

**CITY OF COLONIAL HEIGHTS, VIRGINIA**  
**Special Meeting of City Council**  
**Tuesday, June 20, 2023**

**1. Call to Order.**

The Special Meeting of City Council was called to order by Mayor Kochuba at 6:00 P.M.

**2. Roll Call.**

**Present:** Councilman Kenneth B. Frenier  
Councilman John E. Piotrowski  
Councilwoman Dr. Laura F. Poe  
Councilman John T. Wood  
Vice-Mayor, Robert W. Wade  
Mayor T. Gregory Kochuba

**Absent:** Councilwoman Elizabeth G. Luck

**Also Present:** Mr. Douglas E. Smith, City Manager  
Mr. Hugh P. Fisher, III, City Attorney  
Mrs. Pamela B. Wallace, City Clerk

**3. Declarations of Personal Interest**

There were none.

Before continuing, a motion was made by Mayor Kochuba, seconded by Vice-Mayor Wade, to amend the agenda by adding an Item 6.A – A RESOLUTION NO 23-22 under the Work Session.

<b><u>Vote:</u></b>	<b>6-0</b>
<b>Yes:</b>	<b>Frenier</b>
	<b>Poe</b>
	<b>Wood</b>
	<b>Wade</b>
	<b>Kochuba</b>
<b>No:</b>	<b>None</b>
<b>Absent:</b>	<b>Luck</b>
<b>Abstained:</b>	<b>None</b>

**Motion UNANIMOUS PASS**

A motion was then made by Mayor Kochuba, seconded by Vice Mayor-Wade, to approve the agenda as amended.

<b><u>Vote:</u></b>	<b>7-0</b>
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**Yes:** Frenier  
Poe  
Wood  
Wade  
Kochuba  
**No:** None  
**Absent:** Luck  
**Abstained:** None

**Motion UNANIMOUS PASS**

**4. A Closed Meeting Pursuant to the Code of Virginia in accordance with the following provision:**

- **Paragraph A.3 of Section 2.2-3711, to discuss or consider the acquisition of two parcels of real property for a public purpose, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body. One of the parcels is a .25 acre parcel on Highland Avenue with a single family residence, and the other is a .15 acre parcel on James Avenue with a single family residence.**

**A motion to convene in closed meeting was made by Mr. Frenier, seconded by Mr. Piotrowski at 6:01 P.M.**

**Vote: 6-0**  
**Yes:** Frenier  
Poe  
Wood  
Wade  
Kochuba  
**No:** None  
**Absent:** Luck  
**Abstained:** None

**Motion UNANIMOUS PASS**

**5. Vote to come back into open meeting.**

**A motion to reconvene in open session was made by Mayor Kochuba, seconded by Vice Mayor Wade, and carried unanimously on roll call vote at 6:44 P.M.**

**Vote: 6-0**  
**Yes:** Frenier  
Poe  
Wood  
Wade

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	<b>Kochuba</b>
<b>No:</b>	<b>None</b>
<b>Absent:</b>	<b>Luck</b>
<b>Abstained:</b>	<b>None</b>

**Motion UNANIMOUS PASS**

**As stated by the Clerk, Council was in a closed meeting pursuant to the Code of Virginia in accordance with the following provisions:**

- **Paragraph A.3 of Section 2.2-3711, to discuss or consider the acquisition of two parcels of real property for a public purpose, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body. One of the parcels is a .25 acre parcel on Highland Avenue with a single family residence, and the other is a .15 acre parcel on James Avenue with a single family residence.**

**Consideration of the following certification:**

**Each member will now certify that to the best of the member's knowledge (i) only public business matters lawfully exempted from open meeting requirements of the act and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting by the public body. Any member who believes there was a departure from the requirements of clauses (i) and (ii), shall so state prior to the vote, indicating the substance of the departure that, in his judgment, has taken place.**

**Council members approved this certification, without any stating departure from the requirements of clauses (i) and (ii), by the following roll call vote:**

<b><u>Vote:</u></b>	<b>6-0</b>
<b>Yes:</b>	<b>Frenier</b>
	<b>Poe</b>
	<b>Wood</b>
	<b>Wade</b>
	<b>Kochuba</b>
<b>No:</b>	<b>None</b>
<b>Absent:</b>	<b>Luck</b>
<b>Abstained:</b>	<b>None</b>

**Motion UNANIMOUS PASS**

**6. A Work Session on the Following Items:**

- A. A RESOLUTION NO 23-22**

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**Consenting and confirming the declaration of a local emergency by the Director of Emergency Services.**

**A motion was made by Mayor Kochuba, seconded by Vice Mayor Wade, to adopt Resolution No. 23-2.**

**Mr. Smith advised that the emergency declaration was in response to the severe weather experienced in the area on Friday, June 16, 2023 in the late afternoon. Mr. Smith provided an update on the wide-spread power outages and damage as a result of the storm. Additionally, Mr. Smith thanked departmental staff for their efforts in the EOC and clean-up during and after the storm. Continuing, Mr. Smith provided information relative to the guidelines set forth by the City regarding debris pick-up and the additional hours for the City Recycling Center.**

**Mr. Wade provided additional comments relative to his suggestion for adding additional hours to the City Recycling Center schedule and thanked staff for the implementation of his suggestion**

**Addressing Mr. Wood's question behind the rationale behind not opening the Recycling Center earlier, Mr. Smith advised that Monday was a City Holiday. Mr. Flippen, Public Works Director, provided additional comments relative to the City's strategy in processing debris and request for assistance from CVWMA.**

<b><u>Vote:</u></b>	<b>6-0</b>
<b>Yes:</b>	<b>Frenier</b>
	<b>Poe</b>
	<b>Wood</b>
	<b>Wade</b>
	<b>Kochuba</b>
<b>No:</b>	<b>None</b>
<b>Absent:</b>	<b>Luck</b>
<b>Abstained:</b>	<b>None</b>

**Motion UNANIMOUS PASS**

**B. City Vision and Mission Statement Presentation**

**Mr. Smith provided an update recalling Council's prior discussion and review of a proposed City Mission Statement; however, there was no formal vote by Council to implement its use.**

**After brief discussion by Council, a motion was made by Dr. Poe, seconded by Mr. Piotrowski, to approve the City Manager's proposed City Mission Statement.**

<b><u>Vote:</u></b>	<b>6-0</b>
<b>Yes:</b>	<b>Frenier</b>
	<b>Poe</b>

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	<b>Wood</b>
	<b>Wade</b>
	<b>Kochuba</b>
<b>No:</b>	<b>None</b>
<b>Absent:</b>	<b>Luck</b>
<b>Abstained:</b>	<b>None</b>

**Motion UNANIMOUS PASS**

**C. Discussion Regarding a City Logo Concept**

**Mr. Smith recalled the previous discussion and presentation of the proposed new City logo and provided two examples, as it would appear on the City website. It was the recommendation of staff that the proposed logo be utilized in certain applications but it was in no way the intent of staff, to replace the City seal.**

**Mr. Wood stated, he was not in favor of the proposed logo and felt that ultimately, it would indeed replace the City seal and would not support the implementation.**

**There was continued discussion with the majority of Council members providing a different opinion than Mr. Wood. It was the consensus of Council that all official documents continue to contain the City seal.**

**Mr. Smith advised it was important to convey a fresh look within the community; however, it can further be determined where the City seal and/or the proposed logo will be utilized. There was no formal action taken.**

**D. Public Works Projects Update**

**At the request of Mr. Smith, Mr. Flippen provided made a presentation providing information relative to the on-going and proposed projects. Mr. Flippen provided comments and addressed any questions from Council on the following items of his presentation:**

- **Current Public Works projects including funding, state/federal funding, and local match**
- **Route 1 and Temple Avenue intersection improvements**
- **FY23-24 active construction projects including anticipated end of construction date**
- **Non-transportation projects**
- **Infrastructure Projects**
- **Lead Service Line Inventory**
- **Recycling Center request to explore extended hours**
- **Grant opportunities**
  - **Revenue Sharing (VDOT) – Ridge Road improvements**

- **Drinking Water State Revolving Fund (VDH) – Various water distribution projects**
- **Bridge Investment Program (FHWA) – Addressing Sherwood Drive Bridge**
- **Stormwater Local Assistance Fund (DEQ)**

**E. Short-Term Rental Ordinance Presentation and Discussion**

**Mr. Smith advised that Mr. Carter would present information to relative to the increasing number of Short-Term Rental properties in the City. Mr. Carter’s presentation would include information presented to the Planning Commission at their June Meeting as well as Planning Commission and staff recommendations. Mr. Smith advised staff was seeking Council’s direction in drafting an ordinance; as there is currently, no ordinance addressing Short-Term Rentals in the City Code.**

**Mr. Carter advised his presentation contained information from the Planning Commission of staff’s research on Short-Term Rentals (STR) in the major metropolitan areas in the Commonwealth.**

**Mr. Carter provided information relative to the reason for Council’s consideration of a proposed ordinance:**

- **STRs are a use which is emerging in residential neighborhoods and is becoming a prominent theme in the City of Colonial Heights. These uses typically are found in established residential neighborhoods, in single-family homes**
- **Currently, the City does not have a district which authorizes such use. Mr. Carter advised that recent state legislative bills included language that clarified that if a locality adopted an ordinance, they would have to conform to state legislation. However, if a locality had an existing ordinance, than the legislative provision would not apply to the locality.**

**Mr. Carter stated that staff’s overall goal was to regulate the use as Council sees fit; and to create an ordinance should any future legislation preempt Council’s authority in governing the use.**

**Mr. Carter provided similarities of STPs to other uses which included Bed and Breakfasts and accessory apartment; further explaining the following key definitions and terminology relative to STPs:**

- **Short-term rental – the provision of a room or space that is suitable or intended for occupancy for dwelling, sleeping, or lodging purpose, for a period of fewer than 30 consecutive days, in exchange for a charge for the occupancy. These can either be “hosted” or “non-hosted”**
- **Operator – the proprietor of any dwelling, lodging, or sleeping accommodations offered as a short-term rental, whether in the capacity of owner, lessee, sublessee, mortgagee or possession, licensee, or any other possessory capacity.**

**Mr. Carter advised that through staff's research, it was noted that localities distinguish between a "hosted" and "non-hosted" STR. Mr. Carter explained that "hosted" was that the owner of the property lived on-site; however, if the property is listed as "non-hosted", the property owner/investor acquired the house and rents it out as a STR.**

**Mr. Carter provided several benefits from STRs with supporting information from other localities. Benefits listed, were not limited to:**

- **Supplemental income for host homeowner**
- **Supplemental income can make homeownership more affordable**
- **Generates additional Tax revenue from transient occupancy.**
- **Additional lodging can encourage tourism for the City and region**

**Continuing, Mr. Carter provided the following key impacts and/or concerns not limited to STRs:**

- **Parking and traffic**
- **Related noise**
- **Loss of residential character**
- **Change in demand for City services, such as police, garbage, water, and sewer usage.**
- **Competition for non-hosted units can lead to bidding wars that can price out owner residents due to an increase in prices in comparison quotes for nearby homeowners.**

**Mr. Carter advised many localities required an inspection prior to the operation as well as an administrative process; particularly with a "host" property. Many localities imposed penalties for non-compliance and State Code allows for a registry that localities may establish; however, the Code also exempts any licensed Virginia realtor from required registration of any units owned or managed. Continuing, Mr. Carter provided additional information relative to approval practices.**

**Mr. Carter provided Council with a list of clearly defined recommendations by the Planning Commission with additional staff recommendations, which required the following:**

- **Written permission from property owner for property to operate as a STR.**
- **Zoning approval prior to operation.**
- **Penalties for non-compliance with City Code.**

**In addition to requirements set forth by the City, Mr. Carter again noted the requirement of the State of the collection of a Transient Occupancy Tax.**

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**Mr. Carter stated that the overall objective of the discussion was to have regulations adopted by Council before any new legislation prohibits local restrictions of STRs. Mr. Carter suggested refining the general recommendations during the ordinance drafting to ensure STR uses meet the requirements set forth in the City Code i.e. Building Code, Property Maintenance Code, Zoning, Noise, Tall Grass, and Exterior Storage Clutter Ordinances; as well as limiting the number of animals.**

**Mr. Carter advised it was staff's recommendation that Council provide direction regarding the following:**

- **Planning Commission recommendations**
- **Staff recommendations**
- **Any key topics under Council's purview**

**Mr. Carter advised once staff received direction from Council, an ordinance would be drafted for consideration at a further meeting.**

**At the conclusion of the presentation, Mr. Smith recommended Council discuss and review each topic as presented by Mr. Carter.**

**A Council's representative on the Planning Commission, Vice-Mayor. Wade recalled their discussion; specifically noting it was difficult. Mr. Carter concurred with Vice Mayor Wade recalling the discussion clarifying the use of STRs was not residential but commerce and it must be determined if the STR is managed by an owner/operator on site or an owner/operator off-site.**

**Mr. Wood, directing his question to Mr. Fisher, asked if the City had the authority, in adopting its own ordinance, to preempt the general assembly with controlling its housing stock - Does the City have the authority to prohibit non-hosted STRs? Mr. Fisher advised that to his knowledge, it was un-litigated and is an open issue. Mr. Fisher added that with the limited authority he has seen, the answer would probably be "no". Mr. Fisher recalled a case from the 5<sup>th</sup> Circuit Court of Appeals in New Orleans, ruled that to do so would be an infringement on interstate commerce.**

**Whether "hosted" or "non-hosted", Vice Mayor Wade stated he felt home owners purchased their home for private use and felt this would create a problem with the residents who are homeowners. Vice Mayor Wade stated that, although there could be postings regarding noise and unruly behavior, there will be times these regulations are violated. Additionally, Vice Mayor Wade noted the potential for added expenses to the City due to the need for increased Police presence. Vice Mayor Wade also expressed his concern relative to the presence of STRs and the negative impact on surrounding home values. Due to the number of concerns, Vice-Mayor Wade suggested heavily taxing of STRs.**

**Mr. Fisher advised that currently, Mr. Carter is receiving inquiries from individuals as to the requirements and/or regulations on STRs; therefore, this is a pressing issue.**



**Mr. Piotrowski stated he did not like it, he doesn't want it. Mr. Piotrowski suggested surveying citizens relative to their opinion.**

**Mr. Wood stated he was impressed with the foresight to bring this to Council as quickly and as rapidly as Mr. Carter has done. Mr. Wood stated this was something of great significance. Mr. Wood stated there would be two immediate effects – 1) penetration into the housing market which causes commerce within neighborhoods; and 2) “commotion” which initiates a demand for EMS. However, the long-term effect are even greater - housing expenses throughout the City will increase dramatically due to non-hosted, non-commercial establishments acquiring homes for the purpose of an STR.**

**It was Mr. Wood's opinion that Council and staff should take advantage of any regulations that are available to ensure this growing trend does not get out of control and should be regulated as carefully and legally as possible.**

**Addressing Mr. Frenier's question relative to the difference between a STR and an Airbnb, Mr. Carter advised they were one in the same; the Airbnb is just a platform for a STR.**

**Mayor Kochuba noted other cities in other states he has visited, particularly those with significant attractions or college towns, which offer many STRs/Airbnb; however, followed up with the fact that Colonial Heights does not have significant attractions other than Virginia State. To Mayor Kochuba's point, Mr. Smith noted a draw may be from Ft. Gregg-Adams, with Mr. Carter adding that there is a draw on Richmond tourism; specifically, Richmond International Raceway.**

**Addressing Mayor Kochuba's question relative to “banning” STRs all together, Mr. Fisher advised “no”, basing his answer on the fact that this has caused concern in other localities and he knew of no locality which has banned them and there is no provision in the State Code. However, Mr. Fisher stated the key was to regulate the use in a legal way.**

**Dr. Poe stated that tourist locations would look at this use differently than the City of Colonial Heights and suggested making comparisons between tourist cities and cities such as Colonial Heights in an effort to provide a starting point.**

**Mayor Kochuba, noting the comments from other Council members, stated that he felt the consensus of Council was to develop tough restrictions and suggested dedicating an entire work session to the development of such restrictions.**

**Mr. Wood suggested a tax which would compensate the City for the expense it will incur as a result of STRs. Mr. Wood also suggested that Council concentrate on one rather than multiple rows, and multiple apartments and situations that will help. Mr. Wood felt this would help with the out-of-state, non-hosted penetration into the housing**

market as they are looking to get as much out of the property as they can. Additionally, Mr. Wood suggested limiting the number of times the STR can be rented and the number of persons it can be rented to, as well as establishing a “neighborhood grid” to determine how many STRs can be in specific neighborhood areas.

Mr. Carter advised that loss of residential character was a major concern and he has observed this in his research of localities that have distinguished the difference between “hosted” and “non-hosted” units. Mr. Carter advised that he felt the Planning Commission recognized this; however, asked that Council give their feedback on staff’s recommendations as he felt these recommendations were more straight forward.

Mr. Fisher stated it was his opinion, to request the help from the legislature.

Mr. Carter advised he provided Council with a sample application and summary from Henrico County in an effort to provide them with possible questions to be considered. Mr. Carter advised that the purpose of sharing the documents was to show how STRs can be regulated.

Mr. Carter stated he would like to have Council’s input and direction relative to the four staff recommendations:

- **Written permission from the property owner for property to operate as a STR**
- **Zoning approval prior to operation of the STR**
- **Tax collection for the use (required by the state)**
- **Penalties for non-compliance with City Code**

Mr. Carter noted these were not specific and implementation of such would need to come before Council; however, some items may be performed administratively.

Addressing Mr. Wade’s question relative to how to regulate a property purchased by an out-of-state buyer primarily for profit, Mr. Carter stated that the Planning Commission recommended that distinction be made between a hosted and non-hosted STR.

Addressing Mr. Wood’s question relative to the requirement of a Public Hearing Mr. Fisher advised that a conditional use permit/special use permit could certainly be require for non-hosted STRs; however, as time passes, there will be a growing number of requests.

Addressing Mayor Kochuba’s question relative to a City imposed fee/tax, Mr. Carter advised there was enabling authority to require a registry for a fee to be imposed up to \$500; however, a licensed realtor is exempt from such a fee.

There was continued discussion relative to the implementation of an annual fee as well as consideration of inclusion of STR’s in the BPOL tax; however, Mr. Fisher advised this was a question for Mr. Feasenmyer. Mr. Carter advised he would research for further discussion.

**Mr. Carter continued by recalling the Planning Commission’s recommendations which included the following:**

- **Clearly define “resident hosted STR**
- **Clearly define “non-hosted STR”**
- **Establishment of a legislative approval process for “non-hosted STR” uses via a Special Exception Permit**
- **Establish parking standards for STR uses.**
- **Limit the number of STR uses within a specific residential neighborhood**
- **Required inspection process prior to the operation of a STR**
- **Limit the number of guests allowed in the unit**
- **Regulation of the number of guest pets allowed in a STR**
- **Signs for STRs should be prohibited in residential neighborhoods**
- **Limited near schools**

**Continuing, Mr. Carter presented the following required recommendations from staff:**

- **Written permission from the property owner for operation as a STR**
- **Zoning approval prior to operation as a STR**
- **Penalties for non-compliance**

**It was the consensus of Council that all “non-hosted” STRs be required to obtain a Special Use Permit.**

**Mr. Fisher suggested staff compile a list of all of comprehensive issues to be brought before Council as the only item at the July work session. After further discussion by Council relative to the nature of the work session; it was the consensus of Council that the July 18, 2023 work session be dedicated solely to the discussion of Short Term Rentals. Mr. Piotrowski advised he would not be available on the 18<sup>th</sup>. Mr. Fisher suggested that the time be set between 3 and 4 P.M. in an effort to allow for complete discussion to ensure all items are completely considered and discussed prior to drafting the necessary ordinance.**

**5. Adjournment**

**There being no further discussion, a motion was made by Vice Mayor Wade, seconded by Mr. Frenier, to adjourn the meeting at 9:31 P.M.**

**APPROVED:**

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**T. Gregory Kochuba, Mayor**

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**ATTEST:**

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**Pamela B. Wallace, City Clerk**