TO: CHESAPEAKE PLANNING COMMISSIONERS
FROM: KAREN E. SHAFFER, AICP, ASSISTANT PLANNING DIRECTOR
THROUGH: JALEH M. SHEA, AICP, PLANNING DIRECTOR
DATE: MARCH 2, 2016
RE: TA-Z-15-06
AN ORDINANCE AMENDING APPENDIX “A” OF THE CITY CODE, ENTITLED, “ZONING”, ARTICLE 12, SECTIONS 12-705 TO EXPAND THE VOTING MEMBERSHIP OF THE BOARD OF HISTORIC AND ARCHITECTURAL REVIEW (“ARB”) TO NINE (9) MEMBERS; REDUCE THE REQUIRED NUMBER OF MEMBERS OF THE HISTORIC PRESERVATION COMMISSION APPOINTED TO THE ARB TO ONE (1) MEMBER; REQUIRE THAT TWO (2) VOTING MEMBERS OF THE ARB, AT LEAST ONE (1) OF WHOM IS A RESIDENT OF A HISTORIC DISTRICT, POSSESS KNOWLEDGE OR EXPERIENCE OF CONSTRUCTION, PROPERTY MAINTENANCE AND REPAIR, OR CONTRACTING; REQUIRE THAT ONE (1) VOTING MEMBER OF THE ARB BE APPOINTED FROM THE SOUTH NORFOLK REVITALIZATION COMMISSION; AND REQUIRE THAT ONE (1) VOTING MEMBER OF THE ARB BE APPOINTED FROM THE SOUTH NORFOLK CIVIC LEAGUE.

TEXT AMENDMENT DESCRIPTION:
The proposed ordinance will amend the composition of the Chesapeake Historic and Architectural Review Board (ARB) as follows:

1) Increase the number of members from seven (7) to nine (9);
2) Reduce the number of required members from the Historic Preservation Commission from three (3) to one (1);
3) Add two (2) members with measurable experience in construction, property maintenance and repair or contracting, at least one of whom is a resident of the historic overlay district;
4) Require that one (1) voting member be from the South Norfolk Revitalization Commission; and

5) Require that one (1) voting member be from the South Norfolk Civic League.

The requirement that the ARB also include four (4) citizens of the City who have a demonstrated competence in historic preservation or architecture, of which two (2) are residents of a historic district, is not proposed to be changed.

BACKGROUND:

The proposed amendment was initiated by City Council who adopted a resolution on October 27, 2015, requesting the Planning Commission to consider and make recommendation concerning the proposed amendment.

DEPARTMENTAL COMMENTS:

Development and Permits:

Development Engineering:
- No Comments.

Zoning Administrator:
- No Comments.

Public Utilities:
- No Comments.

STAKEHOLDER COMMENTS:

The proposed amendment, TA-Z-15-06, was heard by the Planning Commission on January 13, 2016. Upon staff’s recommendation, the item was continued to the March 9, 2016, Public Hearing to provide additional time to conduct research on best practices and to solicit stakeholder input. Key stakeholders were invited to offer comments by email on February 2, 2016, with a deadline date of February 23, 2016. The HPC’s recommendations were also made available online for public comment via the Planning Department’s website: [www.cityofchesapeake.net/planning](http://www.cityofchesapeake.net/planning). The following boards, organizations, and departments were contacted for comment:

- Chesapeake Board of Historic and Architectural Review (ARB)
- South Norfolk Revitalization Commission
- South Norfolk Civic League
- South Norfolk Ruritan Club
- South Norfolk Neighborhood Watch
- Norfolk County Historical Society
Planning staff received comments from the Historic Preservation Commission (HPC), The Chesapeake Board of Historic and Architectural Review (ARB), the South Norfolk Revitalization Commission, the South Norfolk Civic League and the South Norfolk Neighborhood Watch. Stakeholder comments are attached.

**STAFF ANALYSIS:**

According to Section 16-106 of the Chesapeake Zoning Ordinance, if the request is for a change in the text of this Zoning Ordinance, the recommendation of the Planning Commission should contain findings with respect to one or more of the following matters, as the Commission determines to be most significant:

1. **STANDARD:** Whether and in what respect the text amendment is consistent with the Chesapeake comprehensive plan.

**FINDING:** The City’s Comprehensive Plan Quality of Life section contains a chapter with goals and objectives for the preservation of citywide historic resources. This chapter recognizes “the composition of the Chesapeake Board of Historic and Architectural Review include individuals with demonstrated knowledge, competence and interest in the field of historic preservation and architecture” as key in meeting the objective that “the City will foster the preservation or rehabilitation of significant historic sites and structures.” Although the proposed amendment maintains the number of individuals to four with a demonstrated competency or knowledge in historic preservation, history or archeology, it weakens the composition of individuals with this competency by reducing the number of Historic Preservation Commission members from three (3) to one (1). Staff finds this reduction is inconsistent with the recommendations of the Comprehensive Plan.

The Comprehensive Plan also recognizes that a partnership with the Virginia Department of Historic Resources (DHR) is critical for meeting the historic preservation goals and objectives of the City. For this reason, staff analyzed best practices recommended by DHR. DHR has a Certified Local Governments (CLG) program that recognizes communities with sound local historic preservation programs. Participating CLG localities qualify for grants and other incentives for historic preservation that otherwise would not be available. CLG’s must meet minimum requirements, including the composition of their Historic and Architectural Review Board. The composition requirements are as follows:

- All members must have a demonstrated interest, competence, or knowledge in historic preservation;

- At least one architect or architectural historian shall be in the membership, unless this requirement is specifically waived by DHR; and

- At least one additional member shall have professional training or equivalent experience in architecture, history, architectural history, archaeology, or planning (unless this requirement is specifically waived by DHR).
In Hampton Roads, Smithfield, Suffolk and Williamsburg are CLG’s. Although Chesapeake is not CLG, the model recommended by DHR should be followed as closely as possible to meet the historic preservation goals of the Comprehensive Plan.

To further analyze best practices, staff researched the composition of other boards in Hampton Roads that have local historic districts. Below is a table summarizing staff's findings:

<table>
<thead>
<tr>
<th></th>
<th>Norfolk (Citywide)</th>
<th>Newport News-Hilton</th>
<th>Newport News-Huntington Heights</th>
<th>Portsmouth (Citywide)</th>
<th>Suffolk (Citywide)</th>
<th>Virginia Beach (Citywide)</th>
<th>Chesapeake Current (Citywide)</th>
<th>Chesapeake Proposed Citywide-South (Norfolk focus)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Number of Members</td>
<td>9</td>
<td>7</td>
<td>7</td>
<td>7</td>
<td>9</td>
<td>8</td>
<td>7</td>
<td>9</td>
</tr>
<tr>
<td>Historic Preservation Knowledge or Background</td>
<td>All</td>
<td>-</td>
<td>-</td>
<td>All</td>
<td>All</td>
<td>All</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>Historic Preservation Commission</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>Architect</td>
<td>2</td>
<td>2</td>
<td>1</td>
<td>At least 1</td>
<td>At least 1</td>
<td>At least 1</td>
<td>At least 1</td>
<td>At least 1</td>
</tr>
<tr>
<td>Landscape Architect/Artist</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
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<tr>
<td>Planning/Real Estate Background</td>
<td>1</td>
<td>-</td>
<td>-</td>
<td>At least 2</td>
<td>-</td>
<td>-</td>
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<tr>
<td>Construction Background</td>
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<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>2</td>
</tr>
<tr>
<td>Resident/owner of property in one of the locality's historic district</td>
<td>2</td>
<td>3</td>
<td>5</td>
<td>-</td>
<td>-</td>
<td>At least 2</td>
<td>At least 2</td>
<td>At least 2</td>
</tr>
<tr>
<td>Business Owner in historic district</td>
<td>-</td>
<td>2</td>
<td>-</td>
<td>-</td>
<td>-</td>
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<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Planning Commissioner</td>
<td>Norfolk (Citywide)</td>
<td>Newport News-Hilton</td>
<td>Newport News-Huntington</td>
<td>Portsmouth (Citywide)</td>
<td>Suffolk (Citywide)</td>
<td>Virginia Beach (Citywide)</td>
<td>Chesapeake Current (Citywide)</td>
<td>Chesapeake Proposed (Citywide)</td>
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<tr>
<td>Civic League Member</td>
<td>-</td>
<td>-</td>
<td>-</td>
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<td>-</td>
<td>-</td>
<td>-</td>
<td>1</td>
</tr>
<tr>
<td>Revitalization Commission Member</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>1</td>
</tr>
</tbody>
</table>

With the exception of Newport News, all other ARB’s are citywide. In the case of Portsmouth, at one time they had separate ARB’s for each of their historic districts, but combined them into one citywide board for administrative efficiency. Best practices confirm that the board should be citywide and not be focused towards one area or neighborhood; the proposed amendment is inconsistent with best practices.

Furthermore, with the exception of Newport News and Chesapeake, all of the other localities require all of their ARB members to have competency and knowledge with historic preservation or architecture. With the proposed ordinance, the knowledge base required of ARB members is compromised since the number of Historic Preservation Commission members is reduced from three (3) to one (1), and those members are replaced with members who have general building construction and repair but who are not necessarily experienced in preservation and rehabilitation of historic structures. Furthermore, other members who have a focus on only one area of the City, and not necessarily concerned with historic and cultural preservation, are added. This reduction in a knowledge base on historic preservation and architecture that is required of Historic and Architectural Review Board members is also inconsistent with best practices.

2. **STANDARD:** Whether and in what respect the proposed text amendment is consistent with the intent and purpose of this ordinance.

**FINDING:** The Chesapeake Historic and Architectural Review Board was established on November 28, 2000, to administer the procedural and architectural guidelines and standards of the Historic and Cultural Preservation Overlay District (HC District). Section 12-702 states the purpose and intent of the HC district is to include “general areas or individual buildings, structures, landmarks, areas and premises officially designated by the City Council as having important historic, architectural, archaeological, or cultural interest or land contiguous to arterial streets and highways deemed by city council to be a significant route of tourist access to the City or to historic or culturally significant buildings, structures, landmarks, areas or premises within the City.” Section 12-704 then includes the process and
necessary studies to create a HC designation in the City. When the HC overlay district was established, City Council also established two (2) HC districts within the overlay: the South Norfolk Historic and Cultural Overlay District and the Chesapeake Arboretum Historic and Cultural Overlay District. Clearly, it is the intent of the Zoning Ordinance and of City Council when the district was established that the overlay district have citywide application and not just in one neighborhood. Per Section 12-705, the Architectural Review Board that has a responsibility to administer procedures and guidelines of the citywide HC District. Changing the composition from a citywide focus to a South Norfolk focus is not consistent with the purpose and intent of the HC overlay district.

3. **STANDARD:** The areas of the City that are most likely to be affected by the proposed text amendment and the manner in which those areas will be affected.

**FINDING:** The two areas of the City that are immediately impacted by the text amendment are the South Norfolk Historic and Cultural Overlay District and the Chesapeake Arboretum Historic and Cultural Overlay District, as these are the only two adopted local historic districts in the City. If City Council were to establish other local historic districts, these areas would be impacted as well.

4. **STANDARD:** Whether and in what respect the proposed text amendment is necessitated by a change in conditions in the zoning districts affected and the nature of such changed conditions.

**FINDING:** There are no changed conditions as to the number of districts or boundaries of the two current local historic districts that necessitates a change to the composition of the Chesapeake ARB. Three Historic Preservation Commission (HPC) members resigned this past fall due to differences of opinion on the direction of the ARB. Since the ordinance requires three (3) HPC members to also be members of the ARB, filling of the vacant seats on the ARB has been problematic.

Vacancy trends for the ARB were also analyzed and it was found that there have been a number of vacancies in recent years. For these reasons, staff does not recommend that the number of members be increased.

To be consistent with best practices and provide more flexibility to City Council for the appointment of ARB members, staff offers the following suggestions if the Planning Commission or City Council would entertain an alternate initiating resolution to the current TA-Z-15-08:

1) Keep the number of members to seven (7);

2) Require that at least four (4) have a demonstrated competency or knowledge in historic preservation, history or archeology with at least two (2) also being members of the Historic Preservation Commission;

3) At least one (1) of these shall be a registered professional architect;
4) At least one (1) member possess a knowledge or experience of property maintenance and repair or rehabilitation of buildings that are at least fifty (50) years, and;

5) Three (3) shall be residents of the City with at least two (2) being residents or owners of property in a historic overlay district.

FINDINGS:

1. Best practices confirm that members of a Historic and Architectural Review Board should have a competent knowledge base in historic preservation. The proposed ordinance reduces the number of members of the Historic Preservation Commission and in its place, adds members from the civic league, revitalization commission and building contractors that may not have a competent knowledge of historic preservation, history or historic architecture. This is inconsistent with best practices.

2. Best practices confirm that the Historic and Architectural Review Board should be a citywide board and not be focused towards one neighborhood; the proposed amendment is inconsistent with best practices.

3. Per Section 12-705 of the Zoning Ordinance, the Architectural Review Board has a responsibility to administer procedures and guidelines of the citywide HC District. Changing the composition from a citywide focus to a South Norfolk focus is not consistent with the purpose and intent of the HC overlay district.

4. A vacancy trends analysis of the ARB found that there have been a number of vacancies in recent years. For these reasons, staff does not recommend that the number of members be increased.

STAFF RECOMMENDATION:

Based on the finding that the proposed text amendment follows good zoning practices, staff recommends that TA-Z-15-06, be DENIED.

However, if the Planning Commission is inclined to recommend approval, TA-Z-15-06 version dated February 5, 2016, should be referenced in the Planning Commission’s recommendation.

KS
From: richwethington@aol.com [mailto:richwethington@aol.com]
Sent: Thursday, February 04, 2016 11:35 AM
To: Karen Shaffer
Cc: kball@rrmm.com; Andrew Fox
Subject: Re: TA-Z-15-06 Chesapeake Board of Historic and Architectural Review Board Composition

Thanks Karen.

Note that the request intended to replace the two freed up HPC slots (should that happen) with "two members with construction and/or design experience". This is the real meat in this ARB request so we can improve the construction experience at the table to better serve the community needs. The other two "new" slots are there to help ensure a quorum and have more points of view at the table.

Again, I appreciate your efforts with this task.

Ditto to Andy.

...rich

Rich Wethington
P 804-543-2001

-----Original Message-----
From: Karen Shaffer <kshaffer@CityOfChesapeake.Net>
To: richwethington@aol.com <richwethington@aol.com>
Sent: Thu, Feb 4, 2016 11:16 am
Subject: RE: TA-Z-15-06 Chesapeake Board of Historic and Architectural Review Board Composition

Hi Rich-
I got your voice mail regarding that the ordinance not reflecting the two construction background members that is in the resolution. This should have been in the ordinance and Andy is fixing today, Once that is done, I will resend to the stakeholders for review and comment.

Regarding any other changes the ARB would like, I offer the following. In this case, staff does not have the latitude to make the changes since the initiating resolution adopted by City Council was so specific. For this reason, stakeholder comments, including the ARB’s, will be included with my staff report to the Planning Commission and City Council for their consideration. If the Planning Commission/City Council wants changes based on stakeholder or staff comments, they would direct staff to make any changes they deemed appropriate during the public hearing. For this reason, I suggest that the ARB’s ideas for changes be clear and in writing so that the Planning Commission and City Council can fully understand the changes proposed by the stakeholders.

Thanks
Karen
Hi Karen,

There are a few additional changes that I would like to put on the table while this is being reviewed by Planning Commission. Does the direction given to you by City Council allow us to propose other changes while this is being reviewed? If not, would you suggest an acceptable way to consider other changes?

Thanks.

...rich

Rich Wethington
P 804-543-2001
Karen Shaffer

To: Kenneth Martin
Subject: RE: TA-Z-15-06 Chesapeake Board of Historic and Architectural Review Board Composition

From: Kenneth Martin [mailto:kmartin@sonowatch.org]
Sent: Monday, February 08, 2016 12:21 PM
To: Karen Shaffer
Subject: Re: TA-Z-15-06 Chesapeake Board of Historic and Architectural Review Board Composition

Hello Karen,

The South Norfolk Neighborhood Watch has reviewed the attached files.

We agree with all the changes and also want to remind staff to be cautious about allowing community organization to sit on such a board. We aren't against it but wouldn't recommended it for the follow reason.

"Conflict of interest" or "benefit from interest"?

For an example in practice, what makes something a conflict of interest can also end up being a benefit from interest, or a good arrangement for the organization. For instance, the board member who owns a building may reduce the rent for the organization. Or the nonprofit may benefit from working with the law firm of a board member, because that board member will ensure that the firm will do excellent work and will charge fairly or even at a discount.

Community organizations are based in their constituencies, and hold themselves accountable to their constituencies. Accordingly, we believe it's important to have parents on preschool boards, social service clients on the boards of providers, and artists on the boards of arts councils. But consider the potential conflicts that can arise: In a preschool where many of the board members are also parents, these individuals might feel pulled in two directions about whether the preschool should raise tuition in order to replace the roof. And what about the board member/client who utilizes a service of the agency that isn't used by many other people, and as a result, has a personal stake in the service that the staff is recommending be discontinued?

Such situations are not infrequent in a organization. They are important reminders for organization boards to recognize the twin aspects of benefit and detriment that can result from a potential conflict-of-interest situation.

Kenny Martin
Dear Karen,

I am writing in response to the proposed TA-Z-15-06, proposed changes to the size and composition of the Historic Architectural Review Board to include one designated space for a member of the South Norfolk Civic League.

The South Norfolk Civic League membership unanimously supports this change in the make-up of the HARB and welcomes having a seat on this commission.

We look forward to working alongside the Historic Architectural Review Board to help our community and our Historic District improve.

Thank you,

Tammi Amick
Secretary, South Norfolk Civic League
Vice Chair, South Norfolk Revitalization Commission
Public Issues Officer, Woman’s Club of South Norfolk
757.839.0383c
757.545.2605f

’South Norfolk.....This Place Matters!’
22 February, 2016

Dear Mrs. Shaffer,
The Chesapeake Historic Preservation Commission (HPC) reviewed the zoning ordinance amendment TA-Z-15-06 proposing changes to the membership of the Chesapeake Board of Historic and Architectural Review (ARB), and we do not support the proposed changes as written.

It is the position of the HPC that continuity and consistency be a benchmark for the implementation of the historic preservation efforts in the City of Chesapeake. A well-balanced mix on the Board that represents the interests of the City, the residents of local overlay districts and the City’s overall historic preservation is paramount.

In our review, the main points in the proposed amendment we discussed are: increasing the Board’s total membership number, reducing the number of HPC members and adding members from both the South Norfolk Revitalization Commission and the South Norfolk Civic League. The HPC believes the current number of seven (7) members is sufficient to meet the needs of the Board’s assigned responsibilities and an increase in membership is not necessary to efficiently and effectively conduct business. HPC functions as an advisor to implement the City Historic Preservation Plan and therefore should have a reasonable role on the ARB so reducing the membership to a single member would not only eliminate members with knowledge and understanding of the City’s historic preservation plan but would lessen the continuity and consistency of the plan’s administration. We also do not see a benefit or a need to add specifically designated members from the South Norfolk Civic League or the South Norfolk Revitalization Commission to the Board.

We do, however, recognize in order to provide the City with the most effective and competent Board, some minor changes may be warranted in the Board’s current composition. Thus, we recommend the seven (7) Board members include three (3) citizens of the City of which two (2) are residents of a historic district overlay, two (2) members of the HPC, one (1) contractor having construction experience and one (1) architect preferably having historic preservation knowledge or experience. We further suggest having alternate members of the Board for the professional positions of contractor and architect to insure the highest degree of professional review of all applications presented to the ARB.

We look forward to advancing the historic preservation of the City in the future.

Sincerely,

[Signature]

Patti McCambridge
Chesapeake Historic Preservation Commission, Chairperson
Good Afternoon:

In response to your recent request from stakeholders, The South Norfolk Revitalization Commission has reviewed the recommendations offered for TA-Z-15-07 and voted to support the directives as follows:

1) Increase the number of members from seven (7) to nine (9);

2) Reduce the number of required members from the Historic Preservation Commission from three (3) to one (1);

3) Add two (2) members with measurable experience in construction, property maintenance and repair or contracting, at least one of whom is a resident of the historic overlay district;

4) Require that one (1) voting member be from the South Norfolk Revitalization Commission; and

5) Require that one (1) voting member be from the South Norfolk Civic League.

Debra W. Goode, Chair
SOUTH NORFOLK REVITALIZATION COMMISSION

Office: 757-823-8436
Cell: 757-237-6439
Facsimile: 757-823-8167