



CITY COUNCIL AGENDA

6:00 – 7:00 p.m.

Closed session as provided by Section 2.2-3712 of the Virginia Code
(Second Floor Conference Room)

TYPE OF ITEM

SUBJECT

CALL TO ORDER
PLEDGE OF ALLEGIANCE
ROLL CALL

AWARDS/RECOGNITIONS Recognizing Former School Board Members

MATTERS BY THE PUBLIC Public comment will be permitted until 7:35 p.m. (limit of 3 minutes per speaker) and at the end of the meeting on any item, including items on the agenda, provided that a public hearing is not planned or has not previously been held on the matter. Persons are asked to sign up in advance of the start of the meeting.

1. **CONSENT AGENDA*** (Items removed from the consent agenda will be considered at the end of the regular agenda)
 - a. Approving minutes of July 22 and August 1
 - b. **APPROPRIATION:** \$2,074,605.90 - FY 2006 Transit Grants (Federal and State) (2nd of 2 readings)
 - c. **APPROPRIATION:** \$143,772 – Victim Witness Grant (1st of 2 readings)
 - d. **APPROPRIATION:** \$175,000 – Weed and Seed Program Grant (1st of 2 readings)
 - e. **APPROPRIATION:** \$76,746 – Byrne Memorial Justice Assistance Grant (1st of 2 readings)
 - f. **APPROPRIATION:** \$200,000 – School Construction Grant (1st of 2 readings)
 - f. **ORDINANCE:** Quitclaim Gas Easements to VDOT (Mosby Mountain) (1st of 2 readings)
2. **PUBLIC HEARING RESOLUTION*** Renewing Lease for 614 E. High Street (1st of 1 reading)
3. **REPORT** Airport Master Plan
4. **REPORT** Jefferson School – Historic Designation Application/Update
5. **REPORT** Status of Development in the City
6. **RESOLUTION*** Design Guidelines in Historic Districts (1st of 1 reading)
7. **RESOLUTION*** Authorizing Purchase of Property at 2210 North Berkshire Road from Countrywide Mortgage(1st of 1 reading)
8. **ORDINANCE*** Retirement Ordinance Amendments (1st of 2 readings)

MATTERS BY THE PUBLIC
COUNCIL REPORTS
OTHER BUSINESS
ADJOURNMENT

Tuesday
September 6, 2005
7:00 p.m.

*ACTION NEEDED (appropriations require 2 readings; ordinances require 2 readings; resolutions require 1 reading)
Reasonable accommodations will be provided for persons with disabilities if requested.

**CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA**



Agenda Date:	August 1, 2005
Action Required:	Appropriate Funds
Staff Contact:	Bill Watterson, Transit Manager Judith Mueller, Public Works
Reviewed By:	Gary O'Connell, City Manager
Title:	FY 2006 Transit Grants

Background: On March 7, 2005, City Council approved a resolution authorizing Transit to submit an application for State Aid to Public Transportation. Transit has been awarded Federal and State grants for Marketing, Operating, and Capital projects. Grant funds may only be used for the purpose for which the funds were awarded.

Discussion: There are three pots of funding that City Council is being asked to approve and appropriate; discussed in detail below:

- **CTS Marketing Grant** - \$60,000 – CTS was awarded a demonstration grant, Easy Rider, in FY 2004 to promote CTS services. Neither the \$48,000 grant nor the required local match of \$12,000 has been appropriated.
- **Grant Funds for Operation Expenses** - \$567,468.63 – These are Federal and State funds to be used for Transit Operating expenses. These were not appropriated within the FY 2006 budget and therefore an appropriation is needed. Of the total amount to be appropriated, \$166,161 is additional operating assistance. When the FY 2006 Transit budget was developed and adopted, it was projected that \$1,732,162 would be received in Federal and State operating assistance. Transit has been awarded \$166,161 more than was budgeted and therefore an appropriation is needed. This appropriation provides for the local match for all Marketing (\$12,000), Operating (\$13,060), and Capital (\$135,578.35) projects for which grants have been awarded.
- **Grant Funds for Capital Expenses** - \$1,447,137.27 – These are Federal and State funds to be used for capital expenditures for Transit. Neither the \$1,311,558.92 in grants nor the required local match of \$135,578.35 has been appropriated.

Summary of Projects

Project	Completion	Capital	Operating	Marketing	Local	Federal	State
Easy Rider	June 30, 2007			X	12,000.00		48,000.00
Extra Aid	June 30, 2006	X	X	X		57,861.00	108,300.00
Interns (2)	December 31, 2006		X				41,517.00
BRT Study	June 30, 2007		X			200,025.76	25,003.22
AVL	June 30, 2006		X		13,060.00	189,200.00	34,240.00
UVA Access	June 30, 2008		X				58,900.00
Trolley	June 30, 2007	X			41,058.96	265,550.40	25,328.64
Vans (3)	June 30, 2007	X			12,723.76	139,395.20	22,125.04
Vans (2)	June 30, 2006	X			6,283.00	125,660.00	25,132.00
Staff Cars (5)	June 30, 2006	X			15,061.48	102,935.20	10,672.32
Emitters	June 30, 2007	X			1,087.80	7,060.00	677.20
Cameras	June 30, 2006	X			24,960.00	166,400.00	16,640.00
Maint. Shop	June 30, 2008	X			27,188.77	203,568.33	23,703.31
Parts	June 30, 2008	X			1,614.58	12,916.68	1,614.59
Bike Racks	June 30, 2006	X			160.00	3,200.00	640.00
Bike Lockers	June 30, 2006	X			800.00	16,000.00	3,200.00
Shelters	June 30, 2006	X			3,508.00	70,160.00	14,032.00
Radios	June 30, 2006	X			1,132.00	22,640.01	4,528.00
Timeclocks	June 30, 2008	X				24,000.00	3,780.00
TOTALS		1,447,137.27	567,468.63	60,000.00	160,638.35	1,606,572.58	468,033.32

Budget Impact: There is no impact on the General Fund as these grants funds are part of the Transit Fund.

Alternatives: City Council may choose not to appropriate funds for these Transit Division projects. Without an appropriation these projects will not be implemented and staff will work with the Federal Transit Administration and the Virginia Department of Rail and Public Transportation to de-obligate the grants.

Recommendation: Appropriate grant funds.

APPROPRIATION
Transit Grants
\$2,074,605.90

WHEREAS, Federal and State Grant Funds have been awarded to the City of Charlottesville Transit Division in the amount of \$2,074,605.90; and

WHEREAS, the CTS Easy Rider Project in the amount of \$60,000 shall not expire at the end of FY 2006, but shall continue until the grant expires on June 30, 2007; and

WHEREAS, grant funds appropriated for Capital and Operating projects shall not all expire at the end of FY 2006, but shall continue in effect as herein listed.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Charlottesville, Virginia that the following is hereby appropriated into designated accounts within the Transit Fund:

- \$ 567,468.63 into expenditure account 245-2801001000
- \$ 60,000.00 into expenditure account 245-2803001000
- \$1,447,137.27 into expenditure account 245-2804001000

**CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA**



Agenda Date:	September 6, 2005
Action Required:	Yes
Staff Contacts:	Cherri Murphy, Victim-Witness Coordinator
Reviewed By:	Gary O'Connell, City Manager
Title:	Victim & Witness Assistance Program

Background: In response to the victims being re-victimized back in the early 1980's, citizens began to complain that the criminal justice system was overlooking their rights in an effort to preserve the rights of the accused. For example, victims were not advised of the status of their court cases. When cases were continued to a later date, victims were not informed and would waste an entire afternoon or morning in court for their case(s) to be called. Victims also had difficulty understanding the legal jargon in court. On a typical day, when a prosecuting attorney must handle 20-30 cases, there was just not enough time to explain the disposition of cases. Resources available for protection of offenders and medical assistance were not easily accessible to crime victims. From experiences like these, the government began to examine the citizen's claims and as a result, state and federal funds were made available to establish the Charlottesville Victim & Witness Assistance Program in 1989.

Alternatives: None.

Budgetary Impact: Grants for the Victim & Witness Assistance Program are renewed annually; the amount of this year's award is \$143,772. City funds have been used to supplement salaries and computer costs in the past.

Recommendation: Approve Appropriation

Attachments: Appropriation

APPROPRIATION

Charlottesville Victim & Witness Assistance Program

\$143,772

BE IT RESOLVED by the Council of the City of Charlottesville, Virginia that the sum of \$143,772.00, to be received as a grant from the Virginia Department of Criminal Justice Services, is hereby appropriated to Fund 209, Cost Center 1414001000 for the purpose of funding the Victim & Witness Assistance Program in the Office of the Commonwealth's Attorney during fiscal year 2005-2006. This appropriation is conditioned upon receipt of \$143,772 in state and federal funding.

CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



Agenda Date:	September 6, 2005
Action Required:	Appropriation
Staff Contacts:	Ayana Conway, Director, Weed and Seed Network Leslie Beauregard, Budget Manager
Reviewed By:	Gary O'Connell, City Manager
Title:	Charlottesville Weed and Seed Network

Background: Through federal, state, and local multi-agency collaborations, the Weed and Seed Network strategy for neighborhood revitalization combines prevention, intervention, treatment, community policing, and law enforcement resources to reduce drugs, violence and related crime through increased personal and social responsibility, mentoring-based youth and family-centered solutions, and enhanced education, technology and career development.

Operation Weed and Seed, a federal grant strategy initiated in 1991, is sponsored by the Department of Justice, and locally by the U.S. Attorney's office. Charlottesville Weed and Seed Network, established in November 1998, is governed by a Steering Committee chaired by the U.S. Attorney for the western district of Virginia. Representatives from the DEA, ATF and other federal agencies, Charlottesville School Division and Department of Social Services, the military, law enforcement, faith-based, and other Weed and Seed communities serve on the Steering Committee.

The Weed and Seed Network has been awarded \$175,000 from the Department of Justice Programs via the Community Capacity Development Office (formerly the Executive Office for Weed and Seed). The funding period is May 1, 2005 through April 30, 2006.

Alternatives: If not appropriated, the Police Department will not have the additional funds to provide foot patrols and other community policing initiatives in our most challenged neighborhoods. In addition, prevention programs including the Weed and Seed Academy, Girl Power at Buford Middle School and Students on A Mission at Charlottesville High School will not be provided.

Budgetary Impact: This appropriation will allow the Weed and Seed Network to implement the Weed and Seed strategy, as outlined in its 2003 – 2008 strategic plan.

Recommendation: Staff recommends approval.

Attachments: Appropriation.

APPROPRIATION

Weed and Seed Network

\$175,000

WHEREAS, the City of Charlottesville Weed and Seed Network has been awarded \$175,000 from the Department of Justice Programs via the Community Capacity Development Office (formerly the Executive Office for Weed and Seed) for the funding period May 1, 2005 through April 30, 2006; and

WHEREAS, In accordance with guidelines established by the U.S. Department of Justice and the Community Capacity Development Office, decisions regarding how the \$175,000 will be spent are made by the Weed and Seed Network Steering Committee, chaired by the U.S. Attorney for the Western District of Virginia;

NOW THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville, Virginia, that \$175,000 received from the U.S. Department of Justice is hereby appropriated to fund 211, IO# 1900001 to implement the Weed and Seed strategy for community improvements focused on law enforcement and community policing, plus prevention, intervention and treatment services.

**CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA**



Agenda Date:	September 6, 2005
Action Required:	Appropriation
Staff Contacts:	Tim Longo, Chief of Police David Shifflett, Police Leslie Beauregard, Budget Manager
Reviewed By:	Gary O'Connell, City Manager
Title:	2005 Byrne Memorial Justice Assistance Grant (JAG)

Background: The U.S. Department of Justice has awarded the City of Charlottesville a 2005 Byrne Memorial Justice Assistance Grant (JAG) in the amount of \$76,746, with no local match required.

Discussion: The 2005 Byrne Memorial Justice Assistance Grant Program replaces the once yearly received Local Law Enforcement Block Grant Program (LLEBG). Similar to past Local Law Enforcement Block Grant funding, the Justice Assistance Grant funds the procurement of approved law enforcement equipment.

Alternatives: The alternative is to not approve this project.

Budgetary Impact: There is no (\$0) impact on the General Fund. This is a 100% federal grant with no local match required.

Recommendation: Appropriate grant funds.

APPROPRIATION

**U.S. Department of Justice 2005 Byrne Memorial Justice Assistance Grant (JAG)
\$76,746**

WHEREAS, the City of Charlottesville has received the U.S. Department of Justice 2005 Byrne Memorial Justice Assistance Grant (JAG) in the amount of \$76,746 to be used for the purchase of approved law enforcement equipment.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Charlottesville, Virginia, that the sum of \$76,746 received as a grant from the U. S. Department of Justice is hereby appropriated to Fund 209 Internal Order # 1900042 in the Grants Fund. This appropriation is conditioned upon receipt of \$76,746 from the U.S. Department of Justice.

CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



Agenda Date:	September 6, 2005
Action Required:	Appropriation of Funds
Staff Contacts:	Scott Hendrix, Contract Manager Barbara Taylor, Administrative Assistant Leslie Beauregard, Budget Manager
Reviewed By:	Gary O'Connell, City Manager
Title:	FY 2006 School Construction Grant Funds - \$200,000

Background: The City of Charlottesville has received funds from Commonwealth of Virginia School Construction Grant for FY 2006.

Discussion: This check, in the amount of \$200,000.00, is the total amount of the grant. It will be appropriated to the School Facilities Projects (Small Capital) account. (SAP Fund 424, Cost Center 2401001000, WBS P-00034).

Alternatives: None. The funds have been received by the Schools and must be appropriated so that they can be expended for construction projects.

Budgetary Impact: The total appropriation is \$200,000.00. This appropriation has no (\$0) impact on the City's General Fund.

Recommendation Staff recommends approval and appropriation of funds.

Attachments: Appropriation

APPROPRIATION
FY 2006 School Construction Grant Funds
\$200,000

WHEREAS, to ensure the maintenance of school facilities and provide an environment for students that is conducive for learning;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Charlottesville, Virginia, that \$200,000 is hereby appropriated into the School Facilities Capital Improvement Fund (424, WBS Element P-000034) for use by the Facilities Management Division of the Public Works Department for Charlottesville City Schools capital projects.

**CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA**

Agenda Date:	September 6, 2005
Action Required:	Yes
Staff Contacts:	Craig Brown, City Attorney
Reviewed By:	Gary O'Connell, City Manager
Title:	Quitclaim Gas Easements to VDOT (Mosby Mountain)

Background: In October of 2004 the City acquired 15' wide gas line easements in several roadways in the Mosby Mountain Subdivision in Albemarle County. The Virginia Department of Transportation is now prepared to accept those roadways into the state highway system. At the request of the Gas Division, we have drafted an ordinance and deed quitclaiming to VDOT the easement within the roadways known as: Singleton Lane, Mattox Court, Hubbard Court, a portion of Ambrose Commons Drive, and Hatcher Court in the Mosby Mountain Subdivision.

Discussion: The quitclaim deed requires the gas lines to remain in their present locations, and if the streets cease to be part of the state's highway system, the easement will automatically revert back to the City. The natural gas lines and facilities continue to be owned and maintained by the City even after the easement is quitclaimed to the state.

Alternatives: If the ordinance is not approved, VDOT will not accept the roadways into its road maintenance system.

Budgetary Impact: None.

Recommendation: Approval of the attached ordinance and quitclaim deed.

Attachments: Ordinance and Deed of Quitclaim (with plat attached).

cc: Phil Garber, Gas Division

**AN ORDINANCE
TO QUITCLAIM NATURAL GAS LINES
LOCATED IN CERTAIN ROADWAYS
IN MOSBY MOUNTAIN SUBDIVISION IN ALBEMARLE COUNTY
TO THE VIRGINIA DEPARTMENT OF TRANSPORTATION**

WHEREAS, the Virginia Department of Transportation (VDOT) is prepared to take over maintenance of the roadways known as Singleton Lane, Mattox Court, Hubbard Court, Hatcher Court and a portion of Ambrose Commons Drive in the Mosby Mountain Subdivision in Albemarle County; and

WHEREAS, the City owns natural gas lines located within these roadways, and also owns an easement for such lines, and VDOT has asked that the foregoing easement be released upon VDOT's acceptance of the roadways; and

BE IT ORDAINED by the Council of the City of Charlottesville, Virginia that the Mayor is hereby authorized to execute a deed of quitclaim, substantially the same in form as the deed attached hereto, approved by the City Attorney, for release of the above-described gas line easement to the Virginia Department of Transportation conditioned upon receipt by the City of a VDOT permit allowing said lines to continue to be located in said rights-of-way.

**CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA**



Agenda Date:	September 6, 2005
Action Required:	Approval or denial of updated Architectural Design Control (ADC) Districts Design Guidelines
Staff Contacts:	Mary Joy Scala, Preservation and Design Planner
Reviewed By:	Gary O’Connell, City Manager
Title:	Architectural Design Control (ADC) Districts Design Guidelines

Background:

The City contracted with Frazier Associates in Staunton, Virginia, to produce updated Design Guidelines for the City’s ADC Districts. The current guidelines were created in 1995. The new guidelines contain many of the original guidelines, but are now more user-friendly, are available online, and contain updates such as references to newer building materials. On May 17, 2005, the Board of Architectural Review unanimously recommended approval of the guidelines. The ADC Districts Design Guidelines are now before City Council for adoption.

Section 34-288 (6) of the zoning ordinance states,

The function of the board of architectural review (“BAR”) shall be to administer the provisions of this division. In carrying out this responsibility the BAR shall:

-
- (6) *Develop and recommend to the city council for its approval design guidelines for the city’s architectural design control districts (“Design Guidelines”), consistent with the purposes and standards set forth within this division. The BAR shall develop the Design Guidelines in consultation with the city’s Urban Design Committee and after seeking input from business and property owners in the various districts. Guidelines developed by the board shall become effective upon approval by city council and thereafter shall have the status of interpretive regulations. The BAR shall undertake a comprehensive review and update the Design Guidelines at least once every five (5) years.*

Discussion:

The BAR held several work sessions on the proposed new ADC Districts Design Guidelines between January 2004 and May 2005. The final draft of the Guidelines has been posted on the City's website for several months. No public comments have been received.

The document contains seven chapters, including an introduction and six chapters of actual guidelines:

- 1 Introduction
This chapter explains the design review process. It includes maps of each ADC district that show all the contributing and non-contributing properties, and sub-areas. The Introduction also contains a list of Individually Protected Properties. For the applicant's information, there are also photos and descriptions of common architectural styles in Charlottesville. As new ADC districts are added, this chapter will be updated.
- 2 Site Design and Elements
- 3 New Construction and Additions
- 4 Rehabilitation
- 5 Signs, Awnings, Vending and Cafes
- 6 Public Improvements
- 7 Demolition and Moving

NOTE: During discussions regarding the proposed Rugby Road-University Circle-Venable Neighborhood ADC District, the question arose whether the proposed ADC district in combination with the underlying zoning set up a situation where the ADC Guidelines would *never* permit the larger R-UHD and R-UMD buildings to be constructed in proximity to the mostly two-story historic buildings remaining in the district. As a result, the Board of Architectural Review will be considering changes to these guidelines at its meeting on August 16, 2005. All the changes occur in Chapter 3, New Construction and Additions, and provide for the consideration of larger, multi-lot buildings next to smaller historic buildings, especially in an area such as 14th and 15th Streets or West Main Street.

Budgetary Impact:

None

Recommendation:

Staff recommends that the City Council adopt the Architectural Design Control (ADC) Districts Design Guidelines as recommended by the BAR at its meeting on May 17, 2005, and as amended at its meeting on August 16, 2005.

Attachments: ADC District Design Guidelines (black and white copy)

Memo

To: Gary O'Connell, City Manager

From: Galloway Beck, Human Resources Director

Date: August 18, 2005

Re: Retirement Commission Recommendations for Employee Retirement Benefits Enhancements.

City Attorney Craig Brown has prepared three (3) amendments to the City's retirement ordinance. The amendments were prepared in response to recommendations approved by the City's Retirement Commission at its June and July meetings. The amendments provide retirement benefits enhancements; two (2) are specific to public safety employees and one (1) specific to general employees. The Commission's request is to have the amendments scheduled for Council consideration and approval at a future meeting. The requested effective date of the amendments is July 1, 2005. A summary of the changes follows:

1. Allow non-public safety employees to use accrued sick leave for the purpose of determining retirement eligibility and benefits. The current ordinance provides that creditable service for all employees includes one-half of their unused sick leaves, up to 2,000 hours, for the purpose of determining the retirement allowance (but not for determining eligibility to retire).
2. Create a new disability retirement benefit for public safety employees, i.e., members of the Police Department, Fire Department and Sheriff's Office. A qualifying disability is any work-related injury or medical condition that prevents an employee from meeting the essential performance standard of his or her usual duties on a full time basis. The amount of the benefit is based on the employee's regular salary, without career development or overtime compensation. This provision would apply to public safety employees who become disabled after July 1, 2005.

3. Public safety employees are required to retire at age 60, before they are eligible to receive unreduced Social Security benefits. To “bridge the gap” between the mandatory retirement age and Social Security, the City provides public safety employees with a retirement supplement. Since the Social Security retirement age is being increased beyond 65, this amendment allows the supplement to continue until the employee reaches the age for eligibility for unreduced Social Security benefits, as in effect on July 1, 2005. Employees born in 1937 or earlier still qualify for Social Security at age 65; 66 is the retirement age for those born between 1943 and 1954, and employees born in 1960 and later must work until 67 to get unreduced Social Security benefits.

A copy of each of the proposed amendments prepared by Mr. Brown is attached. The proposed changes are underlined and accompanied by an explanation of the change. Please let me know if you have questions or require additional information.

**AN ORDINANCE
AMENDING AND REORDAINING SECTIONS 19-96 AND 19-97
OF ARTICLE IV OF CHAPTER 19 (PERSONNEL) OF THE
CODE OF THE CITY OF CHARLOTTESVILLE, 1990, AS AMENDED,
TO UPDATE REFERENCES TO THE RETIREMENT AGE FOR PURPOSES
OF QUALIFYING FOR UNREDUCED SOCIAL SECURITY BENEFITS**

BE IT ORDAINED by the Council for the City of Charlottesville, Virginia that Sections 19-96 and 19-97 of Chapter 19 of the Code of the City of Charlottesville, 1990, as amended, are hereby amended and reordained as follows:

ARTICLE IV. SUPPLEMENTAL RETIREMENT OR PENSION PLAN

Sec. 19-96. Same – Allowance.

(a)

(b)

(c) In addition to the retirement allowance to which a member is entitled under the provisions of subsections (a) and (b) of this section, a retired member who at the date of his retirement was in service as the director of public safety, a police officer, firefighter, sheriff or sheriff's deputy and who has completed twenty (20) years or more of creditable service shall receive an additional annual allowance, payable monthly, during the period after the member's date of retirement and until his attainment of age sixty five (65) full retirement age, as in effect on July 1, 2005, for purposes of qualifying for unreduced Social Security benefits, equal to one (1) percent of average final compensation multiplied by the number of years of his creditable service. In no event shall the director of public safety, a police officer, firefighter, sheriff or sheriff's deputy receive both the supplement under this section and Social Security benefits.

Sec. 19-97. Calculation of social security benefit.

In determining the amounts of benefits due members under the plan, the commission or its designee shall calculate the primary social security benefit of each member according to the rules set forth in this section.

- (1) For members retiring before their normal retirement dates, such calculation shall be made at the actual retirement date with respect to the primary social security benefit expected to commence upon the member's attainment of the age of sixty five (65) full retirement age, as in effect on July 1, 2005, for purposes of qualifying for unreduced Social Security benefits.

(2) For members retiring at or after their normal retirement dates, such calculation shall be made at the normal retirement date with respect to the primary social security benefit to commence or to have commenced upon the member's attainment of ~~age sixty-five (65)~~ full retirement age, as in effect on July 1, 2005, for purposes of qualifying for unreduced Social Security benefits.

(3) . . .

(4) . . .

[Explanation: Public safety employees are required to retire at age 60, before they are eligible to receive unreduced Social Security benefits. To "bridge the gap" between the mandatory retirement age and Social Security, the City provides public safety employees with a retirement supplement. Since the Social Security retirement age is being increased beyond 65, this amendment allows the supplement to continue until the employee reaches the age for eligibility for unreduced Social Security benefits, as in effect on July 1, 2005. Employees born in 1937 or earlier still qualify for Social Security at age 65; 66 is the retirement age for those born between 1943 and 1954, and employees born in 1960 and later must work until 67 to get unreduced Social Security benefits.]

**AN ORDINANCE
AMENDING AND REORDAINING SECTION 19-107 OF ARTICLE IV
OF CHAPTER 19 (PERSONNEL) OF THE CODE OF THE CITY OF
CHARLOTTESVILLE, 1990, AS AMENDED, AND ADDING A NEW
ARTICLE VI TO CHAPTER 19, SECTIONS 19-150 TO 19-158,
ALL PERTAINING TO A
PUBLIC SAFETY DISABILITY RETIREMENT BENEFIT**

BE IT ORDAINED by the Council for the City of Charlottesville, Virginia that Section 19-107 of Chapter 19 of the Code of the City of Charlottesville, 1990, as amended, is hereby amended and reordained, and that said Code is further amended by adding a new Article VI to Chapter 19, Sections 19-150 to 19-158, all of which shall read as follows:

ARTICLE IV. SUPPLEMENTAL RETIREMENT OR PENSION PLAN

Sec. 19-107. Post retirement supplements.

(a) In addition to the monthly allowances payable under sections 19-96, 19-101, 19-104, ~~and 19-105,~~ and 19-152 post retirement supplements shall be payable in accordance with the provisions of this section to the recipients of such allowances. Such supplements shall be subject to the same conditions of payment as are such allowances.

(b) . . .

(c) . . .

[Explanation: This amendment allows those employees receiving a public safety disability retirement, as provided in Article VI below, to receive the annual cost of living adjustment, as approved each year by City Council.]

ARTICLE VI. PUBLIC SAFETY DISABILITY RETIREMENT

[Note: Since this entire Article is new, underlining and strikethroughs are not used]

Sec. 19-150. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Disability means a physical or mental illness or injury that incapacitates an employee from performing one or more of the usual and customary duties of the employee's own job on a full-time basis, where such incapacity is likely to be permanent.

Primary Social security benefit means the primary insurance amount to which the employee is entitled, for age or disability, pursuant to the provisions of the federal Social Security Act as in effect at the employee's date of retirement.

Public safety employee means any police officer, firefighter, Sheriff or Deputy Sheriff.

Salary means an employee's approved base pay at the time the employee becomes disabled, without career development pay, overtime compensation, or any other additional amount above the amount of base pay.

Work related disability means any disability, as defined herein, incurred by a public safety employee for which benefits are payable under the Virginia Workers' Compensation Act, where the City is the employer.

[Explanation: This Article establishes a new benefit – a retirement allowance unique to members of the Police Department, Fire Department and Sheriff's Office. A qualifying disability is any work-related injury or medical condition that prevents an employee from performing at least one of his or her usual duties on a full time basis. The amount of the benefit is based on the employee's regular salary, without career development or overtime compensation.]

Sec. 19-151. Disability retirement.

(a) Any public safety employee in service may retire, or may be retired by his appointing authority, at any time prior to the employee's normal retirement date on account of a work related disability upon written notification to the commission made by the member or by the

appointing authority setting forth at which date the retirement is to become effective. The effective date of retirement shall be after the employee's last day of performing his usual and customary duties on a full time basis but shall not be more than ninety (90) days prior to the filing of the notice of retirement. The commission may waive the ninety (90) requirement upon a showing of good cause.

(b) A candidate for disability retirement pursuant to this Article shall be considered disabled if:

- (1) As a result of an examination of the candidate by the medical examiners and / or by means of other satisfactory evidence the commission finds that the candidate meets the definition of disability set forth in this Article, and that the employee's incapacitating injury or illness is compensable under the provisions of the Virginia Workers' Compensation Act; or,
- (2) The commission has satisfactory evidence that the candidate is eligible for and is, or soon will be, receiving total and permanent disability benefits under the provisions of the federal Social Security Act as the result of a work related disability.

[Explanation: This procedure is adopted from the existing ordinance that governs retirements for total and permanent disability.]

Sec. 19-152. Disability retirement allowance.

(a) Upon retirement for a work related disability, a public safety employee shall receive an annual retirement allowance during his lifetime and continued disability, until ending as provided in Section 19-156 (b). The amount of the disability retirement allowance shall be equal to the following:

- (1) 66 2/3 percent of the employee's final salary if the employee does not qualify for primary social security benefits under the provisions of the Social Security Act in effect on the date of his retirement;
- (2) 50 percent of the employee's final salary if the employee qualifies for primary social security benefits under the provisions of the Social Security Act in effect on the date of his retirement; or,
- (3) 1.70 percent of his final salary multiplied by the smaller of (a) twice the amount of his creditable service or (b) the amount of creditable service he would have

completed at age sixty (60) if he had remained in service to that age. If the employee has already attained age sixty (60), the amount of creditable service at his date of retirement shall be used. This subsection (3) shall only be used if it results in a greater allowance than either subsection (1) or (2), as applicable.

(b) The annual disability retirement allowance shall also include any post retirement cost of living supplement provided for all City retirees pursuant to section 19-107.

[Explanation: The amount of the disability retirement allowance is derived from Virginia Code section 51.1-157 – the disability retirement statute for local law enforcement officers under the Virginia Retirement System (“VRS”). Note that subsection (3) uses a multiplier of 1.7, which is the VRS standard, rather than 1.6 that is currently used by the City.]

Sec. 19-153. Annual review of disability recipient; cessation of allowance.

Any award of a disability retirement allowance pursuant to the provisions of this Article shall be subject to the review and cessation provisions of section 19-103 (a), (b) and (e).

[Explanation: This section allows the Retirement Commission to require the recipient of a disability retirement allowance to undergo an annual medical examination, to verify that the employee still meets the ordinance’s definition of “disabled”.]

Sec. 19-154. Reduction of allowance for workers’ compensation benefits.

(a) Any disability retirement allowance payable pursuant to the provisions of this Article shall be reduced by the amount of any payments under the provisions of the Virginia Workers’ Compensation Act in effect on the date of retirement of the employee, and the excess of the allowance shall be paid to the employee. When the time for compensation payments under the Act has elapsed, the employee shall receive the full amount of the allowance payable during his lifetime and continued disability, until eligible to retire under age and service requirements.

(b) If the employee’s workers’ compensation payments are adjusted or terminated for refusal to work or to comply with the requirements of Virginia Code section 65.2-603, the disability retirement allowance shall be computed as if the employee was receiving the compensation to which he would otherwise be entitled.

(c) The disability retirement allowance of any employee who elects to receive a lump-sum settlement in lieu of periodic payments under the Virginia Workers' Compensation Act shall be adjusted by an amount determined by dividing the workers' compensation benefit which such employee would have received had the lump-sum settlement not been consummated, into the settlement actually accepted by the employee.

[Explanation: This section is derived from Virginia Code sections 51.1-157 and 51.1-158, and is designed to prevent a “double recovery” through receipt of both workers' compensation and disability retirement payments.]

Sec. 19-155. Reduction of allowance where income earned during disability retirement.

(a) If any person receives a disability retirement allowance under this Article and subsequently becomes employed, whether full time or part time, the allowance received shall be reduced by the amount of income received which exceeds the difference between the benefits received under this Article and the amount of pay to which the employee would have been entitled had the member's employment progressed in the same rank and grade with credit for the level of seniority the employee would have attained had the employee not been disabled. For purposes of this section, increases in the amount of pay to which the employee would have been entitled will be equal to the general wage, cost of living, or average pay for performance increase for personnel in the employee's former department. The reduction shall continue until the disability retirement allowance ends pursuant to section 19-156 (b).

(b) Any person receiving a disability retirement allowance under the provisions of this Article shall, upon request, on or before May 1 of each year, provide a copy of all W-2 forms showing income received, or a statement under oath as to whether the employee has received compensation for work performed in the previous calendar year, to the commission. Refusal to provide such documents shall be grounds for termination of the allowance under this Article until such documents are produced. Production of the documents may be required until the person would have been eligible for normal retirement had the person remained uninjured.

[Explanation: This provision is taken from Virginia Code section 51.1-816, which is part of an optional disability retirement plan for local police departments. In essence, a disability retirement allowance is reduced if the allowance and any income from other employment exceed the amount that the employee would have been making had he or she remained employed with the City.]

Sec. 19-156. Age and service retirement.

(a) Any person receiving a disability retirement allowance pursuant to this Article shall continue to accrue creditable service for purposes of determining eligibility for retirement and, if applicable, the amount of any retirement benefit, regardless of whether the employee continues in active service with the City.

(b) The disability retirement allowance provided pursuant to this Article shall end at such time as the employee reaches his normal retirement date as defined in section 19-91, or, at the option of the employee, at such time as the employee has completed five (5) or more years of creditable service and is at least fifty-five (55) years of age, or has completed twenty-five (25) years of creditable service and is at least fifty (50) years of age.

(c) At such time as the disability retirement allowance ends pursuant to subsection (b), the employee shall be entitled to receive the same pension and benefits to which he would have been entitled had he not been injured, and remained a regular full time employee of the City; provided, however, that the employee will be entitled to the additional annual allowance under section 19-96 (c) only if he has completed twenty (20) years or more of creditable service, including creditable service accruing pursuant to subsection (a) for time not actually worked for the City.

[Explanation: Pursuant to paragraph (a), an employee receiving a disability retirement allowance will continue to accrue creditable years of service even if he or she is no longer working for the City. The employee's options for age and service retirement are preserved in paragraph (b). Paragraph (c) preserves the rule that a public safety employee must have 20 years of creditable service to qualify for the public safety supplement. An employee that is unable to work continues to accrue creditable service that counts toward the 20 year requirement.]

Sec. 19-157. Selection of benefits.

(a) Any public safety employee eligible to receive benefits under this Article shall be ineligible to receive long term disability benefits pursuant to section 19-102.1.

(b) Any public safety employee who incurs a work related disability may elect to apply for total and permanent disability retirement pursuant to section 19-100 or partial disability benefits pursuant to section 19-102, in lieu of the allowance provided by this Article. The receipt of benefits under 19-100 or 19-102 shall permanently disqualify the employee from receiving a disability retirement allowance under this Article for the same injury or illness.

Sec. 19-158. Alteration, amendment or repeal; effective date.

(a) The provisions of section 19-111 regarding the alteration, amendment or repeal by City Council of any provision of Article IV shall also apply to this Article, as if fully set out herein.

(b) The provisions of this Article shall apply to any work related disability incurred on or after July 1, 2005.

[Explanation: There was a difference of opinion on the Retirement Commission regarding paragraph (b). The minority position was that the disability retirement benefit should apply to any person employed as of July 1, 2005, regardless of when the disability occurred.]

**AN ORDINANCE
AMENDING AND REORDAINING SECTION 19-91 OF ARTICLE IV
OF CHAPTER 19 (PERSONNEL) OF THE CODE OF THE CITY OF
CHARLOTTESVILLE, 1990, AS AMENDED, TO INCLUDE UNUSED
SICK LEAVE IN THE CALCULATION OF CREDITABLE SERVICE
FOR PURPOSES OF RETIREMENT,
FOR NON-PUBLIC SAFETY EMPLOYEES**

BE IT ORDAINED by the Council for the City of Charlottesville, Virginia that Section 19-91 of Chapter 19 of the Code of the City of Charlottesville, 1990, as amended, is hereby amended and reordained as follows:

ARTICLE IV. SUPPLEMENTAL RETIREMENT OR PENSION PLAN

Sec. 19-91. Definitions.

As used in this article, the following words and phrases shall have the meanings ascribed to them by this section, unless a different meaning is plainly required by the text:

.....

Creditable service means, for any member who is in service at any time after July 1, 1982, his total service as an employee, whether or not continuous, exclusive of any separate period of service of less than nine (9) months in duration, but inclusive of official leave for military service, to the extent required by federal or state law. Creditable service shall be counted in terms of calendar years, with completed months of creditable service in excess of complete years being counted as a fractional part of a year.

For any employee who is eligible to retire pursuant to the provisions of section 19-95 (a), (e), (g), (h), or section 19-100, or section 19-151 of this chapter, and who is the director of public safety, a police officer, firefighter, sheriff or sheriff's deputy, creditable service shall include, for purposes of computing the retirement allowance, one-half (1/2) of the employee's accumulated and unused sick leave as of the date of retirement, up to a maximum of two thousand (2,000) hours.

For any employee who is eligible to retire pursuant to the provisions of section 19-95 (a), (e), (g), or section 19-100 of this chapter, and who is not the director of public safety, a police officer, firefighter, sheriff or sheriff's deputy, creditable service shall include, for purposes of determining eligibility to retire and, if applicable, the retirement allowance, all of the employee's accumulated and unused sick leave as of the date of retirement.

[Explanation: The current ordinance provides that creditable service for all employees includes one-half of their unused sick leave, up to 2,000 hours, for the purpose of determining the retirement allowance (but not for determining eligibility to retire). The proposed ordinance would limit the application of this rule to public safety employees, and grant a new benefit to non-public safety employees. Upon retirement those employees could use all unused sick leave both for determining eligibility for retirement and, if applicable, the amount of the retirement allowance.]