

**April 1, 2021
Special Council Meeting**

MINUTES OF THE SPECIAL MEETING OF CITY COUNCIL HELD April 1, 2021

An Electronic (Zoom) Meeting of the City Council of the City of Hopewell, Virginia, was held Thursday, April 1, 2021 at 6:30 p.m. to discuss the continuation of the Francisco Landing Contract.

Mayor Bennett opened the meeting at 6:30 p.m. Roll call was taken as follows:

PRESENT: Patience A. Bennett, Mayor, Ward 7
 John B. Partin, Jr., Vice Mayor, Ward 3
 Deborah Randolph, Councilor, Ward 1
 Arlene Holloway, Councilor, Ward 2
 Jasmine E. Gore, Councilor, Ward 4
 Janice B. Denton, Councilor, Ward 5
 Brenda S. Pelham, Councilor, Ward 6

John March Altman, Jr., City Manager
Sandra Robinson, City Attorney
Charles E. Dane, Assistant City Manager
Mollie P. Bess, Interim City Clerk

CLOSED MEETING

SUGGESTED MOTION: Move to go into closed meeting pursuant to Va. Code Sections 2.2- 3711 (A)(1) to discuss and consider personnel matters, including the interview, and appointment of prospective candidates for employment (City Clerk) and appointment (boards and commissions); and (A)(4) for the protection of the privacy of individuals in personal matters not related to public business. Motion was made by Vice Mayor Partin and seconded by Councilor Denton

ROLL CALL:

Vice Mayor Partin	-	yes
Councilor Gore	-	yes
Councilor Denton	-	yes
Councilor Pelham	-	yes
Mayor Bennett	-	yes
Councilor Randolph	-	yes
Councilor Holloway	-	no answer

RECONVENE OPEN MEETING

Motion made to come out of closed session by Vice Mayor Partin and seconded by Councilor Pelham.

ROLL CALL:

Vice Mayor Partin	-	yes
Councilor Gore	-	yes
Councilor Denton	-	yes
Councilor Pelham	-	yes
Mayor Bennett	-	yes
Councilor Randolph	-	yes
Councilor Holloway	-	yes

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CERTIFICATION

CERTIFICATION PURSUANT TO VIRGINIA CODE § 2.2-3712 (D): Were only public business matters (1) lawfully exempted from open-meeting requirements and (2) identified in the closed-meeting motion discussed in closed meeting?

ROLL CALL:

Vice Mayor Partin	-	yes
Councilor Gore	-	yes
Councilor Denton	-	yes
Councilor Pelham	-	yes
Mayor Bennett	-	yes
Councilor Randolph	-	yes
Councilor Holloway	-	yes

Motion made by Councilor Denton and seconded by Councilor Randolph for Council to approve the tax rebate development incentive agreement and the donation agreement and have the City Manager sign the necessary paperwork.

Discussion – Motion to make a Substitute motion by Vice Mayor Partin and seconded by Councilor Pelham.

ROLL CALL:

Vice Mayor Partin	-	no
Councilor Gore	-	yes
Councilor Denton	-	no
Councilor Pelham	-	yes
Mayor Bennett	-	yes
Councilor Randolph	-	no
Councilor Holloway	-	yes

Substitute Motion made by Councilor Pelham to adjourn. Motion was not seconded so it died on the floor.

What is impact on project if these rebate and donation agreements are not granted? Point of Information – is this a legal discussion for a motion. If Councilor says I need a POI in order to vote and ask question in general to staff or someone on Council then that answer is allowable. Councilor asked as a POI to staff specifically to Mr. Altman to Mr. Dane. Answer is if these two agreements are approved tonight there still is a development agreement standing that would need to be complied with. If the tax rebate development incentive agreement is not moved forward it would endanger the ability for the developer to acquire financing from VH for the project and may result in a different project being put on the property than that was hoped for or discussed by City Council over the last 3 years that this has been in discussion. Councilor asked if this rebate is not granted, then when can construction be started. The site plan has been approved and once they have the building permit approved, they could start at any time. However, not sure how that plays into any financing they need to move forward to secure that financing. Councilor stated that the deadline is still 2 ½ years after the initial construction start date of 2/28/220. Asst. City Mangers stated that is 2 ½ years for completion or of substantial progress. City Attorney stated the actual agreement states that if the developer fails to complete phase within 2 ½ years or is failing to make ongoing progress determined by Hopewell in its reasonable discretion. POI directed to Councilor Denton and Councilor Randolph to rescind the motion on the floor temporarily for questions without POI's.

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Motion made by Councilor Gore and seconded by Vice Mayor Partin waive rule 203 so that council can speak on this matter freely and not remove the motion on the floor.

ROLL CALL:

Vice Mayor Partin	-	yes
Councilor Gore	-	yes
Councilor Denton	-	no
Councilor Pelham	-	no
Mayor Bennett	-	yes
Councilor Randolph	-	no
Councilor Holloway	-	no

Point of Information - Councilor asked City Manager what he means by if developers cannot receive financing this may result in a different product, can you please explain to public. City Manager responds - If not able to secure financing to build the product the building and product with the fixtures and finishes that has been discussed and have been shown in plans throughout process. If can't secure financing to do that then with whatever financing they can secure would be based on the current market of the city so that market rate, that VA Housing feels that Hopewell's market will bear for rents would result in not the product that we would be talking, because the whole time we were talking about elevating that number to a higher number than where it is now and as a result of not getting the same type of financing the exterior of the building at this point would have to stay the same because they have gone through the downtown design review process but the interior of the building but the fixtures and finishes in the unit would probably be downgraded. Just speculating, no conversation with the builder on what they would do or what they have said they would do. If market will only bear for example, what the Freedman Point project is then that would be the type of project that you can expect to be developed on this property. If that is all that VH feels that our market will bear then that will be the level and threshold in which they could lend money for the project too, so we would have another similar project to Friedman Point on the property and potential for all of those building that were proposed as part of the development agreement and the intent here has always been to elevate the product and the market rate in the City that then helps with the next phase of their project and other development and investment in and around the downtown. The donation agreement if Council approves and authorizes the CM to sign, the flow of the donation agreement has the city receiving a donation in January, years 1-10 are handled through our enterprise zone program, so that tax rebate is always handled through our program, then the donation agreement for year 11-12 in which the donor make a cash donation to the city of \$50,000 each of those years. The remaining years 13 through the termination of the agreement, the donation to the city would be equal to one hundred percent of the tax paid and then the rebate made to buy the EDA back to the developer. In layman's terms - the developer makes a cash donation according to the agreement paid by the donor to the city no later than January 1 of each tax year which is the rebate agreement, when the rebate agreement is still in effect. So, January 1, a donation is made, then taxes are paid, so then in June half taxes are paid to the city, in December the second half of taxes are paid to the city and then the EDA would refund or rebate the taxes paid back to the developer per the donor agreement. A tax lien would be placed on the property for any unpaid taxes by the donor, should that happen.

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Motion made by Councilor Denton to extend the meeting until 10:30, seconded by Mayor Bennett.

ROLL CALL:

Vice Mayor Partin	-	yes
Councilor Gore	-	yes
Councilor Denton	-	yes
Councilor Pelham	-	no
Mayor Bennett	-	yes
Councilor Randolph	-	yes
Councilor Holloway	-	yes

Motion made to make a Substitute Motion by Vice Mayor Partin to charge the City Attorney to issue a notice of Breach of Contract

ROLL CALL:

Vice Mayor Partin	-	yes
Councilor Gore	-	yes
Councilor Denton	-	no
Councilor Pelham	-	yes
Mayor Bennett	-	yes
Councilor Randolph	-	no
Councilor Holloway	-	yes

Motion made by Vice Mayor Partin and seconded by Councilor Pelham that since there was a start date of 2/28/2020 and we are officially 13 months in with no construction started to move that we authorize the City Attorney to issue a notice of a breach of contract.

ROLL CALL:

Vice Mayor Partin	-	yes
Councilor Gore	-	yes
Councilor Denton	-	no
Councilor Pelham	-	yes
Mayor Bennett	-	yes
Councilor Randolph	-	no
Councilor Holloway	-	yes

Discussion – The development agreement did not indicate what construction meant or the definition thereof, construction does not mean building out of the ground, it entails topography and architectural renderings as well as other aspects of preparation. There are many facets to construction, not just breaking ground. If a breach is issued, the developed has 30 days to solve the problem and then it is up to city to decide if it has been resolved to our satisfaction. The city then as the option to initiate the reversion clause. Madame Attorney please share what the reversion clause is: Under the agreement, if there is a right to reversion the city can demand its property back. It does not get the property back for free, it has to purchase the property and the options for the price are two under the agreement, you can either repurchase the property in the amount equal to the higher of the purchase price or the assessed value of the land plus the actual cost of

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improvements made to the portion of the property and actually paid by the developer at the time of the reversion and provided that those costs for improvements were within a budget that had been approved by the city in writing. So purchase price was 391,000 and assessed value now is 849,200 with both parcels. We can buy back at purchase price or assessed value, based on which one is highest. If we agree the developer does not meet our satisfaction if we breach, then the reversion clause will kick in. May possibly have to have a conversation about buying back the property.

Asst. City Manager noted that they had actually started construction a week or two before the construction date, by removing brush and other factors. Says there has been no breach and they can actually break ground if this passes tonight.

If we go the route of the breach the developer has 30 days to cure the breach and from the motion it would be for not starting initial construction and based on what was described that interpretation is breaking ground. Question to staff, what would be a cure. Asst. City Manager noted that the Bowman firm would be on site within days setting up silt fencing, construction fencing for the building coming out of the ground and probably start moving dirt, start scraping, it would be cured easily in 30 days as long as the agreement is approved tonight for the construction, if they don't get the financing piece tonight then they have to rotate to something that is not high end and could be a hud-funded project.

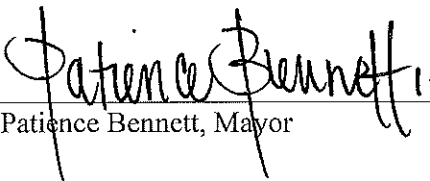
ADJOURN

Motion was made by Councilor Randolph, seconded by Mayor Bennett to adjourn the meeting.

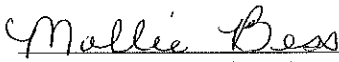
ROLL CALL:

Vice Mayor Partin	-	yes
Councilor Gore	-	no
Councilor Denton	-	yes
Councilor Pelham	-	no
Mayor Bennett	-	no
Councilor Randolph	-	yes
Councilor Holloway	-	yes

: Meeting adjourned at 10:20pm



Patience Bennett, Mayor



Mollie Bess, Interim City Clerk

