

April 26, 2011  
Work Session

**MINUTES OF THE CITY COUNCIL WORK SESSION HELD APRIL 26, 2011**

A Work Session of the City Council of the City of Hopewell, Virginia, was held Tuesday, April 26, 2011 at 6:30 p.m. in Council Chambers, Municipal Building, 300 North Main Street, Hopewell, Virginia.

PRESENT:                   Christina J. Luman-Bailey, Mayor  
                                  K. Wayne Walton, Vice Mayor  
                                  Michael C. Bujakowski, Councilor  
                                  Gerald S. Stokes, Councilor  
                                  Brenda S. Pelham, Councilor  
                                  Jackie M. Shornak, Councilor

                                  Edwin C. Daley, City Manager  
                                  Thomas E. Lacheney, City Attorney  
                                  Debra W. Pershing, Acting City Clerk

ABSENT:                   Curtis W. Harris, Councilor (illness)  
                                  Ann Romano, City Clerk (medical leave)

Mayor Luman-Bailey opened the Work Session at 6:30 p.m. Roll call was taken as follows:

Mayor Luman-Bailey	-	present
Vice Mayor Walton	-	present
Councilor Harris	-	ABSENT (illness)
Councilor Bujakowski	-	present
Councilor Stokes	-	present
Councilor Pelham	-	present
Councilor Shornak	-	present

**CLOSED SESSION**

**Motion** to amend the closed session agenda was made by Councilor Bujakowski seconded by Councilor Pelham, and unanimously approved to convene into Closed Session to discuss Current Litigation (Beacon Theatre), in accordance with Virginia Code Sec. 2.2-3711 (A)(7), and, as amended, to discuss economic development contract (the Marina), in accordance with Virginia Code Sec. 2.2-3711(A)(3).

**OPEN SESSION**

Council convened into Open Session at 7:50 p.m. 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 Bujakowski	-	yes
Councilor Stokes	-	yes
Vice Mayor Walton	-	yes
Councilor Pelham	-	yes
Councilor Shornak	-	yes
Mayor Luman-Bailey	-	yes

**WORK SESSION**

**PRESENTATION – HMA LOBBY PROJECT**

Brett Vassey, President and CEO of the Virginia Manufacturers Association, and Becky McDonough, Executive Vice President of the Hopewell/Prince George Chamber of Commerce addressed Council and distributed materials on their organization. He thanked Council for the opportunity to provide a presentation on this important project. Councilor Stokes and City Manager Ed Daley are also involved in this project. Mark Haley provided a quick overview of the status of Phase II; Mr. Vassey will provide an overview of the project on the grants and appropriations on the state level; Becky McDonough will give an overview from the community and business perspective; and finally Reinhold Brand, President of Evonik, will give a corporate perspective.

Mark Haley reported working on the nitrogen project for the past 15 years. They are taking a different approach about funding now and looking towards options for nitrogen reduction. Hopewell is unique with a big treatment facility in a small city because of its industrial partners. Over 80% of the wastewater comes from industry. Although the City owns this asset, it is a small player. Regulations have been promulgated and more are coming. TMDL is a larger target that is coming. Local limits are calculated mathematically, which are good in the short term but a sustainable long-term approach. Councilor Stokes chairs the Commission which looks again at centralized treatment. Funding is always an issue. They are looking for \$35 million for capital, and it is fairly safe to assume another \$60 million investment in the future. Ten percent (10%) of state surplus goes into the fund but was tapped out because of budget constraints. HMA sought resources through the Chamber of Commerce and VMA which partnered together. Vice Mayor Walton asked the \$95 million. Mr. Haley indicated that the first phase was relocating the primary plant; at that point, industry jumped off, and the City took on the project alone, which is currently at \$25 million. The next phase would add \$35 million onto that.

Mr. Vassey indicated that is a baseline. From a project point of view, the manufacturers in the community came together in late 2010. Approximately 176,000 manufacturing jobs have been lost since 1990. This project has put together both the public and private sector to collaborate to find funds so it is compatible with the cost limitations of this community. They have to put all their cards on table and both oars in the water. They have a lobbyist in Washington D.C. who started on February 1 and is working diligently setting up meetings to identify what resources are available. Now it is an implementation plan on how probable those opportunities are and time constraints. July 1 is “fish or cut bait” as we will know definitely about DOD money or state money and term. This will give the community information they need to move forward. Part of this project is also infrastructure, an economic development and educational component. They intend to work with the Chamber and City Council to educate the community. The EPA will continue mandates year after year. Being dependent on four or five businesses is a challenge. If successful, it will be a competitive advantage for the community. If not, a byproduct will be focusing on what is left for economic development. They are not asking for funding for their lobbying effort as they are looking at the community development aspect of this with an Economic Impact Statement. The Secretary of Natural Resources will require this before it goes into the Governor’s budget.

Becky McDonough provided a copy of the current Comprehensive Economic Development Strategy (CEDS) plan that exists for the Crater Planning District. It lists projects which are the meat of the matter that relates to Council. It is project #15. To determine if the ranking is correct, the Chamber attained data from major manufacturers such as Honeywell, Ashland, VAWCO, and Evonik. They provided data on where employees live and a summary of benefits. The economic impact is \$130,193,700. This information will be provided to the Crater Planning District Commission to use when they update the CEDS plan by June 1. Because of this number, it will move the ranking of the Wastewater Treatment Plant up because of the infrastructure. That will help when seeking funding from the federal

and state level. The Mayor commented that it is time to resuscitate what we were working on for four years if only to bring an educational benefit re: application to Housing and Community Development. What was identified as common interest was nutrient reduction. Ironically, the seed money went to project #2 on priority list. Mrs. McDonough said that this is a wonderful project to collaborate on for the community.

Reinhold Brand represented industry. In his view, we are all stakeholders of the Wastewater Treatment Plant, and we are in this together. Evonik tries to do a lot to reduce wastewater amounts and reduce nitrogen impact. It has doubled production and kept wastewater the same but reduced nitrogen to 90%. In order to move forward, they need a facility like Mr. Haley is running--not only as industry, but for growth in the City. Discussions about fulfilling requirements, costs money such as technology. Mr. Haley is exploring options. If required to do more and limits become lower, money will have to be spent. Evonik is not a Commission member and would have to do pretreatment which will cost more money and potentially burden future projects. Currently, there are 230 employees. The City of Hopewell is viewed as a business-friendly environment and works hard to maintain that. It makes a difference to industry if there is a burden investment for additional money for wastewater treatment. A unique opportunity must be utilized in order to garner funding to bring in new technology to become compliant, protect industry, and get ahead of technology, while attracting and maintaining industry. Smurfit Stone is emerging from bankruptcy. As they are being taken over by new owner, they are evaluating every single site. One more mill closing could cause an effect on this community; industry and Fort Lee could become less attractive. From a business perspective, he wants to make the community better. Efforts are being put together to work for the future of the entire community.

Mr. Vassey summed up the presentation. This is an infrastructure project and very focused: the federal and state funding, looking at grants and appropriation opportunities that still exist, and still providing reports from Councilor Stokes and the City Manager. This is a most unique project because it is rural, industrial, commercial, military, and within the Chesapeake Clean Bay Act. The City should consider a formal impact statement on the businesses, particularly industry.

### **REGULAR BUSINESS – CEMETERY RENOVATIONS**

Council asked how to reconfigure the cemetery to add more plots. Money was proposed in the budget for cemetery expansion/renovation to provide additional lots, but Council will need to amend its ordinance.

Phil Elliott, Director of Public Works, presented a report on the cemetery. During the last meeting, there was discussion on expanding outside current boundaries. As a result of the recommendations, Public Works looked at taking out the triangle area. That alternative was unfavorable because of the conflict with stormwater and width of road. After surveying the area, 103 additional plots could be added, but would the City should have to spend \$130,000 to excavate. Paying \$1,300 for a burial site; this was discounted. At the last meeting, it was discussed to take the back road from the edge of the roadway to the property line, but that was discounted. If City forces did the work to cut back, approximately 312 burial sites would be possible at no cost. That translates to five years worth of sales. Hopewell charges \$403 per site and neighboring cemeteries are charging \$1,500. Mr. Elliott recommended raising the cost of the burial site and authorizing City forces to clear and expand.

Councilor Stokes questioned why the cost would go up on burial sites when there is money available in the Perpetual Care Fund. The City is unique because the cemetery is owned by the City. If Hopewell is going to expand, then it should expand, but not in a patchwork fashion. Funding in the amount of \$980,000+/-, which is not tax money, is available in Perpetual

Care. Councilor Stokes further commented that Council must consider buying the property next to Fern Street and add another 700 sites, which would take about 15-20 years. Councilor Stokes does not see any benefit to raising prices; cost should remain the same for citizens; \$400 is a good price. If the City spent \$300,000-400,000 of the \$982,000 it could recover by selling lots and put money back into the Perpetual Care Fund.

Vice Mayor Walton felt that it would cost \$100,000 to tear up concrete vs. \$130,000 for 410 sites. He agreed with Councilor Stokes not to raise price for the citizens. Vice Mayor Walton preferred to keep eye on sale of surrounding property, and asked if the City can restrict sales to City residents. Vice Mayor Walton commended staff and Wayne Hedgepeth for looking at expansion. The City Manager will bring back an ordinance for first reading on May 10. Councilor Shornak inquired as to whose office records sales, and was advised that Mr. Elliott and Mr. Fountain maintain that information. Approximately 2,000 lots are privately owned and not used. Councilor Pelham asked if any communication could be sent out to owners of burial sites. Mr. Elliott indicated they do not have current addresses of many of the owners.

## **ARTICLE II. APPOMATTOX CEMETERY**

### **Sec. 12-21. Application of article.**

The provisions of this article shall apply to Appomattox Cemetery, located within the city, which is owned, operated and maintained by the city.

### **Sec. 12-22. Definitions.**

As used in this article, the term "*cemetery*" shall mean Appomattox Cemetery and the term "*supervisor*" shall mean the supervisor of such cemetery.

### **Sec. 12-23. Violations of article generally.**

Except as otherwise provided in other sections of this article, a violation of any provision of this article shall constitute a Class 3 misdemeanor.

### **Sec. 12-24. General powers and duties of city manager.**

(a) The city manager shall have the general management and control of the cemetery and of the supervisor and other persons employed therein.

(b) The city manager shall make such rules and regulations for the proper maintenance and operation of the cemetery and for the guidance and direction of the supervisor and employees employed therein as he may deem necessary, not inconsistent with the provisions of this Code or with the Charter. It shall be unlawful for any person to fail, neglect or refuse to comply with such rules and regulations.

### **Sec. 12-25. Casual visitors.**

Casual visitors to the cemetery, who are not members of a funeral procession or party, shall not intrude upon a funeral party and shall not loiter about an open gate.

### **Sec. 12-26. Expulsion or arrest of noisy, boisterous, etc., persons.**

The supervisor may expel from the cemetery or arrest or have arrested any person disturbing its

sanctity by noisy, boisterous or other improper conduct, or violating any of the rules and regulations prescribed in, or adopted under, this article.

**Cross references:** Disorderly conduct in public places, § 25-17; noise generally, Ch. 23.

**Sec. 12-27. Purchase of lots and burial space generally.**

(a) The purchase of lots, sections and grave spaces in Appomattox Cemetery shall be made in the manner provided in this article. All purchases shall be subject to any prior reservations made for the sale of lots.

(b) Any person who desires may purchase any unsold or unreserved burial space in the cemetery to have and to hold for future use. The contract of purchase of such burial space shall be on a form prescribed by the city manager or his duly authorized representative.

(c) The price or cost of lots, sections, half-sections and single grave portions in the cemetery shall be as prescribed or fixed by the city council.

**Sec. 12-28. Rights retained by city when lots sold.**

The city retains the general management and control of all lots in the cemetery which are sold. The city further retains the right to have the supervisor enter upon any lot to prohibit, modify or remove any structure, object, improvement or adornment on such lot which has been placed thereon in violation of this article, or which may be objectionable or injurious to the lot, adjoining lots or the cemetery in general.

**Sec. 12-29. Transfer back to city and resale of sections, grave sites, etc.**

No privately owned section, half-section, portion thereof or single grave site in the cemetery shall be transferred other than to the city. The council may, in its discretion, agree to any such transfer back to the city on such terms and for such consideration as it deems beneficial to the city. All such grave sites thus redeemed may thereafter be resold by the city.

**Sec. 12-30. Record of sale of sections, grave spaces, etc.**

The city manager, or his duly authorized representative, shall keep a record of sales of sections, parts of sections and single grave spaces in the cemetery, together with the names of the purchasers.

**Sec. 12-31. Record of burials, disinterments, and reinterments.**

The city manager, or his duly authorized representative, shall keep a record of all burials, disinterments and reinterments in the cemetery. Such record shall include the date thereof, the lot, block and grave number where done, and the name of the deceased.

**Sec. 12-32. Charges for grave openings, etc.**

The charges for grave openings, disinterments and reinterments in the cemetery shall be as prescribed by the council.

**Sec. 12-33. Permit for work.**

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No person shall do any work on any lot or section in the cemetery, unless he shall first have secured a permit therefor from the city manager, or his duly authorized representative. No charge shall be made for such permit.

**Sec. 12-34. Vaults and concrete slabs.**

No interment in the cemetery shall be allowed, unless a concrete or metal vault is used or a concrete slab used in lieu thereof.

**Sec. 12-35. Monuments.**

(a) No monument shall be erected in the cemetery, unless the specifications, plans and location are first submitted to and approved by the city manager or his duly authorized representative.

(b) Foundations for monuments shall be placed by the monument contractor from material approved by the city manager or his duly authorized representative.

(c) The foundation for a monument shall not be built until the price on the lot upon which it is to be placed has been fully paid.

(d) The lower base of a monument shall be dressed to a true level on the bottom so as to bear evenly at all points upon the foundation without the use of sprawls, chips or underpinning. The bottom shall be beveled all around to a point one-half to three-fourths of an inch higher and extending back underneath for two (2) or three (3) inches to prevent chipping of the edges when the stone settles and the base is lowered into it.

(e) The removal of any part of the foundation, or the building up thereof, to overcome defective workmanship in the base stone shall not be permitted.

(f) No monument shall be placed nearer than one foot to the boundary line of the lot on which it stands. Unless otherwise considered advisable by the city manager or his duly authorized representative, the base of a monument shall not exceed one-third of the width of the lot nor more than five (5) percent of the area of the lot.

(g) Notice of intention to bring a monument into the cemetery shall be given by the dealer to the supervisor, at least one day before the work is to be done.

(h) No monuments or materials may be brought into the cemetery on Saturdays, Sundays or holidays.

(i) After a monument has been placed in the cemetery, a written request from the owner shall be presented before a permit will be issued to remove such monument or to make any change upon it.

**Sec. 12-36. Enclosure of lots and sections.**

(a) The following regulations pertaining to the enclosure of lots and sections shall apply in the cemetery:

(1) No fences or walls of concrete, stone, wood or iron will be allowed.

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- (2) No coping or curbing of concrete, brick, stone or any other material shall be allowed.
- (3) Hedges, wooden or iron trellises, posts and chains for the purpose of enclosures, railings, steps, boxings or borders are prohibited.

(b) Lots and sections in the cemetery may be enclosed only in accordance with rules and regulations of the city manager which are not inconsistent with subsection (a) of this section. It shall be unlawful and a violation of this article for any person to fail, neglect or refuse to comply with such rules and regulations.

**Sec. 12-37. When emblems, markers, flags, etc., permitted.**

Metal emblems or markers, flags and guidons are prohibited on lots or graves in the cemetery, except on Memorial Day. They may be placed by authorized representatives of lodges, posts, camps, and the like, not more than two (2) days before Memorial Day, and removed not later than three (3) days thereafter, and stored until called for, and at no risk to the city. Such emblems shall be removed by the organization or individual placing them.

**Sec. 12-38. Planting of grass, flowers, etc.**

Permanent planting of grass, flowers, shrubs and the like shall be made in the cemetery by the city and further planting may be permitted only at the discretion of the supervisor. All plantings shall be under the control of the city. The owners of the lots shall not do any planting without the express approval of the supervisor.

**Sec. 12-39. Permit for plucking or cutting plants or shrubs.**

No person shall pluck or cut plants or shrubs growing in the cemetery, whether upon his own lot or others, without a permit from the supervisor.

**Sec. 12-40. Potted plants.**

Potted plants are permitted upon lots and graves in the cemetery at Easter, Memorial Day and other similar occasions, and may remain until the blossoms are dead. Live plants of particular value will then be removed. Upon application to the supervisor, potted plants may be allowed upon a lot or grave on special occasions for five (5) days. At all other times potted plants shall be removed from the lot at the time of mowing or trimming of the grave.

**Sec. 12-41. Regulations applicable in Section B.**

- (a) The provisions of this section shall apply only to Section B of Appomattox Cemetery.
- (b) Within Section B of Appomattox Cemetery:
  - (1) No mausoleum or vault above the ground shall be allowed.
  - (2) Foundations for all markers shall be built from materials approved by the city manager or his duly authorized representative.
  - (3) All lettering on individual grave markers will be of the V incises type and in no case will raised letters be permitted on these slabs.

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- (4) Grave markers with porcelain or other photographs attached thereto shall be of approved design and shall require specific approval by the city manager or his duly authorized representative.
- (5) Individual slabs shall not be set in a pocket nor upon a limestone or sandstone base.
- (6) Rolls or pillow stones shall not be permitted.
- (7) After a marker has been placed, a written request order from the owner shall be presented before a permit will be issued to remove such marker or to make any change upon it.

**Sec. 12-41.1. Regulations applicable in Section C.**

- (a) The provisions of this section shall apply only to Section C of Appomattox Cemetery.
- (b) Within Section C of Appomattox Cemetery:
  - (1) No mausoleum or vault above the ground shall be allowed.
  - (2) Footstones standing on end shall be prohibited.
  - (3) Foundations for all markers shall be built from materials approved by the city manager or his duly authorized representative.
  - (4) All lettering on individual grave markers will be of the V incises type and in no case will raised letters be permitted on these slabs.
  - (5) Grave markers with porcelain or other photographs attached thereto shall be of approved design and shall require specific approval by the city manager or his duly authorized representative.
  - (6) Structures of the type commonly known as "headboards" or "footboards" shall be prohibited.
  - (7) Individual slabs shall not be set in a pocket nor upon a limestone or sandstone base.
  - (8) Rolls or pillow stones shall not be permitted.
  - (9) After a marker has been placed, a written request order from the owner shall be presented before a permit will be issued to remove such marker or to make any change upon it.

**Sec. 12-42. Perpetual care foundation.**

(a) There is hereby created a perpetual care foundation for the purpose of maintaining in perpetuity the Appomattox Cemetery.

(b) There is hereby created a perpetual care fund consisting of the revenue from the sale of gravesites in fiscal year 1981/82, fiscal year 82/83 revised cemetery budget savings, and funds transferred from fiscal year 81/82 general fund surplus. To this fund shall be added the revenue from the sale of gravesites, plus any contributions or grants which may be received and designated for the purpose of

augmenting the funds of the foundation. The mayor, city manager, and city treasurer shall constitute trustees of the perpetual care fund so established and, as such, shall have full power to invest and reinvest such funds, subject to the limitations that no investment shall be made except, upon the exercise of good faith and discretion, in securities which, at the time of making the investment are, by Title 26 of the Code of Virginia, 1950, as amended, permitted for investment or reinvestment by fiduciaries. Subject to such limitation, the trustees shall have full power to hold, purchase, sell, assign, transfer, or dispose of any of the securities or investments in which any part of the fund created herein have been invested.

(c) Any contribution or grant which shall be received for this fund shall be added to the fund established herein and invested in accordance with paragraph (b).

(d) The city treasurer shall be the custodian of the perpetual care fund.

(e) All interest and dividends received from investments of the perpetual care fund shall be deposited in open account in one or more banks or trust companies organized under the laws of the state or of the United States.

(f) The principal of the perpetual care fund may be used to expand the cemetery and/or increase the number of available gravesites for sale, but all money collected from the sale of the added gravesites shall be returned to the principal amount in the perpetual care fund.

~~(f)~~ (g) At such time as city council may determine, upon the recommendation of the trustees, that sufficient funds have accumulated so that the annual investment income will cover the annual cost of grounds and gravesite maintenance, such income shall be transferred annually to the general fund of the city to support cemetery operations. (Ord. No. 82-23, 9-28-82)

## **REGULAR BUSINESS – FINES FOR TRASH AND DEBRIS**

City Council had asked the City Attorney to research dumpsters. Tom Lacheney, City Attorney, amended the ordinance for trash and debris removed by the City, to charge the owner and implement subsequent fees/penalties. Mayor Luman-Bailey indicated that citizens are used to calling Code about complaints. Councilor Stokes asked about a central collection property site to bring sofas, mattresses, chairs, etc., on property that City owns. Citizens need to take it somewhere instead of leaving it out too long for trash pickup. Mr. Lacheney reported that Code allows 24 hours to put out trash, which is reasonable notice. Vice Mayor Walton asked about the background as to why this is being considered. The City Manager explained that various residents leave trash out, particularly rental properties. The trash gets scattered during the week. Code Enforcement has been assisting with policing the situation. Section 18.22 currently states Public Works, but verbiage was added not to limit solely Public Works into having to do this. The City Manager can designate anyone to enforce it. There is a fine and is treated like an unpaid tax bill, and a lien is put on property. Councilor Pelham felt that it takes everyone's eyes in City to report violators. The City Attorney will have first reading of the Ordinance on May 10.

## **ARTICLE II. COLLECTION AND DISPOSITION OF REFUSE GENERALLY**

### **Sec. 18-21. Definitions.**

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

*Apartment complex* means any multi-residential building with more than two (2) rental units.

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*Ashes* means that refuse from fires which has been wetted and cooled to the touch prior to collection.

*Building materials* means any material, such as lumber, brick, plaster, gutters or other substances, accumulated as a result of repairs or additions to existing buildings, construction of new buildings or demolition of existing structures.

*Bulk container* means a metal container of either two (2), three (3), four (4), six (6) or eight (8) cubic yards, made of watertight construction with sliding doors opening on two (2) sides and a hinged top, and constructed so that it can be emptied mechanically by specially equipped trucks. Containers shall be kept covered at all times. All new bulk containers shall meet these specifications.

*Bulky waste* shall mean a large appliance, piece of furniture or waste material from a residential source other than construction and/or demolition debris or hazardous waste that cannot be placed in a refuse cart or container.

*CFC/HCFC* shall mean those substances described in the Clean Air Act Amendments of 1990, Title VI, Stratospheric Ozone Protection, and any subsequent implementing regulations.

*Commercial waste* means garbage, rubbish, ashes and other refuse resulting from institutions and commercial concerns, such as hotels, stores and the like.

*Central business district* means that section of the city bounded by Second Street on the west, City Point Road on the south, Kippax Street on the east and Appomattox Street on the north.

*Commercial establishment* means any retail, wholesale, institutional, religious, hotel, governmental or other nonresidential establishment at which garbage or trash may be generated.

*Director of public works* means the director or his designee.

*Detachable container* means a unit, varying in capacity between twenty (20) cubic yards and forty (40) cubic yards, which is used for collecting, storing and transporting acceptable waste from industry.

*Garbage* means the by-product of animal or vegetable foodstuffs resulting from the handling, preparation, cooking and consumption of food, or other matter which is subject to decomposition, decay, putrefaction or the generation of noxious or offensive gases or odors, or which, during or after decay, may serve as breeding or feeding material for flies, insects or animals.

*Hazardous waste* means waste designated as hazardous by federal law or by regulation of the United States Environmental Protection Agency or the Virginia Department of Environmental Quality. Such waste includes materials such as poison, acids, caustics, chemicals, infected materials, offal, fecal matter and explosives.

*Household trash* means waste accumulation of paper, sweepings, dust, rags, bottles, ashes, cans or other matter of any kind, other than garbage, which is usually attendant to housekeeping.

*Industrial waste* means waste accumulation of paper, sweepings, dust, rags, bottles, cans or other matter which is usually attendant to operating a cafeteria or business office. Industrial waste generated from the industrial processes is not collected by the city or its representative. Industrial waste includes debris from demolition and debris from construction of new buildings.

*Litter* means garbage, refuse, waste material or any other discarded, used or unconsumed substance which is not handled as specified herein.

*Mobile container* means a wheeled garbage receptacle compatible with garbage collection equipment, and approved by the director of public works.

*Refuse* is a collective term which encompasses all of the solid wastes of the city.

*Single-family dwelling* means any dwelling place occupied by one (1) family.

*Small dead animals* means deceased cats, dogs, small household pets and other deceased animals of similar size.

*Trailer court* means any grouping of two (2) or more trailers in which either the trailers or the trailer spaces are rented out on a commercial basis.  
(Ord. No. 79-30, § 1(18-16.4), 10-23-79; Ord. No. 2002-17, 9-23-2002)

**Sec. 18-22. Administration and enforcement of article.**

The administration and enforcement of the provisions of this article shall be the responsibility of director of public works and/or any other department or individual designated by the city manager to do so.

**Sec. 18-23. Residential refuse to be collected and removed by city agents only; exceptions.**

(a) No person, other than under contract with the city, to service residential refuse, shall collect or remove any residential garbage or refuse set out for collection except as otherwise approved by director of public works.

(b) The individual, company or corporation with which the city contracts for the removal of residential garbage and refuse set out for collection shall be the exclusive agent of the city for such collection. No person shall contract for the removal of such garbage or refuse with any individual, company or corporation, other than that designated by the city, without the express approval of the director of public works.  
(Ord. No. 79-30, § 1(18-7), 10-23-79; Ord. No. 91-36, 11-26-91; Ord. No. 2002-17, 9-23-2002)

**Sec. 18-24. Containers generally.**

(a) The city or its designated representative shall provide containers as indicated by this article for refuse subject to removal by the city or its designated representative.

(b) Residents shall utilize mobile containers whose size and specifications must be approved by the director of public works. Such containers must be so constructed that they can be emptied by the lifting devices mounted on the trucks of the city or its designated representative.

(c) All refuse shall be placed in approved mobile containers, except as otherwise provided in this article, or unless it is impracticable, because of the kind, size or amount of refuse, to do so. In such a case, the excess refuse shall be placed in secure containers or otherwise secured, except for leaves during a scheduled city leaf pickup period.

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(d) Bulky waste set outside of mobile containers shall not exceed the quantity of material which can be placed in, and transported safely by, a one-half ( 1/2) ton pick-up truck (approximate maximum dimensions of bulky waste: Eight (8) ft. x four (4) ft. x four (4) ft.). The director of public works is authorized to determine when bulky waste exceeds acceptable limits for normal refuse disposal.

(e) Any resident who generates more refuse than can be serviced by one (1) mobile container may purchase a second container.

(Ord. No. 79-30, § 1(18-8-11.1), 10-23-79; Ord. No. 99-3, 1-26-99; Ord. No. 2002-17, 9-23-2002)

**Sec. 18-25. Placement for collection; removal of containers from pickup area.**

(a) It shall be the responsibility of each owner or occupant to place his refuse for collection at the proper time and in the proper manner as provided for in this article.

(b) Mobile containers shall not be placed for pickup more than forty-eight (48) hours prior to the collection day.

(c) Refuse not placed in mobile containers shall not be placed for pickup more than twenty-four (24) hours prior to the collection day, except leaves may be placed for collection at any time during a scheduled city leaf pickup period.

(d) Mobile containers and properly secured refuse shall be placed within five (5) feet of the curb or front of the property for servicing. In the event containers and refuse within five (5) feet of the curb or front of the property, the director of public works shall designate the area for the container and refuse to be placed for servicing.

(e) Garbage collection begins at 7:00 a.m. Mobile containers which are not out when the truck passes will not be collected until the next regularly scheduled pickup date. Mobile containers must be removed from the pickup area within twelve (12) hours after pickup.

(f) Mobile containers shall not be left in the front yard of any lot or piece of property, except during the period provided for herein. For the purpose of this section, front yard shall mean "an open space, on the same lot as a building, between the front line of the building (excluding steps) and the front lot or street line, and extending across the full width of the lot."

(Ord. No. 79-30, § 1(18-10, 18-16), 10-23-79; Ord. No. 99-4, 1-26-99; Ord. No. 99-4, 1-26-99; Ord. No. 2001-10, 6-26-2001)

**Sec. 18-26. Frequency of service for mobile containers; backdoor service for such containers.**

Mobile containers shall be serviced only weekly, unless otherwise designated by the city council or the director of public works. Backdoor service is available on a once-per-week basis for residents in households where no member is able to roll the mobile container to the curb. A doctor's certificate may be required by the director of public works in order that such residents may receive this backdoor service.

(Ord. No. 79-30, § 1(18-11.1), 10-23-79; Ord. No. 2002-17, 9-23-2002)

**Sec. 18-27. Collectors to exercise reasonable care in handling mobile containers.**

Collectors for the city shall exercise reasonable care in the handling of mobile containers and shall not willfully break, deface or injure same.

(Ord. No. 79-30, § 1(18-16.1), 10-23-79

**Sec. 18-28. Replacement of mobile containers.**

(a) In the event mobile containers have been damaged by misuse by the tenant, homeowner, or commercial user, the director of public works shall have the authority to discontinue service or require the user to replace the damaged container. Failure to remove the toter from the curbside within twelve (12) hours after a pickup, as required by section 18-25, shall be considered misuse. Failure to exercise reasonable care shall be considered misuse.

(b) Mobile containers which become unserviceable through normal wear and tear will be replaced at no charge for owner-occupied residences.

(c) Replacement mobile containers for rental property or commercial property must be purchased by the property owner within five (5) days of notice from the city. The city may replace mobile containers for rental and commercial properties which the owners of such properties fail to timely replace, with the cost therefor to be paid by the property owners. Unpaid mobile container costs shall constitute a lien against the property serviced by the new mobile container.

(Ord. No. 79-30, § 1(18-11.3), 10-23-79; Ord. No. 89-1, 2-14-89; Ord. No. 2002-17, 9-23-2002)

**Sec. 18-29. Tampering with containers or placing hazardous refuse therein.**

No person shall interfere or otherwise deter the normal refuse collection process by tampering with refuse containers or their contents, unless by permission of the director of public works, nor shall any person place any hazardous waste in any collection receptacle or container.

(Ord. No. 79-30, § 1(18-14), 10-23-79; Ord. No. 2002-17, 9-23-2002)

**Cross reference:** Release of hazardous substances, notifications, § 25-60.

**Sec. 18-30. Reserved.**

**Editor's note:** Ord. No. 2002-17, adopted Sept. 23, 2002, repealed § 18-30, which pertained to use of toter system or bulk containers generally and derived from Ord. No. 79-30, § 1(18-11.1), adopted Oct. 23, 1979.

**Sec. 18-31. Mobile toters for apartment complexes and trailer parks.**

For apartment complexes and trailer parks using the mobile toter system of refuse collection:

(1) The owner shall purchase one toter per each apartment unit or trailer and receive a bill at least quarterly at the same rate per apartment or trailer as is set for other residential units.

(2) Extra toters for laundries, pools, or other facilities will be billed at the same monthly rate.

(3) The owner shall be responsible for replacing lost or damaged toters.

(Ord. No. 79-30, § 1(18-11.2), 10-23-79; Ord. No. 82-9, 5-25-82; Ord. No. 2002-17, 9-23-2002)

**Sec. 18-32. Charges for residential collection and disposal generally.**

For providing or making available garbage and refuse collection and disposal service to all citizens, residences and participating commercial establishments located within the corporate limits of the

city, rates or fees shall be paid as are from time to time by resolution or ordinance set by city council. (Ord. No. 79-30, § 1(18-11.1, 18-17.1), 10-23-79; Ord. No. 80-16, 9-9-80; Ord. No. 82-9, 5-25-82; Ord. No. 82-29, 11-23-82; Ord. No. 2002-17, 9-23-2002)

**Sec. 18-33. Billing and payment of charges.**

The charges prescribed by section 18-32 shall be billed at least quarterly. Such bills must be paid within thirty (30) days after the date thereof. Delinquent accounts will be charged one percent of the unpaid balance per month and the cost associated with the collection of a delinquent account will be charged to that account. In addition, failure to pay such a bill within thirty (30) days may result in discontinuation of the pickup service. In the event service is discontinued due to nonpayment, the container will be returned to the city for storage.

(Ord. No. 79-30, § 1(18-11.1, 18-17.2), 10-23-79; Ord. No. 80-22, 11-25-80; Ord. No. 82-25, 9-28-82; Ord. No. 2002-17, 9-23-2002)

**Sec. 18-34. Reserved.**

**Editor's note:** Ord. No. 2002-17, adopted Sept. 23, 2002, repealed § 18-34, which pertained to service deposits and derived from Ord. No. 79-30, § 1(18-17.3), adopted Oct. 23, 1979.

**Sec. 18-35. Collection of large bulky items.**

(a) Large bulky waste from residences, such as stoves, water heaters, sofas, box springs, and the like, which two (2) men can reasonably load into the back of a standard garbage truck, may be disposed of as other residential waste.

(b) Appliances such as refrigerators, freezers, air conditioners and humidifiers containing CFC/HCFC products from residences may be disposed of as residential waste, provided the resident pays the collection and processing fees for the removal of the CFC/HCFC products. The receipt must be attached to the appliance.

(Ord. No. 79-30, § 1(18-10), 10-23-79; Ord. No. 2002-17, 9-23-2002)

**Sec. 18-36. Collection of tree limbs and other yard waste.**

Tree limbs, cuttings, shrubbery, and similar yard waste may be disposed of as residential refuse, provided that such limbs, cuttings, shrubbery, and the like are cut in four-foot lengths, tied in bundles and stacked in a neat, manageable pile, with the large or base ends towards the curbside in a manner which will not block drainage. Such piles shall be placed next to the refuse container for collection. Lawn trimmings and leaves shall not be placed in the gutter or in any drainage ditch. Materials shall not be of a hazardous nature nor shall any individual item weigh more than seventy-five (75) pounds.

(Ord. No. 79-30, § 1(18-13), 10-23-79; Ord. No. 80-13, § 18-13, 9-9-80; Ord. No. 2002-17, 9-23-2002)

**Sec. 18-37. Collection and disposal of dead animals.**

Small dead animals shall be picked up at the curb on a call basis, and shall not be placed in or adjacent to mobile containers. Owners of large dead animals shall be responsible for their removal and disposal.

(Ord. No. 79-30, § 1(18-16.3), 10-23-79)

**Sec. 18-38. Deposit in streets, gutters or other public places; littering.**

(a) It shall be unlawful for any person to put, place or throw any garbage or refuse upon any sidewalk or in any public street, public alley, gutter or drainage ditch or other public place in the city. Such materials shall be accumulated as specified in this article and placed in receptacles as provided for in this article.

(b) Littering is prohibited. Litter shall be prepared and placed for collection as specified in this article.  
(Ord. No. 79-30, § 1(18-12, 18-15), 10-23-79)

### **Sec. 18-39. Unlawful dumping.**

(a) No garbage, refuse, abandoned junk, or other offensive material shall be dumped, thrown, or allowed to remain on any lot or space within the city limits; provided, however, that the owner of any lot or parcel of land desiring to conduct a fill operation shall apply to an official designated by the city manager for a permit, and any fill operation shall be conducted in accordance with the conditions contained in the permit.

(b) When a violation of the provisions of this section has been observed by any person, the owner or operator of such vehicle shall be presumed to be the person ejecting such garbage, refuse, abandoned junk or other offensive material; provided, however, that such presumption shall be rebuttable by competent evidence. Any person who witnesses and assists in the conviction of a person violating the provisions of this section shall be rewarded fifty dollars (\$50.00).

(c) Any person convicted of such violation shall be guilty of a Class I misdemeanor.

(d) This section shall not apply to a city landfill established in accordance with article III of this chapter.  
(Ord. No. 79-30, § 1(18-16.2), 10-23-79; Ord. No. 82-12, 7-27-82; Ord. No. 83-10, 7-12-83)

### **Sec. 18-40. Notice to remove conditions in violation of article.**

~~The city manager, or his authorized agent, may give the owner of any property within the city written notice to remove from such property or from the abutting sidewalk, public street, public alley, gutter or drainage ditch, within seven (7) days, any condition which is in violation of this article. If the owner of any property fails to comply with such notice, the city manager may have the garbage, trash, refuse, litter, lawn trimmings, cuttings, leaves or other substances removed by agents or employees of the city. The cost of such removal, which shall not be less than twenty dollars (\$20.00), shall be chargeable to and paid by the owner of the abutting property and may be collected by the city as taxes and levies are collected. Notice may be waived on second violation or if the violation is determined by a city official to endanger public safety or welfare.~~

~~(Ord. No. 79-30, § 1(18-13.1), 10-23-79)~~

1. The city manager, or his authorized agent, may give the owner of any property within the city written notice to remove from such property, or from the abutting sidewalk, public street, public alley, gutter or drainage ditch, within twenty four (24) hours, any condition which is in violation of this article. The written notice may be hand-delivered to the owner of the property, and/or posted on the front door of said property.

If the owner of the property fails to comply with such notice, the city manager may have the garbage, trash, refuse, litter, lawn trimmings, cuttings, leaves or other substances removed by

agents or employees of the city. The actual cost of such removal, which shall not be less than forty dollars (\$40.00), shall be chargeable to and paid by the owner of the property and may be collected by the city as taxes and levies are collected.

2. The city manager, or his authorized agent, is authorized to assess a civil penalty, not to exceed fifty dollars (\$50.00) for the first violation of this section. The civil penalty for any subsequent violation of this section shall not exceed two hundred dollars (\$200.00). Each business day during which the same violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same set of operative facts result in civil penalties that exceed a total of \$3,000 in a 12-month period.
3. Any charge or civil penalty assessed under this section against the owner of a property, and which remains unpaid, shall constitute a lien against such property ranking on a parity with liens for unpaid local taxes and enforceable in the same manner as provided in Articles 3 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1 of the Code of Virginia.

State Code Reference §15.2-901

**Sec. 18-41. Removal of personal property.**

Personal property left outside pursuant to an eviction shall be covered or contained by the real property owner to prevent littering and dispersal. Such personal property shall be removed by the property owner or evicted tenant within forty-eight (48) hours from the time it is placed outside. Property not so moved may be removed by the city, with the cost of such removal to be paid by the property owner or evicted tenant. Failure to pay the removal cost shall result in a lien for the cost being placed on the property.

(Ord. No. 2002-17, 9-23-2002)

**Sec. 18-42. Commercial refuse collection and disposal.**

(a) Commercial establishments shall provide for on-site containerized refuse collection and disposal, with pick-ups of at least once weekly. If approved by the director of public works, a commercial establishment may utilize the city's toter service, or may share a refuse collection and disposal container with an adjacent commercial property.

(b) Commercial refuse collection and disposal must comply with all applicable health regulations.

(c) Commercial establishments failing to provide for refuse collection and disposal as provided in this section shall be charged the city's residential refuse collection fee, but shall not be provided the city refuse collection service.

(d) Commercial establishments located in the central business district (downtown) are authorized to use the city's toter service.

(e) Commercial establishments utilizing the city's toter service shall purchase a toter, and any necessary replacement toter.

(Ord. No. 2002-17, 9-23-2002)

## **REGULAR BUSINESS – REDISTRICTING GUIDELINES**

Mr. Altman advised City Council about redistricting at the last meeting and asked if Council has particular guidelines to keep in mind. Vice Mayor Walton suggested forming a committee with public involvement. Mr. Altman reported that in 2001, after reviewing at the change in shift population, staff is considering removing 528 people from Ward #4 to get a negative 5% to keep within plus/minus -5%. The formula looks at adjoining Wards and how to make a shift and keep all of them in compliance. Councilor Pelham requested to be invited individually to a meeting. A complicating factor is what the state does. If Hopewell has one delegate and one senator, it can draw desired lines. The City becomes locked in if the state designates more than one delegate/senator to an area. The goal is not to have splits. Pam Clark, Voter Registrar, has continually requested that this not happen. There are two main objectives: (1) for all 7 Councilors to have a seat; (2) Department of Justice's preference is to keep and maintain two majority/minority wards. A few scenarios will be presented to Council. Hopewell has until the end of the year because there is no election this year. There are three guidelines: (1) minimize any impact with legislative districts; (2) everyone has a seat; and (3) minimum of two minority districts. This will be worked on and alternatives put together and to determine what the state does. If Council wanted a committee, they should decide soon. Vice Mayor Walton asked about two polling precincts for Ward #4 and Ward #5 (Hopewell High School and Patrick Copeland Elementary School) being in the same Ward. Mr. Altman indicated they will work on that. Mr. Daley will try to look at everyone voting within their own Ward. Mr. Altman reported that they have DOJ clearance to swap voting precincts for Harry E. James Elementary and Carter G. Woodson Middle School.

## **REGULAR BUSINESS – CITY BUDGET**

Mr. Daley distributed a budget summary to City Council and reported that the budget program for 2011-2012 is different. A preliminary budget for 2012-2013 is included at the same time. The Council Finance Committee has preliminary information for 2012-2013. Council does not have to adopt it now but if that is Council's preference, the City Charter must be amended to a bi-annual budget. This proposal is a total of \$130 million. It is \$6 million or 5% less than the current budget. The General Fund is \$41,673,000 which includes investment. Mr. Daley asked Council to refer to page 2 of the summary for fines collected; that is so that this Capital Budget has \$400,000 accumulated from prior years. For this year, the Sheriff has proposed to increase monies. \$926,000 will go back into the Capital Fund. Half pays for the next year. It goes from General District to Circuit Court. I-295 monies go to Capital projects throughout the City. This budget is about 1% less than last year and is believed to be turning the corner and looking at increasing revenues next year. No tax rate increase is proposed. There is \$50,000 in the Operating Budget and \$50,000 in the Capital Budget for the Beacon. The state is requiring local governments to subsidize balancing the state budget. The Osage money is not in this budget for machinery and tools; they pay real estate only right now. The preliminary budget had \$1 million more for M&T. Next year, the Osage M&T will be included. This is the third year the City has been unable to provide employees with an increase with the exception of a one-time bonus Council was gracious enough to provide. Street lighting is in the budget at \$50,000 per year. That is another area that I-295 monies helps to fund is street lights. Two cost cutters for the future: beginning July 1, all state employees will be paying 5% into Virginia Retirement System (VRS) fund. The City currently pays that 5%. Hopewell will propose that new employees hired after July 1, 2011, will pay the 5% and know that coming into employment. This does not affect existing employees. It is not on the table and is not an option. Also proposing that beginning with employees after July 1, 2011, that the City pay employee-only health insurance. If they want to add anyone else, the employee will pay the difference. That treats employees the same. This is moving to a cafeteria system and puts everyone on the same level of health insurance. Another proposal is that a public hearing is scheduled on May 10, 2011 for 2011-2012 budget, not for 2012-2013 and not adopt that. It is only for guidance and review. Staff wants to change when it is an off

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year. It becomes a planning tool to use each year. The Council Finance Committee would come to Council at the next work session for budget recommendations, then vote on the budget in June.

Mr. Daley reminded Council that Chief Keohane will be sworn in at the Courthouse on April 27, 2011 at 7:00 p.m.

Councilor Pelham asked about monies used for the police chief search and whether or not it required Council approval. When there is an amendment to any budget, Councilor Pelham requested that Council should have knowledge of that. The City Manager also indicated the tax rate is 96 cents plus 3 cents for renovations to Hopewell High School. Mr. Daley advised Council to set a date to meet regarding CDBG. There are no actual allocations yet. The Committee can meet with Mr. Altman at anytime.

**ADJOURN**

**Motion** was made by Vice Mayor Walton and seconded by Councilor Bujakowski and unanimously passed to adjourn the meeting at 9:20 p.m.

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Christina J. Luman-Bailey, Mayor

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Debra W. Pershing, Acting City Clerk