

November 17, 2009

**MINUTES OF THE CITY COUNCIL MEETING HELD NOVEMBER 17, 2009**

A Regular meeting of the City Council of the City of Hopewell, Virginia, was held Tuesday, November 17, 2009, at 6:30 PM in the City Council Chambers, Municipal Building, 300 North Main Street, Hopewell, Virginia.

PRESENT: 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

ABSENT: Brenda S. Pelham, Mayor (illness)

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

Vice Mayor Cuffey	-	ABSENT (illness)
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 Walton, to convene into Closed Session to discuss Legal Matters, Economic Development, and 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 Emerson	-	yes
Councilor Stokes	-	yes
Councilor Walton	-	yes
Vice Mayor Cuffey	-	yes
Councilor Bailey	-	yes
Councilor Harris	-	yes

**OPEN SESSION**

At 7:35 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 Emerson	-	yes
Councilor Stokes	-	yes
Councilor Walton	-	yes
Vice Mayor Cuffey	-	yes

November 17, 2009

Councilor Bailey	-	yes
Councilor Harris	-	yes

## **REGULAR MEETING**

Vice Mayor Cuffey opened the regular meeting at 7:35 PM. Roll call was taken as follows:

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

Prayer was offered by Rev. Curtis W. Harris, followed by the Pledge of Allegiance to the Flag of the United States of America.

## **REGULAR BUSINESS – ADOPTION AND INCORPORATION INTO THE COUNCIL’S RULES & PROCEDURES OF GUIDELINES FOR EFFECTIVE COMMUNICATION AS DEVELOPED BY HOPEWELL CITY COUNCIL ON NOVEMBER 7, 2009**

The issue of guidelines for effective communication was discussed and developed by City Council at the Advance held on November 7, 2009. City Council agreed to adopt and incorporate the guidelines into Council’s Rules & Procedures.

**Motion** was made by Councilor Walton and seconded by Councilor Bailey to resolve to adopt and incorporate into Council’s Rules & Procedures – Guidelines for Effective Communication as developed by Hopewell City Council on November 7, 2009. Upon the roll call, the vote resulted.

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

### **HOPEWELL CITY COUNCIL** **Guidelines for Effective Communication**

1. Don’t interrupt.
2. Don’t blindside the Council; foster broad communication.
3. When we don’t agree, don’t resort to personal attacks.
4. Avoid assumptions about people and listen with an open mind.
5. Avoid negative body language.
6. Once the vote is taken, we have “one voice.”
7. Have a wholesome debate by speaking to the issue and staying on track; avoid personalizing.

To reinforce...

- The mayor will exercise more control in Council Meeting to reinforce the Guidelines.
- Compliment each other; praise for positive behavior.
- Praise in public and provide feedback or correct in private.
- Don’t let issues fester; go to the person.

November 17, 2009

**CONSENT AGENDA**

**Motion** was made by Councilor Walton, and seconded by Councilor Bailey to approve the Consent Agenda: Minutes: Hopewell Twinning Assn. minutes 8/17/09 & agenda 9/21/09; 2009 Statement of Assessed Values for Local Tax Purposes for Railroads and Interstate Pipeline Transmission Companies (filed in the City Clerk's office); Local Sesquicentennial of the American Civil War Committee minutes 6/27/09; Recreation Comm. Agenda 10/14/09 & minutes 8/10/09 & 9/9/09; School Board minutes 9/10/09; HRHA rescheduled meeting & agenda 10/19/09; Friends of Hopewell Association. Minutes 9/14/09 & agenda 10/26/09 (Ashford, Eng.); HRWTF draft minutes 7/20/09 & Agenda 10/26/09 (changed to 10/29/09); School Board – Closed Session meeting 10/29/09; District 19 CSB minutes 9/24/09; ARLS minutes 10/20/09; **Ord. No. 2009-20** - Amending Hopewell City Code Chapter 6, Animals and Fowl; American Legion Post #10387 Proclamation; and Presentation of Employee of the Quarter Award to Charlene Makovsky, HRWTF. Upon the roll call, the vote resulted.

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

**ORDINANCE NO. 2009-20**

An Ordinance amending Hopewell City Code Chapter 6.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HOPEWELL, that the following provisions of Hopewell City Code Chapter 6, Animals and Fowl, be amended as follows:

**Chapter 6 ANIMALS AND FOWL\***

**\*Charter reference:** Authority of city to regulate animals and fowl, Hopewell City Charter Ch. II, § 11 Regulation of animals and fowl.

**State law reference:** General authority of city to regulate animals and fowl, Code of Virginia, § Title 3.2 Agriculture, Animal Care, and Food, Chapter 65 (Comprehensive Animal Care).

**ARTICLE I. IN GENERAL**

**Sec. 6-1. Violations of chapter generally.**

Except as otherwise provided in other sections of this chapter, a violation of any provision of this chapter shall constitute a Class 4 misdemeanor.

**Sec. 6-2. Animal control officer, generally.**

The city manager shall appoint an officer to be known as the animal control officer, who shall have the power to enforce this chapter and other ordinances and state laws for the protection of domestic animals. Within the limits of the appropriations therefor, the city manager may also appoint one or more deputy animal control officers to assist the animal control officer in inspection activities and in law enforcement.

**State law reference:** Code of Virginia § 3.2-6555.

**Sec. 6-3. City pound.**

November 17, 2009

(a) A city pound shall be established and maintained in the city in accordance with the requirements deemed necessary by the city council and of a type approved by the health department. The city need not own such pound but may contract for its establishment with a private group or in conjunction with one or more other local political subdivisions of the state.

(1) The city pound shall be accessible to the public at reasonable hours during the week.

(2) The city pound shall obtain a signed statement from each of its directors, operators, staff, or animal caregivers specifying that each individual has never been convicted of animal cruelty, neglect, or abandonment and the pound shall update such statement as changes occur.

(3) If a person contacts the city pound inquiring about a lost companion animal, the pound shall advise the person if the companion animal is confined at the pound or if a companion animal of similar description is confined at the pound.

(4) The city pound shall maintain a written record of the information on each companion animal submitted to the pound by an animal shelter in accordance with subsection D of Va. State Code § [3.2-6548](#) for a period of 30 days from the date the information is received by the pound. If a person contacts the pound inquiring about a lost companion animal, the pound shall check its records and make available to such person any information submitted by an animal shelter or allow such person inquiring about a lost animal to view the written records.

(5) The city pound shall maintain a written record of the information on each companion animal submitted to the pound by a releasing agency other than a pound or animal shelter in accordance with subdivision F 2 of Va. State Code § [3.2-6549](#) for a period of 30 days from the date the information is received by the pound. If a person contacts the pound inquiring about a lost companion animal, the pound shall check its records and make available to such person any information submitted by such releasing agency or allow such person inquiring about a lost companion animal to view the written records.

(6) The city pound shall maintain a written record of the information on each companion animal submitted to the pound by an individual in accordance with subdivision A 2 of Va. State Code § [3.2-6551](#) for a period of 30 days from the date the information is received by the pound. If a person contacts the pound inquiring about a lost companion animal, the pound shall check its records and make available to such person any information submitted by the individual or allow such person inquiring about a lost companion animal to view the written records.

(b) It shall be unlawful for any person to break open, aid or assist, counsel or advise, the breaking open of the city pound or to take or let out, or attempt to take or let out, any animal placed therein pursuant to this chapter unless such act is done by an officer duly authorized by law, or to hinder or oppose any officer in taking up any dog or other animal, in accordance with provisions of this chapter.

**State law references:** Code of Virginia § 3.2-6546.

#### **Sec. 6-4. Keeping of livestock near residences.**

No horses, mules, cows, goats, sheep or livestock of similar nature shall be kept within one hundred (100) yards of any residence, except the residence of the owner of any such animal.

**State law reference:** Code of Virginia § 3.2-6544.

#### **Sec. 6-5. Keeping of swine near residences.**

No hog or pig shall be kept within 500 yards of any residence, building, stream, well, creek, or brook.

**State law reference:** Code of Virginia § 3.2-6544.

**Sec. 6-6. Livestock running at large.**

No person shall permit a horse, mule, cow or other livestock which he owns, or which is within his possession, custody or control, to run at large in the city. Any animal found running at large in violation of this section shall be impounded until redeemed, and if not redeemed within five (5) days after advertisement has been made in one (1) of the city newspapers, it may be sold by the chief of police. The proceeds of such sale, after deducting therefrom any amounts for any fine, court costs, keeping and advertising, shall be held by the treasurer for the benefit of the owner. No such animal shall be advertised until it has been impounded forty-eight (48) hours.

**Charter References:** Authority of city to prevent running at large of animals and fowl, Ch. 11, § 11.

**State law reference:** Code of Virginia § 3.2-6544.

**Sec. 6-7. Fowl running at large.**

No owner of fowl of any description shall fail to confine them so as to prevent their straying to the premises of others.

**State law reference:** Code of Virginia § 3.2-6544.

**Sec. 6-8. Animals at large.**

No person shall suffer or permit any animal belonging to him or under his control to go at large in the city, or be kept in the city at any time, except in strict confinement in such manner as to be safe for the public; provided, however, that this section shall not be construed to apply to dogs.

**State law reference:** Code of Virginia § 3.2-6544.

**Sec. 6-9. Sanitary condition of stables, sheds, etc.**

No person owning, occupying and having use of any stable, shed, pen, stall or other place wherein animals of any kind are kept shall permit such stable, shed, pen, stall or other place to become or remain filthy or unwholesome.

**State law reference:** Code of Virginia § 3.2-6503.

**Sec. 6-10. Storage and removal of manure.**

Every person owning or occupying any building or part of a building in which any horse, mule, cow or similar animal is kept shall provide in connection therewith a flytight bin or pit for the reception of manure. Pending the removal from the premises, manure shall be kept in such bin or pit. Stable manure shall be removed by persons maintaining stables.

**State law reference:** Code of Virginia § 3.2-6503.

**Sec. 6-11. Discarding dead animal in street; allowing dead animal to remain unburied; disposition of carcasses.**

- (a) If any person casts any dead animal into a street or road or knowingly permits any dead animal to remain unburied upon his property when offensive to the public, he shall be guilty of a Class 3 misdemeanor.
- (b) The carcasses of dead animals shall be disposed of in accordance with the directions of the city manager.

**State law reference:** Code of Virginia § 18.2-323.

**Sec. 6-12. Definitions.**

Unless a contrary definition is apparent, as used in this chapter, the following words shall have the meanings ascribed to them in this section:

*Abandon* means to desert, forsake, or absolutely give up an animal without having secured another owner or custodian for the animal or by failing to provide the elements of basic care as set forth in section 6-79 of this chapter for a period of five (5) consecutive days.

*Adequate care* or *care* means the responsible practice of good animal husbandry, handling, production, management, confinement, feeding, watering, protection, shelter, transportation, treatment, and, when necessary, euthanasia, appropriate for the age, species, condition, size and type of the animal and the provision of veterinary care when needed to prevent suffering or impairment of health.

*Adequate exercise* or *exercise* means the opportunity for the animal to move sufficiently to maintain normal muscle tone and mass for the age, species, size, and condition of the animal.

*Adequate feed* means access to and the provision of food which is of sufficient quantity and nutritive value to maintain each animal in good health; is accessible to each animal; is prepared so as to permit ease of consumption for the age, species, condition, size and type of each animal; is provided in a clean and sanitary manner; is placed so as to minimize contamination by excrement and pests; and is provided at suitable intervals for the species, age, and condition of the animal, but at least once daily, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species.

*Adequate shelter* means provision of and access to shelter that is suitable for the species, age, condition, size, and type of each animal; provides adequate space for each animal; is safe and protects each animal from injury, rain, sleet, snow, hail, direct sunlight, the adverse effects of heat or cold, physical suffering, and impairment of health; is properly lighted; enables each animal to be clean and dry, except when detrimental to the species; and, for dogs and cats, provides a solid surface, resting platform, pad, floormat, or similar device that is large enough for the animal to lie on in a normal manner and can be maintained in a sanitary manner. Under this chapter, shelters whose wire, grid, or slat floors (i) permit the animals' feet to pass through the openings; (ii) sag under the animals' weight; or (iii) otherwise do not protect the animals' feet or toes from injury are not adequate shelter.

*Adequate space* means sufficient space to allow each animal to (i) easily stand, sit, lie, turn about, and make all other normal body movements in a comfortable, normal position for the animal and (ii) interact safely with other animals in the enclosure. When an animal is tethered, "adequate space" means a tether that permits the above actions and is appropriate to the age and size of the animal; is attached to the animal by a properly applied collar, halter, or harness configured so as to protect the animal from injury and prevent the animal or tether from becoming entangled with other objects or animals, or from extending over an object or edge that could result in the strangulation or injury of the animal; and is at least three (3) times the length of the animal, as measured from the tip of its nose to the base of its tail, except when the animal is being walked on a leash or is attached by a tether to a lead line. When freedom of movement would endanger the animal, temporarily and appropriately restricting movement of the

November 17, 2009

animal according to professionally accepted standards for the species is considered provision of adequate space.

*Adequate water* means provision of and access to clean, fresh, potable water of a drinkable temperature which is provided in a suitable manner, in sufficient volume, and at suitable intervals, but at least once every twelve (12) hours, to maintain normal hydration of the age, species, condition, size and type of each animal, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species; and is provided in clean, durable receptacles which are accessible to each animal and are placed so as to minimize contamination of the water by excrement and pests or an alternative source of hydration consistent with generally accepted husbandry practices.

*Adoption* means the transfer of ownership of a dog or cat from a releasing agency to an individual.

*Agricultural animals* means all livestock and poultry.

*Ambient temperature* means the temperature surrounding the animal.

*Animal* means any nonhuman vertebrate species except fish. For the purposes of Article IV of this chapter, animal means any species susceptible to rabies. For the purposes of section 6-75 of this chapter, animal means any nonhuman vertebrate species including fish except those fish captured and killed or disposed of in a reasonable and customary manner.

*Animal control officer* means a person or his deputy appointed by the city who is responsible for enforcing state and local animal welfare and control provisions.

*Animal shelter* means a facility which is used to house or contain animals and which is owned, operated, or maintained by a duly incorporated humane society, animal welfare society, society for the prevention of cruelty of animals, animal rescue group, or any other organization devoted to the welfare, protection, and humane treatment of animals.

*Boarding establishment* means a place or establishment other than a pound or animal shelter where companion animals not owned by the proprietor are sheltered, fed, and watered in exchange for a fee.

*Collar* means a well-fitted device, appropriate to the age and size of the animal, attached to the animal's neck in such a way as to prevent trauma or injury to the animal.

*Commercial dog breeder* means any person who, during any 12-month period, maintains 30 or more adult female dogs for the primary purpose of the sale of their offspring as companion animals.

*Companion animal* means any domestic or feral dog, domestic or feral cat, nonhuman primate, guinea pig, hamster, rabbit not raised for human food or fiber, exotic or native animal, reptile, exotic or native bird, or any feral animal or any animal under the care, custody, or ownership of a person or any animal which is bought, sold, traded, or bartered by any person. Agricultural animals, game species, or any animals regulated under federal law as research animals shall not be considered companion animals for the purposes of this chapter.

*Consumer* means any natural person purchasing an animal from a dealer or pet shop or hiring the services of a boarding establishment. The term "consumer" shall not include a business or corporation engaged in sales or services.

*Dealer* means any person who in the regular course of business for compensation or profit buys sells, transfers, exchanges, or barter companion animals. Any person who transports companion animals in the regular course of business as a common carrier shall not be considered dealer.

November 17, 2009

*Direct and immediate threat* means any clear and imminent danger to an animal's health, safety or life.

*Dump* means to knowingly desert, forsake, or absolutely give up without having secured another owner or custodian any dog, cat, or other companion animal in any public place including the right-of-way of any public highway, road or street or on the property of another.

*Emergency veterinary treatment* means veterinary treatment to stabilize a life-threatening condition, alleviate suffering, prevent further disease transmission, or prevent further disease progression.

*Enclosure* means a structure used to house or restrict animals from running at large.

*Euthanasia* means the humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death or by a method that involves anesthesia, produced by an agent which causes painless loss of consciousness, and death during such loss of consciousness.

*Exhibitor* means any person who has animals for or on public display, excluding an exhibitor licensed by the United States Department Agriculture.

*Facility* means a building or portion thereof as designated by the State Veterinarian, other than a private residential dwelling and its surrounding grounds, that is used to contain a primary enclosure or enclosures in which animals are housed or kept.

*Foster care provider* means an individual who provides care or rehabilitation for companion animals through an affiliation with a pound, animal shelter, or other releasing agency.

*Foster home* means a private residential dwelling and its surrounding grounds at which site through an affiliation with a pound, animal shelter, or other releasing agency care or rehabilitation is provided for companion animals.

*Groomer* means any person who, for a fee, cleans, trims, brushes, makes neat, manicures, or treats for external parasites any animal.

*Home-based rescue* means any person that accepts: (i) more than 12 companion animals; or (ii) more than nine companion animals and more than three unweaned litters of companion animals in a calendar year for the purpose of finding permanent adoptive homes for the companion animals and houses the companion animals in a private residential dwelling or uses a system of housing companion animals in private residential foster homes.

*Humane* means any action taken in consideration of and with the intent to provide for the animal's health and well-being.

*Humane investigator* means a person who has been appointed by a circuit court as a humane investigator as provided in Va. State Code § [3.2-6558](#).

*Humane society* means any chartered, nonprofit organization incorporated under the laws of this commonwealth and organized for the purpose of preventing cruelty to animals and promoting humane care and treatment of animals.

*Kennel* means any establishment in which five (5) or more canines, felines, or hybrids of either are kept for the purpose of breeding, hunting, training, renting, buying, boarding, selling, or showing.

*Law enforcement officer* means any person who is a full-time or part-time employee of a police department or sheriff's office that is part of or administered by the Commonwealth or any political subdivision thereof and who is responsible for the prevention and detection of crime and the enforcement

November 17, 2009

of the penal, traffic or highway laws of the Commonwealth. Part-time employees are compensated officers who are not full-time employees as defined by the employing police department or sheriff's office.

*Livestock* includes all domestic or domesticated: bovine animals; equine animals; ovine animals; porcine animals; cervidae animals; capradae animals; animals of the genus Lama; ratites; fish or shellfish in aquaculture facilities, as defined in 3.2-2600; enclosed domesticated rabbits or hares raised for human food or fiber; or any other individual animal specifically raised for food or fiber, except companion animals.

*New owner* means an individual who is legally competent to enter into a binding agreement pursuant to section 6-94(b)(2) of this chapter, and who adopts or receives a dog or cat from a releasing agency.

*Ordinance* means any law, rule, regulation, or ordinance adopted by the governing body of any locality.

*Other officer* includes all other persons employed or elected by the people of Virginia, or by any locality, whose duty it is to preserve the peace, to make arrests, or to enforce the law.

*Owner* means any person who: (i) has a right of property in an animal, (ii) keeps or harbors an animal, (iii) has an animal in his care, or (iv) acts as a custodian of an animal.

*Pet shop* means an establishment where companion animals are bought, sold, exchanged, or offered for sale or exchange to the general public.

*Poultry* includes all domestic fowl and game birds raised in captivity.

*Pound* means a facility operated by the commonwealth, or any locality, for the purpose of impounding or harboring seized, stray, homeless, abandoned, or unwanted animals; or a facility operated for the same purpose under a contract with any county, city, town, or incorporated society for the prevention of cruelty to animals.

*Primary enclosure* means any structure used to immediately restrict an animal or animals to a limited amount of space, such as a room, pen, cage, compartment, or hutch. For tethered animals, the term includes the shelter and the area within reach of the tether.

*Properly cleaned* means that carcasses, debris, food waste and excrement are removed from the primary enclosure with sufficient frequency to minimize the animals' contact with the above-mentioned contaminants; the primary enclosure is sanitized with sufficient frequently to minimize odors and the hazards of disease; and the primary enclosure is cleaned so as to prevent the animals confined therein from being directly or indirectly sprayed with the stream of water, or directly or indirectly exposed to hazardous chemicals or disinfectants.

*Properly lighted when referring to a facility* means sufficient illumination to permit routine inspections, maintenance, cleaning, and housekeeping of the facility, and observation of the animals; to provide regular diurnal lighting cycles of either natural or artificial light, uniformly diffused throughout the animal facilities; and to promote the well-being of the animals.

*Properly lighted when referring to a private residential dwelling and its surrounding grounds* means sufficient illumination to permit routine maintenance and cleaning thereof, and observation of the companion animals; and to provide regular diurnal lighting cycles of either natural or artificial light to promote the well-being of the animals.

*Releasing agency* means a pound, animal shelter, humane society, animal welfare society, society for the prevention of cruelty to animals, or other similar entity that releases a dog or cat for adoption.

November 17, 2009

*Research facility* means any place, laboratory, or institution licensed by the United States Department of Agriculture at which scientific tests, experiments, or investigations involving the use of living animals are carried out, conducted, or attempted.

*Sanitize* means to make physically clean and to remove and destroy, to a practical minimum, agents injurious to health.

*Sore* means, when referring to an equine, that an irritating or blistering agent has been applied, internally or externally, by a person to any limb or foot of an equine; any burn, cut, or laceration that has been inflicted by a person to any limb or foot of an equine; any tack, nail, screw, or chemical agent that has been injected by a person into or used by a person on any limb or foot of an equine; any other substance or device that has been used by a person on any limb or foot of an equine; or a person has engaged in a practice involving an equine, and as a result of such application, infliction, injection, use, or practice, such equine suffers, or can reasonably be expected to suffer, physical pain or distress, inflammation, or lameness when walking, trotting, or otherwise moving, except that such term does not include such an application, infliction, injection, use, or practice in connection with the therapeutic treatment of an equine by or under the supervision of a licensed veterinarian. Notwithstanding anything contained herein to the contrary, nothing shall preclude the shoeing, use of pads, and use of action devices as permitted by 9 C.F.R. 11.2.

*Sterilize* or *sterilization* means a surgical or chemical procedure performed by a licensed veterinarian that renders a dog or cat permanently incapable of reproducing.

*Treasurer* includes the treasurer and his assistants of the city or other officer designated by law to collect taxes in the city.

*Treatment* or *adequate treatment* means the responsible handling or transportation of animals in the person's ownership, custody or charge, appropriate for the age, species, condition, size and type of animal.

*Veterinary treatment* means treatment by or on the order of a duly licensed veterinarian.

*Weaned* means that an animal is capable of and physiologically accustomed to ingestion of solid food or food customary for the adult of the species, and has ingested such food, without nursing, for a period of at least five (5) days.

**State law reference:** Code of Virginia § 3.2-6500.

## **ARTICLE II. DOGS**

### **DIVISION 1. GENERALLY**

#### **Sec. 6-26. Definitions.**

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

*Dog.* The word "dog" shall mean and include every dog, regardless of sex and age.

*Immediate control.* The words "under its owner's immediate control" shall mean by means of a leash, cord, chain, or other similar means.

November 17, 2009

*Owner.* The word "owner" shall mean any person having right of property in a dog, or who keeps or harbors a dog, or who has a dog in his care or who acts as a custodian of a dog.

**Sec. 6-27. Limitation on keeping of dogs and cats at residences.**

(a) It shall be unlawful for any person to own, house, keep, board or have more than three (3) dogs, more than four (4) months of age, at any one (1) residence within the city, unless such residence is more than three hundred (300) feet from any other residence.

(b) It shall be unlawful for there to be owned, housed, kept, or boarded more than four (4) cats, more than four (4) months of age at any residence in the city.

**State law reference:** Code of Virginia § 3.2-6503.

**Sec. 6-28. Running at large--Prohibited; leash law; penalty.**

(a) It shall be unlawful for the owner of any dog to permit such dog to run at large within the city, at any time, during any month of the year. It shall also be unlawful for the owner of any cat which has not been inoculated against rabies to permit such cat to run at large within the city, at any time, during any month of the year. For the purpose of this section, an animal shall be deemed to run at large while walking, roaming, running, or self-hunting off the property of its owner and not under its owner's immediate control. Immediate control means that a dog must be leashed while off of the owner's property. Any person who permits such animal to run at large shall be deemed to have violated the provisions of this section.

(b) Any dog which is the subject of a third or subsequent violation of this section may be declared a nuisance and the owner may be ordered to remove the animal from the city.

(c) Any person convicted of a fourth or subsequent violation of this section may also be prohibited from owning or housing any dog in the city.

**State law reference:** Code of Virginia § 3.2-6538 and § 3.2-6539.

**Sec. 6-29. Impoundment and disposition of dogs running at large.**

(a) It shall be the duty of the animal control officer or any police officer to seize and impound in the city pound any dog found running at large in the city in violation of this article or of any state law relating to dogs: provided, however, that it shall not be lawful to seize any dog belonging to any person not a resident of the city while such dog is attached to a vehicle of the owner, led by a leash or is in the personal presence of the owner.

(b) Any dog which has been confined in the city pound pursuant to this section must be kept for a period of not less than five (5) days, such period to commence on the day immediately following the day the dog is initially confined in the facility, unless sooner claimed by the owner thereof. The operator or custodian of the pound shall make a reasonable effort to ascertain whether the animal has a collar, tag, license, tattoo or other form of identification. If such identification is found on the animal, the animal shall be held for an additional five (5) days, unless sooner claimed by the rightful owner. If the rightful owner of the animal can be readily identified, the operator or custodian of the pound shall make a reasonable effort to notify the owner of the animal's confinement within the next forty-eight (48) hours following its confinement.

(c) No dog impounded under the provisions of this chapter shall be released until the owner makes demand therefor at the pound, proves ownership to the satisfaction of the poundmaster, produces a current license for such dog and pays the cost of impounding.

November 17, 2009

(d) A custodian of a dog or individual who has found a dog may qualify as owner and may claim the dog by expressing his desire in writing to claim the dog at the expiration of the five-day period set out herein after payment of the required license fee and cost of impounding as prescribed in subsection (c); provided, however, in the event the rightful owner shall claim such dog at any time, the custodian or finder shall relinquish possession of such dog to the rightful owner.

(e) If a dog has not been claimed upon expiration of the appropriate holding period as provided by subsection (b), it shall be deemed abandoned and become the property of the pound or shelter. If such dog did not when delivered to the pound bear a collar, tag, license, tattoo, or other form of identification, it may be humanely destroyed or disposed of by:

- (1) Sale or gift to a federal agency, state-supported institution, agency of the commonwealth, agency of another state, or a licensed federal dealer having its principal place of business located within the commonwealth, provided that such agency, institution or dealer agrees to confine the animal for an additional period of not less than five (5) days;
- (2) Delivery to any humane society or animal shelter within the commonwealth;
- (3) Adoption by any person who is a resident of the city who will pay the required license fee, if any, on such animal;
- (4) Adoption by a resident of an adjacent political subdivision of the commonwealth; or
- (5) Delivery, for the purposes of adoption or euthanasia only, to a humane society or an animal shelter located in and lawfully operating under the laws of another state, provided that such humane society or animal shelter: (i) maintains records which would comply with Code of Virginia, § 3.2-6557; (ii) requires that adopted dogs or cats be sterilized; and (iii) has been approved by the state veterinarian or his designee as a facility which maintains such records, requires adopted dogs and cats to be sterilized, and provides adequate care and euthanasia.

If such abandoned animal when delivered to the pound bore a collar, tag, license, tattoo, or other form of identification, it may be humanely destroyed or disposed of by the methods described in subsection (2), (3) or (4) of this subsection.

No more than two (2) dogs or a family of dogs shall be delivered during any thirty-day period to any one (1) person under subdivision (3) or (4) of this subsection.

(f) No provision in this section shall prohibit the destruction of a critically injured or critically ill animal for humane purposes. Any animal destroyed pursuant to the provisions of this section shall be euthanized by one of the methods prescribed or approved by the state veterinarian.

(g) Nothing in this section shall prohibit the immediate destruction or disposal by the methods listed in subdivisions (2) through (5) of subsection (e) of an animal that has been delivered voluntarily or released to a pound, animal shelter, animal control officer, or humane society by the animal's rightful owner after the rightful owner has, in writing, surrendered all property rights in such animal and has read and signed a statement (i) certifying that no other person has a right of property in the animal and (ii) acknowledging that the animal may be immediately euthanized or disposed of by the methods listed in subdivisions (2)-(5) of subsection (e).

(h) Nothing in this section shall prohibit any feral dog or feral cat not bearing a collar, tag, tattoo, or other form of identification which, based on the written certification of a disinterested person, exhibits behavior that poses a risk of physical injury to any person confining the animal, from being euthanized after being kept for a period of not less than three (3) days, at least one (1) of which shall be a full

November 17, 2009

business day, such period to commence on the day the animal is initially confined in the facility, unless sooner claimed by the rightful owner. The certification of the disinterested person shall be kept with the animal as required by Code of Virginia, § 3.2-6557. For purposes of this subsection, a disinterested person shall not include a person releasing or reporting the animal to the facility.

(i) Animals, other than dogs, which have been abandoned or are stray with no apparent owner may also be disposed of as provided in this section, unless such disposition is contrary to law.

**State law reference:** Code of Virginia § 3.2-6546.

**Sec. 6-30. Harboring or keeping of barking or howling dog.**

The harboring or keeping of any dog which, by loud, frequent or habitual barking or howling, shall cause annoyance to, and disturb the peace and quiet of, any person or neighborhood shall be unlawful and a nuisance. Any such dog may, after due notice has been given to the owner or keeper, if known, be impounded and confined in the city pound by the animal control officer or any police officer.

**Cross reference:** Hopewell City Code § 23-15.

**Sec. 6-31. Dangerous dogs.**

No person shall suffer or permit any dog belonging to him or under his control which is known to be dangerous, or is reasonably suspected of being dangerous, to be kept in the city at any time, except in strict confinement in such manner as to provide for, and make certain of, the safety of the public. Any second or subsequent violation of this section shall constitute a Class 2 misdemeanor.

**State law reference:** Code of Virginia § 3.2-6540.

**Sec. 6-31.1. Control of dangerous or vicious dogs.**

(a) As used in this section, "dangerous dog" means a canine or canine crossbreed that has bitten, attacked, or inflicted injury on a person or companion animal that is a dog or cat, or killed a companion animal that is a dog or cat; however, when a dog attacks or bites a companion animal that is a dog or cat, the attacking or biting dog shall not be deemed dangerous if (i) no serious physical injury as determined by a licensed veterinarian has occurred to the dog or cat as a result of the attack or bite, (ii) if both animals are owned by the same person, (iii) if such attack occurs on the property of the attacking or biting dog's owner or custodian, or (iv) for other good cause as determined by the court. No dog shall be found to be a dangerous dog as a result of biting, attacking or inflicting injury on a dog or cat while engaged with an owner or custodian as part of lawful hunting or participating in an organized, lawful dog handling event. No dog that has bitten, attacked, or inflicted injury on a person shall be found to be a dangerous dog if the court determines, based on the totality of the evidence before it, that the dog is not dangerous or a threat to the community.

"Vicious dog" means a canine or canine crossbreed that has (i) killed a person; (ii) inflicted serious injury to a person, including multiple bites, serious disfigurement, serious impairment of health, or serious impairment of a bodily function; or (iii) continued to exhibit the behavior that resulted in a previous finding by a court or, on or before July 1, 2006, by an animal control officer that it is a dangerous dog, provided that its owner has been given notice of that finding.

(b) Any law enforcement officer or animal control officer who has reason to believe that a canine or canine crossbreed within the city is a dangerous dog or vicious dog shall apply to a magistrate of the city for the issuance of a summons requiring the owner or custodian, if known, to appear before the general district court at a specified time. The summons shall advise the owner of the nature of the proceeding and the matters at issue. If a law enforcement officer successfully makes an application for the issuance of a

November 17, 2009

summons, he shall contact the city animal control officer and inform him of the location of the dog and the relevant facts pertaining to his belief that the dog is dangerous or vicious. The animal control officer shall confine the animal until such time as evidence shall be heard and a verdict rendered. If the animal control officer determines that the owner or custodian can confine the animal in a manner that protects the public safety, he may permit the owner or custodian to confine the animal until such time as evidence shall be heard and a verdict rendered. The court, through its contempt powers, may compel the owner, custodian or harbinger of the animal to produce the animal. If, after hearing the evidence, the court finds that the animal is a dangerous dog, the court shall order the animal's owner to comply with the provisions of this section. If, after hearing the evidence, the court finds that the animal is a vicious dog, the court shall order the animal euthanized in accordance with the provisions of Code of Virginia, § 3.2-6562. The procedure for appeal and trial shall be the same as provided by law for misdemeanors. Trial by jury shall be as provided in Article 4 (§ 19.2-260 et seq.) of Chapter 15 of Title 19.2. The Commonwealth shall be required to prove its case beyond a reasonable doubt.

(c) No canine or canine crossbreed shall be found to be a dangerous dog or vicious dog solely because it is a particular breed, nor is the ownership of a particular breed of canine or canine crossbreed prohibited. No animal shall be found to be a dangerous dog or vicious dog if the threat, injury or damage was sustained by a person who was (i) committing, at the time, a crime upon the premises occupied by the animal's owner or custodian, (ii) committing, at the time, a willful trespass upon the premises occupied by the animal's owner or custodian or (iii) provoking, tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the animal at other times. No police dog that was engaged in the performance of its duties as such at the time of the acts complained of shall be found to be a dangerous dog or a vicious dog. No animal which, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, shall be found to be a dangerous dog or a vicious dog.

(d) If the owner of an animal found to be a dangerous dog is a minor, the custodial parent or legal guardian shall be responsible for complying with all requirements of this section.

(e) The owner of any animal found to be a dangerous dog shall, within ten (10) days of such finding, obtain a dangerous dog registration certificate from the treasurer for a fee of fifty dollars (\$50.00) in addition to other fees that may be authorized by law. The treasurer shall also provide the owner with a uniformly designed tag that identifies the animal as a dangerous dog. The owner shall affix the tag to the animal's collar and ensure that the animal wears the collar and tag at all times. All certificates obtained pursuant to this subsection shall be renewed annually for the same fee and in the same manner as the initial certificate was obtained. The animal control officer shall provide a copy of the dangerous dog registration certificate and verification of compliance to the state veterinarian.

(f) All dangerous dog registration certificates or renewal thereof required to be obtained under this section shall only be issued to persons eighteen (18) years of age or older who present satisfactory evidence (i) of the animal's current rabies vaccination; (ii) that the animal is and will be confined in a proper enclosure or is and will be confined inside the owner's residence or is and will be muzzled and confined in the owner's fenced-in yard until the proper enclosure is constructed; (iii) that the animal has been neutered or spayed; and (iv) that the owner has liability insurance coverage, to the value of at least one hundred thousand dollars (\$100,000.00) per incident, that covers animal bites, or a bond in surety, in lieu of liability insurance, to the value of at least one hundred thousand dollars (\$100,000.00). In addition, owners who apply for certificates or renewals thereof under this section shall not be issued a certificate or renewal thereof unless they present satisfactory evidence that (i) the residence housing the dog is and will continue to be posted with clearly visible signs warning both minors and adults of the presence of a dangerous dog on the property and (ii) the animal has been permanently identified by means of a tattoo on the inside thigh or by electronic implantation.

(g) While on the property of its owner, an animal found to be a dangerous dog shall be confined indoors or in a securely enclosed and locked structure of sufficient height and design to prevent its escape and to

November 17, 2009

prevent direct contact with or entry by minors, adults, or other animals. The structure shall be designed to provide the animal with shelter from the elements of nature. When off its owner's property, an animal found to be a dangerous dog shall be kept on a leash and muzzled in such a manner as not to cause injury to the animal or interfere with the animal's vision or respiration, but so as to prevent it from biting a person or another animal.

(h) The owner of any dog found to be dangerous shall register the animal with the Commonwealth of Virginia Dangerous Dog Registry, as established under Code of Virginia, § ~~3-1-796.93~~ 3.2-6542, within forty-five (45) days of such a finding by a court of competent jurisdiction. The owner shall also cause the city animal control officer to be promptly notified of (i) the names, addresses, and telephone numbers of all owners; (ii) all of the means necessary to locate the owner and the dog at any time; (iii) any complaints or incidents of attack by the dog upon any person or cat or dog; (iv) any claims made or lawsuits brought as a result of any attack; (v) tattoo or chip identification information or both; (vi) proof of insurance or surety bond; and (vii) the death of the dog.

(i) After an animal has been found to be a dangerous dog, the animal's owner shall immediately, upon learning of same, cause the local animal control authority to be notified if the animal (i) is loose or unconfined; or (ii) bites a person or attacks another animal; or (iii) is sold, given away, or dies. Any owner of a dangerous dog who relocates to a new address shall, within ten (10) days of relocating, provide written notice to the appropriate local animal control authority for the old address from which the animal has moved and the new address to which the animal has been moved.

(j) Any owner or custodian of a canine or canine crossbreed or other animal is guilty of a:

(1) Class 2 misdemeanor if the canine or canine crossbreed previously declared a dangerous dog pursuant to this section, when such declaration arose out of a separate and distinct incident, attacks and injures or kills a cat or dog that is a companion animal belonging to another person;

(2) Class 1 misdemeanor if the canine or canine crossbreed previously declared a dangerous dog pursuant to this section, when such declaration arose out of a separate and distinct incident, bites a human being or attacks a human being causing bodily injury;

(3) Class 6 felony if any owner or custodian whose willful act or omission in the care, control, or containment of a canine, canine crossbreed, or other animal is so gross, wanton, and culpable as to show a reckless disregard for human life, and is the proximate cause of such dog or other animal attacking and causing serious bodily injury to any person.

The provisions of this subsection shall not apply to any animal that, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, or when the animal is a police dog that is engaged in the performance of its duties at the time of the attack.

(k) The owner of any animal that has been found to be a dangerous dog who willfully fails to comply with the requirements of this section shall be guilty of a Class 1 misdemeanor.

(l) All fees collected pursuant to this section, less the costs incurred by the animal control authority in producing and distributing the certificates and tags required by this section, shall be paid into a special dedicated fund in the treasury of the city for the purpose of paying the expenses of any training course required under Code of Virginia, § 3.2-6556.

**State law reference:** Code of Virginia § 3.2-6540.

**Sec. 6-32. Confinement of female dogs in season.**

November 17, 2009

It shall be unlawful for the owner of a female dog to permit such dog to be at large in the city or to be taken on a leash upon a street, sidewalk or public place in the city at any time when such dog is in season. Such dog shall be kept in a secure place or boarded in a kennel.

**Sec. 6-33. Regulation of hybrid canines.**

(a) Definitions. As used in this section:

*Adequate confinement* means that, while on the property of its owner and not under the direct supervision and control of the owner or custodian, a hybrid canine shall be confined in a humane manner in a securely and totally enclosed and locked structure, with a cement floor, of sufficient height and design to (i) prevent the animal's escape; or if the hybrid canine is determined to be a dangerous dog under sections 6-31, 6-31.1 of this chapter, the structure shall prevent direct contact with any person or animal not authorized by the owner to be in direct contact with the hybrid canine, and (ii) provide a minimum of one hundred (100) square feet of floor space for each adult animal. Tethering of a hybrid canine not under the direct supervision and control of the owner or custodian shall not be considered adequate confinement. While not on the property of its owner, adequate confinement means that the hybrid canine is under the immediate control of its owner or custodian, and is restrained in such a manner as to prevent escape and to prevent any uninvited contact with third parties.

*Hybrid canine* means any animal which at any time has been or is permitted, registered, licensed, advertised or otherwise described or represented as a hybrid canine, wolf or coyote by its owner to a licensed veterinarian, law enforcement officer, animal control officer, humane investigator, official of the department of health, or state veterinarian's representative.

*Responsible ownership* means the ownership and humane care of a hybrid canine in such a manner as to comply with all laws and ordinances regarding hybrid canines and prevent endangerment by the animal to public health and safety.

(b) No person shall own or house in the city more than two (2) hybrid canines, only one of which may be capable of reproducing.

(c) The owner of each hybrid canine shall apply for and obtain a permit from the city covering such canine for one (1) year. Application for said permit shall be accompanied by a fee of fifty dollars (\$50.00), and shall be submitted each year to the treasurer of the city by the same due dates set forth in section 6-46 of this chapter for dog licenses. The permit fee shall be in addition to the license tax. Information in the permit application shall include the canine's name, breed, sex, color, height, weight, length, and any identifying marks, as well as the canine's rabies vaccination number and expiration date. Proof of rabies vaccination, which must be effective throughout the period covered by the permit, and proof of the insurance required by this section shall accompany the application. The permit shall consist of a receipt and a metal tag, the latter to be affixed to the canine's collar, and worn at all times, identifying the canine, its owner and owner's address, and the period covered by the permit. The wearing of such collar and tag may only be excused by a licensed veterinarian, for health reasons of the animal.

(d) Hybrid canines shall also be identified by a tattoo on the inner thigh or by microchip.

(e) The owner of any hybrid canine must maintain liability insurance to cover any and all injuries inflicted by such animal, in the minimum amount of fifty thousand dollars (\$50,000.00) for each incident.

(f) Any hybrid canine for which no current permit has been issued shall be removed from the city forthwith by its owner.

(g) Hybrid canines shall be kept in adequate confinement as defined in this section.

November 17, 2009

(h) Violation of this section shall constitute a Class 3 misdemeanor for the first violation and a Class 1 misdemeanor for any second or subsequent violation. In addition, the owner found in violation of the section (other than the subsections requiring permits) shall surrender the hybrid canine for euthanasia in accordance with Code of Virginia, § 3.2-6562.

**State law reference:** Code of Virginia § 3.2-6581 and § 3.2-6582.

**Sec. 6-34. Removal of defecated material left by dog on public and private property.**

The owner of any dog shall immediately remove defecated material left by said dog on any private or public property in the city, other than the owner's property, and dispose of it in a safe and sanitary manner.

**DIVISION 2. LICENSE\***

**Sec. 6-46. Required.**

It shall be unlawful for any person to own a dog or cat four (4) months old or older in this city, unless such dog or cat is licensed under the provisions of this division. The owner of any such dog or cat shall obtain a current license for said dog or cat and pay the license tax imposed by section 6-48. Said license shall be valid for a period of one (1), two (2), or three (3) years, depending upon the license tax paid, provided that the period covered by the license does not exceed the period of time covered by the certificate of rabies vaccination referred to in sections 6-51 and 6-121 of this chapter.

**State law reference:** Code of Virginia § 3.2-6524.

**Sec. 6-47. Application; applicant must be city resident.**

(a) Any person may obtain a dog or cat license by making oral or written application to the city treasurer, accompanied by the license tax and certificate referred to in section 6-51. The city treasurer shall only have authority to license dogs and cats of resident owners or custodians who reside within the limits of the city and may require information to this effect from any applicant.

(b) It shall be unlawful for any person to make any false statement in or present any false evidence with an application submitted under this section, in order to secure a dog or cat license to which such person is not entitled.

**State law reference:** Code of Virginia § 3.2-6527 and § 3.2-6587.

**Sec. 6-48. Tax imposed.**

(a) A license tax is hereby imposed on dogs and cats required to be licensed under this division. The amounts of such tax shall be set by resolution, duly adopted by city council.

(b) No license tax shall be levied under this section on any dog that is trained and serves as a guide dog for a blind person, that is trained and serves as a hearing dog for a deaf or hearing impaired person, or that is trained and serves as a service dog for a mobility-impaired person. As used in this subsection, the term "hearing dog" means a dog trained to alert its owner by touch to sounds of danger and sounds to which the owner should respond and "service dog" means a dog trained to accompany its owner for the purpose of carrying items, retrieving objects, pulling a wheelchair or other such activities of service or support.

**State law reference:** Code of Virginia § 3.2-6528.

**Sec. 6-49. Reserved.**

**Sec. 6-50. Failure to pay tax when due.**

It shall be unlawful for any person to fail to pay the dog or cat license tax when the same is due. Payment of the license tax subsequent to a summons to appear before a court for failure to do so within the time required shall not operate to relieve such owner from the penalties provided for such failure.

**State law reference:** Code of Virginia § 3.2-6536.

**Sec. 6-51. Issuance, composition and contents of license.**

(a) Upon receipt of a proper application and the prescribed license fee, the city treasurer shall issue a dog or cat license; provided, that no such license shall be issued for any dog or cat, unless there is presented to the city treasurer a current certificate issued pursuant to section 6-121 of this chapter for such dog or cat. When the dog or cat license has been issued, the certificate shall be so marked and returned to the applicant.

(b) Each dog or cat license shall consist of a license tax receipt and a metal tag. Such receipt shall have recorded thereon the amount of the tax paid, the name and address of the owner or custodian of the dog or cat, the date of payment, the time period for which the license is issued, the serial number of the tag, and whether the license is for a dog, cat or unsexed dog or cat. The metal tag issued hereunder shall be stamped or otherwise permanently marked to show the name of the jurisdiction and shall bear a serial number.

(c) Each veterinarian who vaccinates a dog against rabies or directs a veterinary technician in his employ to vaccinate a dog against rabies shall provide the owner a copy of the rabies vaccination certificate. The veterinarian shall forward within 45 days a copy of the rabies vaccination certificate or the relevant information contained in such certificate to the treasurer of the locality where the vaccination occurs.

(1) The rabies vaccination certificate shall include at a minimum the signature of the veterinarian, the animal owner's name and address, the species of the animal, the sex, the age, the color, the primary breed, whether or not the animal is spayed or neutered, the vaccination number, and expiration date. The rabies vaccination certificate shall indicate the locality where the animal resides.

(2) It shall be the responsibility of the owner of each vaccinated animal that is not already licensed to apply for a license for the vaccinated dog. Beginning January 1, 2008, if the treasurer determines, from review of the rabies vaccination information provided by veterinarians, that the owner of an unlicensed dog has failed to apply for a license within 90 days of the date of vaccination, the treasurer shall transmit an application to the owner and request the owner to submit a completed application and pay the appropriate fee. Upon receipt of the completed application and payment of the license fee, the treasurer or other agent charged with the duty of issuing the dog licenses shall issue a license receipt and a permanent tag. The treasurer shall retain only the information that is required to be collected and open to public inspection pursuant to the provisions of this Chapter and shall forthwith destroy any rabies vaccination certificate or other similar record transmitted by a veterinarian to a treasurer pursuant to this section.

(3) The treasurer shall remit any rabies vaccination certificate received for any animal owned by an individual residing in another locality to the local treasurer for the appropriate locality.

(4) Any veterinarian that willfully fails to provide the treasurer of any locality with a copy of the rabies vaccination certificate, or the information contained in such certificate, may be subject to a civil penalty not to exceed \$10 per certificate. Monies raised pursuant to this subsection shall

November 17, 2009

be placed in the locality's general fund for the purpose of animal control activities including spay or neuter programs.

**State law reference:** Code of Virginia § 3.2-6526 and § 3.2-6529.

**Sec. 6-52. Preservation and exhibition of license receipt; tag to be worn by dog; exceptions.**

(a) Dog and cat license receipts shall be carefully preserved by the licensees and exhibited promptly on request for inspection by the animal control officer or other officer. Dog license tags shall be securely fastened to a substantial collar by the owner or custodian and worn by such dog. Collars bearing license tags may be removed when the dog is engaged in lawful hunting; when the dog is competing in a dog show; when the dog has a skin condition which would be exacerbated by the wearing of a collar; when the dog is confined; or when the dog is under the immediate control of its owner.

(b) Any dog not wearing a collar bearing a valid license tag, or any cat not exhibiting its license information, in a readily identifiable manner, shall prima facie be deemed to be unlicensed, and in any proceedings under this division, the burden of proof of the fact that such dog or cat has been licensed at the time shall be on the owner of the dog or cat. Any such dog not wearing a required collar bearing a current license tag, or any cat not exhibiting current license information, may be impounded by the animal control officer or other law enforcement officer, and disposed of in accordance with law.

**State law reference:** Code of Virginia § 3.2-6533.

**Sec. 6-53. Removal of tag.**

It shall be unlawful for any person, except the owner or custodian, to remove a legally acquired license tag from a dog, or to remove license information from a cat.

**State law reference:** Code of Virginia § 3.2-6587.

**Sec. 6-54. Duplicate tags.**

If a dog or cat license tag shall become lost, destroyed or stolen, the owner or custodian shall at once apply to the city treasurer for a duplicate tag, presenting the original license receipt. Upon affidavit of the owner or custodian, before the treasurer, that the original license tag has been lost, destroyed or stolen, the treasurer shall issue a duplicate license tag, which the owner or custodian shall immediately affix to the collar of the dog or cat. The treasurer shall endorse the number of the duplicate and the date issued on the face of the original license receipt. The fee for a duplicate tag for any dog or cat shall be one dollar (\$1.00).

**State law reference:** Code of Virginia § 3.2-6532.

**Sec. 6-55. Substations and agents for collection of tax and issuance of license.**

The city treasurer may establish substations in convenient locations in the city and appoint agents for the collection of dog license taxes and issuance of dog licenses.

**State law reference:** Code of Virginia § 3.2-6527.

**ARTICLE III. COMPREHENSIVE ANIMAL CARE ORDINANCE\***

**State law reference:** Code of Virginia § 3.2-6500 – 3.2-6590.

**Sec. 6-71. Title.**

November 17, 2009

This article shall be known as the Hopewell Comprehensive Animal Care Ordinance and may be so cited.

**Sec. 6-72. Declaration of policy and purpose.**

(a) The city council declares that it is the policy and purpose of this article to insure that animals are provided humane care and treatment by regulating the transportation, sale, purchase, housing, care, handling and treatment of animals. It is the purpose of this article to insure that all animals, wherever found, and especially animals confined in pet shops, boarding kennels, animal shelters, auction markets, pounds, research facilities, transportation facilities, vehicles and in other similar places, are provided humane care and treatment. It is also the purpose of this article to protect the owners and purchasers of animals from misleading or fraudulent warranties regarding animals and from theft of their animals; to prevent the sale or use of stolen animals; and to insure that only animals that appear to be free of infection, communicable disease and abnormalities are released for sale, trade or adoption, unless subsequent veterinary care is assured.

(b) The city council declares that it is the intent of this article to protect the public health, safety and welfare by controlling animals as items of commerce to prevent disease, fraudulent practices and inhumane treatment and conditions.

**State law reference:** Code of Virginia § 3.2-6501.

**Sec. 6-73. Reserved.**

**Sec. 6-74. Exceptions from article.**

This article shall not apply to a place or establishment which is operated under the immediate supervision of a duly licensed veterinarian as a hospital or boarding kennel, where animals are harbored, boarded and cared for incident to the treatment, prevention or alleviation of disease processes during the routine practice of the profession of veterinary medicine or to animals boarded under the immediate supervision of a duly licensed veterinarian.

**State law reference:** Code of Virginia § 3.2-6506.

**Sec. 6-75. Cruelty to animals generally.**

Any person who (i) overrides, overdrives, overloads, tortures, ill-treats, abandons, willfully inflicts inhumane injury or pain, not connected with bona fide scientific or medical experimentation, or cruelly or unnecessarily beats, maims, mutilates, or kills, any animal, whether belonging to such person or another; or (ii) deprives any animal of necessary food, drink, shelter or emergency veterinary treatment; or (iii) who willfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal; or (iv) carries or causes to be carried in or upon any vehicle, vessel or otherwise any animal in a cruel, brutal, or inhumane manner, so as to produce torture or unnecessary suffering; or (v) who causes any of the above things, or who, being the owner of such animal, permits such acts to be done by another, shall be guilty of a Class 1 misdemeanor.

**State law reference:** Code of Virginia § 3.2-6570.

**Sec. 6-76. Maiming, killing or poisoning companion animals or fowl.**

Except as otherwise provided for by law, if any person maliciously shoots, stabs, wounds or otherwise causes bodily injury to, or administers poison to or exposes poison with intent that it be taken by any companion animal or fowl of another, with intent to maim, disfigure, disable or kill the same, or if

November 17, 2009

any person does any of the foregoing acts to any companion animal or fowl of his or her own, with intent to defraud any insurer thereof, such person shall be guilty of a Class 1 misdemeanor.

**State law reference:** Code of Virginia § 3.2-6544 and § 3.2-6570.

**Sec. 6-77. Animal fighting.**

\_(a) No person shall knowingly:

- (1) Promote, prepare for, engage in, or be employed in, the fighting of animals for amusement, sport or gain;
- (2) Attend an exhibition of the fighting of animals;
- (3) Authorize or allow any person to undertake any act described in this section on any premises under his charge or control; or
- (4) Aid or abet any such acts.

Except as provided in subsection (b), any person who violates any provision of this subsection is guilty of a Class 1 misdemeanor.

(b) Any person who violates any provision of subsection (a) in combination with one or more of the following is guilty of a Class 6 felony:

- (1) When a dog is one of the animals;
- (2) When any device or substance intended to enhance an animal's ability to fight or to inflict injury upon another animal is used, or possessed with intent to use it for such purpose;
- (3) When money or anything of value is wagered on the result of such fighting;
- (4) When money or anything of value is paid or received for the admission of a person to a place for animal fighting;
- (5) When any animal is possessed, owned, trained, transported, or sold with the intent that the animal engage in an exhibition of fighting with another animal; or
- (6) When he permits or causes a minor to (i) attend an exhibition of the fighting of any animals or (ii) undertake or be involved in any act described in this subsection.

(c) (1) Any animal control officer, shall confiscate any animal that he determines has been, is, or is intended to be used in animal fighting and any equipment used in training such animal or used in animal fighting.

(2) Upon confiscation of an animal, the animal control officer shall petition the appropriate court for a hearing for a determination of whether the animal has been, is, or is intended to be used in animal fighting. The hearing shall be not more than 10 business days from the date of the confiscation of the animal. If the court finds that the animal has not been used, is not used and is not intended to be used in animal fighting, it shall order the animal released to its owner. However, if the court finds probable cause to believe that the animal has been, is, or is intended to be used in animal fighting, the court shall order the animal forfeited to the locality unless the owner posts bond in surety with the locality in an amount sufficient to compensate the locality for

November 17, 2009

its cost of caring for the animal for a period of nine months. He shall post additional bond for each successive nine-month period until a final determination by the trial court on any criminal charges brought pursuant to subsections a or b.

(3) Upon a final determination of guilt by the trial court on criminal charges brought pursuant to subsections a or b, the court shall order that the animal be forfeited to the locality. Upon a final determination of not guilty by the trial court on the underlying criminal charges, a confiscated animal shall be returned to its owner and any bond shall be refunded to him.

(d) Any person convicted of violating any provision of subsection a or b shall be prohibited by the court from possession or ownership of companion animals or cocks.

(e) In addition to fines and costs, the court shall order any person who is convicted of a violation of this section to pay all reasonable costs incurred in housing, caring for, or euthanizing any confiscated animal. If the court finds that the actual costs are reasonable, it may order payment of actual costs.

(f) The provisions of this section shall not apply to any law-enforcement officer in the performance of his duties. This section shall not prohibit (i) authorized wildlife management activities or hunting, fishing, or trapping authorized under any title of the Code of Virginia or regulations promulgated thereto or (ii) farming activities authorized under Title 3.2 of the Code of Virginia or regulations promulgated thereto.

**State law reference:** Code of Virginia § 3.2-6571.

**Sec. 6-78. Leaving maimed, diseased, etc., animal in street or other public place.**

It shall be unlawful and a Class 3 misdemeanor for any person owning or having in custody any maimed, diseased, disabled or infirm animal to leave it to lie or be in a street, road or public place.

**State law reference:** Code of Virginia § 18.2-394.

**Sec. 6-79. Care of companion animals by owner.**

(a) Each owner shall have the duty to provide, for each of such owner's companion animals:

- (1) Adequate feed and adequate water;
- (2) Adequate shelter that is properly cleaned;
- (3) Adequate space in the primary enclosure for the particular type of animal depending upon its age, size, species and weight;
- (4) Veterinary care when needed or to prevent suffering or disease transmission;
- (5) Adequate care, treatment, and transportation; and
- (6) Adequate exercise.

(b) The provisions of this section shall also apply to every pound, animal shelter, or other releasing agency, and every foster care provider, dealer, pet shop, exhibitor, kennel, groomer, and boarding establishment with respect to animals contained therein.

(c) Violation of this section is a Class 4 misdemeanor.

**State law reference:** Code of Virginia § 3.2-6503.

**Sec. 6-80. Care required of dealers and pet shops.**

It shall be unlawful and a Class 3 misdemeanor for any dealer or owner or operator of a pet shop to fail to adequately house, feed, water, exercise and care for animals in his or her possession or custody. Animals not so provided for shall be subject to seizure and impoundment and, upon conviction of such dealer, owner or operator of violating this section, such animals may be sold or euthanized as provided by section 6-29. Any funds that result from such sale shall be used first to pay the costs of the city for the impoundment and disposition of the animals and any funds remaining shall be paid to the owner, if known. In the event that the owner is not found, the remaining funds shall be paid into the city treasury.

**State law reference:** Code of Virginia § 3.2-6511.

**Sec. 6-81. Care of animals being transported.**

(a) No owner, railroad or other common carrier, when transporting any animal, shall allow that animal to be confined in any type of conveyance for more than twenty-four (24) consecutive hours, without being exercised, properly rested, fed and watered as necessary for that particular type and species of animal; provided, however, that a reasonable extension of this time shall be permitted when an accident, storm or other act of God causes a delay. Adequate space in the primary enclosure within any type of conveyance shall be provided each animal, depending upon the particular type and species of animal.

(b) No person shall carry or cause to be carried, in or upon any vehicle, vessel or other conveyance, any animal in a cruel, brutal or inhumane manner, so as to produce torture or unnecessary suffering

(c) No person being the owner of such animal shall permit such acts to be done by another.

(d) Violation of any provision of this section shall constitute a Class 1 misdemeanor.

**State law reference:** Code of Virginia § 3.2-6508 and § 3.2-6570.

**Sec. 6-82. Importing or exporting puppy, for purpose of sale, without dam.**

No person shall import into this city, nor export from this city, for the purpose of sale or offering for sale, any unweaned mammalian companion animal or any dog or cat under the age of seven (7) weeks, without its dam or queen. Violation of this section shall constitute a Class 1 misdemeanor.

**State law reference:** Code of Virginia § 3.2-6510.

**Sec. 6-83. Sale of baby fowl in certain quantities prohibited.**

(a) No person shall sell, raffle, give away, or offer for sale as pets or novelties, or offer or give as a prize, premium, or advertising device, in quantities of less than six (6), any living chicks, ducklings or other fowl under two (2) months old.

(b) A violation of this section shall constitute a Class 3 misdemeanor.

**State law reference:** Code of Virginia § 3.2-6510.

**Sec. 6-84. Misrepresentation of animal's condition.**

(a) No person shall misrepresent the physical condition of any animal at the animal's sale, trade, delivery or other method of transfer. For the purpose of this section, misrepresentation shall include selling, trading, delivering or otherwise transferring an animal to another person with the knowledge that the

November 17, 2009

animal has an infection, communicable disease, parasitic infestation, abnormality or other physical defect that is not made known to the person receiving the animal. However, sale of an agricultural animal that has external or internal parasites that are not made known to the person receiving the animal shall not be a violation of this section unless the animal is clinically ill or debilitated due to such parasites at the time of sale, trade, delivery or transfer of the animal.

(b) A violation of this section shall constitute a Class 3 misdemeanor.

**State law reference:** Code of Virginia § 3.2-6509.

**Sec. 6-85. Abandonment of animal.**

(a) No person shall abandon any animal. Abandoned, for the purposes of this section, is defined as deserting, forsaking or intending to absolutely give up an animal, without securing another owner or without providing the necessities set out in section 6-79.

(b) A violation of this section shall constitute a Class 3 misdemeanor.

**State law reference:** Code of Virginia § 3.2-6504.

**Sec. 6-86. Procedure when animals left unclaimed with veterinarian or boarding kennel.**

Any animal not claimed by its owner from a licensed veterinarian or boarding kennel within fourteen (14) days after a letter of notice has been sent to the owner, if found, by the veterinarian or boarding kennel, may be sold by the veterinarian or boarding kennel. The animal may be sold at public or private sale for fair compensation to a person capable of providing care consistent with this article. Any expense incurred by the veterinarian or boarding kennel becomes a lien on the animal and the proceeds of the sale shall first be used to discharge this lien. Any balance of the proceeds shall be paid over to the owner; provided, however, that if the owner cannot be found within the next ensuing thirty (30) days, the balance shall be paid to the city treasury. If no purchaser is found, the animal may be offered for adoption or euthanized.

**State law reference:** Code of Virginia § 3.2-6520.

**Sec. 6-87. Rights of veterinarian as to sick or injured animal when owner cannot be located.**

If a licensed veterinarian is called, or by his or her own action comes upon an animal that is sick or injured and the owner of such animal cannot be immediately located, then the licensed veterinarian, in his or her professional judgment, may treat, hospitalize or euthanize the animal, without the permission of the owner. In no event shall a licensed veterinarian who has properly exercised professional judgment regarding such an animal be subject to liability for his or her actions.

**State law reference:** Code of Virginia § 3.2-6507.

**Sec. 6-88. Investigation of complaint of violation of article; corrective action.**

(a) Upon receiving a complaint of a suspected violation of this chapter, the animal control officer or any law enforcement official may, for the purpose of investigating the allegations of the complaint, enter upon, during business hours, the premises of any pet shop, dealer in companion animals, groomer, or boarding establishment, and upon obtaining a warrant as provided for in Code of Virginia, § 3.2-6568, upon any other premises where the animal or animals described in the complaint are housed or kept. The commonwealth's attorney and law enforcement officials shall provide such assistance as may be required in the conduct of such investigations.

November 17, 2009

(b) If the investigation provided for in this section discloses that a violation of section 6-79 has occurred, the investigator shall notify the owner or custodian of the complaint and of what action is necessary to comply with this article. The owner or custodian shall have a maximum of forty-eight (48) hours in which to take corrective action. If, at the end of that period, corrective action has not been taken, legal action shall be instituted.

(c) This section shall not apply to sections 6-75, 6-76 and 6-77, and investigations and prosecutions for violations of those sections shall be handled as they are for violations of other ordinances of the city.

**State law reference:** Code of Virginia § 3.2-6564.

**Sec. 6-89. Impoundment of animals when article violated.**

When the animal control officer, any law enforcement official or a licensed veterinarian finds that an apparent violation of this chapter has rendered an animal in such a condition as to constitute a direct and immediate threat to its life, safety or health, which the owner or custodian has failed or refuses to remedy, the animal control officer, law enforcement official or licensed veterinarian may impound the animal in a facility which will provide the elements of good care set forth in section 6-79, and shall then proceed to take such steps as are required to dispose of the animal pursuant to Code of Virginia, § 3.2-6569.

**State law reference:** Code of Virginia § 3.2-6565.

**Sec. 6-90. Impoundment records.**

An animal control officer, law enforcement officer, humane investigator or custodian of any pound or animal shelter, upon taking custody of any animal in the course of his official duties, or any representative of a humane society, upon obtaining custody of any animal on behalf of the society, shall immediately make a record of the matter. Such record shall include:

- (1) The date on which the animal was taken into custody;
- (2) The date of the making of the record;
- (3) A description of the animal including the animal's species, color, breed, sex, approximate age and approximate weight;
- (4) The reason for taking custody of the animal and the location where custody was taken;
- (5) The name and address of the animal's owner, if known;
- (6) Any license or rabies tag, tattoo, collar or other identification number carried by or appearing on the animal; and
- (7) The disposition of the animal.

Records required by this subsection shall be maintained for at least five (5) years, and shall be available for public inspection upon request.

**State law reference:** Code of Virginia § 3.2-6548.

**Sec. 6-91. Sale or gift of animals released from pound or shelter generally.**

November 17, 2009

(a) Except as otherwise permitted under this chapter, no animal impounded at the city's pound shall be sold or given away other than by sale or gift directly to federal agencies, state supported institutions, agencies of the Commonwealth of Virginia, agencies of other states, or by delivery to dealers licensed by federal, state or local authorities, or by delivery to a local humane society shelter or to any person who will pay the required license fee, if any, on such animal. Any proceeds deriving from the gift, sale or delivery of such animals shall be paid directly to the city treasurer and no part of such proceeds shall accrue to any individual.

(b) The board of directors of an incorporated humane society shall determine the method of disposition of animals released by its animal shelter in accordance with the provisions of Code of Virginia, § 3.2-6546. Any proceeds deriving from the gift, sale or delivery of such animals shall be paid directly to the clerk or treasurer of the humane society for the expenses of the society and expenses incident to any agreement concerning the disposing of such animals and no part of such proceeds shall accrue to any individual except for such purposes. Humane societies shall keep accurate records of animals handled. Records shall include a description of the animal including color, breed, sex, approximate weight, reason for bringing in, age, owner's or finder's name, address and telephone number, license number or other identifying tags or markings, as well as disposition of the animal.

**State law reference:** Code of Virginia § 3.2-6546 and § 3.2-6569.

**Sec. 6-92. Animal control officer not to sell or give animals to dealers, pet shops, etc.**

The animal control officer and such control officer's representatives shall not give or sell, or negotiate for the gift or sale, to a pet shop, dealer or research facility, of any animal which may come into his or her custody in the course of carrying out his or her official assignments.

**State law reference:** Code of Virginia § 3.2-6557.

**Sec. 6-93. Animal control officer not to be licensed as dealer.**

The animal control officer shall not be granted a dealer's license and each application for such license shall include a statement made under oath that neither the applicant nor any member or employee of the firm, partnership or corporation making application is the animal control officer.

**State law reference:** Code of Virginia § 3.2-6557.

**Sec. 6-94. Sterilization of adopted dogs and cats; enforcement; sterilization agreements; civil penalties.**

(a) Every new owner of a dog or cat adopted from a releasing agency shall cause to be sterilized the dog or cat pursuant to the agreement required by subsection (b)(2) of this section.

(b) A dog or cat shall not be released for adoption from a releasing agency unless:

(1) The animal has already been sterilized; or

(2) The individual adopting the animal signs an agreement to have the animal sterilized by a licensed veterinarian (i) within thirty (30) days of the adoption, if the animal is sexually mature, or (ii) within thirty (30) days after the animal reaches six (6) months of age, if the animal is not sexually mature at the time of adoption.

(c) A releasing agency may extend for thirty (30) days the date by which a dog or cat must be sterilized on presentation of a written report from a veterinarian stating that the life or health of the adopted animal may be jeopardized by sterilization. In cases involving extenuating circumstances, the veterinarian and

November 17, 2009

the releasing agency may negotiate the terms of an extension of the date by which the animal must be sterilized.

(d) Any agreement used by a releasing agency under this section shall contain:

- (1) The date of the agreement;
- (2) The names, addresses, and signatures of the releasing agency and the new owner;
- (3) A description of the dog or cat to be adopted;
- (4) The date by which the dog or cat is to be sterilized; and
- (5) A statement printed in conspicuous, bold print, that sterilization of the dog or cat is required under this section; that a person who violates this section is subject to a civil penalty; and that the new owner may be compelled to comply with the provisions of this section.

(e) Each new owner who signs a sterilization agreement shall, within seven (7) days of the sterilization, cause to be delivered or mailed to the releasing agency written confirmation signed by the veterinarian who performed the sterilization. The confirmation shall briefly describe the dog or cat; include the new owner's name and address; certify that the sterilization was performed; and specify the date of the procedure.

(f) If an adopted dog or cat is lost or stolen or dies before the animal is sterilized and before the date by which the dog or cat is required to be sterilized, the new owner shall, within seven (7) days of the animal's disappearance or death, notify the releasing agency of the animal's disappearance or death. Any person who violates this subsection shall be subject to a civil penalty of twenty-five dollars (\$25.00).

(g) This section shall not apply to:

- (1) An owner reclaiming his dog or cat from a releasing agency; and
- (2) The city pound for animals disposed of by sale or gift to a federal agency, state-supported institution, agency of the commonwealth, agency of another state, or licensed federal dealer having its principal place of business located within the commonwealth.

(h) A releasing agency may charge and collect from the new owner a deposit before releasing a dog or cat for adoption to ensure sterilization. The deposit charged by the city pound shall be forty dollars (\$40.00) per dog and twenty-five dollars (\$25.00) per cat. The deposit shall be refunded upon proof that the adopted dog or cat has been sterilized.

(i) Nothing in this section shall preclude the sterilization of a sexually immature dog or cat upon the written agreement of the veterinarian, the releasing agency, and the new owner.

(j) Upon the petition of an animal control officer, humane investigator, the state veterinarian or state veterinarian's representative to the district court of the city where a violation of this section occurs, the court may order the new owner to take any steps necessary to comply with the requirements of this section. This remedy shall be exclusive of and in addition to any civil penalty which may be imposed under this section.

(k) Any person who violates subsection (a), (b), (d), or (e) of this section shall be subject to a civil penalty of fifty dollars (\$50.00).

November 17, 2009

(l) Any animal control officer, humane investigator, the state veterinarian or state veterinarian's representative shall be entitled to bring a civil action for any violation of this section which is subject to a civil penalty. Any civil penalty assessed pursuant to this section shall be paid into the treasury of the city and used for the purpose of defraying the costs of local animal control, including efforts to promote sterilization of cats and dogs.

**State law reference:** Code of Virginia §§ 3.2-6574, 3.2-6575, 3.2-6576, 3.2-6577, 3.2-6578, 3.2-6579, and 3.2-6580.

#### **ARTICLE IV. RABIES CONTROL\***

**\*State law reference:** Code of Virginia § 3.2-6525.

##### **Sec. 6-121. Vaccination of dogs and cats.**

(a) It shall be unlawful for any person to own, keep, hold, or harbor any dog or cat over the age of four (4) months within the city, unless such dog or cat shall have been vaccinated with a rabies vaccine approved by the state department of health and the vaccination is not beyond the expiration date for such vaccination. The vaccination shall be administered by a licensed veterinarian.

(b) At the time of vaccination a certificate of vaccination shall be issued by the veterinarian. A suitable and distinctive rabies tag and a certificate of vaccination shall be issued by the veterinarian to the animal's owner. The certificate shall certify that the animal in question has been vaccinated in accordance with this section. Such certificate shall show the date of vaccination, a rabies collar tag number, the date of required immunization, a brief description of the animal, and its sex and breed, and the name of the owner. The collar tag shall be affixed to the dog's collar and shall be worn at all times when the dog is not on the owner's property or in the immediate control of a responsible person.

(c) The certificate issued under this section shall be carefully preserved by the owner or custodian of the animal and exhibited promptly upon request for inspection by any animal control officer, a public health officer, or any law enforcement officer.

**State law reference:** Code of Virginia § 3.2-6521.

##### **Sec. 6-122. Report of existence of rabid animals.**

Every person having knowledge of the existence of an animal apparently afflicted with rabies shall report immediately to the city health department the existence of such animal, the place where seen, the owner's name, if known, and the symptoms suggesting rabies.

**State law reference:** Code of Virginia § 3.2-6522.

##### **Sec. 6-123. Emergency ordinance requiring confinement or restraint of dogs when rabid animal at large.**

When there is sufficient reason to believe that a rabid animal is at large, the city council shall have the power to pass ~~as~~ an emergency ordinance, which shall become effective immediately upon passage, requiring owners of all dogs in the city to keep the same confined on their premises, unless leashed under restraint of the owner in such a manner that persons or animals will not be subject to the danger of being bitten thereby. Any such emergency ordinance enacted pursuant to the provisions of this section shall be operative for a period not to exceed thirty (30) days, unless renewed by the city council.

**State law reference:** Code of Virginia § 3.2-6522.

November 17, 2009

**Sec. 6-124. Confinement or destruction of dogs showing signs of or suspected of having rabies.**

Dogs showing active signs of rabies or suspected of having rabies shall be confined under competent observation for such a time as may be necessary to determine a diagnosis. If confinement is impossible or impractical, such dog shall be destroyed.

**State law reference:** Code of Virginia § 3.2-6522.

**Sec. 6-125. Destruction or confinement of dog or cat exposed to rabies.**

Any dog or cat, for which no proof of current rabies vaccination is available, and which is exposed to rabies through a bite, or through saliva or central nervous system tissue, in a fresh open wound or mucous membrane, by an animal believed to be afflicted with rabies, shall be confined in a pound, kennel or enclosure approved by the health department for a period not to exceed six (6) months at the expense of the owner; however, if this is not feasible, the dog or cat shall be euthanized by one of the methods approved by the state veterinarian as provided in Code of Virginia, § 3.2-6546. A rabies vaccination shall be administered prior to release. Inactivated rabies vaccine may be administered at the beginning of confinement. Any dog or cat so bitten, or exposed to rabies through saliva or central nervous system tissue, in a fresh open wound or mucous membrane with proof of a valid rabies vaccination, shall be revaccinated immediately following the bite and shall be confined to the premises of the owner, or other site as may be approved by the local health department, for a period of forty-five (45) days. The location of confinement shall be as determined by the animal control officer.

**State law reference:** Code of Virginia § 3.2-6522.

**Sec. 6-126. Confinement or destruction of animal which has bitten person.**

(a) At the discretion of the director of health, any animal which has bitten a person shall be confined under competent observation for ten (10) days, unless the animal develops active symptoms of rabies or expires before that time; provided that a seriously injured or sick animal may be humanely euthanized and its head sent to the local health department for evaluation.

(b) In the event that the owner of an animal which has bitten a person is unable to establish to the satisfaction of the health officer that such animal has been vaccinated with rabies vaccine, such animal shall be confined for ten (10) days under the observation of a licensed veterinarian in a facility approved by the director of health, or in the animal shelter operated by the City of Hopewell, at the expense of the owner. The fee for confinement in the city animal shelter shall be at the rate of six dollars (\$6.00) per day.

**State law reference:** Code of Virginia § 3.2-6522 and § 3.2-6540.

--00000--

Vice Mayor Cuffey presented a Proclamation to the American Legion Post #10387. The Vice Mayor voiced his appreciation for services provided and their dedication to the community. The Post #10387 representative accepted with gratitude. He thanked the Mayor, City Council and all involved.

**PROCLAMATION**

---

WHEREAS, The Veterans of Foreign Wars (VFW) Post 10387 in the City of Hopewell dates back to approximately 1994; and

WHEREAS, in May 2008, the VFW was instrumental in supporting the efforts of the Halloween Party for the children; and

November 17, 2009

WHEREAS, on May 24, 2009 the VFW supported a cook out for the community on Memorial Day; and

WHEREAS, during the existence of VFW Post 10387 they have sponsored the boys baseball team; and

WHEREAS, Post 10387 sponsored a Back-to-School Dance for the Pee-Wee children, ages 3 to 8; and

WHEREAS, sponsored an Easter Egg Hunt for the children on April 11, 2009.

NOW, THEREFORE, BE IT PROCLAIMED BY THE CITY COUNCIL OF HOPEWELL that Mayor Brenda S. Pelham recognizes the contributions of

The Veterans of Foreign Wars  
(VFW) Post 10387

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the city of Hopewell in the Commonwealth of Virginia this 13<sup>th</sup> day of October 2009.

*Brenda S. Pelham*, Mayor  
City of Hopewell, Virginia

--0000--

Vice Mayor Cuffey presented the City of Hopewell, Employee of the Quarter Award to Charlene Makovsky who works at the Regional Wastewater Treatment Facility. She was joined by Director, Mark Haley, and Jeannie Grandstaff. She was congratulated and thanked for always going above and beyond.

**PUBLIC HEARING – REQUEST FROM BHARAT SHAH OF ARIHANT MANAGEMENT LLC TO VACATE A PORTION OF RIGHT-OF-WAY SITUATED AT COUSINS AVENUE BETWEEN SUB-PARCELS #960035, #960020 AND #960005**

This was the night advertised for a public hearing to receive citizen comments regarding a request from Arihant Management, LLC to vacate 0.266 acres of the undeveloped right-of-way identified as Ivy Street located between Woodlawn Street and Western Street for the redevelopment of the adjoining property for commercial development.

Arihant Management, LLC has submitted a request to vacate the subject right-of-way as part of a commercial redevelopment. The applicant currently owns the parcels located between the subject right-of-way and Cousins Avenue. The applicant plans a commercial development consisting of office and retail space. Ivy Street is an undeveloped, “paper street,” and there are no records of any previous request to vacate the street. If the vacation of Ivy Street is approved, the adjoining parcels will be consolidated forming a 1.2 acre parcel and the site plan will be finalized for approval.

The public hearing was opened at 7:50 PM.

**Nathan Lee**, 208 N. 2<sup>nd</sup> Avenue, Hopewell, represented Mr. Mellinchamp, who opposed the approval of the request.

**Sam Mellinchamp**, 6801 Cypress Drive, Prince George, is the son of the property owner, who opposes approval of the request.

**Jim Clayton**, Stay Over Suites, Hopewell, is familiar with that land. He supported approval of the request. It is a paper street. There are no cars on that street. A fire truck probably could not get down that street. Mr. Shah wants to make an improvement in the City.

November 17, 2009

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

Mr. Shah indicated that he owns two properties in Hopewell. He is interested in future development of a commercial office building, perhaps with retail and possibly a restaurant.. Once he has all the property he will find out exactly what he can put on the property. The property was for sale for a long time and no one wanted to purchase it.

**Motion** was made by Councilor Harris, and seconded by Councilor Bailey, to table the issue until Council can get more information. Upon the roll call, the vote resulted:

Councilor Emerson	-	NO
Councilor Stokes	-	yes
Councilor Walton	-	NO
Vice Mayor Cuffey	-	yes
Councilor Bailey	-	yes
Councilor Harris	-	yes

**PUBLIC HEARING – PROPOSED ISSUANCE OF WATER AND SEWER SYSTEM REVENUE BONDS OF THE CITY IN THE ESTIMATED MAXIMUM AMOUNT OF \$30,000,000 TO FINANCE IMPROVEMENTS TO THE CITY’S SEWER SYSTEM, INCLUDING THE CONSTRUCTION OF A WASTEWATER TREATMENT PLANT, PUMPING STATIONS AND RELATED INFRASTRUCTURE**

This was the night advertised for a public hearing to receive citizen comments regarding proposed issuance of Water and Sewer System Revenue Bonds of the City in the estimated maximum Amount of \$30,000,000 to finance improvements to the City’s Sewer System, including the construction of a Wastewater treatment Plant, Pumping Stations and related infrastructure.

The public hearing was opened at 8:15 PM.

City Manager Daley indicated that these are Revenue Bonds rather than General Obligation Bonds. Mr. Haley, HRWTF Director, has been working on this project for at least the last two years.

**Jim Sanderson**, addressed Council with a lengthy, detailed presentation.

There being no other speakers the public hearing was closed at 8:22 PM.

**Motion** was made by Councilor Stokes, and seconded by Councilor Emerson to approve the Resolution.

Mr. Lacheney advised that the ordinance should be adopted first, and then the Resolution approved.

The original motion was withdrawn by Councilor Stokes, and by Councilor Emerson.

**Motion** was made by Councilor Emerson, and seconded by Councilor Harris, to adopt on one and only reading, Ordinance No. 2009-25, authorizing the issuance of sewer system revenue bonds of the city of Hopewell, Virginia, in the maximum principal amount of \$30,000,000. Upon the roll call, the vote resulted:

Councilor Emerson	-	yes
Councilor Stokes	-	yes
Councilor Walton	-	yes

November 17, 2009

Vice Mayor Cuffey	-	yes
Councilor Bailey	-	yes
Councilor Harris	-	yes

**ORDINANCE NO. 2009-25**

AN ORDINANCE AUTHORIZING THE ISSUANCE OF SEWER SYSTEM REVENUE BONDS OF THE CITY OF HOPEWELL, VIRGINIA, IN THE MAXIMUM PRINCIPAL AMOUNT OF \$30,000,000

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 the acquisition, construction, operation, maintenance and extension of its sewer system (the "Project") and to borrow money for such purposes and issue the City's sewer system revenue bonds therefor.
2. Pursuant to the Constitution and statutes of the Commonwealth of Virginia, including the Public Finance Act of 1991, there are authorized to be issued sewer system revenue bonds of the City, in one or more series, in the maximum principal amount of \$30,000,000 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 limited obligations of the City payable solely from the revenues of the City's sewer system. Neither the faith and credit of the Commonwealth of Virginia nor the faith and credit of any county, city, town or other political subdivision of the Commonwealth, including the City, shall be pledged to the payment of principal of or premium, if any, or interest on the Bonds.
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.

**PUBLIC HEARING - BUDGET AMENDMENT RESOLUTION, CITY OF HOPEWELL – RE-APPROPRIATE 6/30/09 YEAR-END ENCUMBRANCES (\$64,439) AND APPROPRIATE FOR FIRE TRUCK PURCHASE (\$692,000)**

This was the night advertised for a public hearing to receive citizen comments regarding a budget amendment resolution, City of Hopewell to re-appropriate 6/30/09 year-end encumbrances (\$65,439) and appropriate for fire truck purchase (\$692,000).

Re-Appropriate June 30, 2009 year-end encumbrances (\$64,439) and appropriate for fire truck purchase (\$692,000). Yearly requirement for legal expenditures of funds as required by State Auditor of Public Accounts for encumbrances and authorize expenditure to purchase fire truck. There will be no fiscal impact; funds have been encumbered as of June 30, 2009 for encumbrances and fire department reserve account has sufficient funds for fire truck purchase.

The public hearing was opened at 8:30 PM.

November 17, 2009

There being no speakers, the public hearing was closed at 8:30 PM.

Councilor Harris voiced concern that the fire truck was being purchased in the event of a fire at the Osage Ethanol plant, since they do not have their own fire truck. The City Manager and Fire Chief assured Councilor Harris that the Fire Department had been planning this purchase for quite some time. It has been over two years since Hopewell has had its own ladder truck. In fact, there was a fire in City Point last year that required Prince George and Fort Lee to assist with their own ladder trucks.

**Motion** was made by Councilor Stokes, and seconded by Councilor Stokes, to approve the Budget Amendment Resolution. Upon the roll call, the vote resulted:

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

**BUDGET RESOLUTION AMENDMENT  
FISCAL YEAR 2009-2010**

WHEREAS, at the meeting of the City Council of the City of Hopewell held on November 17, 2009, an amended budget of the fund encumbrances at June 30, 2009 and fire truck purchase funds request was introduced in its complete form of which \$64,439 is to be re-appropriated and \$692,000 is to be appropriated, and,

WHEREAS, sufficient funds exist in the respective fund balance reserve accounts for encumbrances and designated fire department equipment, for appropriation;

BE IT, HEREBY, RESOLVED by the City Council of the City of Hopewell:

Sec. 1 The following designated funds and accounts shall be re-appropriated from the designated reserves to operate City services:

General Fund-011:

Designated Fire Department Equipment Funds .....	\$692,000
Use of Reserve Funds.....	<u>9,330</u>
Total General Fund .....	\$701,330

Appropriations:

City Manager Office.....	472
Voter Registrar Office .....	200
Police Department .....	694,334
Fire Department.....	4,636
Public Works Department .....	<u>1,688</u>
Total General Fund .....	\$701,330

Recreation Fund-035:

Use of Reserve Funds.....	\$300
Appropriations:	
Rec Center Div .....	300

November 17, 2009

Riverside Harbor Fund-038:

Use of Reserve Funds.....	\$104
Appropriations:	
Marina Operation .....	\$104

Capital Projects Fund-071

Use of Reserve Funds.....	\$54,705
Appropriations:	
Parks Renovation .....	375
Maryland Street Project.....	1,075
Downtown Construction-Street Scapes.....	<u>53,255</u>
Total Capital Projects Fund.....	\$54,705

**PUBLIC HEARING – REQUEST TO AMEND AND RE-ENACT ARTICLE XIV-B, SECTION J OF THE ZONING ORDINANCE OF THE CITY OF HOPEWELL – TOURIST/HISTORIC DISTRICT**

This was the night advertised for a public hearing to receive citizen comments regarding a request to amend and re-enact Article XIV-B, Section J of the Zoning Ordinance of the City of Hopewell – Tourist/Historic District.

The proposed zoning ordinance amendment eliminates the requirement that the Board of Architectural Review must include a licensed real estate broker and adds the requirement that one (1) member of the Board of Architectural Review be a resident of the City point Historic District. The proposed ordinance also removes the language related to the initial terms of the Board members.

The public hearing was opened at 8:42 PM.

There being no speakers, the public hearing was closed at 8:42 PM.

**Motion** was made by Councilor Bailey, and seconded by Councilor Stokes, to approve the proposed Zoning Ordinance Amendment to amend and re-enact Article XIV-B, Section J – Board of Architectural Review, and adopt Ordinance No. 2009-21 on first and only reading. Upon the roll call, the vote resulted:

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

**ORDINANCE NO. 2009-21**

**An Ordinance amending and reenacting Article XIV-B, Section J of the Zoning Ordinance of the City of Hopewell – Tourist/Historic District**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HOPEWELL that Article XIV-B, Section J of the Zoning Ordinance of the City of Hopewell – Tourist/Historic District is amended and reenacted as follows:

**BY AMENDING:**

November 17, 2009

**Article XIV-B  
Tourist/Historic District (TH-1)**

**J. BOARD OF ARCHITECTURAL REVIEW**

A Board of Architectural Review is hereby established and shall be known as the Board of Architectural Review, hereafter referred to as the review board. The review board shall consist of seven (7) members who shall be appointed by City Council. One (1) shall be a resident of the City Point Historic District, one (1) may be a registered architect, and the remainder shall be residents of the City of Hopewell with knowledge and demonstrated interest in the historic character of the city. These members shall serve a term of four (4) years. One member of the city administration shall be appointed as an advisory member of the review board and shall have no vote.

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.

**PUBLIC HEARING – REQUEST TO AMEND AND RE-ENACT ARTICLE XVI OF THE ZONING ORDINANCE OF THE CITY OF HOPEWELL – SITE PLAN**

This was the night advertised for a public hearing to receive citizen comments regarding a request to amend and re-enact Article XVI of the Zoning Ordinance of the City of Hopewell – Site Plan. The proposed amendment amends portions of the existing Article XVI-Site Plan Requirement to address issue that have been identified by the Department of Development staff through the course of conducting site plan reviews. The revised language will provide the administration with enhanced ability to request information required to conduct a thorough review of proposed development projects.

The public hearing opened at 8:45PM.

There being no speakers the public hearing closed at 8:45PM.

**Motion** was made by Councilor Emerson, and seconded by Councilor Bailey, approve Ordinance No. 2009-23 on first reading. Upon the roll call, the vote resulted:

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

**PUBLIC HEARING – REQUEST REPEALING ARTICLE XV, FLOOD PLAIN DISTRICT, AND ENACTING ARTICLE XV, FLOODPLAIN DISTRICT, OF THE ZONING ORDINANCE OF THE CITY OF HOPEWELL**

This was the night advertised for a public hearing to receive citizen comments regarding a request repealing Article XV, Flood Plain District, and enacting Article XV, Floodplain District, of the Zoning Ordinance of the City of Hopewell. The proposed zoning ordinance deletes the current Article XV-Flood Plain District, in its entirety, and replaces it with the revised Article XV-Floodplain District. This ordinance amendment is necessary to bring the zoning ordinance provision related to floodplains into compliance with the provisions of the Code of Virginia and the Virginia Department of Conservation and Recreation's model ordinance.

November 17, 2009

The public hearing opened at 8:47PM.

There being no speakers the public hearing closed at 8:47 PM.

**Motion** was made by Councilor Bailey, and seconded by Councilor Walton, to approve Ordinance No. 2009-22 on first reading. Upon the roll call, the vote resulted:

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

**PUBLIC HEARING – REQUEST TO GRANT PERPETUAL NON-EXCLUSIVE EASEMENTS TO FIRST BAPTIST CHURCH AND FIRST BAPTIST CHURCH OF CITY POINT IN THE “B” VILLAGE AND WEST CITY POINT SUBDIVISIONS**

This was the night advertised for a public hearing to receive citizen comments regarding a request to grant perpetual non-exclusive easements to First Baptist Church and First Baptist Church of City Point in the “B” Village and West City Point Subdivisions. As part of the City’s resubdivision of the Patrick Copeland site (Copeland Subdivision), it is necessary to grant easements to First Baptist Church and First Baptist Church of City Point.

The public hearing opened at 8:50 PM.

There being no speakers the public hearing closed at 8:50PM.

Councilor Walton indicated that he attends First Baptist Church and was concerned about a Conflict of Interest. City Attorney Lacheney confirmed that there is no Conflict of Interest regarding this issue.

There was lengthy discussion about the issue.

**Motion** was made by Councilor Emerson, and seconded by Councilor Harris, to approve ordinance on first reading. After some discussion, Councilor Emerson withdrew his motion, and Councilor Harris withdrew his second.

**Motion** was made by Councilor Stokes, and seconded by Councilor Harris, to resolve to accept the easements as presented. Upon the roll call, the vote resulted:

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

**COMMUNICATIONS FROM CITIZENS**

**Curtis Butterworth**, Associate Pastor, Joy Fellowship Church, 1001 Perrymont Road, Hopewell, addressed Council. Five months ago the church applied to install five (5) footers. It was discovered that there was a 2.16 inch, at the maximum, encroachment. The church filed a variance. City staff recommended that it not be granted. In three separate places in their report, they commented that in 1995

November 17, 2009

or 1996 the slab was placed in that position to make as much use of that property as possible. Citizen complaints have led to two arrests of Pastor Bennett and his daughter for loud noise. Today, before the BZA hearing, a letter was brought to his office from the trailer park owner objecting to the variance being granted. Mr. Butterworth asked if that decision can be reviewed. They are trying to correct the problem. The complainer is objecting to rectification of the problem. There was a 20 foot easement put in place many years ago. They regret that 12 or 13 years ago they put the footings where they did. The Virginia Beach noise ordinance has been ruled unconstitutional. Noise ordinances are all in limbo. They want to get the problem fixed. They are praying, preaching, and singing. They are planning to put a picnic roof over the church and collapse the inflatable roof.

**Charles Bennett**, Pastor, Joy Fellowship Church, 1001 Perrymont Road, Hopewell welcomed Mr. Lacheny to the City. He thanked all Councilors for voting unanimously on almost everything. When they put the building there they did not need any variances at that time. Mr. Jack Butler, City Inspector at that time, was very familiar with inflatable buildings. Before that they were in a double-wide modular building. They are 70-90 feet away from the trailer court. When he and his daughter were arrested was during an all night lock-in for the youth. They did not know that the inflatable roof acted as a membrane for the audio speakers. They never intended to have a problem. Every 10 years they can put another vinyl building up. The five pillars are encroached on that property. There is a generator, propane tanks, etc., already on the line. They are only asking for a few feet in the variance. None of the other fences encroach on the trailer park at all. They want the variance for the columns and drip edge then that could solve the problem. Chief Martin could verify over 100 times that the police came out due to complaints from Mr. Adams. If they cannot get the variance they will have to put another vinyl building over the present one. They are trying to find a solution.

*(Mr. Lacheny indicated that the City cannot approve the request. The Virginia Supreme Court requires a strict test on granting variances. This does not meet that strict test. There must be a defect on the property. There is no defect. The Supreme Court says that they cannot grant a variance. They could file an appeal to the Circuit Court, but they would lose. The only way would be to repeal the side set backs.)*

**Jim Clayton**, discussed the proposed Ft. Lee hotel. He represents the hospitality Community in the area. His purpose was to give a synopsis about the hotel on Ft. Lee. The report that came together about hotel on the base in 2004. At that time there was a shortage of rooms. From 2004 to 2007 the issue resurfaced. He spoke to March Altman when he first came to the area, and to Esther Lee at Ft. Lee. He presented the hotel concept. She said go ahead and build. There will be a major shortage of rooms. From the beginning of 2006 to the beginning of 2009, 1,200 rooms have been built. The 2009 occupancy has been 50.9%. In the Tri-City area, there are 4,000 rooms. Five more hotels are ready to be built in Hopewell; Seven are here now. His hotel provides \$250,000 each year in real estate taxes and room taxes to the City; times 7 = \$1.4M. Five more hotels had the opportunity to bring \$1M per year to Hopewell.

**CITIZEN/COUNCILOR REQUEST - COUNCILOR BAILEY - INFORMATIVE PRESENTATION OF PROPOSED RESOLUTION FOR FAÇADE IMPROVEMENTS BY THE HOPEWELL DOWNTOWN PARTNERSHIP, INC., AFFILIATE OF THE VIRGINIA MAIN STREET PROGRAM AND A REQUEST FOR REINSTATEMENT OF THE CITY'S TAX ABATEMENT PROGRAM FOR PROPERTY IMPROVEMENTS RELATED TO DOWNTOWN REVITALIZATION IN THE ENTERPRISE ZONE**

Councilor Luman-Bailey requested that the Downtown Façade Improvement Grant Resolution be discussed and reviewed by Council, as well as consideration of further discussion at the Work Session on December 1, 2009. In addition, she asked that Council consider setting a Public Hearing regarding reinstatement of the City's tax Abatement Program for property improvements related to Downtown Revitalization in the Enterprise Zone.

November 17, 2009

Mr. Shadbolt is an architect who volunteers with the Downtown Partnership. He is a principal at Commonwealth Architects, and the architect for the renovations at the Butterworth Building in Hopewell. He discussed the Façade Program and why it is needed here. There are many incentives available. The City would get invigorated business. That leads others to do something. They are looking to provide \$1,500-2,500 for individual property owners. Guidelines include: Secretary of the Interior – parallels some of the other grants available out there. Selection Criteria: Create a board of five people – one business owner, one building owner, one representative from the Hopewell Police Department, one representative from the Downtown Partnership, and one building owner or merchant.

No action was requested until further discussion at the Work Session on December 1, 2009, and to possibly set a public hearing.

### **REGULAR BUSINESS – RESUBDIVISION PLAT FOR THE COPELAND SUBDIVISION**

The proposed request is to resubdivide 1.5± acres, Block 31, “B” Village and 8.14± acres, Block 12, West City Point Subdivision to form Lots 1, 2, and 3, Copeland Subdivision.

The request will re-subdivide the former Patrick Copeland Elementary School site into three (3) parcels. In making its recommendation at their October 8, 2009 meeting, the Planning Commission recommends that the environmental, historical, cultural, viewshed and community use of Lot 2 be taken into account when considering the development of the property. City Council discussed the potential re-subdivision of the property during the Spring and directed staff to have a plat prepared that subdivided the property into three (3) parcels, one (1) of which, located along the Appomattox River, would be designated as “City Park.”

Dr. Daley reported that the lower lot at that site would be designated as the park; the upper lot is for development; but the middle lot will remain the City’s.

**Motion** was made by Councilor Stokes, and seconded by Councilor Harris, to approve the Resubdivision Plat for the Copeland Subdivision. Upon the roll call, the vote resulted:

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

### **REGULAR BUSINESS – CULTURAL RESOURCE ASSESSMENT**

The proposed request is to approve the Cultural Resource Assessment that was completed by the College of William & Mary Center for Archaeological Research for the City of Hopewell.

This document is part of an ongoing and proactive effort on the part of the Hopewell City Council to consider the broad range of potentially significant cultural resources within the City in planning decisions with goals that include improving historic interpretation, attracting heritage tourism, and fostering community pride through a shared past. The document concludes with a series of recommendations based on professional experience, the results of similar projects conducted elsewhere in the state, and existing cultural resource management guidelines in other localities.

This document represents an assessment of cultural resources in the City of Hopewell. It was developed to serve as the key reference for making decisions regarding the treatment of cultural resources in the context of land-use planning, to serve as a guide in the development of programs for future survey,

November 17, 2009

evaluation, and treatment of cultural resources within the City. The document addresses five (5) primary goals:

1. Creating an *integral plan* that is compatible with current strategic plan for the City and other development planning;
2. Assessing *planning issues* to help the City decide which cultural resources should be rehabilitated and enhanced;
3. Development the “*story*” around which the public interpretation will revolve;
4. Encouraging *community involvement* in the interpretation program and rehabilitation efforts; and
5. Exploring potential avenues of *funding* that best suit the community’s needs for the historic preservation program.

**Motion** was made by Councilor Bailey, and seconded by Councilor Emerson, to approve and file the Cultural Resource Assessment. Upon the roll call, the vote resulted:

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

#### **REGULAR BUSINESS – DESIGNATE BAILEY’S CREEK AREA AS CITY PARK**

The proposed request is designated a portion of the property owned by the City of Hopewell adjacent to East Randolph Road (Route #10) and Bailey’s Creek as “Bailey’s Creek Park.”

As part of an ongoing and proactive effort with the College of William & Mary Center for Archaeological Research, the Hopewell City Council requested a cultural resource assessment be undertaken to consider the broad range of potentially significant cultural resources within the City in planning decisions with goals that include improving historic interpretation, attracting heritage tourism, and fostering community pride through a shared past. This effort culminated with the development of a Cultural Resource Assessment by the College of William & Mary Center for Archaeological research. At the September 16, 2009 City Council work session, Jr. Joe B. Jones, Director of the William & Mary Center for Archaeological Research and Ms. Jo Turek, Director of Recreation and Parks, presented the draft of the Cultural Resource Assessment of the City of Hopewell to City Council, and recommended the creation of “Bailey’s Creek Park.” The area of the proposed park was classified by the study as “Moderately-sensitive.” Moderately-sensitive areas have high potential for regionally and locally significant sites of all periods. The area along Bailey’s Creek was determined to be a moderately-sensitive and was further identified as an “ultrasensitive zone.” This determination has led to the recommendation to develop a park in this area. The park will provide the opportunity to educate the public about the cultural, historical, and natural resources of this park area and their role in the development of the City.

**Motion** was made by Councilor Emerson, and seconded by Councilor Walton, to approve and file. Upon the roll call, the vote resulted:

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

November 17, 2009

**REPORT OF THE CITY ATTORNEY - REGULAR BUSINESS – ORDINANCE NO. 2009-24 AMENDING HOPEWELL CITY CODE CHAPTER 25, SECTION 25-4, CURFEW FOR CERTAIN MINORS**

The City’s curfew regulations are being revised to allow for consistency pertaining to the age and time of curfew for certain minors to facilitate enforcement of the curfew regulations.

**Motion** was made by Councilor Emerson, and seconded by Councilor Bailey, to approve Ordinance On. 2009-24 on first reading, with additional language as follows, “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).” Upon the roll call, the vote resulted:

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

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

**Motion** was made by Councilor Bailey, and seconded by Councilor Harris, to appoint Dixie Hawkins to the Clean City Commission for a term extending through October 31, 2013; and David Fratarcangelo to the Board of Architectural Review for a term extending through October 31, 2014. Upon the roll call, the vote resulted:

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

**REPORTS OF CITY COUNCIL COMMITTEES**

None.

**REPORTS OF CITY COUNCIL MEMBERS**

Councilor Bailey reported that she had attended a School Construction Committee meeting on November 16, 2009; she will provide a report at the next meeting. She thanked Architect Lee Shadbolt for his presentation. She mentioned the Green Committee Challenge and she looked forward to it in Hopewell. Ben Ruppert, Office of Emergency Management, worked on getting the City certified as a Green Government. For further information contact Councilor Bailey at 541-7015, or Ben Ruppert at 541-2298. Industry, business, citizens, and government should all join together.

Councilor Walton reported that the VML Conference that he attended in Roanoke in October was very good. There were good speakers and good classes.

Councilor Stokes reported that the Sheriff’s Department met with the Senior Citizens Advisory Committee and talked about “Call Care.” It is a program for people who are confined to their homes. The Call Care program will call individuals daily and check on them. If there is no answer, the call goes to the

November 17, 2009

Sheriff's Department. The Sheriff's Department can, with the permission of the individual, hold a home key for participating individuals, kept in a lockbox. The program will start with 20-25 people and grow from there.

Councilor Emerson attended the NLC Conference in San Antonio with Mayor Pelham, Vice Mayor Cuffey and the City Manager. He found the conference to be very interesting. He attended a Mobil Workshop at Ft. Sam Houston. There are many similarities with Ft. Lee. San Antonio has much revitalization going on, and there is a large population. He attended many good sessions. It was very worthwhile. They discussed affordable housing. Chief Martin and the Neighborhood Watch are trying to get people to participate in Nixel. For more information on Nixel, contact Councilor Emerson at 458-6909 or 541-3001, or contact any Neighborhood Watch Advisory Board member.

Vice Mayor Cuffey indicated that he missed Mayor Pelham and asked that she be kept in everyone's prayers due to her illness. The final portion of Council's Advance was held on November 7 at the Library. Council agreed to put their "best foot forward." He briefly reported on his attendance at the VML Conference in October and the NLC Conference in November.

**ADJOURN**

At 10:00 PM **motion** was made by Councilor Walton, and seconded by Councilor Bailey, to adjourn the meeting. Upon the roll call, the vote resulted:

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

---

N. Gregory Cuffey  
Vice Mayor

---

Ann M. Romano, City Clerk