

**MINUTES
EMPORIA CITY COUNCIL
CITY OF EMPORIA MUNICIPAL BUILDING
AUGUST 5, 2008**

Note to Reader: Although the printed Agenda document for this City Council meeting is not part of these Minutes, the Agenda document provides background information on the items discussed by City Council during the meeting. A copy of the Agenda document for this meeting may be obtained by contacting the Office of the City Clerk.

INVOCATION

Emporia City Council held a Regular Meeting on Tuesday, August 5, 2008, at 7:30 p.m. in the Council Chambers of the Municipal Building, located at 201 South Main Street, Emporia, Virginia. Mayor Samuel W. Adams, III presided over the meeting with Council President Nancy B. Squire offering the invocation.

ROLL CALL

Upon roll call, the following City Council members indicated their presence:

Councilwoman Nancy B. Squire
Councilman John R. White
Councilman F. Woodrow Harris
Councilman James C. Saunders
Councilwoman Carolyn S. Carey
Councilman Ned V. Lankford

Others present: Samuel W. Adams, III, Mayor
Todd Anderson, Police Captain
C. Butler Barrett, City Attorney
Steve B. Hall, Assistant City Manager
Bernard Richardson, Chief of Police
Brian S. Thrower, City Manger
Jean V. Whiting, City Clerk

Absent: Councilwoman Doris T. White (*vacation*)

MINUTES APPROVAL

The minutes of the July 15, 2008 Regular City Council Meeting were distributed to City Council members. Councilman White moved to approve the minutes as presented. Councilman Lankford seconded the motion, which passed as follows:

Councilwoman Nancy B. Squire	aye
Councilman John R. White	aye
Councilman F. Woodrow Harris	aye
Councilman James C. Saunders	aye
Councilwoman Carolyn S. Carey	aye
Councilman Ned V. Lankford	aye

AGENDA APPROVAL

Councilwoman Squire moved to approve the Agenda as presented. Councilwoman Carey seconded the motion, which passed as follows:

Councilwoman Nancy B. Squire	aye
Councilman John R. White	aye
Councilman F. Woodrow Harris	aye
Councilman James C. Saunders	aye
Councilwoman Carolyn S. Carey	aye
Councilman Ned V. Lankford	aye

UNFINISHED BUSINESS

NEW BUSINESS

08-64. EDDA Gazebo on City Property

Mr. Hall reported that Mrs. Hannah Barrett, President of the Emporia Downtown Development Association (EDDA), submitted a zoning compliance permit concerning a proposed 100 square foot octagonal gazebo, erecting 14 feet in height, at 400 Halifax Street near the Train Depot. He also reported that, if approved, the matter would be reviewed by the Planning Commission on August 12, 2008 for architectural compatibility in accordance with City Code Section 90-80(k). He further reported that the proposed location of the gazebo is property owned by the City of Emporia.

He requested that City Council members authorize the EDDA to erect the proposed gazebo on the City's property as requested, waive any required permitting fees associated with the structure, and authorize the matter to be presented to the Planning Commission for architectural compatibility review.

Councilwoman Squire asked Mrs. Barrett if the gazebo would be screened.

Mrs. Barrett advised Councilwoman Squire that the gazebo would not be screened and that it could be if desired.

Mayor Adams asked Mrs. Barrett to describe the material that the gazebo is made of.

Mrs. Barrett advised Mayor Adams that the gazebo is made of vinyl clad.

Councilman White moved to approve that the EDDA be authorized to locate the proposed gazebo on the City's property as requested, that permitting fees associated with the structure be waived, and that the matter be presented to the Planning Commission for architectural compatibility review. Councilwoman Squire seconded the motion, which passed as follows:

Councilwoman Nancy B. Squire	aye
Councilman John R. White	aye
Councilman F. Woodrow Harris	aye
Councilman James C. Saunders	aye
Councilwoman Carolyn S. Carey	aye
Councilman Ned V. Lankford	aye

08-65. Resolution – Authorization to Pick-up the Employee’s Contribution to VRS for City of Emporia – 55319 Under § 414(h) of the Internal Revenue Code

Mr. Thrower reported that, as required by IRS Ruling 2006-43, governmental employers are required to demonstrate formal authorization of their pick-up plans, via resolution, allowing the Virginia Retirement System (VRS) member contribution of 5 percent to be treated on a pre-tax basis. He also reported that the ruling requires VRS to conduct a full audit of pick-up plan resolutions and obtain a formal resolution from each VRS employer.

He recommended that City Council members review and adopt the following resolution concerning the matter:

Resolution 08-07

RESOLUTION
Affirmation of Authorization to Pick-up the Employee’s Contribution to VRS for CITY OF EMPORIA– 55319 Under § 414(h) of the Internal Revenue Code

WHEREAS, the CITY OF EMPORIA provides its employees with tax deferral pursuant to § 414(h) of the Internal Revenue Code with respect to their member contributions to the Virginia Retirement System (referred to as VRS) by picking up member contributions to VRS; and

WHEREAS, VRS keeps track of such picked up member contributions, and treats such contributions as employee contributions for all purposes of VRS;

WHEREAS, the Internal Revenue Service in Notice 2006-43 has provided transition relief for existing pick up arrangements provided that an authorized person takes formal action to evidence the establishment of the pick-up arrangement no later than January 1, 2009. .

WHEREAS, in order to avail itself of the protection given under Notice 2006-43, the CITY OF EMPORIA desires to affirm its intention to establish and maintain a pick-up arrangement through formal action by its governing body.

NOW, THEREFORE, IT IS HEREBY RESOLVED that the existing member contribution pick-up arrangement is hereby affirmed as it relates to salary reduction elections in effect prior to the date of this Resolution, and it is further

RESOLVED that effective the first pay day on or after August 5, 2008, the CITY OF EMPORIA shall pick up member contributions of its employees to VRS, and such contributions shall be treated as employer contributions in determining tax treatment under the Internal Revenue Code of the United States; and it is further

RESOLVED that such contributions, although designated as member contributions, are to be made by the CITY OF EMPORIA in lieu of member contributions; and it is further

RESOLVED that pick up member contributions shall be paid from the same source of funds as used in paying the wages to affected employees; and it is further

RESOLVED that member contributions made by the CITY OF EMPORIA under the pick up arrangement shall be treated for all purposes other than income taxation, including but not limited to VRS benefits, in the same manner and to the same extent as member contributions made prior to the pick up arrangement; and it is further

RESOLVED that nothing herein shall be construed so as to permit or extend an option to VRS members to receive the pick up contributions made by the CITY OF EMPORIA directly instead of having them paid to VRS; and it is further

RESOLVED that notwithstanding any contractual or other provisions, the contributions of each member of VRS who is an employee of the CITY OF EMPORIA shall be picked up either through a reduction in the current salary of such employee or as an offset against future salary increases of such employee or as a combination of both at the option of the employer by the CITY OF EMPORIA on behalf of such employee pursuant to the foregoing resolutions.

Councilman Harris moved to approve the resolution as presented. Councilman White seconded the motion, which passed as follows:

Councilwoman Nancy B. Squire	aye
Councilman John R. White	aye
Councilman F. Woodrow Harris	aye
Councilman James C. Saunders	aye
Councilwoman Carolyn S. Carey	aye
Councilman Ned V. Lankford	aye

08-66. Emporia Redevelopment and Housing Authority (ERHA) – Appointment of Council Member to ERHA

Mr. Thrower reported that, during the 2008 legislative session, the General Assembly approved an amendment to the City’s Charter allowing City Council to adopt an ordinance adding 1 Council member as commissioner of the Emporia Redevelopment and Housing Authority. He recommended that City Council members appoint a City Council member to the ERHA to serve a 4-year term and stated that an ordinance adding that City Council member to the ERHA would be presented before City Council at the August 19, 2008 City Council Regular Meeting.

Councilman Harris moved to appoint Councilwoman Carolyn Carey to the ERHA and that an ordinance be constructed authorizing her appointment at the next City Council Regular Meeting. Councilman White seconded the motion, which passed as follows:

Councilwoman Nancy B. Squire	aye
Councilman John R. White	aye
Councilman F. Woodrow Harris	aye
Councilman James C. Saunders	aye
Councilwoman Carolyn S. Carey	aye
Councilman Ned V. Lankford	aye

08-67. Repairs to Chamber of Commerce Building – Appropriation Ordinance

Mr. Thrower reported that the City of Emporia hired a contractor to make repairs to the Chamber of Commerce facility prior to the close of FY07-08. He also reported that repairs were not made to the facility prior to the close of FY07-08 and need to be paid from FY08-09 budget. He further reported that the City of Emporia’s Facilities Department had funds remaining in its FY07-08 budget to cover costs associated with the repairs totaling \$14,818.76.

He stated that remaining funds from the FY07-08 budget needed to be re-appropriated into the FY08-09 budget to cover costs associated with the repairs and requested that City Council members review and approve the following ordinance:

Ordinance No. 08-20

Ordinance

An Ordinance To Appropriate The Sum Of \$14,819.00 From The Unappropriated Fund Balance of the General Fund For Repairs To The Chamber Of Commerce Building

BE IT ORDAINED by the Council of the City of Emporia, Virginia as follows:

1. That the sum of \$14,819.00 from the Unappropriated Fund Balance of the General Fund be, and the same hereby is, appropriated into the City's Operating Budget for Fiscal Year 2008-2009 for repairs to the Chamber of Commerce building.
2. Said appropriation shall be reflected in the 2008-2009 Operating Budget as the sum of \$14,819.00 from the Unappropriated Fund Balance of the General Fund and the sum of \$14,819.00 appropriated to General Fund Expenditures for repairs to the Chamber of Commerce building, Account Number 43100-3310 Repairs and Maintenance.
3. The City Manager is hereby authorized to do all things necessary to implement this ordinance.
4. This ordinance shall be in effect on and after its adoption.

Councilwoman Squire asked Mr. Thrower to describe the specific types of repairs that had been made to the facility.

Mr. Thrower advised Councilwoman Squire that general maintenance had been completed, which included painting and repairs to windows and doors.

Councilman Harris moved to approve the ordinance as presented. Councilman Lankford seconded the motion, which passed as follows:

Councilwoman Nancy B. Squire	aye
Councilman John R. White	aye
Councilman F. Woodrow Harris	aye
Councilman James C. Saunders	aye
Councilwoman Carolyn S. Carey	aye
Councilman Ned V. Lankford	aye

08-68. Request by Council Member Saunders – EGRA Park Tree Thinning

Councilman Saunders reported that, during the 2008 City Council Retreat, the subject of potential tree thinning at the Emporia Greenville Recreation Association's (EGRA) park entrance was discussed. He also reported that the path that runs along the Meherrin River had been neglected and was overgrown with vegetation. He further reported that the path was in need of repairs and that the

Virginia Department of Forestry should be contacted concerning potential thinning of trees within the park and that the area should be maintained by the City as is being done on the north side of the Meherrin River.

Councilman Saunders moved to approve that the Virginia Department of Forestry be contacted to provide guidance to the City of Emporia concerning the thinning of timber within the EGRA park, without ruining its present aesthetic value, in an effort to make the area safer and enhance beautification. Councilman White seconded the motion, which passed as follows:

Councilwoman Nancy B. Squire	aye
Councilman John R. White	aye
Councilman F. Woodrow Harris	aye
Councilman James C. Saunders	aye
Councilwoman Carolyn S. Carey	aye
Councilman Ned V. Lankford	aye

Councilwoman Squire asked Councilman Saunders if the referenced area was located on the southern end of the Meherrin River.

Councilman Saunders advised Councilwoman Squire that the area was located down Hicksford Avenue, after crossing the Meherrin River, on the right side. He also advised her that the land was equipped with picnic tables and azaleas and extended back along the Meherrin River several acres.

Councilwoman Squire asked Councilman Saunders if the azaleas would be destroyed along the front portion of the park.

Councilman Saunders advised Councilwoman Squire that tree thinning would only be needed in the rear portion of the park.

08-69. Request by Council Member Carey – Use of Golf Carts on City Streets

Mayor Adams reported that Councilwoman Carey requested that City Council members discuss the possibility of using golf carts along streets within the City of Emporia.

Mr. Thrower reported that information had been obtained from the State Code concerning the matter. He also reported that municipalities can pass an ordinance allowing golf carts on streets with speed limitations of twenty-five miles per hour or less. He further stated that a detailed ordinance would need to be drafted permitting such use, if so desired by City Council.

Councilwoman Squire asked if the golf carts would be allowed on Main Street.

Mr. Thrower advised Councilwoman Squire that some potential safety issues exist concerning golf cart usage on Main Street and that the intent was to allow them in residential districts only.

Mayor Adams stated that the matter should be initially restricted to residential areas.

Councilwoman Carey stated that she was interested in having authorization for the use of golf carts in the Tall Oaks subdivision within the City of Emporia. She also stated that residents in that particular subdivision discussed the matter and signed a petition in favor of golf cart usage within their subdivision.

Mr. Bruce Campbell, of EmporiaNews.com, stated that, if usage is permitted, they should be allowed to cross streets with speed limits of thirty-four miles per hour in an effort to get to an adjacent neighborhood.

Councilman Harris stated that usage should be permitted on an area-by-area basis rather than stating that it would be allowed in any residential area. He also stated that, if usage is permitted in any residential area with speed limitations of twenty-five miles per hour, there would be some areas that serve as through streets that may not need to be included.

Mayor Adams stated that speed humps also need to be considered concerning the matter, such as those on Jefferson Street and Laurel Street and asked Mr. Hall to review the City's map in an effort to help designate specific areas for potential usage. He also stated that, if approved, usage should be initially limited to daylight hours only.

Mr. Anderson stated that the Code stipulates that the City of Emporia can designate streets for usage. He further stated that other restrictions, such as the requirement of a driver's license in possession and proper vehicular signage indicating "slow moving vehicle" exist.

Councilman White moved to approve that Mr. Anderson, Mr. Barrett and Mr. Hall to work together to draft an ordinance to present to City Council members concerning the usage of golf carts along streets within the City of Emporia. Councilwoman Carey seconded the motion, which passed as follows:

Councilwoman Nancy B. Squire	aye
Councilman John R. White	aye
Councilman F. Woodrow Harris	aye
Councilman James C. Saunders	aye
Councilwoman Carolyn S. Carey	aye
Councilman Ned V. Lankford	aye

PUBLIC COMMENT

Mayor Adams asked if there was anyone who wished to bring a matter before City Council members adhering to the 3-minutes per person speaking limitation.

Ms. Ida McBeth of 109 Ellice Street, Emporia, Virginia stated that on July 22, 2008 Mr. Robinson, engineer for the new Dollar General store, notified her that the drainage ditch, adjacent to the new store, was filled with debris and that the City of Emporia was responsible for its removal and maintaining that area. She also stated that Mr. Robinson informed her that the individual that surveyed the property stated that a water trap existed almost directly on the property line between Turner and Associates' property and her property.

She reported that Mr. Robinson advised her that the water lines could possible be tied together and that he would check the easements concerning the matter. She also that she would like to see the store's property built up from the back side to allow water drainage directed towards Main Street.

She stated that Mr. Robinson and Mr. Linwood Pope, Public Utilities Director for the City of Emporia, reviewed the area filled with debris and informed her that it would be cleaned by the City of Emporia. She also stated that Mr. Robinson failed to provide her with copies of the final plans associated with the new store. She further stated that she wished to know if the two drainage pipes could be tied into the trap as Mr. Robinson informed her, with or without easements.

Mr. Hall advised Ms. McBeth that he spoke with Mr. Robinson, who indicated that he spoke with her and was not advised by Mr. Robinson that site plans needed to be provided to her. He apologized for the miscommunication and informed her that he would make sure that she was provided a copy of the site plans. He also advised her that the area filled with debris would be cleaned by the City of Emporia. He further advised her that, based on plans submitted for the development, no additional water runoff would run to the ditch as it will be directed back to Main Street.

He reported that he would further research the situation of tying the drainage pipes together.

Mr. Thrower suggested that Mr. Robinson meet with Ms. McBeth with the finalized plan in hand to explain it clearly to her as he is an engineer and could provide her with detailed specifics regarding her concerns.

Ms. McBeth stated that she was concerned with Mr. Robinson handling the matter as least expensive as possible for his client, despite her concerns, and having his decision approved which may potentially worsen existing drainage concerns

Mr. Thrower advised Ms. McBeth that Mr. Robinson was required to submit detailed storm drainage plans that meet storm water management practices in Virginia. He also advised her that detailed calculations were involved and that the development would help some of the existing drainage problems in that area.

Mayor Adams advised Ms. McBeth and staff would contact Mr. Robinson the following morning and suggest that he meet with her and provide her with a copy of the site plans and explain them to her in detail.

Reverend George Pugh asked City Council members what was being done concerning the water in the City of Emporia. He stated that he read an article in the newspaper indicating that the water was not good for consumption and could cause illnesses.

Mayor Adams advised Reverend Pugh that the newspaper could address his concern since they wrote the article and would be providing a follow-up article concerning the matter.

Mr. Don Koralewski, editor of the Independent-Messenger Newspaper, stated that the article was generated from a water quality report. He also stated that the base report, as well as the newspaper article, indicates that the water is safe for consumption.

Mr. Thrower advised Reverend Pugh that the water quality report referenced in the article related to untreated water only. He also advised him that he would provide him with a copy of the report that was provided to customers.

With no further comments to come before City Council, Mayor Adams congratulated Mr. Charner Rush Lifsey, III, who obtained the rank of Eagle Scout and was presented with a Resolution earlier that day recognizing his accomplishment. He then entered a motion to enter into Closed Session.

*****CLOSED SESSION*****

Councilman White moved that Closed Session be entered for the purpose of discussing Virginia Code § 2.2-3711 (A) (7) **Legal Matter**. Councilman Saunders seconded the motion, which passed as follows:

Councilwoman Nancy B. Squire	aye
Councilman John R. White	aye
Councilman F. Woodrow Harris	aye
Councilman James C. Saunders	aye
Councilwoman Carolyn S. Carey	aye
Councilman Ned V. Lankford	aye

*****REGULAR SESSION*****

Councilwoman Squire moved that the meeting be returned to Regular Session. Councilwoman Carey seconded the motion, which passed as follows:

Councilwoman Nancy B. Squire	aye
Councilman John R. White	aye
Councilman F. Woodrow Harris	aye
Councilman James C. Saunders	aye
Councilwoman Carolyn S. Carey	aye
Councilman Ned V. Lankford	aye

CERTIFICATION

Councilman Lankford moved to certify the following:

1. only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act were discussed in the Closed Session to which this certification applies, and
2. only such public business matters as were identified in the motion by which the Closed Session was convened were heard, discussed, or considered by City Council.

Councilman Saunders seconded the motion, which passed as follows:

Councilwoman Nancy B. Squire	aye
Councilman John R. White	aye
Councilman F. Woodrow Harris	aye
Councilman James C. Saunders	aye
Councilwoman Carolyn S. Carey	aye

Councilman Ned V. Lankford aye

ADJOURNMENT

With no further business to come before City Council, Mayor Adams adjourned the meeting.

Samuel W. Adams, III, Mayor

Jean V. Whiting, City Clerk