundated by water from any source.

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13. Flood proofing: any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
14. Floodway - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.
15. Freeboard - A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed.
16. Highest adjacent grade: the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
17. Historic structure - Any structure that is
  - a. listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
  - b. certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
  - c. individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
  - d. individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either
    - i. by an approved state program as determined by the Secretary of the Interior; or,
    - ii. directly by the Secretary of the Interior in states without approved programs.
18. Lowest floor - The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Federal Code 44CFR §60.3.
19. Manufactured home - A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.
20. Manufactured home park or subdivision - a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
21. New construction - For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial Flood Insurance Rate Map on or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means structures for which *start of construction* commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.
22. New manufactured home park or subdivision - a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either

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final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

23. Recreational vehicle - A vehicle which is
  - a. built on a single chassis;
  - b. 400 square feet or less when measured at the largest horizontal projection;
  - c. designed to be self-propelled or permanently towable by a light duty truck; and,
  - d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.
24. Shallow flooding area – A special flood hazard area with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
25. Special flood hazard area - The land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year as determined in Section I of this ordinance.
26. Start of construction - The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
27. Structure - for flood plain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. ``Structure" for insurance coverage purposes, means a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.
28. Substantial damage - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
29. Substantial improvement - Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the *start of construction* of the improvement. This term includes structures which have incurred *substantial damage* regardless of the actual repair work performed. The term does not, however, include either:
  - a. any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
  - b. any alteration of a *historic structure*, provided that the alteration will not preclude the structure's continued designation as a *historic structure*.
30. Violation: the failure of a structure or other development to be fully compliant with the

community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Sec. 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

31. Watercourse - A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

#### H. **Establishment of Floodplain Districts**

##### 1. Basis of Districts

The various floodplain districts shall include special flood hazard areas. The basis for the delineation of these districts shall be the Flood Insurance Study (FIS) and the Flood Insurance Rate Maps (FIRM) for City of Hopewell prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated September 5, 1979, as amended.

- a. The Special Floodplain District shall be those areas identified as either an AE Zone or A1-30 zone on the maps accompanying the Flood Insurance Study for which one hundred (100)-year flood elevations have been provided but for which no floodway has been delineated.
- b. The Approximated Floodplain District shall be those areas identified as an A Zone on the maps accompanying the Flood Insurance Study. In these zones, no detailed flood profiles or elevations are provided, but the one hundred (100)-year floodplain boundary has been approximated.
- c. The Shallow Flooding District shall be those areas identified as Zone AO or AH on the maps accompanying the Flood Insurance Study.

##### 2. Overlay Concept

- a. The Floodplain Districts described above shall be overlays to the existing underlying districts as shown on the Official Zoning Ordinance Map, and as such, the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.
- b. If there is any conflict between the provisions or requirements of the Floodplain Districts and those of any underlying district, the more restrictive provisions and/or those pertaining to the floodplain districts shall apply.
- c. In the event any provision concerning a Floodplain District is declared inapplicable as a result of any legislative or administrative actions or judicial decision, the basic underlying provisions shall remain applicable.

#### I. **Official Zoning Map**

The boundaries of the Special Flood Hazard Area and Floodplain Districts are established as shown on the Flood Boundary and Floodway Map and/or Flood Insurance Rate Map which is declared to be a part of this ordinance and which shall be kept on file at the City of Hopewell offices.

#### J. **District Boundary Changes**

The delineation of any of the Floodplain Districts may be revised by the City of Hopewell where natural or man-made changes have occurred and/or where more detailed studies have been conducted or undertaken by the U. S. Army Corps of Engineers or other qualified agency, or an individual documents the need for such change. However, prior to any such change, approval must be obtained from the Federal Insurance Administration.

#### K. **Interpretation of District Boundaries**

Initial interpretations of the boundaries of the Floodplain Districts shall be made by the Zoning Officer. Should a dispute arise concerning the boundaries of any of the Districts, the Board of Zoning Appeals shall make the necessary determination. The person questioning or contesting the location of the District

boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.

**L. Submitting Technical Data**

A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and flood plain management requirements will be based upon current data.

**M. District Provisions**

**1. Permit and Application Requirements**

a. Permit Requirement

All uses, activities, and development occurring within any floodplain district shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of the Ordinance, the Virginia Unified Statewide Building Code, all other applicable codes and ordinances, as amended, and the City of Hopewell Subdivision Ordinance. Prior to the issuance of any such permit, the Zoning Officer shall require all applications to include compliance with all applicable state and federal laws. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.

b. Alteration or Relocation of a Watercourse

Prior to any proposed alteration or relocation of any channel or of any watercourse within this jurisdiction, a permit shall be obtained from the U. S. Army Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available from any one of these organizations). Further notification of the proposal shall be given to all adjacent jurisdictions, the Division of Dam Safety and Floodplain Management (Department of Conservation and Recreation), and the Federal Insurance Administration.

c. Site Plans and Permit Applications

All applications for development within any floodplain district and all building permits issued for the floodplain shall incorporate the following information:

- i. The elevation of the Base Flood for the site.
- ii. The elevation of the lowest floor (including basement).
- iii. For structures to be flood-proofed (non-residential only), the elevation to which the structure will be flood-proofed.

**2. General Standards**

In all special flood hazard areas the following provisions shall apply:

- a. New construction and substantial improvements shall be done according to the Virginia Unified Statewide Building Code and anchored to prevent flotation, collapse or lateral movement of the structure.
- b. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.
- c. New construction and substantial improvements shall be constructed with materials and utility

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equipment resistant to flood damage.

- d. New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- e. Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- f. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- g. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- h. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- i. Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this ordinance shall meet the requirements of "new construction" as contained in this ordinance.
- j. Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provisions of this ordinance, shall be undertaken only if said non-conformity is not furthered, extended, or replaced.
- k. Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction a permit shall be obtained from the U. S. Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Furthermore, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and the Federal Insurance Administration.
- l. The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.

### 3. Specific Standards

In all special flood hazard areas where base flood elevations have been provided in the Flood Insurance Study or generated according section M.4, below, the following provisions shall apply:

#### a. Residential Construction

New construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor, including basement, elevated no lower than two (2) feet above the base flood elevation.

#### b. Non-Residential Construction

New construction or substantial improvement of any commercial, industrial, or non-residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than two (2) feet above the base flood elevation. Buildings located in all A, AE, and AH zones may be flood-proofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the BFE plus one foot are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied.

#### c. Elevated Buildings

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Enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:

- i. not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator).
  - ii. be constructed entirely of flood resistant materials below the regulatory flood protection elevation;
  - iii. include, in Zones A, AO, and AE, measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:
    - (a.) Provide a minimum of two openings on different sides of each enclosed area subject to flooding.
    - (b.) The total net area of all openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding.
    - (c.) If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.
    - (d.) The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade.
    - (e.) Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
    - (f.) Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.
- d. Standards for Manufactured Homes and Recreational Vehicles
- i. All manufactured homes placed, or substantially improved, on individual lots or parcels, in expansions to existing manufactured home parks or subdivisions, in a new manufactured home park or subdivision or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood, must meet all the requirements for new construction, including the elevation and anchoring requirements in section 2 a and b, and section 3 a.
  - ii. All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision in which a manufactured home has **not** incurred substantial damage as the result of a flood shall be elevated so that either:
    - (a.) the lowest floor of the manufactured home is elevated no lower than two (2) feet above the base flood elevation; or
    - (b.) the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade
    - (c.) and be securely anchored to the adequately anchored foundation system to resist flotation, collapse and lateral movement;
  - iii. All recreational vehicles placed on sites must either:
    - (a.) be on the site for fewer than 180 consecutive days;

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- (b.) be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions); or,
- (c.) meet all the requirements for manufactured homes in section 3 d.

4. Standards for Approximated Floodplain

The following provisions shall apply with the Approximate Floodplain District:

The Approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one hundred (100)-year floodplain boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the Flood Insurance Study. For these areas, the one hundred (100)-year flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific one hundred (100)-year flood elevation cannot be determined for this area using other sources of data, such as the U. S. Army Corps of Engineers Floodplain Information Reports, U. S. Geological Survey Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently-accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Department of Development and City Engineer.

When such base flood elevation data is utilized, the lowest floor shall be two (2) feet above the base flood elevation. During the permitting process, the applicant shall obtain and submit information proving:

- a. the elevation of the lowest floor (including the basement) of all new and substantially improved structures; and,
- b. if the structure has been flood-proofed in accordance with the requirements of this article, the elevation to which the structure has been flood-proofed.

5. Standards for the Special Floodplain District

The following provisions shall apply within the Special Floodplain District:

Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within the areas of special flood hazard, designated as Zones A and AE on the Flood Rate Insurance Map, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the City of Hopewell.

Development activities in Zones A, AE, and AH, on the City of Hopewell's Flood Insurance Rate Map which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the developer or applicant first applies – with the City of Hopewell's endorsement – for a conditional Flood Insurance Rate Map revision, and receives the approval of the Federal Emergency Management Agency.

6. Standards for the Floodway

The following provisions shall apply within the Floodway when it has been identified as in section M.4, above:

- a. Encroachments, including fill, new construction, substantial improvements and other developments are prohibited unless certification (with supporting technical data) by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood.

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- b. Development activities which increase the water surface elevation of the base flood may be allowed, provided that the developer or applicant first applies – with the City of Hopewell’s endorsement – for a conditional Flood Insurance Rate Map and floodway revision, and receives the approval of the Federal Emergency Management Agency.
- c. If section 6 a, above, is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of section M.
- d. The placement of manufactured homes (mobile homes) is prohibited, except in an existing manufactured homes (mobile homes) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring, elevation, and encroachment standards are met.

7. Standards for the Shallow Flooding District

The following provisions shall apply within the Shallow Flooding District:

- a. All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to or above the flood depth specified on the Flood Insurance Rate Map, above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated no less than two (2) feet above the highest adjacent grade.
- b. All new construction and substantial improvements of non-residential structures shall:
  - i. have the lowest floor, including basement, elevated to or above the flood depth specified on the Flood Insurance Rate Map, above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least two (2) feet above the highest adjacent grade; or,
  - ii. together with attendant utility and sanitary facilities be completely flood-proofed to the specified flood level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- c. Adequate drainage paths around structures on slopes shall be provided to guide floodwaters around and away from proposed structures.

8. Standards for Subdivision Proposals

- a. All subdivision proposals shall be consistent with the need to minimize flood damage;
- b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and
- d. Base flood elevation data shall be provided for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty lots or five acres, whichever is the lesser.

**N. Variances**

In passing upon applications for Variances, the Board of Zoning Appeals shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and consider the following additional factors:

- 1. The showing of good and sufficient cause.
- 2. The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any Floodway District that will cause any increase in the one hundred (100)-year flood elevation.

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3. The danger that materials may be swept on to other lands or downstream to the injury of others.
4. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
5. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
6. The importance of the services provided by the proposed facility to the community.
7. The requirements of the facility for a waterfront location.
8. The availability of alternative locations not subject to flooding for the proposed use.
9. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
10. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
11. The safety of access by ordinary and emergency vehicles to the property in time of flood.
12. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
13. The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
14. Such other factors which are relevant to the purposes of this ordinance.

The Board of Zoning Appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.

Variances shall be issued only after the Board of Zoning Appeals has determined that the granting of such will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense; and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

Variances shall be issued only after the Board of Zoning Appeals has determined that the variance will be the minimum required to provide relief.

The Board of Zoning Appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the one hundred (100)-year flood elevation (a) increases the risks to life and property and (b) will result in increased premium rates for flood insurance.

A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances that are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

#### **O. Existing Structures in Floodplain Areas**

A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity with these provisions, may be continued subject to the following conditions:

1. Existing structures in the Floodway Area shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed expansion would not result in any increase in the base flood elevation.
2. Any modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any flood plain areas to an extent or amount of less than fifty (50) percent of its market value shall conform to the Virginia Uniform Statewide Building Code.

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3. The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its location in a floodplain area to an extent or amount of fifty (50) percent or more of its market value shall be undertaken only in full compliance with this ordinance and shall require the entire structure to conform to the Virginia Unified Statewide Building Code.

This ordinance shall become effective upon the date of its adoption by the City Council. In all other respects said zoning ordinance shall remain unchanged and be in full force and effect.

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**ORDINANCE NO. 2009-23**

An Ordinance authorizing the City of Hopewell, Virginia to grant perpetual non-exclusive easements to First Baptist Church and First Baptist Church of City Point for the purposes of parking, ingress and egress, and to use as a cemetery.

WHEREAS, First Baptist Church and First Baptist Church of City Point have requested perpetual non-exclusive easements in certain real estate located in the "B" Village and West City Point Subdivisions in the City of Hopewell, Virginia, on property owned by the City of Hopewell, Virginia, as depicted on the attached resubdivision plat prepared by Timmons Group, and dated June 23, 2009, and made a part hereof and recorded herewith, for parking, ingress and egress, and to use as a cemetery; and

WHEREAS, the Council of the City of Hopewell conducted a public hearing regarding the proposed easements on November 17, 2009, which hearing was duly noticed and advertised; and

WHEREAS, City Council desires to convey the proposed non-exclusive easements to facilitate the provision of parking, ingress and egress and for use as a cemetery.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HOPEWELL that the conveyance of non-exclusive easements in certain real estate located in the City of Hopewell, Virginia, for parking, ingress and egress, and to use as a cemetery, on property owned by the City of Hopewell, Virginia, generally as depicted on the attached plat, to First Baptist Church and First Baptist Church of City Point, on behalf of the Citizens of the City of Hopewell by the Council of the City of Hopewell by written instrument duly executed by all proper and necessary parties after review and approval thereof by the City Attorney, be authorized.

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**ORDINANCE NO. 2009-24**

An Ordinance amending Hopewell City Code Chapter 25, Section 25-4, Curfew for Certain Minors, to change the hours of curfew.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HOPEWELL, that the following provisions of Hopewell City Code Chapter 25, Section 25-4, Curfew for Certain Minors be amended as follows:

Sec. 25-4. Curfew for certain minors.

(a) It shall be unlawful for any child seventeen (17) years of age or younger to be upon the streets or in other public places of the city, between 11:00 p.m. and 6:00 a.m. of the following day, unless accompanied by a parent or guardian.

(b) It shall be unlawful for any parent, guardian or other person having custody of a child seventeen (17) years of age or younger to allow such child to be upon the streets or in other public places in the city during the hours of curfew for said child, unless the child is accompanied by a parent or guardian.

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- (c) It shall be unlawful for the owner or operator of any establishment, or any person who is an employee thereof, to knowingly permit, allow or encourage a child seventeen (17) years of age or younger to remain upon the premises of the establishment during curfew hours. It shall be a defense to prosecution under this subsection that the owner, operator, or employee of the establishment promptly notified the police that the child was present at the establishment and refused to leave.
- (d) It shall be unlawful for the owner or operator of any motor vehicle to knowingly permit, allow or encourage a violation of this section.
- (e) It shall be unlawful for any person to give a false name, address, or telephone number to any officer investigating a possible violation of this section.
- (f) This section shall not be so construed as to prohibit children seventeen (17) years of age or younger from attending places of religious worship or meetings held by, or under the auspices of, the public schools, boy scouts, girl scouts, or other like civic organizations, unaccompanied by the parent, guardian or other adult person. Nor shall this section be construed as prohibiting a child seventeen (17) years of age or younger from occupying his or her place of employment, during and in the course of said employment, or travelling to or from said employment. This section shall also not be construed as to prohibit children seventeen (17) years of age or younger from being on the sidewalk directly abutting the place where the child resides with his parent(s) or legal guardian(s).
- (g) Any child seventeen (17) years of age or younger in violation of this section shall be taken into custody by any law enforcement officer of the city. As soon as practicable, the officer shall:
- (1) Release the child to his or her parent(s) or guardian(s); or
  - (2) Place the child in a temporary care facility for a period not to exceed the remainder of the curfew hours, so that his or her parent(s) or guardian(s) may retrieve the child; or
  - (3) If the child refuses to give the officer his or her name and address, refuses to give the name and address of his or her parent(s) or guardian(s), or if no parent or guardian can be located prior to the end of the applicable curfew hours, or if located, no parent or guardian appears to accept custody of the child, the child may be taken to a judge or intake officer of the juvenile court to be dealt with in the manner and pursuant to such procedures as required by law.
- (h) The parent(s) or guardian(s) of any child in violation of this section who is placed in a temporary care facility shall be responsible for the costs of such care.
- (i) Any adult violating any provision of this section shall be guilty of a Class 4 misdemeanor.
- (j) Any violation of this section by a child seventeen (17) years of age or younger shall be disposed of as provided in Code of Virginia, § 16.1-278.4, as amended.

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**ORDINANCE NO. 2009 – 26**

An Ordinance authorizing the City of Hopewell, Virginia to grant perpetual non-exclusive easements to First Baptist Church and First Baptist Church of City Point for the purposes of parking, ingress and egress, and to use as a cemetery.

WHEREAS, First Baptist Church and First Baptist Church of City Point have requested perpetual non-exclusive easements in certain real estate located in the “B” Village and West City Point Subdivisions in the City of Hopewell, Virginia, on property owned by the City of Hopewell, Virginia, as depicted on the attached

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resubdivision plat prepared by Timmons Group, and dated June 23, 2009, and made a part hereof and recorded herewith, for parking, ingress and egress, and to use as a cemetery; and

WHEREAS, the Council of the City of Hopewell conducted a public hearing regarding the proposed easements on November 17, 2009, which hearing was duly noticed and advertised; and

WHEREAS, City Council desires to convey the proposed non-exclusive easements to facilitate the provision of parking, ingress and egress and for use as a cemetery.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HOPEWELL that the conveyance of non-exclusive easements in certain real estate located in the City of Hopewell, Virginia, for parking, ingress and egress, and to use as a cemetery, on property owned by the City of Hopewell, Virginia, generally as depicted on the attached plat, to First Baptist Church and First Baptist Church of City Point, on behalf of the Citizens of the City of Hopewell by the Council of the City of Hopewell by written instrument duly executed by all proper and necessary parties after review and approval thereof by the City Attorney, be authorized.

**PUBLIC HEARING – PROPOSED ISSUANCE OF GENERAL OBLIGATION BONDS OF THE CITY IN THE ESTIMATED MAXIMUM AMOUNT OF \$2,800,000 TO FINANCE IMPROVEMENTS TO THE CITY’S SCHOOL SYSTEM, INCLUDING RENOVATIONS TO HOPEWELL HIGH SCHOOL**

This was the night advertised as a Public Hearing for the proposed issuance of General Obligation Bonds of the City in the estimated maximum amount of \$2,800,000 to finance improvements to the City’s School System, including renovations to Hopewell High School.

The public hearing was opened at 7:55 p.m.

There being no speakers, the public hearing was closed at 7:55 p.m.

**Motion** was made by Councilor Harris, and seconded by Councilor Emerson, to adopt Ordinance No. 2009-27 authorizing the issuance of general obligation bonds of the City of Hopewell, Virginia, in the maximum principal amount of \$2,800,000. Upon the roll call, the vote resulted:

Councilor Stokes	-	yes
Councilor Walton	-	yes
Mayor Pelham	-	yes
Vice Mayor Cuffey	-	yes
Councilor Bailey	-	yes
Councilor Harris	-	yes
Councilor Emerson	-	yes

**ORDINANCE NO. 2009-27**

AN ORDINANCE AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE CITY OF HOPEWELL, VIRGINIA, IN THE MAXIMUM PRINCIPAL AMOUNT OF \$2,800,000.

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HOPEWELL, VIRGINIA, THAT:**

1. It is determined to be necessary and expedient for the City of Hopewell, Virginia (the “City”), to finance improvements to the City’s school system, including renovations to Hopewell High School (the “Project”), and to borrow money for such purposes and issue the City’s general obligation bonds therefor.
2. Pursuant to the Constitution and statutes of the Commonwealth of Virginia, including the

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Public Finance Act of 1991, there are authorized to be issued general obligation bonds of the City in the maximum principal amount of \$2,800,000 to provide funds, together with other available funds, to finance the Project and to pay costs of issuing such bonds.

3. The bonds shall bear such date or dates, mature at such time or times not exceeding 40 years from their dates, bear interest at such rate or rates, be in such denominations and form, be executed in such manner and be sold at such time or times and in such manner as the Council may hereafter provide by appropriate resolution or resolutions.

4. The bonds shall be general obligations of the City for the payment of principal and premium, if any, and interest on which its full faith and credit shall be irrevocably pledged.

5. The City Clerk, in collaboration with the City Attorney, is authorized and directed to see to the immediate filing of a certified copy of this Ordinance in the Circuit Court of the City of Hopewell, Virginia.

6. This Ordinance shall be effective immediately.

Motion was made by Councilor Emerson, and seconded by Councilor Harris to adopt a Resolution providing for the issuance and sale of General Obligation Bonds of the City of Hopewell, Virginia, in the Maximum Aggregate principal amount of \$2,800,000, and providing for the form, details and payment thereof. Upon the roll call, the vote resulted:

Councilor Stokes	-	yes
Councilor Walton	-	yes
Mayor Pelham	-	yes
Vice Mayor Cuffey	-	yes
Councilor Bailey	-	yes
Councilor Harris	-	yes
Councilor Emerson	-	yes

At a regular meeting of the Council of the City of Hopewell, Virginia, held on the 8<sup>th</sup> day of December, 2009, at the time and place established by the Council for such meetings, and at which the following members were present and absent during the voting for the resolution referred to below:

**PRESENT:** Mayor Brenda S. Pelham  
Vice Mayor N. Gregory Cuffey  
Councilor Christina J. Luman-Bailey  
Councilor Curtis W. Harris  
Councilor Kenneth B. Emerson  
Councilor Gerald S. Stokes  
Councilor K. Wayne Walton

**ABSENT:** None

the following resolution was adopted by the affirmative roll-call vote of a majority of the members of the Council of the City, the ayes and nays being recorded in the minutes of the meeting as shown below:

<u>MEMBER</u>	<u>VOTE</u>
Mayor Brenda S. Pelham	Yes
Vice Mayor N. Gregory Cuffey	Yes
Councilor Christina J. Luman-Bailey	Yes
Councilor Curtis W. Harris	Yes
Councilor Kenneth B. Emerson	Yes
Councilor Gerald S. Stokes	Yes

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Councilor K. Wayne Walton

Yes

**RESOLUTION PROVIDING FOR THE ISSUANCE AND SALE OF GENERAL OBLIGATION BONDS OF THE CITY OF HOPEWELL, VIRGINIA, IN THE MAXIMUM AGGREGATE PRINCIPAL AMOUNT OF \$2,800,000, AND PROVIDING FOR THE FORM, DETAILS AND PAYMENT THEREOF**

**WHEREAS**, on December 8, 2009, the City Council adopted an ordinance authorizing the issuance of general obligation bonds in a principal amount not to exceed \$2,800,000 to finance improvements to the City's school system, including energy efficiency renovations to Hopewell High School (the "Project"), none of which bonds have been issued and sold, and the City Council has determined to issue general obligation bonds in accordance with such authorization in the approximate principal amount of \$2,800,000; and

**WHEREAS**, the City and the Hopewell City Public School Board (the "School Board") applied to, and were approved by, the Virginia Department of Education for allocation of qualified zone academy bond authorization under Section 54E of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder (collectively, the "Code"); and

**WHEREAS**, the City has determined to accept the proposal of Banc of America Leasing & Capital, LLC (the "Purchaser") for the purchase of such bonds, a copy of such proposal being attached hereto as Exhibit A (the "Proposal"); and

**WHEREAS**, the purchase of such bonds is expected to be in accordance with the Proposal and the terms of this resolution.

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HOPEWELL, VIRGINIA:**

**1. Issuance, Award and Sale.** Pursuant to the Constitution and statutes of the Commonwealth of Virginia, including the Public Finance Act of 1991, there shall be issued and sold general obligation bonds of the City in the maximum aggregate principal amount not to exceed \$2,800,000 (the "Bonds") to provide funds to finance the Project and to pay costs incurred in connection with issuing the Bonds. The Bonds are hereby awarded and sold to the Purchaser in accordance with the terms of this resolution and the Proposal.

**2. Bond Details.** The Bonds shall be issued as a single fully registered bond designated "General Obligation Qualified Zone Academy Bonds, Series 2009" (or such other designation made by the officers signing such bond), shall be dated the date of their delivery and shall be numbered R-1. The Bonds shall (a) bear interest at an annual interest rate or rates not to exceed 2.50%, calculated on the basis of a 360-day year of twelve 30-day months, payable semiannually on dates and at the rates determined by the City Manager; (b) be sold at a price not less than 100% of the principal amount thereof; and (c) mature no later than the maximum term shown on the web page of the United States Department of Treasury (the "QZAB Page") that sets forth terms and credit rates for qualified zone academy bonds on the date the Bonds are purchased, with such final maturity anticipated to be 16 years but in no event later than 2029. Principal of the Bonds shall be payable annually and interest on the Bonds shall be payable semiannually on dates determined by the City Manager. A holder of the Bonds is entitled to receive federal quarterly tax credits on March 15, June 15, September 15 and December 15 (each a "Credit Allowance Date") at the credit rate set forth on the QZAB Page on the date the Bonds are purchased.

If the date on which any payment is due with respect to the Bonds is not a Business Day (as hereinafter defined), the payment shall be made on the next succeeding Business Day. "Business Day" shall mean a day on which banking business is transacted, but not including a Saturday, Sunday or legal holiday, or any other day on which banking institutions are authorized by law to close in the Commonwealth of Virginia.

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Principal and interest shall be payable by the Registrar (as hereinafter defined) by check or draft mailed to the registered owner at the address as it appears on the registration books kept by the Registrar on the last Business Day of the month preceding each interest payment date; provided, however, that at the request of the registered owner of the Bonds, payment will be made by wire transfer pursuant to the most recent wire instructions received by the Registrar from such registered owner. Principal and interest shall be payable in lawful money of the United States of America.

**3. Redemption Provisions.**

(a) The Bonds are not subject to redemption prior to maturity at the option of the City.

(b) The Bonds are subject to mandatory redemption, in part, at a redemption price equal to the principal amount prepaid, plus any accrued interest to the date of redemption, if less than 100% of the available project proceeds (as defined in Section 54A of the Code) are not expended for "qualified zone academy bond" purposes within the meaning of the Code by the end of the Expenditure Period (hereinafter defined), in an amount equal to such unexpended available project proceeds. Such redemption shall occur not more than 90 days after the end of the Expenditure Period. The "Expenditure Period" means the three year period beginning on the date of issuance of the Bonds, as such period may be extended pursuant to Section 54A (d)(2) of the Code. Any such mandatory redemption shall be applied against principal payments coming due in chronological order. In the event of such mandatory redemption, the holder of the Bonds shall be entitled to receive Additional Payments (as defined in Section 10 hereof) with respect to the amount redeemed from the date of such redemption to the date such portion of the Bonds would have been repaid in accordance with the regular schedule of principal payments set forth in the Bonds.

**4. Execution and Authentication.** The Bonds shall be signed by the manual or facsimile signature of the Mayor, and the City's seal shall be affixed thereto or a facsimile thereof printed thereon and attested by the manual or facsimile signature of the Clerk of the Council; provided, however, that if both of such signatures are facsimiles, no Bond shall be valid until it has been authenticated by the manual signature of the Registrar or, if a bank has been appointed registrar pursuant to Section 7, an authorized officer or employee of such bank and the date of authentication noted thereon.

**5. Bond Form.** The Bonds shall be in substantially the form of Exhibit B, with such completions, omissions, insertions and changes not inconsistent with this Resolution as may be approved by the officers signing the Bonds, whose approval shall be evidenced conclusively by the execution and delivery of the Bonds.

**6. Pledge of Full Faith and Credit.** The full faith and credit of the City are irrevocably pledged for the payment of principal of and premium, if any, and interest (including any Additional Payments) on the Bonds. Unless other funds are lawfully available and appropriated for timely payment of the Bonds, the City Council shall levy and collect an annual ad valorem tax, over and above all other taxes authorized or limited by law and without limitation as to rate or amount, on all taxable property within the City sufficient to pay when due the principal of and premium, if any, and interest (including any Additional Payments) on the Bonds.

**7. Registration, Transfer and Owners of Bonds.** The Bonds shall be issued in registered form without coupons, payable to the registered holders or registered assigns. The City Manager is authorized to appoint either the City Treasurer or to solicit bids from and select a bank or trust company to act as paying agent and registrar for the Bonds (the "Registrar"). The Registrar shall maintain registration books for the registration and exchange of Bonds. Upon presentation and surrender of any Bonds to the Registrar at its corporate trust office, together with an assignment duly executed by the registered owner or his duly authorized attorney or legal representative in such form as shall be satisfactory to the Registrar, the City shall execute and the Registrar shall authenticate, if required by Section 4, and deliver in exchange, a new Bond or Bonds having an equal aggregate principal amount, in authorized denominations, of the same form and maturity, bearing interest at the same rate and registered in the names as requested by the then registered owner or its duly authorized attorney

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or legal representative. Any such exchange shall be at the expense of the City, except that the Registrar may charge the person requesting such exchange the amount of any tax or governmental charge required to be paid with respect thereto.

The Registrar shall treat the registered owner as the person exclusively entitled to payment of principal, premium, if any, and interest and the exercise of all other rights and powers of the owner, except that interest payments shall be made to the person or entity shown as owner on the registration books on the last Business Day of the month preceding each interest payment date.

**8. Preparation and Delivery of Bonds.** The officers of the City are authorized and directed to take all proper steps to have the Bonds prepared and executed in accordance with their terms and to deliver the Bonds to the Purchaser upon payment therefor.

**9. QZAB Qualification.** The City intends that the Bonds be and remain “qualified zone academy bond” within the meaning of Sections 54A and 54E of the Code, and to that end the City hereby represents, warrants and agrees as follows:

(a) 100% or more of the available project proceeds (as defined in Section 54A(e)(4) of the Code) shall be used to rehabilitate, repair or equip the Project;

(b) the Project is a public school or academic program within a public school which is established by and operated under a local education agency of the City to provide education and training below the post secondary level and is located in an empowerment or enterprise community or there is a reasonable expectation that as of the date of closing that at least 35% of the students attending the school or participating in the program will be eligible for free or reduced cost lunch programs under the school lunch program established under the National School Lunch Act; and

(c) the City or the School Board has received written commitments from one or more private entities to make qualified contributions (as defined in Section 54E of the Code) having a present value equal to not less than \$250,000 with respect to the Project.

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**10. Loss of Qualified Zone Academy Bond Status.** If any beneficial owner of the Bonds (the "Eligible Owner"), either (i) receives notice, in any form, from the Internal Revenue Service that due to a final determination of the Internal Revenue Service or a court of competent jurisdiction (after the City has exhausted all administrative appeal remedies), or (ii) reasonably determines, based on an opinion of an independent tax counsel selected by such Eligible Owner and approved by the City, which approval the City will not unreasonably withhold, that such Eligible Owner is otherwise eligible to use the tax credit (the "Credit") described in the Code, but may not use the Credit because the Bonds do not constitute "qualified zone academy bonds" as defined in the Code then the City shall pay to the Eligible Owner, within thirty (30) days after the Eligible Owner notifies the City of such determination or opinion, the amount which, taking into account all penalties, fines, interest and additions to tax that are imposed on the Eligible Owner as a result of the loss of "qualified zone academy bond" status for the Bonds owned by such Eligible Owner, will restore to the Eligible Owner the same after-tax yield on the Bonds that the Eligible Owner would have realized from the date of issuance of the Bonds to the date of such determination, had the loss of "qualified zone academy bond" status not occurred. In addition, the City agrees that following the occurrence of such an event, it will pay an additional amount, on each Credit Allowance Date occurring after the date on which the first additional payment was made by the City pursuant to the preceding sentence, as will maintain such after-tax yield to the Eligible Owner through such Credit Allowance Date as long as the Eligible Owner holds the Bonds. Such Eligible Owner shall provide the City a certificate setting forth the calculation made by it to determine the amount of such additional payments. In the event that the City makes any payment to an Eligible Owner pursuant to this Section and it is subsequently determined, pursuant to a final, conclusive and non-appealable decision of the Internal Revenue Service or a court of competent jurisdiction that the Bonds constitute a "qualified zone academy bond," the City shall be entitled to reimbursement for all amounts so paid to such Eligible Owner under this Section.

**11. Tax Certificate.** The officers of the City are authorized and directed, as necessary or desirable, to execute an appropriate certificate regarding the qualification of the Bonds as a "qualified zone academy bond" under the Code. Such certificate shall be in such form as may be requested by bond counsel for the City.

**12. QZAB Designation.** The Council hereby designates the Bonds to be a qualified zone academy bond ("QZAB") pursuant to Section 54E of the Code.

**13. Bond Purchase Agreement and Other Actions.** The City Manager is authorized to execute and deliver to the Purchaser a bond purchase agreement or other similar agreement confirming the Purchaser's purchase of the Bonds and addressing such other matters as are customary in the issuance and sale of QZAB obligations. All other actions of officers of the City and the City Council in conformity with the purposes and intent of this Resolution and in furtherance of the issuance and sale of the Bonds are ratified, approved and confirmed. The officers of the City are authorized and directed to execute and deliver all certificates and instruments and to take all such further action as may be considered necessary or desirable in connection with the issuance, sale and delivery of the Bonds.

**14. Repeal of Conflicting Resolutions.** All resolutions or parts of resolutions in conflict herewith are repealed.

**15. Effective Date.** This Resolution shall take effect immediately.

The undersigned Clerk of the Council of the City of Hopewell, Virginia, certifies that the foregoing constitutes a true and correct extract from the minutes of a regular meeting of the City Council of the City of Hopewell, Virginia, held on the 8th day of December, 2009, and of the whole thereof so far as applicable to the matters referred to in such extract.

WITNESS my signature and the seal of the City of Hopewell, Virginia, this 11<sup>th</sup> day of December, 2009.

December 8, 2009

(SEAL)

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Clerk of the Council, City of Hopewell, Virginia

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EXHIBIT A

Proposal of Banc of America Leasing & Capital LLC

EXHIBIT B

REGISTERED  
NO. \_\_\_\_\_

REGISTERED  
\$ \_\_\_\_\_

**UNITED STATES OF AMERICA**

**COMMONWEALTH OF VIRGINIA**

**CITY OF HOPEWELL**

**GENERAL OBLIGATION QUALIFIED ZONE ACADEMY BOND, SERIES 2009**

Interest	Credit	Maturity	Dated
Rate: 1.75%		Rate: ___%	Date: December 15, [2025]
		Date: December __, 2009	
Registered Owner:	Banc of America Leasing & Capital, LLC		
Principal Amount:	\$2,800,000		

The City of Hopewell, Virginia (the "City"), for value received, promises to pay, to the Registered Owner identified above, or registered assigns as hereinafter provided, the principal sum of TWO MILLION FIVE HUNDRED THOUSAND DOLLARS (\$2,800,000), together with interest from the date of this bond on the unpaid principal, at the rate of 1.75%, calculated on the basis of a 360-day year of twelve 30-day months. Interest shall be payable semiannually on the 15<sup>th</sup> day of June and December of each year, commencing June 15, 2010. Principal shall be payable on each December 15 in the years and amounts set forth in Exhibit A attached hereto. Principal of and interest on this Bond is payable in lawful money of the United States of America. Payment of the installments of principal and interest shall be made to the Registered Owner hereof as shown on the registration books of the City maintained by the Treasurer of the City, as bond registrar and payment agent (the "Registrar"), at the close of business on the last business day of the month next preceding each interest payment date and shall be paid by check or draft of the Registrar, payable upon presentation in lawful money of the United States of America, mailed to the address of such Registered Owner as it appears on such registration books or at such other address furnished in writing by such Registered Owner to the Registrar; provided, however, that at the request of the registered owner of this Bond, payment will be made by wire transfer pursuant to the most recent wire instructions received by the Registrar from such registered owner.

This Bond is a qualified zone academy bond, as that term is defined in Section 54E of the Internal Revenue Code of 1986, as amended (the "Code"), which entitles each Registered Owner or registered assigns to a credit against its federal income taxes as provided in Section 54E of the Code (the "Credit"), at the credit rate set forth above on each March 15, June 15, September 15 and December 15, from the Dated Date hereof until maturity and on the Maturity Date hereof.

If any beneficial owner of the Bond (the "Eligible Owner"), either (i) receives notice, in any form, from the Internal Revenue Service that due to a final determination of the Internal Revenue Service (after the City has exhausted all administrative appeal remedies), or (ii) reasonably determines, based on an opinion of an independent tax counsel selected by such Eligible Owner and approved by the City, which approval the City will not unreasonably withhold, that such Eligible Owner is otherwise eligible to use the Credit, but may not use the Credit because the Bond does not constitute a "qualified zone academy bond" as defined in Section 54E of the

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Code then the City shall pay to the Eligible Owner, within thirty (30) days after the Eligible Owner notifies the City of such determination or opinion, the amount which, taking into account all penalties, fines, interest and additions to tax that are imposed on the Eligible Owner as a result of the loss of “qualified zone academy bond” status for the Bond owned by such Eligible Owner, will restore to the Eligible Owner the same after-tax yield on the Bond that the Eligible Owner would have realized from the date of issuance of the Bond to the date of such determination, had the loss of “qualified zone academy bond” status not occurred. In addition, the City agrees that following the occurrence of such an event, it will pay an additional amount, on each Credit Allowance Date occurring after the date on which the first additional payment was made by the City pursuant to the preceding sentence, as will maintain such after-tax yield to the Eligible Owner. The amounts described in the immediately preceding two sentences that may be owed by the City are referred to as “Additional Payments.” In the event that the City makes any Additional Payment to an Eligible Owner pursuant to this paragraph and it is subsequently determined, pursuant to a final, conclusive and non-appealable decision of the Internal Revenue Service or a court of competent jurisdiction that the Bond constitutes a qualified zone academy bond, as that term is defined in Section 54E of the Code, the City shall be entitled to reimbursement for all amounts so paid as Additional Payments to such Eligible Owner under this paragraph. Additional Payments shall constitute additional interest on this Bond.

This Bond is not subject to redemption at the option of the City.

This Bond is subject to mandatory redemption, in part, at a redemption price equal to the principal amount prepaid, plus any accrued interest to the date of redemption, if less than 100% of the available project proceeds (as defined in Section 54A of the Code) are not expended for “qualified zone academy bond” purposes within the meaning of the Code by the end of the Expenditure Period (hereinafter defined), in an amount equal to such unexpended available project proceeds. Such redemption shall occur not more than 90 days after the end of the Expenditure Period. The “Expenditure Period” means the three year period beginning on the date of issuance of the Bond, as such period may be extended pursuant to Section 54A(d)(2) of the Code. Any such mandatory redemption shall be applied against principal payments coming due in chronological order. In the event of such Mandatory redemption, the holder of the Bond shall be entitled to receive Additional Payments (as defined above) with respect to the amount redeemed from the date of such redemption to the date such portion of the Bond would have been repaid in accordance with the regular schedule of principal payments set forth in the Bond.

This Bond is issued pursuant to the Constitution and statutes of the Commonwealth of Virginia, including the City Charter and the Public Finance Act of 1991. This Bond has been authorized and issued pursuant to an ordinance and a resolution adopted by the City Council on December 8, 2009, to provide funds to finance improvements to the City’s school system, including energy efficiency renovations to Hopewell High School.

The full faith and credit of the City are irrevocably pledged for the payment of principal of and premium, if any, and interest (including any Additional Payments) on this Bond. Unless other funds are lawfully available and appropriated for timely payment of this Bond, the City Council shall levy and collect an annual ad valorem tax, over and above all other taxes authorized or limited by law and without limitation as to rate or amount, on all locally taxable property in the City sufficient to pay when due the principal of and premium, if any, and interest (including any Additional Payments) on this Bond.

The Registrar shall treat the registered owner of this Bond as the person exclusively entitled to payment of principal of and premium, if any, and interest on the Bond and the exercise of all rights and powers of the owner, except that interest payments shall be made to the person shown as the owner on the registration books on the last business day of the month preceding each interest payment date.

All acts, conditions and things required by the Constitution and statutes of the Commonwealth of Virginia to happen, exist or be performed precedent to and in the issuance of this Bond have happened, exist and have been performed, and the issue of bonds of which this Bond is one, together with all other indebtedness of the City, is within every debt and other limit prescribed by the Constitution and statutes of the Commonwealth of Virginia.

The City hereby covenants that it will take all lawful action necessary to comply with all requirements of the Code that must be satisfied subsequent to the issuance of this Bond in order that this Bond be and continue to be eligible for the tax credit set forth in Section 54E of the Code and that it will refrain from taking any action that would cause this Bond to not continue to be eligible for the tax credit set forth in Section 54E of the Code.

December 8, 2009

IN WITNESS WHEREOF, City of Hopewell, Virginia, by its Mayor, has caused this Bond to be signed, its seal to be affixed hereto and attested by its Clerk of the Council, all as of the Dated Date identified above.

\_\_\_\_\_  
Mayor, City of Hopewell, Virginia

(SEAL)  
ATTEST:

\_\_\_\_\_  
Clerk of the Council,  
City of Hopewell, Virginia

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sell(s), assign(s) and transfer(s) unto

\_\_\_\_\_  
(Please print or type name and address, including zip code, of Transferee)

PLEASE INSERT SOCIAL SECURITY OR OTHER  
IDENTIFYING NUMBER OF TRANSFEREE:

\_\_\_\_\_  
: :  
: :  
: :

the within bond and all rights thereunder, hereby irrevocably constituting and appointing \_\_\_\_\_, Attorney, to transfer said bond on the books kept for the registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

Signature Guaranteed

\_\_\_\_\_  
NOTICE: Signature(s) must be guaranteed by an Eligible Guarantor Institution such as a Commercial Bank, Trust Company, Securities Broker/Dealer, Credit Union, or Savings Association who is a member of a medallion program approved by The Securities Transfer Association, Inc.

\_\_\_\_\_  
(Signature of Registered Owner)

NOTICE: The signature above must correspond with the name of the registered owner as it appears on the front of this bond in every particular, without alteration or enlargement or any change whatsoever.

EXHIBIT A

City of Hopewell, Virginia  
General Obligation Qualified Zone Academy Bonds, Series 2009

<u>Year of Maturity</u>	<u>Principal Amount</u>
2010	
2011	
2012	
2013	

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2014  
2015  
2016  
2017  
2018  
2019  
2020  
2021  
2022  
2023  
2024

**PUBLIC HEARING – PPEA (PUBLIC PRIVATE EDUCATION FACILITIES AND INFRASTRUCTURE ACT OF 2002) – INTENT OF THE CITY OF HOPEWELL TO ENTER INTO A COMPREHENSIVE AGREEMENT WITH HARLAN CONSTRUCTION COMPANY, INC. TO DESIGN AND CONSTRUCT A NEW HUMAN SERVICES BUILDING IN THE CITY OF HOPEWELL**

This was the night advertised for a public hearing to receive citizen comments regarding PPEA (Public Private Education Facilities and Infrastructure Act OF 2002) – intent of the City of Hopewell to enter into a Comprehensive Agreement with Harlan Construction Company, Inc. to design and construct a new Human Services Building in the City of Hopewell.

The public hearing was opened at 7:57 p.m.

Katherine Podlewski, 507 North 2<sup>nd</sup> Avenue, Hopewell, spoke in favor of the new Human Services Building.

There being no other speakers, the public hearing was closed at 7:59 p.m.

**Motion** was made by Councilor Harris, and seconded by Councilor Walton, to authorize the City Manager to negotiate and execute any and all necessary documentation, to include a Comprehensive Agreement, with Harlan Construction Company, Inc., not to exceed \$3.3 million. Upon the roll call, the vote resulted:

Councilor Stokes	-	yes
Councilor Walton	-	yes
Mayor Pelham	-	yes
Vice Mayor Cuffey	-	yes
Councilor Bailey	-	yes
Councilor Harris	-	yes
Councilor Emerson	-	yes

**DOWNTOWN FAÇADE ENHANCEMENT  
MATCHING GRANT PROGRAM GUIDELINES**

**Funding Structure:**

~~City Council will appropriate \$200,000 for the grant program. The grant program will match dollar for dollar expenditures by the applicant after the grant is approved and work is completed. The Downtown Design Review Committee will review and award the matching grants.~~

~~Maximum Enhancement Grant award of \$5,000 for exterior façade enhancement work.~~

**Program Criteria:**

- ~~▪ 50/50 Matching Façade Enhancement Grant will be awarded per structure.~~
- ~~▪ Building must be structurally sound.~~

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- ~~Must meet or have a plan to meet the minimum Building and Life Safety Code requirements.~~
- ~~Property taxes must be current.~~
- ~~Applicant will receive funding through the City's Paying Agent on a reimbursement basis.~~

**Downtown Façade Enhancement Program Schedule:**

<del>1. City Council Designates Program Area (see attached map)</del>	<del>December 1, 2009</del>
<del>2. City Council Approves Program Resolution</del>	<del>December 8, 2009</del>
<del>3. City Council Reviews Hopewell Downtown Partnership Recommendations &amp; Appoints Downtown Design Review Committee (DDRC)</del>	<del>January 2010</del>
<del>4. City Administration Creates Program Fund with Local Bank</del>	<del>January 2010</del>
<del>5. DDRC Creates Program Guidelines &amp; Application</del>	<del>January/February 2010</del>
<del>6. City Council Approves Program Guidelines &amp; Application</del>	<del>February 2010</del>
<del>7. Announcement of 1<sup>st</sup> Application Request</del>	<del>February/March 2010</del>
<del>8. Applications Approved by DDRC</del>	<del>April/May 2010</del>
<del>9. Applicants Receive Funds</del>	<del>May/June 2010</del>

~~Downtown Design Review Committee will consist of five (5) members appointed by City Council. All members shall reside in the City of Hopewell, and at least one (1) shall be a downtown property owner, one (1) shall be a downtown business owner, and the remaining three (3) members shall have knowledge of, and demonstrated interest in the historic character of the City, and knowledge or expertise deemed useful to the work of the Review Committee. These members may include, but not limited to, a licensed contractor, a real estate broker, or architect. City Council, at its own discretion, may appoint members that do not reside in the City of Hopewell, if they deem it appropriate. The initial appointments shall be made as follows:~~

- ~~▪ one (1) member for a term of one (1) year;~~
- ~~▪ two (2) members for terms of two (2) years; and~~
- ~~▪ two (2) members for terms of four (4) years.~~

~~After the initial appointments members will be appointed for four (4) year terms. No member of the Review Committee shall serve more than two consecutive four (4) year terms. A member may be re-appointed to additional terms after being out of office for at least one four (4) year term.~~

~~The City Planner shall staff the Review Committee and serve as an advisory member, but shall not be a voting member.~~

**COMMUNICATIONS FROM CITIZENS**

**Katherine Podlewski**, 507 North 2<sup>nd</sup> Avenue, Hopewell, reported that she is not a member of the ARLS Library Archive Committee. She referred to Weston Manor, the Prince George Historical Society, and the Petersburg Historical Society. She would like to see more citizens on the committee. The State Library of Virginia is having an exhibit on Immigrants to Virginia. She was glad to see the progress at Mallonee, but she would like to see an auditorium. This is the third anniversary of the demolition of Patrick Copeland School; it is still on the City's website. In another matter, she indicated that people need to stop abuse from the source. Do not spread lies. High achievers are always pushed to leave where they live. The need to be encouraged to come back to help their hometown. She tries to make positive changes here in Hopewell. Everyone's voice matters. The City needs businesses and widen education. She hopes for the best and for progress and pride in this town.

There being no other speakers, the Communications from Citizens was closed at 8:05 PM.

**UNFINISHED BUSINESS – TECHNOLOGY FUND – APPOINT ONE CITY COUNCIL MEMBER AND ONE CITIZEN TO THE TECHNOLOGY FUND COMMITTEE TO OVERSEE THE \$17,000 IN DRUG FORFEITURE MONEY THAT HAS COME INTO THE CITY**

The Technology Fund appointment was made at the end of the meeting during Appointments to Boards and Commissions.

**UNFINISHED BUSINESS – COUNCILOR BAILEY – INFORMATIVE PRESENTATION OF PROPOSED RESOLUTION FOR FAÇADE IMPROVEMENTS BY THE HOPEWELL DOWNTOWN PARTNERSHIP, INC., AFFILIATE OF THE VIRGINIA MAIN STREET PROGRAM**

In an on-going effort to revitalize the downtown, the implementation of a façade enhancement program is a vital tool that will assist property owners to improve and enhance their buildings. The City staff and the Downtown Hopewell Partnership have been working to develop a façade program. As a result of those efforts the proposed program guidelines and program area were developed for consideration by City Council. The program is proposed as a 50/50 matching grant with a maximum grant award of \$5,000. The program will be administered by the Downtown Design Review Committee, as appointed by City Council, and will be staffed by the City Planner. There is a one-time allocation of \$200,000 and the City Manager will be instructed to prepare program guidelines and an application process.

Councilor Bailey conveyed that at the last meeting Lee Shadbolt gave a presentation on a resolution for the Façade Improvement Grant Program. An outline of the program was provided in the packet without details. The plan is for the City to move forward on implementing this program. Merchants and property owners have been waiting for something like this for a long time.

The City Manager indicated that once approved, Talent Bank Resumes will be solicited for the partnership. Council will receive the resumes in January to appoint the members. There will be an account in a local bank and they will become the paying agent. The individual applicant will then work with the bank.

Councilor Bailey declared that as a property owner in the affected area, she can participate objectively in this vote.

**Motion** was made by Councilor Harris, and seconded by Vice Mayor Cuffey, to resolve to instruct the City Manager and staff to prepare a “Façade Improvement” plan in conformity with the “Downtown Façade Enhancement Matching Grant Program Guidelines” presented to Council. Upon the roll call, the vote resulted:

Councilor Stokes	-	yes
Councilor Walton	-	yes
Mayor Pelham	-	yes
Vice Mayor Cuffey	-	yes
Councilor Bailey	-	yes
Councilor Harris	-	yes
Councilor Emerson	-	yes

**DOWNTOWN FAÇADE ENHANCEMENT  
MATCHING GRANT PROGRAM GUIDELINES**

**Funding Structure:**

City Council will appropriate \$200,000 for the grant program. The grant program will match dollar for dollar expenditures by the applicant after the grant is approved and work is completed. The Downtown Design Review Committee will review and award the matching grants.

Maximum Enhancement Grant award of \$5,000 for exterior façade enhancement work.

**Program Criteria:**

- 50/50 Matching Façade Enhancement Grant will be awarded per structure.
- Building must be structurally sound.
- Must meet or have a plan to meet the minimum Building and Life Safety Code requirements.
- Property taxes must be current.
- Applicant will receive funding through the City’s Paying Agent on a reimbursement basis.

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**Downtown Façade Enhancement Program Schedule:**

10. City Council Designates Program Area (see attached map)	December 1, 2009
11. City Council Approves Program Resolution	December 8, 2009
12. City Council Reviews Hopewell Downtown Partnership Recommendations & Appoints Downtown Design Review Committee (DDRC)	January 2010
13. City Administration Creates Program Fund with Local Bank	January 2010
14. DDRC Creates Program Guidelines & Application	January/February 2010
15. City Council Approves Program Guidelines & Application	February 2010
16. Announcement of 1 <sup>st</sup> Application Request	February/March 2010
17. Applications Approved by DDRC	April/May 2010
18. Applicants Receive Funds	May/June 2010

Downtown Design Review Committee will consist of five (5) members appointed by City Council. All members shall reside in the City of Hopewell, and at least one (1) shall be a downtown property owner, one (1) shall be a downtown business owner, and the remaining three (3) members shall have knowledge of, and demonstrated interest in the historic character of the City, and knowledge or expertise deemed useful to the work of the Review Committee. These members may include, but not limited to, a licensed contractor, a real estate broker, or architect. City Council, at its own discretion, may appoint members that do not reside in the City of Hopewell, if they deem it appropriate. The initial appointments shall be made as follows:

- one (1) member for a term of one (1) year;
- two (2) members for terms of two (2) years; and
- two (2) members for terms of four (4) years.

After the initial appointments members will be appointed for four (4) year terms. No member of the Review Committee shall serve more than two consecutive four (4) year terms. A member may be re-appointed to additional terms after being out of office for at least one four (4) year term.

The City Planner shall staff the Review Committee and serve as an advisory member, but shall not be a voting member.

**CITIZEN/COUNCILOR REQUEST – COUNCILOR BAILEY – PROPOSED REINSTATEMENT OF THE CITY’S TAX ABATEMENT PROGRAM FOR JANUARY 12, 2009**

Councilor Bailey believes that reinstating the City’s Tax Abatement Program will provide positive economic incentive on property improvement. The Cultural Resource Management Program has been approved by the City. There is a need to move forward with some other suggestions and programs presented to Council. This issue will be included on the Agenda for January 12, 2010.

**CITIZEN/COUNCILOR REQUEST – VICE MAYOR CUFFEY – REPORTS ON THE VIRGINIA MUNICIPAL LEAGUE CONFERENCE IN OCTOBER, AND THE NATIONAL LEAGUE OF CITIES CONFERENCE IN NOVEMBER**

Vice Mayor Cuffey provided a PowerPoint presentation on his attendance at the VML Conference in October, and the NLC Conference in November. Each year City Council attends these two conferences.

VML CONFERENCE: Councilor Walton attended the VML Conference and was impressed with the educational opportunities, diversity, and networking. Vice Mayor Cuffey reported that the City received the Go Green Award at the VML Conference. Councilor Bailey showed everyone the plaque. That was a significant accomplishment for Hopewell.

NLC CONFERENCE: The conference was held in San Antonio and was attended by Councilor Emerson, Mayor Pelham, Vice Mayor Cuffey, and City Manager Daley. Mayor Pelham was interested in the educational opportunities and networking. Councilor Emerson reported that this was his first time attending the

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NLC Conference. He enjoyed the networking with Councilors from all over the country. His group went to nearby Ft. Sam Houston. Vice Mayor Cuffey attended the luncheon at which Dr. Daley was the guest speaker as former president of the ICMA.

**CITIZEN/COUNCILOR REQUEST – COUNCILOR GERALD STOKES – JOINT RESOLUTION WITH THE COUNTY OF PRINCE GEORGE HONORING IRAQ AND AFGHANISTAN SERVICE MEMBERS AND CIVILIANS**

The City of Hopewell and the County of Prince George wish to express appreciation to the men and women serving and who have served in the war in Afghanistan and the war in Iraq, and further to mourn the lives of those lost, and support those injured in the line of duty.

Councilor Stokes and Mr. Bragg, PIO/PAC, worked with the County of Prince George officials to develop this Joint Resolution.

**Motion** was made by Councilor Bailey, and seconded by Councilor Harris, to resolve to adopt the Joint Resolution with the County of Prince George honoring Iraq and Afghanistan service members and civilians. Upon the roll call, the vote resulted:

Councilor Stokes	-	yes
Councilor Walton	-	yes
Mayor Pelham	-	yes
Vice Mayor Cuffey	-	yes
Councilor Bailey	-	yes
Councilor Harris	-	yes
Councilor Emerson	-	yes

**JOINT RESOLUTION WITH THE COUNTY OF PRINCE GEORGE HONORING IRAQ AND AFGHANISTAN SERVICE MEMBERS AND CIVILIANS**

**WHEREAS**, the City of Hopewell and the County of Prince George and their citizens, strongly support the men, women and Department of Defense civilians now serving in the United States Armed Forces or in support of the United States operations and efforts in Iraq and Afghanistan, and we recognize their sacrifice in their service to our Country; and

**WHEREAS**, in October 2002, the United States Congress adopted a Joint Resolution authorizing the use of the United States Armed Forces in Iraq and Afghanistan to defend the Nation’s interest and to eliminate threats to security and safety throughout the World; and

**WHEREAS**, 2009 marks the 9<sup>th</sup> Anniversary of the war in Afghanistan and the 7<sup>th</sup> Anniversary of the war in Iraq; and

**WHEREAS**, the City of Hopewell and the County of Prince George mourn and honor the approximate 4,000 Americans who have given their lives and almost 30,000 Americans who have been wounded during deployment in Iraq and Afghanistan; and

**WHEREAS**, the City of Hopewell and the County of Prince George will help care for those who have been wounded or injured in the line of duty, and support those who are grieving the loss of a loved one.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HOPEWELL AND THE BOARD OF SUPERVISORS OF THE COUNTY OF PRINCE GEORGE** that the City of Hopewell and the County of Prince George along with their citizens’ support naming a portion of the I-295 Corridor and the placing of a sign honoring the men and women who have served and those now serving our Country in Iraq

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and Afghanistan. The name of the Highway sign shall be called "Afghanistan and Iraq War Veterans Memorial Highway."

**BE IT FURTHER RESOLVED** that copies of this Resolution be transmitted by the Clerk to the President of the United States, Presiding officials of both houses of Congress, the Governor and members of the Virginia General Assembly and be made available to other municipal Councils, Boards and Executives in the Commonwealth of Virginia.

**REGULAR BUSINESS – CRATER YOUTH CARE AGREEMENT AND CRATER YOUTH CARE RESOLUTION**

Dr. Daley introduced the Crater Youth Care Agreement and Crater Youth Care Resolution. He explained that the costs to each locality are based 50% on population and 50% on the number of guests and days. The per diem rates are rising. The current average of guests is 17; two years ago it was 22; the average for the last five years was 20. A three-year average allows to better budget. There was a question about whether or not this is done for the jail. Dr. Daley will work on that for the jail next.

**Motion** was made by Councilor Bailey, and seconded by Councilor Harris, to approve the resolution which incorporates the agreement change to the Crater Youth Care Agreement. Upon the roll call, the vote resulted:

Councilor Stokes	-	yes
Councilor Walton	-	yes
Mayor Pelham	-	yes
Vice Mayor Cuffey	-	yes
Councilor Bailey	-	yes
Councilor Harris	-	yes
Councilor Emerson	-	yes

**FIRST AMENDMENT TO CRATER YOUTH CARE COMMISSION SERVICE AGREEMENT**

**THIS FIRST AMENDMENT** to the Crater Youth Care Commission Service Agreement dated July 1, 2002 (the "Service Agreement") is entered into by and among the CRATER YOUTH CARE COMMISSION (the "Commission"), the CITIES OF EMPORIA, HOPEWELL AND PETERSBURG and the COUNTIES OF DINWIDDIE, PRINCE GEORGE, SUSSEX AND SURRY (collectively the "Member Jurisdictions"), each of which is a political subdivision of the Commonwealth of Virginia.

**WHEREAS**, the Commission was created as the Crater Juvenile Detention Home Commission in 1972 by resolutions of the governing bodies of the Member Jurisdictions, for the purpose of owning, maintaining and operating a regional facility for the secure detention of juvenile offenders; and

**WHEREAS**, the Member Jurisdictions adopted the current version of the Service Agreement dated July 1, 2002; and

**WHEREAS**, the Member Jurisdictions desire to amend the Service Agreement to change the method of calculation of the usage based portion of the formula which determines the cost to each Member Jurisdiction to operate the Commission from a current year usage formula to one based on the usage during the prior three calendar years of operation, which change will eliminate major variances in one Member Jurisdiction's usage charge due to a significant increase in juveniles committed to the Commission during any one year.

**NOW THEREFORE, IT IS AGREED** by the Commission and the Member Jurisdictions that the Service Agreement be amended as follows:

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1. The definition of "Per Diem Charge" in Article I, Definitions, shall be amended to read as follows, and all references in the Agreement to "Per Diem Charge" shall be changed to "Usage Charge":

"Usage Charge" means the usage-based portion of the charge to Member Jurisdictions for each Detainee held in the Detention Center, as set forth in Section 4.2.

2. The definition of "Basic Monthly Charge" in Article I, Definitions, shall be amended to read as follow, and all references in the Agreement to "Basic Monthly Charge" shall be changed to "Population Charge":

"Population Charge" means the population-based portion of the charge to Member Jurisdictions, as set forth in Section 4.2.

3. Section 3.7 shall be amended to read as follows:

**"Section 3.7. Annual Budget.** On or before March 1, or such later date as the Commission members may agree upon, the Commission shall provide to each Member Jurisdiction the Commission's Annual Budget for the next Fiscal Year, including any proposed capital expenditures. For each Fiscal Year, such Annual Budget shall set forth the amount to be paid by each of the Member Jurisdictions, including the amount of the Population Charge and the amount of the Usage Charge, with the latter determined by the percentage of Detainees from each Member Jurisdiction over the past three calendar years. This method shall be effective for the Annual Budget for the Fiscal Year beginning July 1, 2010.

4. Section 4.2 (b) and (e) shall be amended to read as follows:

**Section 4.2. Calculation and Billing of Charges to Members.**

- (b) The Usage Charge for each Member Jurisdiction shall be calculated by multiplying 50% of the Commission's budgeted Net Expenses for Secure Detention by the percentage of Detainees held at the Detention Center from each Member Jurisdiction over the preceding three calendar years (e.g. the Usage Charge for the 2010 Fiscal Year would be based on the percentage of Detainees from each Member Jurisdiction for calendar year 2007, 2008 and 2009). This change shall be effective for the Fiscal Year beginning July 1, 2010.

- (e) Deleted.

**IN WITNESS WHEREOF**, the parties have caused this Amendment to be executed by their duly authorized officers and pursuant to the approval of the respective governing bodies, as of the date of the last approval of the parties.

**CRATER YOUTH CARE COMMISSION**  
Chairman

**CITY OF EMPORIA**  
City Manager

**CITY OF HOPEWELL**  
City Manager

**CITY OF PETERSBURG**  
City Manager

**COUNTY OF DINWIDDIE**

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County Administrator

**COUNTY OF PRINCE GEORGE**  
County Administrator

**COUNTY OF SUSSEX**  
County Administrator

**COUNTY OF SURRY**  
County Administrator

**RESOLUTION**

**WHEREAS**, the Crater Youth Care Commission has voted to recommend to the Member Jurisdictions that the Service Agreement dated July 1, 2002 be amended to reflect that the usage portion of the charge to the Member Jurisdictions for operating the Commission be based on a three year calendar average of juveniles committed to the Detention Center from each jurisdiction, rather than on the basis of a per diem charge for each juvenile committed during the current fiscal year; and

**WHEREAS**, this amendment, if adopted, will prevent a Member Jurisdiction from having to pay an increased usage charge from that originally budgeted due to an increase in juveniles committed from that Member Jurisdiction during the fiscal year; and

**WHEREAS**, the amendment, in order to be adopted, must be approved by each of the seven governing bodies of the Member Jurisdictions.

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Hopewell that the First Amendment to the Crater Youth Care Commission Service Agreement is hereby agreed to by the City Council/ Board of Supervisors, and the City Manager/ County Administrator is authorized to execute the document on behalf of the City/County.

Adopted this 8<sup>th</sup> day of December, 2009.  
Clerk

**REGULAR BUSINESS – PROPOSED RESOLUTION TO SUPPORT CONTINUED STATE AID TO LOCALITIES WITH POLICE DEPARTMENTS (599 PROGRAM FUNDS)**

The Commonwealth of Virginia is considering reducing or deleting 599 program funds in the upcoming fiscal year to reflect the downward projection of revenues. Section 9.1-169 and 9.1-170 of the Virginia Code determines the formula for distribution of these funds. It is suggested that the General Assembly and Governor comply with this statute in this regard.

Any reductions or deletion to the 599 program greatly impacts the City of Hopewell as allocations derived from this program are used to maintain our basic police services. The City Council of the City of Hopewell intends to forward copies of the approved Resolution to Delegate Riley E. Ingram, Delegate Joseph D. Morrissey, Senator Henry L. Marsh, III, and Senator Frederick M. Quayle.

The City Manager indicated that this issue came from the Mayors and Chairs meeting. Impacts are coming from the state. When speaking to the General Assembly citizens should stress the importance of the 599 funds for our Police Department. This will be listed on Hopewell's Legislative List.

**Motion** was made by Vice Mayor Cuffey, and seconded by Councilor Walton, to adopt a resolution to support continued state aid to localities with police departments (599 Program Funds). Upon the roll call, the vote resulted:

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Councilor Stokes	-	yes
Councilor Walton	-	yes
Mayor Pelham	-	yes
Vice Mayor Cuffey	-	yes
Councilor Bailey	-	yes
Councilor Harris	-	yes
Councilor Emerson	-	yes

**A RESOLUTION TO SUPPORT CONTINUED STATE AID TO LOCALITIES WITH POLICE DEPARTMENTS (599 PROGRAM FUNDS)**

**WHEREAS**, the Commonwealth of Virginia is considering reducing or deleting 599 program funds in the upcoming fiscal year to reflect the downward projection of revenues; and,

**WHEREAS**, Section 9.1-169 and 9.1-170 of the Virginia Code determines the formula for distribution of these funds, and

**WHEREAS**, it is suggested that the General Assembly and Governor comply with this statute in this regard.

**NOW, THEREFORE, BE IT RESOLVED** that any reductions or deletion to the 599 program greatly impacts the City of Hopewell as allocations derived from this program are used to maintain our basic police services; and,

**BE IT FURTHER RESOLVED** that the City of Council of the City of Hopewell directs the Clerk of Council to mail a true copy of the approved Resolution to Delegate Riley E. Ingram, Delegate Joseph D. Morrissey, Senator Henry L. Marsh, III, and Senator Frederick M. Quayle.

**REGULAR BUSINESS –PROPOSED RESOLUTION –REQUESTING THE JOINT LEGISLATIVE AUDIT & REVIEW COMMISSION (JLARC) TO STUDY COSTS AND BENEFITS OF THE COMMONWEALTH PROVIDING FINANCIAL AND OTHER INCENTIVES TO LOCALITIES FOR THE JOINT CONSTRUCTION OF CAPITAL FACILITIES AND THE JOINT PROVISION OF OPERATING SERVICES**

**Motion** was made by Councilor Emerson, and seconded by Vice Mayor Cuffey, to adopt a resolution requesting the Joint Legislative Audit & Review Commission (JLARC) to study costs and benefits of the Commonwealth providing financial and other incentives to localities for the joint construction of capital facilities and the joint provision of operating services. Upon the roll call, the vote resulted:

Councilor Stokes	-	yes
Councilor Walton	-	yes
Mayor Pelham	-	yes
Vice Mayor Cuffey	-	yes
Councilor Bailey	-	yes
Councilor Harris	-	yes
Councilor Emerson	-	yes

**RESOLUTION**

December 8, 2009

**WHEREAS**, The City Council of the City of Hopewell, Virginia requests the Joint Legislative Audit & Review Commission to study costs and benefits of the Commonwealth providing financial and other incentives to localities for the joint construction of capital facilities and the joint provision of operating services.

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Hopewell joins with the County of Chesterfield in requesting the JLARC study.

### **CITY MANAGER'S COMMENTS**

Dr. Daley reported that the City Attorney has finalized the Honeywell issue and has received the first payment. He reminded those Council members who have not already done so, to submit their completed Priority Sheets.

### **REPORT OF THE CITY CLERK - REGULAR BUSINESS - APPOINTMENTS TO BOARDS AND COMMISSIONS**

Motion was made by Councilor Walton, and seconded by Vice Mayor Cuffey, to appoint Debbie Cruppenik (Ward #4), and Dale Dailey (Ward #7) to the Neighborhood Watch Advisory Council, for terms extending through October 31, 2010; to appoint to the Recreation Commission two students, Katherine Okum (Junior) for a term extending through May 31, 2011 and Jake Butterworth (Senior) for a term extending through May 31, 2010; Tommy Wells to the Telecommunications Regulation Committee; and Tommy Wells to the Technology Fund Committee. Upon the roll call, the vote resulted:

Councilor Stokes	-	yes
Councilor Walton	-	yes
Mayor Pelham	-	yes
Vice Mayor Cuffey	-	yes
Councilor Bailey	-	yes
Councilor Harris	-	yes
Councilor Emerson	-	yes

### **REPORTS OF CITY COUNCIL COMMITTEES**

Councilor Walton reported on the Virginia Gateway Region meeting on December 3, 2009. There was discussion about economic development and about the eight localities seeking a \$200,000 grant from the Cameron Foundation. They were asked to come back to ask for another \$10,000. There is a lot of activity regarding the Rolls Royce plant being built in Prince George, but there was not much else going on.

Councilor Bailey reported from the School Construction Committee. They discussed where the school busses should be parked long term. The Boys and Girls Club has not had heat and it requires \$200,000 to fix it. Due to the creativity of the Richard Thomas, Maintenance Specialist for the School System he discovered a system for about \$30,000.

Mayor Pelham thanked Mayor Mickens of Petersburg for the federal and state monies directed regionally for transportation and wastewater treatment.

### **REPORTS OF CITY COUNCIL MEMBERS**

**Councilor Bailey** reported on Go Green at the VML. Other objectives include options available to fight blight. Promote sustaining a healthy and revitalized community. She advised using assets wisely. The Christmas Parade was very festive. She complimented the Jaycee's for organizing everything.

**Councilor Walton** reported on the river. FOLAR received \$15,000 to fund projects: the gazebo and pier at Weston Manor. The recent canoe race had two participants from the DCR, who scored the river and

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designated it as a scenic river from Lake Chesdin to Hopewell. That is another tool for grants. United Way is not doing well due to the declining economy. There are more needs now than last year. The drive is currently at 60% of their goal. He hoped that by the end of the year some corporations will be able to make donations. United Way has helped many in the past years.

**Councilor Emerson** indicated that on December 9, 2009 the Chamber of Commerce was invited to meet other businesses. He sat in for the Mayor at a meeting with the Army presentation by General Chambers on the status of BRAC. He hoped that houses started selling. He wished everyone a Merry Christmas.

**Vice Mayor Cuffey** announced a Ward #7 meeting on Thursday, December 10, at Woodlawn School for citizens on Dinwiddie Avenue. Johnnie Butler, City Engineer, will discuss improvements on Dinwiddie Avenue. He wished everyone Happy Holidays.

**Mayor Pelham** commended all the volunteer activities and organizations for the activities in the City. She apologized that she was unable to attend the Senior Citizens Annual Dinner/Dance. She commended First Baptist Church for the Walk Through Bethlehem. There are many needs in the community. She thanked Mr. Bragg and those in attendance in the audience. She thanked all employees for their hard work throughout the year. She thanked Dr. Daley for working through a budget that did not create any layoffs. She apologized to the City Manager and City Clerk for the last Performance Evaluations which were performed during the Closed Session. She wished everyone a Merry Christmas, Happy Holidays, and a Happy New Year. She commended Dr. Blanding, who offered prayer before the meeting, for staying for the whole meeting.

**ADJOURN**

At 9:05 PM **motion** was made by Vice Mayor Cuffey, and seconded by Councilor Walton, to adjourn the meeting. Upon the roll call, the vote resulted:

Councilor Stokes	-	yes
Councilor Walton	-	yes
Mayor Pelham	-	yes
Vice Mayor Cuffey	-	yes
Councilor Bailey	-	yes
Councilor Harris	-	yes
Councilor Emerson	-	yes

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Brenda S. Pelham  
Mayor

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Ann M. Romano, City Clerk