

041918228

HOUSE BILL NO. 176

Offered January 14, 2004

Prefiled January 6, 2004

A BILL to amend and reenact §§ 3.01, 3.04, 4.03, 4.05, 4.06, 4.10, 4.14, 4.15, 4.16, 4.17, 5.01, 5.02, 5.03, 5.04, 5.05, 5.06, 5.07, 5A.01, 5A.02, 5A.03, 6.02, 6.03, 6.04, 6.06, 6.07, 6.08, 6.11, 6.13, 6.14, 6.16, 6.19, 8.03, 17.02, 18.02 and 18.03, as amended, of Chapter 116 of the Acts of Assembly of 1948, which provided a charter for the City of Richmond, and to amend Chapter 116 by adding sections numbered 3.01.1, 3.04.1, 5.01.1 and 5.05.1, relating to council terms, election and duties of mayor, reorganization of powers and responsibilities.

Patrons—Baskerville, Hall, Jones, D.C., Marrs and O'Bannon

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.01, 3.04, 4.03, 4.05, 4.06, 4.10, 4.14, 4.15, 4.16, 4.17, 5.01, 5.02, 5.03, 5.04, 5.05, 5.06, 5.07, 5A.01, 5A.02, 5A.03, 6.02, 6.03, 6.04, 6.06, 6.07, 6.08, 6.11, 6.13, 6.14, 6.16, 6.19, 8.03, 17.02, 18.02 and 18.03, as amended, of Chapter 116 of the Acts of Assembly of 1948 are amended and reenacted and Chapter 116 is amended by adding sections numbered 3.01.1, 3.04.1, 5.01.1 and 5.05.1, as follows:

§ 3.01. Election of councilmen.

On the first Tuesday in May, 1978 and on the first Tuesday in May in every second At the time of the November general election in 2004, and every fourth year thereafter, there shall be held a general city election at which shall be elected by the qualified voters of the city one member of council from each of the nine election districts in the city, the voters residing in each such district to elect one member for said district for terms of ~~two~~ four years from the first day of ~~July~~ January following their election.

§ 3.01.1. Election of mayor.

On the first Tuesday after the first Monday in November 2004, and every four years thereafter, a general election shall be held to elect the mayor. The person receiving the most votes in each of at least five of the nine city council districts shall be elected. Should no one be elected, a runoff election shall be held on the first Tuesday after the first Monday in December between the two persons receiving the highest total of votes citywide. The person receiving the most votes in each of at least five of the nine city council districts shall be elected. An elected term shall run four years. Anyone eligible to serve on city council may serve as mayor except no one may be elected mayor for three consecutive terms.

§ 3.04. Vacancies in office of councilman or mayor.

A. Vacancies in the office of councilman, from whatever cause arising, shall be filled in accordance with general law applicable to interim appointments and special elections, provided that, any provision in the general law to the contrary notwithstanding, a special election may be called to fill any such vacancy if the vacancy occurs more than one year prior to the expiration of the full term of the office to be filled.

B. A vacancy in the office of mayor shall be filled by special election. This special election, to be conducted according to the rules herein provided for the general election, must be held within 60 days, but no sooner than 30 days, from the date of the vacancy, and any runoff, should one be necessary, 21 days later. The vice-mayor shall serve as acting mayor until a successor is elected.

§ 3.04.1. Removal of council member or mayor and forfeiture of office.

A. Any member of the council may be removed by the council but only for malfeasance in office or neglect of duty. He/she shall be entitled to notice and hearing. It shall be the duty of the council, at the request of the person sought to be removed, to subpoena witnesses whose testimony would be pertinent to the matter in hand. From the decision of the council an appeal shall lie to the Circuit Court of the City of Richmond, Division I.

B. The mayor may be removed following the procedure set forth in § 24.2-233 of the Code of Virginia applicable to constitutional officers; provided, however, that the petition must be signed by a number of registered voters who reside within the jurisdiction of the mayor equal to 10 percent of the total number of votes cast in the last election for mayor in each of at least five of the nine city council districts.

C. The mayor or any member of council who shall be convicted by a final judgment of any court from which no appeal has been taken or which has been affirmed by a court of last resort on a charge involving moral turpitude or any felony or any misdemeanor involving possession of marijuana or any

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59 *controlled substances shall forfeit his/her office.*

60 § 4.03. Vice-mayor.

61 On the first Tuesday in September 1948, on the first day of July 1950 and on the first day of July of
62 every second year thereafter, or if such day shall fall on Sunday then on the following Monday, the
63 newly elected council, having taken the oath of office as hereinafter provided, shall proceed to choose
64 by majority vote of all the members thereof one of their number to be mayor and one to be vice-mayor
65 for the ensuing two years. The mayor shall preside over the meetings of the council and shall have the
66 same right to vote and speak therein as other members. He/she shall be recognized as the head of the
67 city government for all ceremonial purposes, the purposes of military law and the service of civil
68 process. The vice-mayor shall in the absence or disability of the mayor perform the duties of mayor, and
69 if a vacancy shall occur in the office of mayor shall become mayor for the unexpired portion of the
70 term. In the absence or disability of both the mayor and vice-mayor the council shall by majority vote
71 of those present choose one of their number to perform the duties of mayor. *At the time of the council's*
72 *January organizational meeting, the council shall elect from among its members a vice-mayor to preside*
73 *at council meetings for a one-year term. Should a vacancy occur in the office of mayor, the vice-mayor*
74 *will become acting mayor until a successor is elected to fill out the remainder of the unexpired term in*
75 *accordance with § 3.04. An acting mayor shall have the same power and responsibilities as the elected*
76 *mayor. In addition, any acting mayor shall retain his or her city council position, including the right to*
77 *vote.*

78 § 4.05. Induction of members.

79 The first meeting of a newly elected council shall take place in the council chamber in the city hall
80 as provided for by general law. It shall be called to order by the city clerk who shall administer the oath
81 of office to the duly elected members. In the absence of the city clerk, the meeting may be called to
82 order and the oath administered by any judicial officer having jurisdiction in the city. The council shall
83 be the judge of the election and qualifications of its members, but the decision of the council in this
84 matter shall be subject to review by the Circuit Court of the City of Richmond. The first business of the
85 council shall be the election of a ~~mayor and~~ vice-mayor and the adoption of rules of procedure. Until
86 this business has been completed, the council shall not adjourn for a period longer than forty-eight
87 hours.

88 § 4.06. Rules of procedure.

89 The council shall have power, subject to the provisions of this charter, to adopt its own rules of
90 procedure. Such rules shall provide for the time and place of holding regular meetings of the council
91 which shall be not less frequently than once in each month; however, the council shall not be required
92 to hold a regular meeting in the month of August. They shall also provide for the calling of special
93 meetings by the mayor, ~~the city manager~~ or any three members of the council, and shall prescribe the
94 method of giving notice thereof, provided that the notice of each special meeting shall contain a
95 statement of the specific item or items of business to be transacted and no other business shall be
96 transacted at such meeting except by the unanimous consent of all the members of the council.

97 § 4.10. Procedure for passing ordinances.

98 An ordinance may be introduced by any member or committee of the council or by the ~~city manager~~
99 ~~mayor~~ at any regular meeting of the council or at any special meeting when the subject thereof has been
100 included in the notice for such special meeting or has been approved by the unanimous consent of all
101 the members of the council. Upon introduction a time, not less than seven days after such introduction,
102 and place shall be set at which the council or a committee thereof will hold a public hearing on such
103 ordinance, provided that the council may reject any ordinance on first reading without a hearing thereon
104 by vote of six members. The hearing may be held separately or in connection with a regular or special
105 meeting of the council and may be adjourned from time to time. It shall be the duty of the city clerk to
106 cause to be printed in a newspaper published or in general circulation in the city, not later than the fifth
107 day before the public hearing on the proposed ordinance, a notice containing the time and place of the
108 hearing and the title of the proposed ordinance. It shall also be his/her duty, not later than the fifth day
109 before the public hearing, to cause its full text to be printed or otherwise reproduced, as the council may
110 by resolution direct, in sufficient numbers to supply copies to those who individually request them, or, if
111 the council shall so order, to cause the same to be printed as a paid advertisement in a newspaper
112 published or in general circulation in the city. It shall further be his/her duty to place a copy of the
113 ordinance in a file provided each member of the council for this purpose. A proposed ordinance, unless
114 it is an emergency ordinance, shall be finally passed at a regular meeting of the council following the
115 introduction of the ordinance and after the conclusion of the public hearing thereon. If an ordinance,
116 other than an emergency ordinance, is amended as to its substance, it shall not be passed until it shall be
117 reprinted, reproduced or published as amended, and a hearing shall be set and advertised and all
118 proceedings had as in the case of a newly introduced ordinance.

119 §4.14. Appointments and removals generally.

120 The council in making appointments and removals shall act only by affirmative votes of at least five

members. It may remove any person appointed by it for an indefinite term, provided that the person sought to be removed shall have been served with a written notice of the intention of the Council to remove him/her, containing a clear statement of the grounds for such removal and fixing the time and place, not less than ten days after the service of such notice at which he/she shall be given an opportunity to be heard thereon. After the hearing, which shall be public at the option of the person sought to be removed and at which he/she may be represented by counsel, the for any lawful reason or no reason. The decision of the council shall be final.

§ 4.15. Removal of ~~councilmen~~ and members of boards and commissions; forfeiture of office or ~~enforcement employment~~ for certain convictions.

A. Any member of the council or any member of a board or commission appointed by the council for a specified term may be removed by the council but only for malfeasance in office or neglect of duty. He/she shall be entitled to notice and hearing as provided by the preceding section in the case of officers appointed for indefinite terms. It shall be the duty of the council, at the request of the person sought to be removed, to subpoena witnesses whose testimony would be pertinent to the matter in hand. From the decision of the council an appeal shall lie to the Circuit Court of the City of Richmond, Division I.

B. Any officer, ~~elective or appointive~~, *appointee of the council* or employee of the city who shall be convicted by a final judgment of any court from which no appeal has been taken or which has been affirmed by a court of last resort on a charge involving moral turpitude or any felony or any misdemeanor involving possession of marijuana or any controlled substances shall forfeit his/her office or employment.

§ 4.16. Powers of investigation.

(a) The council, or any committee of members of the council when authorized by the council, shall have power to make such investigations relating to the municipal affairs of the city as it may deem necessary, and shall have power to investigate any or all departments, boards, commissions, offices and agencies of the city government and any officer or employee of the city, concerning the performance of their duties and functions and use of property of the city.

(b) The ~~city manager~~ *mayor, chief administrative officer* and the heads of all departments, and all boards and commissions whose members are appointed by the council and the city auditor, shall have power to make such investigations in connection with the performance of their duties and functions as they may deem necessary, and shall have power to investigate any officer or employee appointed by them or pursuant to their authority concerning the performance of duty and use of property of the city.

(c) The council, or any committee of members of the council when authorized by the council, the ~~city manager~~ *mayor, chief administrative officer*, the heads of departments, and boards and commissions whose members are appointed by the council and the city auditor, in an investigation held by any of them, may order the attendance of any person as a witness and the production by any person of all relevant books and papers. Any person, having been ordered to attend, or to produce such books and papers, who refuses or fails to obey such order, or who having attended, refuses or fails to answer any question relevant or pertinent to the matter under investigation shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding \$100 or imprisonment in jail not exceeding thirty days, either or both. Every such person shall have the right of appeal to the Circuit Court of the City of Richmond, Division I. The investigating authority shall cause every person who violates the provisions of this section to be summoned before the general district court criminal division for trial. Witnesses shall be sworn by the person presiding at such investigation, and they shall be liable to prosecution or suit for damages for perjury for any false testimony given at such investigation.

§ 4.17. City attorney.

The city attorney shall be the chief legal advisor of the council, the ~~city manager~~ *mayor, the chief administrative officer* and all departments, boards, commissions and agencies of the city in all matters affecting the interests of the city. The city attorney shall perform particular duties and functions as assigned by the council. The city attorney shall be appointed by the council, shall serve at its pleasure, and shall devote full time and attention to the representation of the city and the protection of its legal interests. The city attorney shall have the power to appoint and remove assistants or any other employees as shall be authorized by the council and to authorize any assistant or special counsel to perform any of the duties imposed upon him/her in this charter or under general law.

Chapter 5

CITY MANAGER

Mayor and Chief Administrative Officer

§ 5.01. ~~Appointment and qualifications.~~ *Mayor.*

There shall be a city manager who shall be the chief executive officer of the city and shall be responsible to the council for the proper administration of the city government. He/she shall be appointed by the council for an indefinite term. He/she shall be chosen solely on the basis of his/her

182 executive and administrative qualifications, with special reference to his/her actual experience in or
 183 knowledge of accepted practice in respect to the duties of his/her office. At the time of his/her
 184 appointment he/she need not be a resident of the city or the Commonwealth, but during his/her tenure of
 185 office he/she shall reside within the city.

186 *The mayor shall be the chief executive officer of the city and shall be responsible for the proper*
 187 *administration of city government. The mayor shall be recognized as the head of government for all*
 188 *ceremonial purposes, military law and the service of civil process. The office of mayor shall be a full*
 189 *time position with salary and expenses set by the council.*

190 *§ 5.01.1. Chief administrative officer.*

191 *The mayor shall appoint a chief administrative officer, subject to the advice and consent of a*
 192 *majority of the members of city council, who shall be chosen solely on the basis of his/her executive and*
 193 *administrative qualifications, with special reference to his/her actual experience in or knowledge of*
 194 *accepted practice with respect to the duties of his/her office. At the time of his/her appointment, the*
 195 *chief administrative officer need not be a resident of the city or the Commonwealth but he/she shall*
 196 *reside within the city during his/her tenure in office. The chief administrative officer shall serve at the*
 197 *pleasure of the mayor. The mayor shall set the salary of the chief administrative officer subject to the*
 198 *approval of a majority of the members of city council.*

199 *§ 5.02. Power of appointment and removal.*

200 ~~The city manager~~ *chief administrative officer* shall appoint for an indefinite term qualified officers
 201 and employees to head all the administrative departments of the city, and shall appoint, dismiss and
 202 discipline, in accordance with the city's personnel regulations, all officers and employees in such
 203 departments, except as otherwise specifically provided by law or this charter. Department heads who are
 204 appointed by the ~~city manager~~ *chief administrative officer* shall serve at the pleasure of the ~~city manager~~
 205 *chief administrative officer.*

206 ~~The city manager~~ *mayor* shall designate ~~himself/herself~~ or some other officer or employee to perform
 207 the duties of any office or position of the administrative service under his/her control which is vacant or
 208 which lacks administration due to the absence or disability of the incumbent.

209 *§ 5.03. Council not to interfere in either appointments, assignment or use of, or removals.*

210 Neither the *mayor*, council nor any of its members shall direct or request the appointment of any
 211 person to or his/her removal from any office or employment by the ~~city manager~~ *chief administrative*
 212 *officer* or by any of his/her subordinates or in any way take part in either the appointment of,
 213 assignment or use of, or removal of officers and employees of the city except as specifically provided in
 214 this charter. Except for the purpose of inquiry, the *mayor*, council and its members shall deal with the
 215 administrative services solely through the ~~city manager~~ *chief administrative officer*, and neither the
 216 *mayor*, council nor any member thereof shall give orders either publicly or privately to any subordinate
 217 of the ~~city manager~~ *chief administrative officer*. Any *mayor* or councilman violating the provisions of
 218 this section or voting for a motion, resolution or ordinance in violation of this section shall be guilty of
 219 a misdemeanor and upon conviction thereof shall cease to be a *mayor* or councilman.

220 *§ 5.04. Temporary transfer of personnel between departments.*

221 The ~~city manager~~ *chief administrative officer* shall have power, whenever the interests of the city
 222 require, irrespective of any other provisions of this charter, to assign employees of any department,
 223 bureau, office or agency, the head of which is appointed by the ~~city manager~~ *chief administrative*
 224 *officer*, to the temporary performance of duties in another department, bureau, office or agency.

225 *§ 5.05. General duties; mayor.*

226 It shall be the duty of the ~~city manager~~ *mayor* to:

227 (a) Attend all meetings of the council with the right to speak but not to vote;

228 (b) Keep the council advised of the financial condition and the future needs of the city and of all
 229 matters pertaining to its proper administration, and make such recommendations as may seem to him/her
 230 desirable;

231 (c) ~~Prepare and submit the annual budget to the council as provided in Chapter 6 of this charter and~~
 232 ~~be responsible for its administration after its adoption~~ *Oversee preparation of and submit the annual*
 233 *budget to council as provided in Chapter 6 of this charter;*

234 (d) Prepare in suitable form for publication and submit to the council a concise report of the
 235 financial transactions and administrative activities of the city government during the fiscal year ending
 236 on the preceding thirtieth day of June and cause to be printed such number of copies thereof as the
 237 council shall direct;

238 (e) Present adequate financial and activity reports as required by the council;

239 (fd) Perform such other duties as may be prescribed by this charter or required of him/her in
 240 accordance therewith by the council or which may be required of the chief executive officer of a city by
 241 the general laws of the Commonwealth other than the duties conferred on the mayor by this charter;
 242 however, the appointment of members of a redevelopment and housing authority in the city shall be
 243 made by the council; and

(ge) Issue such regulations as may be necessary in order to implement his/her duties and powers; and
 (h) Fulfill the city's responsibilities for maintaining cemeteries as provided for in § 2.05(d) of the charter and § 15.2-1121 of the Code of Virginia.

§ 5.05.1. General duties; chief administrative officer.

It shall be the duty of the chief administrative officer, acting under the general direction of the mayor, to:

(a) Prepare the annual budget for submission to the council by the mayor;

(b) Prepare in suitable form for publication and submit to the council a concise report of the financial transactions and administrative activities of the city government during the fiscal year ending preceding thirtieth day of June and cause to be printed such number of copies thereof as the council shall direct;

(c) Present adequate financial and activity reports as required by the council;

(d) Fulfill the city's responsibilities for maintaining cemeteries as provided for in § 2.05(d) of the charter and § 15.2-1121 of the Code of Virginia; and

(e) Perform such other duties as may be prescribed by this charter or required of him/her in accordance therewith by the mayor other than the duties conferred on the mayor by this charter.

§ 5.06. Relations with boards, commissions and agencies.

The ~~city manager~~ mayor shall have the right to attend and participate in the proceedings of, but not to vote in, the meetings of all boards, commissions or agencies created by this charter or by ordinance, except the school board and the board of zoning appeals.

§ 5.07. Acting ~~city manager~~ chief administrative officer.

The ~~council~~ mayor shall designate by ordinance the head of a department, bureau or other officer appointed by the ~~city manager~~ chief administrative officer, to act as ~~city manager~~ chief administrative officer in case of the absence, incapacity, death or resignation of the ~~city manager~~ chief administrative officer, until his/her return to duty or the appointment of his/her successor.

§ 5A.01. Creation of departments.

The city council may establish administrative departments, bureaus, divisions, or offices, or may alter, combine or abolish existing administrative departments, bureaus, divisions or offices; however, neither the council, the mayor nor the ~~city manager~~ chief administrative officer shall have the power to alter the purpose of, combine, transfer or abolish any department created by this charter.

§ 5A.02. Responsibility of department heads.

There shall be a director appointed by the ~~city manager~~ chief administrative officer as the head of each administrative department. Such directors shall be chosen on the basis of their executive and administrative ability, experience and education, and shall serve at the pleasure of the ~~city manager~~ chief administrative officer.

§ 5A.03. Personnel rules and regulations.

The council, upon receiving any recommendations submitted to it by the ~~city manager~~ mayor, shall establish a personnel system for the city administrative officials and employees. Such system shall be based on merit and professional ability and shall not discriminate on the basis of race, national origin, religion, sex, age, disabilities, political affiliation, or marital status. The personnel system shall consist of rules and regulations which provide for the general administration of personnel matters, a classification plan for employees, a uniform pay plan and a procedure for resolving grievances of employees as provided by general law for either local government or state government employees.

§ 6.02. Submission.

On a day to be fixed by the council, but in no case later than the seventh day of April in each year, the ~~city manager~~ mayor shall submit to the council: (a) separate current expense budgets for the general operation of the city government, for the public schools and for each utility as defined in Chapter 13 of this charter; (b) a budget message; and (c) a capital budget.

§ 6.03. Preparation.

It shall be the duty of the head of each department, the judges of the municipal courts, each board or commission, including the school board, and each other office or agency supported in whole or in part by the city, including the attorney for the Commonwealth, to provide, at such time as the ~~city manager~~ mayor may prescribe, estimates of revenue and expenditure for that department, court, board, commission, office or agency for the ensuing fiscal year. Such estimates shall be submitted in a form as determined by the ~~city manager~~ mayor, and it shall be the duty of the head of each such department, judge, board, commission, office or agency to supply all of the information which the ~~city manager~~ mayor may require to be submitted thereon. The ~~city manager~~ mayor shall hold such hearings as he/she may deem advisable and shall review the estimates and other data pertinent to the preparation of the budgets and make such revisions in such estimates as he/she may deem proper, subject to the laws of the Commonwealth relating to obligatory expenditures for any purpose, except that in the case of the school board, he/she may recommend a revision only in its total estimated expenditure.

§ 6.04. Scope of the budget.

In respect to each utility there shall be included in the budget estimates only the net amounts estimated to be received from or to be appropriated to such utility in the budget as provided in § 6.13. The budget shall be prepared in accordance with accepted principles of municipal accounting and budgetary procedures and techniques.

The budget shall provide a complete financial plan of all city funds and activities for the ensuing fiscal year and, except as required by law or this charter, shall be in such form as the ~~city manager~~ mayor deems desirable or the city council may require. The budget shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year.

§ 6.06. The budget message.

The budget message shall contain the recommendations of the ~~city manager~~ mayor concerning the fiscal policy of the city a description of the important features of the budget plan, an explanation of all salient changes in each budget submitted, as to estimated receipts and recommended expenditures as compared with the current fiscal year and the last preceding fiscal year, and a summary of the proposed budgets showing comparisons similar to those required by § 6.04 above.

§ 6.07. Appropriation and additional tax ordinances.

At the same time that he/she submits the budget, the ~~city manager~~ mayor shall introduce in the council any appropriation ordinance required. The appropriation ordinance shall be based on the budget but need not be itemized further than by departments. At the same time, the ~~city manager~~ mayor shall also introduce any ordinance or ordinances altering the tax rate on real estate and tangible personal property or levying a new tax or altering the rate of any other tax necessary to balance the budget as hereinbefore provided. The hearing on the budget plan as a whole, as provided in § 6.09, shall constitute the hearing on all ordinances referred to in this section, and the appropriation ordinances for each utility.

§ 6.08. Distribution of copies of budget message and budgets.

The ~~city manager~~ mayor shall cause the budget message to be printed, mimeographed or otherwise reproduced for general distribution at the time of its submission to the council and sufficient copies of the general fund, school and utility budgets to be made to supply copies to each member of the council and each newspaper published or in general circulation in the city and two copies to be deposited in the office of the city clerk where they shall be open to public inspection during regular business hours.

§ 6.11. Adoption of budget, appropriation ordinance and ordinances for additional revenue.

Not later than the thirty-first day of May in each year the council shall adopt the budget, the appropriation ordinances and such ordinances providing for additional revenue as may be necessary to put the budget in balance. If for any reason the council fails to adopt the budget on or before such day, the budget as submitted by the ~~city manager~~ mayor shall be the budget for the ensuing year and the appropriation ordinance and the ordinances providing additional revenue, if any, as recommended by the ~~city manager~~ mayor shall have full force and effect to the same extent as if the same had been adopted by the council, notwithstanding anything to the contrary in this charter.

§ 6.13. Utility budgets and related ordinances.

Separate budget estimates for each of the utilities as defined in Chapter 13 of this charter shall be submitted to the ~~city manager~~ mayor at the same time as the budgets of other departments and in the form prescribed by the ~~city manager~~ mayor, subject, however, to the provisions of Chapter 13 which shall also control the action of the ~~city manager~~ mayor and council thereon. The ~~city manager~~ mayor shall submit with the budget of each utility an ordinance making appropriations for the operation of such utility during the ensuing fiscal year. He/she shall also at the same time submit any ordinance changing the rates to be charged by the utility, used in estimating receipts. The council shall have the same powers and be subject to the same limitations with regard to the adoption of such utility budgets and accompanying appropriation and rate ordinances, subject to the provisions of the said Chapter 13, as are conferred or imposed on it by § 6.10 with regard to the budget and its accompanying appropriation and revenue ordinances. If for any reason the council fails to adopt the utility budgets or any of them before the expiration of the time set for the adoption of the budget, such budget or budgets and the accompanying appropriation ordinance or ordinances and the ordinances changing rates, if any, shall have full force and effect to the same extent as if the same had been adopted by the council, notwithstanding anything to the contrary in this charter. When such utility budgets and accompanying appropriation ordinances are adopted or become effective because of the council's failure to act thereon, they shall be certified to the director of finance with like effect as in the case of the budget and its appropriation ordinance.

§ 6.14. School budget.

It shall be the duty of the school board to submit its budget estimates to the ~~city manager~~ mayor at the same time as other departments and in the form prescribed by the ~~city manager~~ mayor. The action of

the ~~city manager~~ mayor and council on the school budget shall relate to its total only and the school board shall have authority to expend in its discretion the sum appropriated for its use, provided that if it receives an appropriation greater or less than its original request, it shall forthwith revise its estimates of expenditure and adopt appropriations in accordance therewith. The school board shall before the beginning of the fiscal year file with the director of finance its budget as finally revised and its appropriations based thereon. It shall have power to order during the course of the fiscal year transfers from one item of appropriation to another, notice of which shall be immediately transmitted to the director of finance. The director of finance shall have the same authority to require expenditures to be made by school officers in accordance with the school budget as he/she is given by this charter to require expenditures by other city officers to be made in accordance with the general fund or utility budgets.

§ 6.16. Amendments after adoption.

(a) At any time within the fiscal year, upon the recommendation of the ~~city manager~~ mayor and certification of the director of finance that there remain sufficient funds not theretofore allotted for a specific purpose, the council may, by not less than six affirmative votes, allot all or part of the funds appropriated to an account designated "Reserve for Contingencies" as authorized in § 15.2-2505 of the Code of Virginia for a designated program or project and authorize expenditure of the funds so allotted.

(b) If at any time during the fiscal year the ~~city manager~~ mayor certifies that there are available for appropriation revenues in excess of those estimated in the budget, the city council may by not less than six affirmative votes, and only upon the recommendation of the ~~city manager~~ mayor, make supplemental appropriations for the year up to the amount of such excess.

(c) If at any time during the fiscal year it appears probable to the ~~city manager~~ mayor that the revenue or fund balances available will be insufficient to finance the expenditures for which appropriations have been authorized, the ~~city manager~~ mayor shall report to the city council without delay, indicating the estimated amount of the deficit, any remedial action taken by the ~~city manager~~ mayor and recommendations as to any other steps to be taken. The council shall then take such further action as it deems necessary to prevent or reduce any deficit, and for that purpose it may by ordinance reduce one or more appropriations.

(d) At any time during the fiscal year, at the request of the ~~city manager~~ mayor, the city council may by ordinance adopted by not less than six affirmative votes transfer part of or all of the unencumbered appropriation balance from one department or major organizational unit to the appropriation for other departments or major organizational units.

(e) No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

§ 6.19. Capital budget.

At the same time he/she submits the current expense budgets, the ~~city manager~~ mayor shall submit to the council a program which he/she shall previously have submitted to the city planning commission of proposed capital improvement projects for the ensuing fiscal year and for the four fiscal years thereafter, with his/her recommendations as to the means of financing the improvements proposed for the ensuing fiscal year. The council shall have power to accept with or without amendments or reject the proposed program and proposed means of financing for the ensuing fiscal year; and may from time to time during the fiscal year amend by ordinance adopted by at least six affirmative votes the program previously adopted by it or the means of financing the whole or any part thereof or both, provided that the amendment shall have been recommended by the ~~city manager~~ mayor and shall have been submitted to the city planning commission for review and such additional funds as may be required to finance the cost of the improvements are available. The council shall adopt a capital budget prior to the beginning of the fiscal year in which the budget is to take effect. No appropriation provided for a capital improvement purpose defined in the capital budget shall lapse until the purpose for which the appropriation was made shall have been accomplished or abandoned, provided the council shall have the power to transfer at any time any appropriation or any unencumbered part thereof from one purpose to another on the recommendation of the ~~city manager~~ mayor. The ~~city manager~~ mayor may transfer the balance remaining to the credit of any completed project to an incompleting project for the purpose of completing such project, provided the projects have been approved in the adoption of a capital budget or budgets. If no such transfers are made, the balances remaining to the credit of completed or abandoned purposes and projects shall be available for appropriation and allocation in a subsequent capital budget or budgets. Any project shall be deemed to have been abandoned if three fiscal years elapse without any expenditure from or encumbrance of the funds provided therefor. The council shall have the power at any time to abandon or to reduce the scope of any project in a capital budget to the extent that funds appropriated therefor are unexpended and unencumbered.

§ 8.03. General powers and duties of director of finance.

The director of finance, under the supervision of the ~~city manager~~ *chief administrative officer*, shall have charge of the administration of the financial affairs of the city and to that end he/she shall have authority and shall be responsible for the department of finance in order to discharge the following functions:

(a) Manage the city's finances in a professionally accountable and responsible manner.

(b) Provide for regular reporting of the city's financial condition in conformance with generally accepted accounting principles.

(c) Receive, deposit in legal depositories, maintain custody of and disburse all funds of the city or in the possession of the city, and prudently invest such funds as they are available for investment. The director shall not be liable for any loss sustained of funds so deposited.

(d) Protect the interests of the city by withholding the payment of any claim or demand by any person, firm or corporation against the city until any indebtedness or other liability due from such person, firm or corporation shall first have been settled and adjusted.

(e) Administer all debt of the city to include its issue, registration, transfer and retirement or redemption.

(f) Enforce the provisions of this charter and the ordinances of the city with regard to any financial matters of the city.

§ 17.02. City planning commission, generally.

There shall be a city planning commission which shall consist of nine members. One member shall be a member of the council who shall be appointed by the council for a term coincident with his/her term in the council; one member shall be a member of the board of zoning appeals appointed by the board of zoning appeals for a term coincident with his/her term on such board; one member shall be the ~~city manager~~ *chief administrative officer* or an officer or employee of the city designated from time to time by him/her; six citizen members shall be qualified voters of the city who hold no office of profit under the city government, appointed by the council for terms of three years. Vacancies shall be filled by the authority making the appointment, for the unexpired portion of the term. Members of the city planning commission, other than the member of council appointed to the commission and the ~~city manager~~ *chief administrative officer*, or such officer or employee of the city as the ~~city manager~~ *chief administrative officer* may designate to serve on the commission, shall be entitled to receive such compensation as may be fixed from time to time by ordinance adopted by the council.

§ 18.02. Eminent domain.

The city is hereby authorized to acquire by condemnation proceedings lands, buildings, structures and personal property or any interest, right, easement or estate therein, of any person or corporation, whenever in the opinion of the council a public necessity exists therefor, which shall be expressed in the resolution or ordinance directing such acquisition, whether or not any corporation owning the same be authorized to exercise the power of eminent domain or whether or not such lands, buildings, structures or personal property or interest, right, easement or estate has already been devoted to a public use, and whenever the city cannot agree on terms of purchase or settlement with the owners of the subject of such acquisition because of incapacity of such owner, or because of the inability to agree on the compensation to be paid or other terms of settlement or purchase, or because the owner or some one of the owners is a nonresident of the Commonwealth and cannot with reasonable diligence be found in the Commonwealth or is unknown.

Such proceedings may be instituted in the Circuit Court of the City of Richmond, Divisions I or II, if the subject to be acquired is located within the city, or, if it is not located within the city, in the circuit court of the county in which it is located. If the subject is situated partly within the city and partly within any county the circuit court of such county shall have concurrent jurisdiction in such condemnation proceedings with the circuit court of the city. The judge or the court exercising such concurrent jurisdiction shall appoint five disinterested freeholders any or all of whom reside either in the county or city, any three of whom may act as commissioners, as provided by law.

§ 18.03. Alternative procedures in condemnation.

The city may, in exercising the right of eminent domain conferred by the preceding section, make use of the procedure prescribed by the general law as modified by said section or may elect to proceed as hereinafter provided. In the latter event the resolution or ordinance directing acquisition of any property, as set forth in the preceding section, shall provide therein in a lump sum the total funds necessary to compensate the owners thereof for such property to be acquired or damaged. Upon the adoption of such resolution or ordinance the city may file a petition in the clerk's office of a court enumerated in the preceding section, having jurisdiction of the subject, which shall be signed by the ~~city manager~~ *chief administrative officer* and set forth the interest or estate to be taken in the property and the uses and purposes for which the property or the interest or estate therein is wanted, or when property is not to be taken but is likely to be damaged, the necessity for the work or improvement which will cause or is likely to cause such damage. There shall also be filed with the petition a plat of a

survey of the property with a profile showing cuts and fills, trestles and bridges, if any, and a description of the property which, or an interest or estate in which, is sought to be taken or likely to be damaged and a memorandum showing names and residences of the owners of the property, if known, and showing also the quantity of property which, or an interest or estate in which, is sought to be taken or which will be or is likely to be damaged. There shall be filed also with said petition a notice directed to the owners of the property, if known, copies of which shall be served on such owners or tenants of the freehold of such property, if known. If the owner or tenant of the freehold be unknown or a nonresident of the Commonwealth or cannot with reasonable diligence be found in the Commonwealth, or if the residence of the owner or tenant be unknown, he/she may be proceeded against by order of publication which order, however, need not be published more than once a week for two successive weeks and shall be posted at a main entrance to the courthouse. The publication shall in all other respects conform to §§ 8.01-316, 8.01-317 and 8.01-319 of the Code of Virginia.

Upon the filing of said petition and the deposit of the funds provided by the council for the purpose in a bank to the credit of the court in such proceedings and the filing of a certificate of deposit therefor the interest or estate of the owner of such property shall terminate and the title to such property or the interest or estate to be taken in such property shall be vested absolutely in the city and such owner shall have such interest or estate in the funds so deposited as he/she had in the property taken or damaged and all liens by deed of trust, judgment or otherwise upon said property or estate shall be transferred to such funds and the city shall have the right to enter upon and take possession of such property for its uses and purposes and to construct its works or improvements. The clerk of the court in which such proceeding is instituted shall make and certify a copy of the petition, exhibits filed therewith, and orders, and deliver or transmit the same to the clerk of the court in which deeds are admitted to record, who shall record the same in his/her deed book and index them in the name of the person or persons who had the property before and in the name of the city, for which he/she shall receive the same fees prescribed for recording a deed, which shall be paid by the city.

If the city and the owner of property so taken or damaged agree upon compensation therefor, upon filing such agreement in writing in the clerk's office of such court, the court shall make such distribution of such funds as to it may seem right, having due regard to the interest of all persons therein whether such interest be vested, contingent or otherwise, and to enable the court or judge to make a proper distribution of such money it may in its discretion direct inquiries to be taken by a special commissioner in order to ascertain what persons are entitled to such funds and in what proportions and may direct what notice shall be given to the making of such inquiries by such special commissioner.

If the city and the owner cannot agree upon the compensation for the property taken or damaged, if any, upon the filing of a memorandum in the clerk's office of said court to that effect, signed by either the city or the owner, the court shall appoint commissioners provided for in §§ 25-46.19 and 25-46.20 of the Code of Virginia or as provided for in § 18.02, and all proceedings thereafter shall be had as provided in Chapter 1.1 of Title 25 of the Code of Virginia insofar as they are then applicable and are not inconsistent with the provisions of this and the preceding section, and the court shall order the deposit in bank to the credit of the court of such additional funds as appear to be necessary to cover the award of the commissioners or shall order the return to the city of such funds deposited that are not necessary to compensate such owners for property taken or damaged. The commissioners so appointed shall not consider improvements placed upon the property by the city subsequent to its taking nor the value thereof nor the enhancement of the value of said property by said improvements in making their award.