

December 9, 2008

MINUTES OF THE CITY COUNCIL MEETING HELD DECEMBER 9, 2008

A Regular meeting of the City Council of the City of Hopewell, Virginia, was held Tuesday, December 9, 2008, at 5:30 PM in the City Council Chambers, Municipal Building, 300 North Main Street, Hopewell, Virginia.

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

Ann M. Romano, City Clerk
Edwin C. Daley, City Manager
Stefan M. Calos, Interim City Attorney

ABSENT: Gerald S. Stokes, Councilor

Mayor Pelham opened the Work Session at 5:30 PM. Roll call was taken as follows:

Mayor Pelham	-	present
Vice Mayor Cuffey	-	ABSENT (arrived at 5:35 PM)
Councilor Bailey	-	present
Councilor Harris	-	ABSENT (arrived at 5:37 PM)
Councilor Emerson	-	present
Councilor Stokes	-	ABSENT (hospitalized)
Councilor Walton	-	present

CLOSED SESSION

Motion was made by Councilor Bailey, and seconded by Councilor Emerson, to convene into Closed Session to discuss Acquisition of Property, in accordance with Virginia Code Sec. 2.2-3711 (A) (3). Upon the roll call, the vote resulted:

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

OPEN SESSION

At 7:03 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 Bailey	-	yes
Councilor Harris	-	yes
Councilor Emerson	-	yes
Councilor Walton	-	yes
Mayor Pelham	-	yes
Vice Mayor Cuffey	-	yes

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WORK SESSION

VDOT Revenue Sharing Project - City Engineer, Johnnie Butler made a presentation to Council. The City has submitted the following: Atwater Road; Dinwiddie Avenue; and Miscellaneous Curb and Gutter Citywide Project. There has been no originally anticipated state budget approval. It is expected to bring some of these projects forward in January 2009. The Atwater Road and Dinwiddie Avenue projects must go out to bid, and must also have some CIP (Capital Improvement Project) program funds in the next budget year.

Regarding the status of the Courthouse Road project, it is a secondary road project and has not received funding. It is hopeful that the Cedar Level Road project will receive a #1 priority. The engineering is almost complete. That project could be prepared and work started quickly. It has been split into two phases, and presently the City is trying to move funds from one project to another to get going. That is not part of the Revenue Sharing projects, however. In comparison to the Courthouse Road project, it has been determined that the Cedar Level Road project has more safety issues and drainage issues. The Courthouse Road cost estimate is \$10.8M; the Right-of-Way phase is \$462,000.

Street Naming Committee - The City Manager inquired what Council wants to do with that committee. He suggested three to five members on the committee. Each Council member was asked to e-mail one name from their ward to the City Manager by Friday, December 12, 2008. The committee will develop guidelines. In some instances, however, the street name should be left to the developer.

Downtown Wireless Access - Councilor Walton brought this issue before Council to provide this internet service downtown. He attended a conference on the subject. Free access is available to the government and reduced rates to businesses. He would like to get someone here to provide information; the City needs broadband.

Dr. Daley Reports (1) That he is preparing a series of projects that Council has been talking about for potential funding that might become available. The newly approved Federal Relations Advisor should be able to steer the City in the right direction. (2) A Citizens Efficiency Committee will be formed. They will look at how the City does business and how we can do that business better and cheaper. They will be looking at a variety of City functions. There will be five people on the committee, with four members already having been designated. (3) Dominion Power has offered training in Six Sigma.

REGULAR MEETING

Mayor Pelham opened the regular meeting at 7:30 PM. Roll call was taken as follows:

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

Mayor Pelham announced that Councilor Stokes was in the hospital and asked that he be remembered in everyone's prayers. She also announced to all civic organizations that she would be happy to honor them with a proclamation; provide information to the City Clerk.

Prayer was offered by Mr. Herbert Bragg, Director of Intergovernmental and Public Affairs for the City of Hopewell, followed by the Pledge of Allegiance to the Flag of the United States of America.

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CONSENT AGENDA

Motion was made by Vice Mayor Cuffey, and seconded by Councilor Harris, to approve the Consent Agenda: Minutes: City Council meeting November 18, 2008, Special Meeting & Work Session November 25, 2008; Pending List; Information for Council Review: Hopewell Twinning Association minutes 10/6/08; HRHA minutes 9/8/08; Senior Citizens Advisory Commission minutes 10/20/08 & Agenda 11/18/08; TSB minutes 10/7/08 & agenda 11/25/08; Personnel Change Report & Financial Report; Public Hearings Announcements: none; Routine Approval of Work Sessions: Set Council Advance January 30, 31 & February 1, 2008; Ordinances on second and final reading: Ord. No. 2008-23 - to amend and reenact Article XXII-G of the Zoning Ordinance of the City of Hopewell, related to Fees for Rezoning, Conditional and Special Use Permits, Site Plan Review, and Variances; and Ord. No. 2008-24 - to amend and reenact Article XIV-B, Section J of the Zoning Ordinance of the City of Hopewell - Tourist/Historic District; Ord. No. 2008-17 - Noise Ordinance; Routine Grant Approval: none; Proclamations/Resolutions/Presentations: Proclamation - Eagle Scout - Joshua Justice. Upon the roll call, the vote resulted:

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

Mayor Pelham presented the Eagle Scout Proclamation to Joshua Justice, with his family. He thanked those who helped him during his scouting years and who helped him to achieve his goal.

PROCLAMATION

WHEREAS, Joshua Paul Justice achieved the rank of **Eagle**, Scouting's highest award, on October 29, 2008, and the Court of Honor held December 30, 2008, acknowledging his achievements; and

WHEREAS, Joshua has been a Boy Scout since his crossover from Cub Scout Pack 924 in May, 2001, wherein he achieved the Cub Scout's highest award, the Arrow of Light; and as a Boy Scout he has held the offices of Chaplain, Assistant Patrol Leader, Patrol Leader, Assistant Senior Patrol Leader, and has also completed the Boy Scout organization's young men's leadership training known as Buckskin, as well Venture Crew Leadership Training. He was inducted into the Order of the Arrow; was employed by BSA at the T. Brady Saunders Scout Camp for two consecutive summers, 2005 and 2006, as a camp staffer; recently served as an instructor for the 2008 Woodbadge training, and currently serves as President of The WildWater Venture Crew 999; and,

WHEREAS, Joshua is active in three Scouting organizations, to wit: Troop 924, the Hopewell Police, and Venture Crew 999 under Mr. Steve Thomas, from which he gained his Eagle award in order to honor Mr. Thomas' many long and dedicated years of Scouting,

WHEREAS, Ordained as a deacon in his church, Covenant Bible Fellowship Living Word Church, in 2004, **Joshua** provides video-recording-computer support for the services, is part of the Worship team, and often leads the evening music service,

WHEREAS, he is a 2008 Boys State of Virginia graduate, and volunteers, as needed, for the Hopewell Historic Foundation and the Hopewell-Prince George Red Cross organizations; and,

WHEREAS, he has also been active politically throughout his junior high and high school years including working on the local Justice campaign, the state level Jerry Kilgore-Bill Bolling-Bob McDonnell campaigns (VA) and the Michael Steele campaign (MD), and federally, for the Bush campaigns and the McCain-Palin campaigns; and volunteering as an election watcher for the Hopewell Republican Party,

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WHEREAS, The Scout Law states:

“A Scout is trustworthy, loyal, helpful, friendly, courteous, kind, obedient, cheerful, thrifty, brave, clean, and reverent.” THROUGHOUT HIS BOY SCOUT CAREER, **JOSHUA** HAS EXEMPLIFIED THE BOY SCOUT LAW WHICH INCLUDES HONORING OTHERS AND GOD THROUGH HONESTY, INTEGRITY, AND HIGH STANDARDS. **MICAH**'S DILIGENCE AND WORK ETHIC IS DEMONSTRATED BY THE EAGLE PROJECT.

The Scout Oath says: *“On my honor, I will do my best to do my duty to God and my Country, to obey the Scout Law, to help other people at all times, and to keep my self physically strong, mentally awake and morally straight.”* His adherence to the Scout Oath to be physically strong, mentally awake, and morally straight and to honor both God and his Country provides modeling for every Scout who will follow him and every adult with whom he will work.

NOW, THEREFORE, BE IT PROCLAIMED that I, Brenda S. Pelham, Mayor, on behalf of the City Council of the City of Hopewell, Virginia, and its citizens, extend to

Joshua Paul Justice

congratulations and recognition for his dedicated and devoted service, and for his achievement of the rank of **Eagle Scout** in the **Boy Scouts of America**, on this the 30TH day of December, 2008.

/s/ Brenda S. Pelham, Mayor

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Mayor Pelham presented a Proclamation to the Hopewell-Prince George Lions Club. A large number of members were present and stated their names and the number of years they had been members. Membership ranged from 2 years to 61 years.

PROCLAMATION

WHEREAS, The Lions Club of Hopewell was organized on January 2, 1934, with the assistance of the Commissioner of Lions International; and the first dinner meeting was held in the Corner Cupboard Tea Room, on January 11, 1934 with 17 prospective members present; and

WHEREAS, The charter was presented by District Governor Emit Boozer at a meeting held in the Armory on February 22, 1934, with a large delegation from all clubs in the District of Virginia; Samuel Shanko, Sr., the first President, received the charter for the Hopewell Lions Club; and

WHEREAS, The Hopewell Lions Club now meets at Lisa's Café on East Broadway on the second and fourth Wednesday of each month at 6:30 P.M.; and

WHEREAS, Funds are provided for many projects through the annual sale of brooms, fruit cakes, white canes, and the famous funnel cakes; and

WHEREAS, Hopewell Lions Club donations support the Old Dominion Eye Bank, Leader Dog School, eye screening and hearing tests to obtain eyeglasses and hearing aids for those in need. They support many sports activities for the youth in the area. They fund a \$1,000 Scholarship in memory of Lion Carroll Alexander, as past principal of Hopewell High School, to a deserving graduating senior. Also, they fund a \$1,000 scholarship in Prince George in memory of Lion Harvey Phelps, a past president of the Prince George Lions Club for a deserving graduating senior of Prince George High School.; and

WHEREAS, in 2007 the Prince George Lions Club turned in their charter to Lions International. At that time, the Hopewell Lions Club took over the area that was served by that club and the name was changed to the Hopewell Prince George Lions Club. By February 22, 2009, the Hopewell Lions Club will celebrate its 75th Birthday. Presently the Hopewell Prince George Lions Club has 39 members, men and women, who are proud to practice the Lions Club motto, “We Serve.”

NOW, THEREFORE, BE IT PROCLAIMED BY THE CITY COUNCIL OF HOPEWELL that by resolution of the Hopewell City Council, recognizes the valuable contributions of the

The Hopewell Prince George Lions Club

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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 9th day of December 2008.

/s/ Brenda S. Pelham, Mayor
City of Hopewell, Virginia

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ORDINANCE NO. 2008-17

An Ordinance repealing Chapter
23 of the Code of the City of Hopewell and
reenacting Chapter 23, NOISE

WHEREAS, the City of Hopewell has prohibited loud and disturbing noise within the City for many years; and

WHEREAS, the City Council has previously found, and hereby so finds again, that the peace, tranquility, and the health and life of all residents of the City is adversely affected by loud and disturbing noises.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HOPEWELL that Chapter 23 of the Code of the City of Hopewell is hereby repealed and the following provisions be reenacted as Chapter 23:

SECTION 23-1. Declaration of Findings and Policy.

The City Council hereby finds and declares that excessive sound is a serious hazard to the public health, welfare, peace, safety, and the quality of life; that a substantial body of science and technology exists by which excessive sound may be substantially abated; that the people have a right to and should be ensured an environment free from excessive sound that may jeopardize the public health, welfare, peace, and safety or degrade the quality of life; and that it is the policy of the City of Hopewell to prevent such excessive sound.

SECTION 23-2. Definitions.

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

(a) A-weighted decibel. The sound level, in decibels, measured with a sound level meter using the A-weighting network or scale as specified in the ANSI S1.4-1983 (specification for sound level meters). The level so read shall be postscripted dB(A) or dBA.

(b) Commercial purpose. The use, operation or maintenance of any sound amplifying equipment for the purpose of advertising any business or any services, or for the purpose of attracting the attention of the public to, or advertising for, or soliciting patronage or customers to or for any performance, show, entertainment, exhibition or event, or for the purpose of demonstrating any such sound equipment.

(c) Daytime. The local time of day between the hours of 6:00 A.M. and 10:00 P.M.

(d) Decibel. A unit that describes the sound pressure level or intensity of sound. The sound pressure level in decibels is 20 times the logarithm to the base ten of the ratio of the pressure of the sound in microbars to a reference pressure of 0.0002 microbar; abbreviated dB.

(e) Emergency. Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

(f) Emergency work. Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

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(g) Gross vehicle weight rating (GVWR). The value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separable, the gross combination weight rating (GCWR), which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle, shall be used.

(h) Motor carrier vehicle engaged in interstate commerce. Any vehicle for which regulations apply pursuant to Section 18 of the Federal Noise Control Act of 1972 (P.L. 92-574), as amended, pertaining to motor carriers engaged in interstate commerce.

(i) Motorcycle. Any motor vehicle designed to travel on not more than three wheels in contact with the ground and any four-wheeled vehicle weighing less than five hundred pounds and equipped with an engine of less than six horsepower, excepting farm tractors.

(j) Motor vehicle. Any self-propelled device or device designed for self-propulsion upon or by which any person or property is, or may be, drawn or transported upon a street or highway, except devices moved by human power or used exclusively upon stationary wheels or tracks.

(k) Nighttime. The local time between the hours of 10:00 P.M. and 6:00 A.M.

(l) Noise. Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

(m) Noise disturbance. Any sound which:

- (1) Endangers or injures the safety or health of humans; or
- (2) Annoys or disturbs a reasonable person of normal sensitivities; or
- (3) Endangers or injures personal or real property; or
- (4) Exceeds the applicable maximum permissible sound levels as they appear in the table in section 23-4.

(n) Property. The smallest real estate owned or leased by the same person or persons.

(o) Property line. An imaginary line along the ground surface, and its vertical extension, which separates the real property, including the dwelling units within a structure owned by one person, from that owned or leased by another person.

(p) Residential zone. Any location within any of the residential, mixed use, planned unit development districts as shown on the city zoning map or as defined in the zoning ordinance of the City of Hopewell.

(q) Sound. An oscillation in pressure, particle displacement, particle velocity or other physical parameter in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound including duration, intensity, and frequency.

(r) Sound level. The weighted sound pressure level obtained by the use of a sound level meter and the A-frequency weighting network, as specified in American National Standards Institute specifications for sound level meters.

(s) Sound level meter. An instrument to measure sound pressure levels that meets or exceeds performance standards for a Type 2 meter as specified by the ANSI.

SECTION 23-3. Administration and Enforcement.

The noise control program established by this Chapter shall be enforced and administered by the chief of police with the assistance of other city departments as required.

SECTION 23-4. Maximum Permissible Sound Levels Generally.

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(a) Except as otherwise provided, any noise which emanates from any operation, activity or source and which exceeds the maximum permissible sound levels established in this section below is hereby prohibited. Such levels shall be measured at the property boundary of the sound source or at any point within any other property affected by the noise. When a noise source can be identified and its noise measured in more than one zoning district classification, the limits of the most restrictive classification shall apply.

MAXIMUM PERMISSIBLE SOUND PRESSURE LEVELS

TABLE INSET:

Zoning District Classification	Maximum dBA Daytime	Maximum dBA Nighttime
Residential	60	55
Mixed Use District	60	55
Commercial	65	60
Office	65	60
Industrial	79	72

(b) Heating and cooling systems, including but not limited to air conditioners and heat pumps, shall not be subject to the night levels enumerated above.

(c) Any person, with lawfully obtained permits, who during daytime, causes to be operated any equipment used in construction, repair, alteration or demolition work on buildings, structures, alleys or appurtenances thereto in the outdoors in any residential district within 100 yards of a lawfully occupied dwelling shall not be subject to the levels enumerated above.

SECTION 23-5. Testing of Metering Devices.

In order to implement and enforce this Chapter effectively, the chief of police shall, within a reasonable time after the effective date of same, develop and promulgate standards and procedures for testing and validating sound level meters used in enforcement of this Chapter.

SECTION 23-6. Noises Prohibited - Enumeration.

(a) It shall be unlawful for any person to make, continue, or cause to be made or continued any excessive, unnecessary, or unusually loud noise, or any noise which unreasonably annoys, disturbs, injures or endangers the comfort, health, safety, welfare, or environment of others within the corporate limits of the City.

(b) Acts declared unlawful by this section shall include, but not be exclusively limited to, the following:

1. The sounding of any vehicular horn or other sound signaling device on any motor vehicle on any street or public place except as an emergency warning signal so as to create any unreasonably loud or harsh sound for any unnecessary and unreasonable period of time. Sounding of such horn or other device more than once every two minutes in any one city block and with a duration of more than five (5) seconds for any single emission shall be prima face evidence of violation of this section.

2. The playing, operating, or permitting the operation of any radio, television, phonograph, tape player, drum, musical instrument, sound amplifier or similar device which produces, reproduces, or amplifies sound in such a manner as to create a noise disturbance within any nearby dwelling unit or across a real property boundary.

3. The making by any person of unreasonably loud or unnecessary noise including, but not limited to, that made by the human voice in public places so as to annoy or disturb unreasonably the comfort, health, welfare, environment, peace or safety of persons in any office, dwelling, hotel or other type residence, or of any person in the vicinity.

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4. The creating of any excessive noise on any street adjacent to any school/institution of learning, church, public library, or court while the same is in use, or adjacent to any hospital or nursing home which unreasonably interferes with the working of such institution or which disturbs or unduly annoys patients in the hospital or nursing home, provided conspicuous signs are displayed in such streets indicating that the same is a school, court, church, hospital, nursing home or public library.

5. The sounding of any bell or gong attached to any building or premises which disturbs the quiet or repose of any person in the vicinity thereof.

6. The shouting or loud talking, crying, or soliciting by peddlers, hawkers, taxicab drivers, solicitors, and vendors which creates a noise disturbance.

7. The use of any automobile, motorcycle or other vehicle so out-of-repair, so loaded or used, or repaired in such manner as to create unreasonably loud noise, particularly grating, grinding, rattling or other disturbing noise, is prohibited.

8. It shall be unlawful for any person to discharge into the open air the exhaust from any steam engine, stationary internal combustion engine, motorboat engine or motor vehicle, except through a muffler or other device which will effectively prevent unreasonably loud or explosive noises therefrom.

9. The operation of any garage, gas station, auto repair business, taxicab business, plant, store, factory or other place of business, between the hours of 10:00 P.M. and 6:00 A.M. of the following day, in such manner as to create unreasonably loud and disturbing noises of such frequency or such volume as to annoy or disturb the quiet, comfort or repose of any citizen is prohibited.

10. Operating or causing to be operated during daytime hours any equipment used in construction, repair, alteration or demolition work on buildings, structures, alleys or appurtenances thereto in the outdoors in any residential district within 100 yards of a lawfully occupied dwelling. This section shall not apply to construction of public projects, the repair or maintenance work performed on such projects or work performed by private or public utility companies for the repair of facilities or restoration of services.

11. Noise from animals.

(i) The allowing or permitting of prolonged or intense barking or other harsh or excessive noises by any animal under a person's ownership or control, at any time, so as to disturb the quiet, comfort or repose of one or more members of the community.

(ii) For the purpose of this section, a harsh or excessive animal noise is one which disturbs the quiet, comfort or repose of a reasonable person with normal sensitivities.

(iii) For the purpose of this section, a person shall be deemed to have "allowed" his animal to bark or create other harsh or excessive noises, if he has once been put on notice by the police department or the animal warden, upon the complaints of two persons who are not members of the same household, unless there are no more than five households within one-quarter mile of the noise source, that the animal is disturbing one or more members of the community and he thereafter fails to confine such animal inside his dwelling unit or other enclosed structure or take similar action calculated to terminate such disturbance. It shall not be necessary for the police department or animal warden to issue a new notice for each repeated occurrence.

(iv) Notwithstanding the above provisions of this section, harsh or excessive animal noise emanating from any commercial kennel established prior to the development of any residential property upon which such sounds may be audible, shall not be considered noises in violation of this section.

12. The operating or permitting the use or operation of any radio, tape player, compact disc player, or any other device which produces, reproduces, or amplifies sound in a motor vehicle, in such a manner that the sound can be heard more than fifty (50) feet from the motor vehicle.

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13. The operating for commercial advertising purposes any loudspeaker or other like device or mechanism used to emit sound of any kind, which loudspeaker or other like device or mechanism is attached to or installed in any vehicle, when the vehicle is being driven, drawn, or parked along or upon the streets of the City.

14. The use of any machine or device for the production or reproduction of sound which is cast upon public streets or lands for the purpose of commercial advertising or of attracting attention of the public to any building, structure, or activity during the nighttime.

SECTION 23-7. Maximum Nighttime Sound Levels in Residential Zones.

No person shall operate or cause any source of sound in such a manner as to create a sound level in a residential zone during the hours between 10:00 P.M. and 6:00 A.M. in excess of 60 dBA when measured at the property boundary of the receiving land. The foregoing shall not be deemed to include sound generation from any bona fide agricultural activity, including noise caused by livestock.

SECTION 23-8. Motor Vehicle Maximum Sound Levels.

(a) No person shall operate or cause to be operated a public or private motor vehicle or motorcycle on a public right-of-way at any time in such a manner that the sound level emitted by the motor vehicle or motorcycle when measured at a distance of fifty feet or more exceeds the level set forth in the following table:

	Sound Level in dBA	
	Speed Limit 35 M.P.H. or less	Speed Limit Over 35 M.P.H.
All motor vehicles of GVWR or GCWR of 6,000 lbs. or more	86	90
Any motorcycle	82	76
Any other motor vehicle or any combination of vehicles towed by any motor vehicle	76	82

(b) The foregoing provision shall not apply to any motor carrier vehicle engaged in interstate commerce.

SECTION 23-9. Measurement Procedures.

The measurement of sound or noise pursuant to this Chapter shall be as follows:

(a) The measurement of sound or noise shall be made with sound level meters Type 1 or Type 2 which meet the standards prescribed by the ANSI. The instruments shall be maintained in calibration and good working order. A calibration shall be made of the system at the time of any noise measurement. Measurements recorded shall be taken so as to provide a proper representation of the noise source. The microphone during measurement shall be positioned so as not to create any unnatural enhancement or diminution of the measured noise. A windscreen for the microphone shall be used when required. A minimum of three sound level readings will be taken. The geometric mean of these readings will be used as the average sound level. If the background noise is equal to the levels set forth in section 23-8 above, three dB shall be subtracted out of the average sound level.

(b) The slow meter response of the sound level meter shall be used to determine that the average amplitude has not exceeded the dBA readings or the limiting noise spectra set forth in section 23-8 above.

(c) Unless otherwise specified, the measurement shall be made at the property boundary on which such noise is generated, or at any point within the receiving property affected by the noise.

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SECTION 23-10. Exceptions.

The provisions of this Chapter shall not apply to:

- (a) The emission of sound for the purpose of alerting persons to the existence of an emergency;
- (b) The emission of sound in the performance of emergency work;
- (c) Parades, fireworks displays, and other organized public activities authorized by permit issued by an official of the City.
- (d) The emission of sound in the performance of construction or demolition work authorized by permit issued by the City building official, or performed by City forces or forces under contract to the City, so long as such work is not performed during the nighttime.

SECTION 23-11. Penalties.

- (a) Any person who violates any provision of this Chapter shall be deemed to be guilty of a Class 1 misdemeanor.
- (b) Each violation of any provision of this section shall constitute a separate offense.
- (c) The imposition of one (1) penalty for any violation shall not excuse the violation or permit it to continue.

SECTION 23-12. Severability.

Should any subsection, sentence, clause or phrase of this Chapter be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of the Chapter in its entirety or of any part thereof other than that portion declared to be invalid.

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ORDINANCE NO. 2008-23

An Ordinance to amend and reenacting Article XXII-G of the Zoning Ordinance of the City of Hopewell, related to Fees for Rezoning, Conditional and Special Use Permits, Site Plan Review, and Variances.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HOPEWELL that Article XXII-G of the Zoning Ordinance of the City of Hopewell, Virginia, as amended, be further amended and reenacted as follows:

Article XXII. Administration and Interpretation.

G. The following fees, which include the costs of hearings, advertisements and notices when required, shall accompany the filing of the application and be made payable to the City Treasurer:

Rezoning	\$300.00
Zoning Ordinance Amendment	\$300.00
Conditional Use Permit	\$ 2 300.00
Site Plan Review	\$250.00
Special Use Permit	\$200.00
Variance	\$200.00

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

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ORDINANCE NO. 2008-24

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:

**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 member of the City Planning Commission, whose term shall be co-extensive with the term of office to which he or she has been appointed. Of the remaining members,~~ One (1) shall be a licensed real estate broker and a resident of the city, one (1) may be a registered architect, and the remainder shall be residents of the City of Hopewell with knowledge and demonstrated interest in this historic character of the city. These members shall serve a term of four (4) years each except the original appointments shall be made as follows: One (1) member shall be appointed for a one (1) year term; and one (1) members shall be appointed for a two (2) year term; ~~two (2)~~ three (3) members shall be appointed to four (4) year terms. One member of the city administration shall be appointed as an advisory member of the review board for a term of four (4) years 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.

COMMUNICATIONS FROM CITIZENS

Tony Sylvester, Commonwealth’s Attorney, 109 Crescent Avenue, Hopewell, and Katherine Suyes from the Office of the Chief Medical Examiner, discussed Child Safety. The Child Fatality Prevention and Review Team was formed on March 8, 2008, and has met twice (report filed in the City Clerk’s Office). They have reviewed two child deaths in Hopewell. Since 2003 there have been 12 infant fatalities, and one near fatality, ranging in age from 10 weeks old to three months old. Mr. Sylvester stressed the danger of placing an infant in a bed with adults, especially now that winter is coming and disadvantaged citizens might have more people in the bed to keep warm. Mr. Sylvester will address City Council again before the April 2009 meeting, with more results. Ms. Suyes thanked the City Council and Mr. Sylvester for their work. Her job is to assist localities. There are three such teams in Virginia: Hopewell, Hampton Roads, and Fairfax County. The posters will be placed throughout the city to raise awareness of infant and child deaths.

Jim Gould, 104 Peter Francisco Drive, Hopewell, discussed air quality. The Hopewell Clean Air Network was formed in May 2008. He reported that the recent “bucket tests” revealed many toxins in Hopewell’s air. He distributed copies of a report issued by USA Today entitled, “The Smokestack Effect: Toxic Air and America’s Schools.” Eleven schools were analyzed in Hopewell, and ALL fell within the top 10 percentile for having some of the nation’s worst air quality. The test was based out of 127,800 public and private schools observed nationwide. Carter G. Woodson Middle School, Dupont Elementary School, Harry E. James Elementary School, and West End Christian School all fell within the top 3 percentile for having the nation’s worst air quality. Honeywell International, Inc., Smurfit-Stone, James

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River Cogeneration Co., Inc., Chesterfield Power Station, and Philip Morris Park 500 Site were found to be the polluters most responsible for toxins outside of schools.

Janice Denton, 807 Smithfield Avenue, Hopewell, reported on First Baptist Church's recent Walk Through Bethlehem. It was the most successful one so far with 4,000 people attending. She thanked the City of Hopewell for their assistance and support.

Tommy Wells, 1004 Smithfield Avenue, Hopewell, stated that he maintains a business office on East Broadway. Because of the streetscape work he has been unable to access his office for the last six months. The street was opened and he made an appointment to meet with a customer today, and the road was closed again. (Mayor Pelham suggested that Mr. Wells contact Dr. Daley.) Regarding Hopewell's air quality, Mr. Wells cautioned Mr. Gould and others to leave industry alone during the current economic situation or industry might leave and the City will lose tax revenue.

Alexa Anderson, 306 Perrymont Road, Hopewell, has lived in Hopewell for three years. She voiced concern about the air. She works for the Federal Government (military). She felt that industry must be held to a high standard regarding air quality.

There being no other speakers, Communications from Citizens was closed at 8:30 PM.

UNFINISHED BUSINESS - UB-1, UB-2, UB-3, AND UB-4 TABLED/POSTPONED ITEMS

Due to the recent hospitalization and absence of Councilor Stokes, motion was made by Vice Mayor Cuffey, and seconded by Councilor Bailey, to postpone: UB-1 - Council Rules & Procedures: Section #302. Special Meetings called by Mayor or four (4) Council Members; UB-2 - Council Rules & Procedures: #304. No item shall be removed from the Published Agenda unless so requested by the individual who proposed the Item; UB-3 - City Council Rules & Procedures: #306. Establish a three (3)-hour meeting limit with any remaining items being referred to the next meeting. Items presented would appear on the agenda of the next meeting; UB-4 - City Council Rules & Procedures - Section 3 - Section 4-Miscellaneous. Upon the roll call, the vote resulted:

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

UNFINISHED BUSINESS - REQUEST FROM SEAN RUIZ TO AMEND ARTICLE XI, SECTION A. OF THE CITY OF HOPEWELL ZONING ORDINANCE, TO ALLOW AN AUTOMOBILE PAINTING, UPHOLSTERING, REBUILDING, RECONDITIONING, BODY AND FENDER WORK FACILITY AS A USE IN THE B-3, HIGHWAY COMMERCIAL DISTRICT BY A CONDITIONAL USE PERMIT

Mr. Sean Ruiz filed a request to amend the Zoning Ordinance to allow Auto Body Repair Shops as a permitted use in the B-3 Zoning District. Currently, an automobile painting, upholstery, rebuilding, reconditioning, body and fender work facility is only allowed in the M-1, Limited Industrial District and M-2, Intensive Industrial District. The applicant is requesting the use be added as a use in the B-3 Zoning District by issuance of a Conditional Use Permit. The proposed Zoning Ordinance amendment would allow automobile painting, upholstery, rebuilding, reconditioning, body and fender work facility as a use in the B-3, Highway Commercial District by a Conditional Use Permit.

Motion was made by Councilor Walton, and Councilor Emerson, to approve the Zoning Ordinance Amendment request to allow Auto Body Repair Shops as a permitted use in the B-3 Zoning District.

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DISCUSSION: A recent work session was held, and discussion was positive. Some Council members voiced their support of boards and commissions who review such issues. Past Zoning Ordinance Amendments have been made for tattoo parlors, etc. Some Councilors wished to encourage more businesses in the City. The administration recommended denial of the request. No one spoke against the request at the Planning Commission meeting nor at the City Council public hearing.

Councilor Walton raised a Point of Order about not offering the individual the opportunity to open his business. However, the Mayor pointed out that the City offered him another area to open his business. According to the Interim City Attorney, Mr. Calos stated that the Zoning Ordinance Amendment would be for everyone; it does not constitute "spot zoning." Those who follow could apply for a Conditional Use Permit in the future, at Council's discretion. There are other steps in the process. Once it is determined that it is a conditional use, the applicant must be provided with reasonable conditions so that they can do this. If this request is denied, then the applicant can open a business in the Industrial Zone. Once this change is made, it will affect the neighborhood.

Upon the roll call, the vote resulted:

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

REGULAR BUSINESS - CMAQ TURN LANE PROJECT - JEFFERSON PARK

1. **Standard Project Administration Agreement** between Virginia Department of Transportation and the City to construct a right turn lane from Route #36 onto Jefferson Park Road. Project Number #0036-116-P-101, C-501.

2. Companion paper to the aforementioned Administration Agreement granting the City Manager by resolution the **Authorization to Sign** on behalf of the City.

The Crater District Planning Commission has selected this project to receive Federal Grant Funds administered by the State through VDOT referred to as CMAQ funds. The project was selected on the basis of growing traffic volumes, traffic management problems, and air quality issues in the corridor. The improvements will help to alleviate congestion and serve to mitigate environmental concerns related to air quality.

Through the subject Administration Agreement the project is proposed to be Locally Administered by the City, through the Office of the City Engineer, thereby saving available grant funds. Refer to Appendix A to review the "Project Cost and Reimbursements" table. The "Project Financing" table, specifically Section C indicates the estimated CMAQ City Match at \$125.

Motion was made by Vice Mayor Cuffey, and seconded by Councilor Walton, to resolve to authorize the City Manager to sign the **Standard Project Administration Agreement** between Virginia Department of Transportation and the City to construct a right turn lane from Route #36 onto Jefferson Park Road.

City Engineer, Mr. Butler, indicated that this project was selected by the Crater Planning District Commission to receive CMAQ funds. The agreement is saying that the City of Hopewell will locally administer the project. Funds are allocated to the City by VDOT. Hopewell's portion is .4%. Regarding possible overruns, the estimate one year ago was about one-half of what is shown in the package. He assured Council that the bid will not come close to reaching the ceiling amount.

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Dr. Daley pointed out that this is the City's project and it can be altered. Additional language could be included by adding, "*limited fund source project. The City reserves the right to alter the scope of the project.*" The amendment was accepted by the maker of the motion, Vice Mayor Cuffey, and the seconder, Councilor Walton.

Upon the roll call, the vote resulted:

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

WAIVE COUNCIL'S RULES & PROCEDURES

Motion was made by Vice Mayor Cuffey, and seconded by Councilor Bailey, to resolve to Waive Council's Rules & Procedures to address another VDOT issue. Upon the roll call, the vote resulted:

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

REGULAR BUSINESS - FORT LEE TRAFFIC IMPACTS - ROUTE #36 CORRIDOR SIGNAL SYNCHRONIZATION PROJECT

The project would be computerized and provide many adjustments during the day. A Right-of-Way agreement is needed for access to the City's cabinets.

Motion was made by Councilor Harris, and seconded by Vice Mayor Cuffey, to approve the Route #36 Corridor Signal Synchronization Project Right-of-Way Agreement. Upon the roll call, the vote resulted:

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

REPORTS OF CITY ATTORNEY

Mr. Calos indicated that he has drafted the agreement, regarding School Board issues and the Mayor, which should be ready within the next day or two.

REPORTS OF CITY COUNCIL COMMITTEES

Councilor Walton reported on the December 4th meeting of Virginia's Gateway Region. *Business Facilities* magazine presented Virginia's Gateway Region with the 2008 Economic Development Deal of the Year Award for "exceptional collaborative efforts with partners, the Virginia Economic Development Partnership and Prince George County, in assisting Rolls-Royce with their location decision."

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- Chesterfield Business and Political Group toured Region on business assets
- Middle of a 5-year Plan with all goals either met or exceeded
- A business magazine has picked the Rolls-Royce deal as the biggest deal in the entire country
- 2008 788 jobs and 250M dollar investment in region
- Closing in Petersburg loss of 450 jobs-Working on marketing this building and workforce
- Ft. Lee
 - Finishing up center of excellence building \$49.6 M
 - 52 Sub contractors
 - 39 from state
 - 29 of those local
 - All brick used come from Lawrenceville
 - All cement local
 - Rt. 36 on back burner to be closed down
 - Total of 4 museums will be located at Ft. Lee
 - New Ordinance & Transportation
- Cameron Foundation Grant
 - 1 M
 - 1st year\$400K outright
 - 2nd year\$150K outright & \$150K dollar for dollar match
 - 3rd year \$150K outright & \$150K dollar for 2 dollar match.
 - 8 Localities will be asked to match these funds with small raise in donations. Money already being donated will count.
- Tobacco Grant
 - \$110,000
 - Used to set up apprenticeship opportunities
 - Healthcare, Transportation (truck Driver), Computer skills, Manufacturing and metals.

Councilor Bailey reported on the Governor's Workforce Center. Most questions related to costs. She referred to the Stimulus Package and renewable energy industry. Hopewell could have an important role.

Councilor Emerson referred to the 2009-2010 budget, and the depth to cut the budget is amazing. Schools will not receive as much as they had in the past.

Councilor Bailey also reported that citizens have been reporting potholes on Appomattox Street, and the poor condition of our new streets. *(Mr. Butler explained the new finish coat paving last week on East Broadway and Library Street. He referred to the specialty pavers which are the same as the intersection at Library Street and Cawson Street. Work is progressing rapidly, but the weather could cause delays. Street lights are in the last leg of the project. Regarding Appomattox Street, the problem is pavement failure. It was an old problem and the pavement structure could not take the load. It was a pre-existing condition.)*

Vice Mayor Cuffey reported on the NLC Conference in Orlando.

REPORTS OF CITY COUNCIL MEMBERS

Councilor Bailey reported on holiday festivities: Tree Lighting was held on December 4, 2008. There were train rides, hot chocolate & cookies, and pictures with Santa. Sunday, December 7, 2008 will be an Open House downtown from 1:00-5:00 PM with refreshments. She announced the Christmas Parade, the Boat Parade and fireworks. Sunday, December 7, 2008 is also the Woman's Club Christmas House Tour from 1:00-4:00 PM. At the next Council meeting she will give her report on the NLC Conference in Orlando. She attended some of the "Green" sessions.

Councilor Harris announced the SCLC breakfast on January 19, 2009.

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Vice Mayor Cuffey wished everyone a Merry Christmas and a Happy New Year.

Councilor Walton wished a Merry Christmas to all. He commended staff and administration for doing a great job. The recent Senior Citizens Advisory Board's annual Christmas Dinner/Dance was great. In closing he expressed how the streets downtown are looking good.

Councilor Emerson referred to the City Manager's weekly report, and how many reports of violence were included. He complimented Jim Gould for what he is doing with clean air in Hopewell. It is a severe problem in Hopewell. The Police Chief recently held a Volunteer Recognition activity at the Beacon Theatre; he offered his compliments to them. He applauded the Walk Through Bethlehem sponsored by First Baptist Church. Liberty Baptist Church will have their program on Friday, Saturday, and Sunday. He wished everyone a Merry Christmas.

Mayor Pelham thanked her colleagues for attending the many activities throughout the City since Thanksgiving. There are always at least four Council members in attendance; this is a very active City Council. She applauded the Recreation Department staff for their work on the recent Senior Dinner/Dance at the Beacon; it was very nice. Councilor Walton attended the Victim/Witness Vigil after the Senior Dinner/Dance. The Mayor thanked Vice Mayor Cuffey's church, the Church of Christ for providing hot Thanksgiving meals to the needy. She thanked Herbert Bragg, Director of Intergovernmental & Public Affairs for his local radio program, Bragg Around Town. Steve Nugent of K & L Restaurant and two associates purchase WHAP, and Mayor Pelham congratulated them. She thanked David Thompson, Debbie Reason and Sandy Hughes for their report listing all businesses in Ward #6 via the GIS System. She wished everyone a Merry Christmas.

ADJOURN

At 9:52 PM **motion** was made by Councilor Walton, and seconded by Councilor Bailey, to adjourn the meeting. Upon the roll call, the vote resulted:

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

Brenda S. Pelham
Mayor

Ann M. Romano, City Clerk