



Roderick R. Ingram,
Deputy City Attorney

The Policy & Administration Team delivers legal services in support of core governmental and administrative functions, including public policy, public facilities, human resources, public finance and public safety. The services provided include drafting policies, ordinances, resolutions, and procedures, responding to inquiries, and issuing legal opinions where legal interpretation may affect the policies of the client.



MAJOR FY 2018 ACCOMPLISHMENTS

- Adoption of the COV 457 Plan – Drafted documents necessary to transition the City to the VRS-administered retirement investment plan, which provides additional investment options for City and School employees at lower costs.
- Revised PPEA Procedures – In light of concerns that the City’s public-private partnership procedures for PPEA projects were unwieldy and confusing, and with input from the Process Improvement Committee, we revised the City’s PPEA Procedures to more succinctly detail the steps required, which reduced a 22-page document to 7 pages.
- Pet Shops – Drafted ordinances that amended the City Code to better enable the Animal Control Division of the Police Department to ensure that local pet shops are in compliance with all state and local laws regarding animal welfare and to also provide more efficient enforcement mechanisms.
- Ashville Park Cost Participation Agreement – Developed and helped negotiate a cost participation agreement to provide stormwater and drainage improvements that was both consistent with the City Council’s direction and acceptable to the Developer.
- Online FOIA Portal – Launched an online FOIA portal that better enables the public to obtain City records and streamlines internal processes for responding to requests; FOIA requests to the City have increased by more than 50% compared to the prior fiscal year.

STATISTICAL SUMMARY – FY 2018 ACTIVITIES

- Public Policy/Public Facilities/Public Finance/Public Safety – 9,106 hours
 - Freedom of Information Act - Responded to 945 requests, provided copies of more than 300,000 pages of documents and more than 130 audio files, and facilitated the inspection of thousands of additional records.
 - Conflict of Interests Act – Analyzed more than 100 potential or actual conflicts and provided 11 written opinions and 71 disclosure or abstention letters.
 - Ordinances & Resolutions – Prepared 160 ordinances and 49 resolutions that were adopted by the City Council.
 - Contracts – Reviewed 1,117 goods and services contracts for legal sufficiency.
 - Bankruptcy Filings – Reviewed 229 bankruptcy filings of persons or entities that owe money to the City and filed proofs of claim.
- Human Resources – 3,709 hours
 - Employment Discrimination Complaints – Responded to 9 EEOC charges and assisted Human Resources with 3 internal EEO investigations.
 - Personnel Policies – reviewed and assisted with drafting 15 City-wide policies and general orders.

FY 2019 AND BEYOND

- Disparity Study – Our office will provide advice regarding implementation of recommendations from the Disparity Study to increase the City’s use of minority-, women- and veteran-owned business vendors.
- Body Cameras – Our office will continue to provide advice regarding the use of body cameras by the Police Department.



Beverley Kay Wilson,
Deputy City Attorney

The Land Use Team performs legal tasks involved in the development, implementation, administration and enforcement of the City's zoning, land use (including AICUZ-related), telecommunications, environmental, agricultural, and neighborhood preservation programs. The Land Use attorneys act as primary legal counsel to the Planning Commission, Board of Zoning Appeals, Wetlands Board, Chesapeake Bay Preservation Area Board, Agricultural Advisory Commission, Bayfront Advisory Committee, Green Ribbon Committee, Workforce Housing Advisory Board and staff Sea Level Rise Committee.



MAJOR FY 2018 ACCOMPLISHMENTS

- Home sharing and short term rental ordinances have not reached final adoption after almost four (4) years of investigation, but a consensus ordinance has been drafted and referred to the Planning Commission for review and recommendations. Both the Planning Commission and City Council have requested numerous revisions to ordinances that have been vetted in both public hearings and workshops, and they have not been finally adopted.
- Drafted ordinances that created the ability for the ViBE District to have outdoor special events in the District on a regular basis to help establish the identity of the district and increase the interest of the public in the district.
- Provided legal assistance and drafted ordinances for the subcommittee on Mobile Food Vending, to allow food trucks to be able to have greater areas of the City in which to sell and to distinguish them from peddlers, in both taxation and zoning.
- Drafted forty-three (43) ordinances and resolutions, including, among others, ordinances adopting the 2018 Interfacility Traffic Area and Vicinity Master Plan revision to the 2016 Comprehensive Plan; increasing planning department fees by adding the cost of advertising; allowed the use of electric carts for transporting items to the beach; amended the provisions in regard to small cells per the Virginia Code provisions; resolutions for two (2) sets of roadside guide signs and 2 resolutions for the enlargement of nonconformities.
- Provided training to the Chesapeake Bay Preservation Area Board, and the Wetlands Board on topics relevant to the Boards and to zoning and housing inspectors on relevant topics.
- Provided ongoing legal assistance to the departments of Planning and Public Works for the requirements of the MS4 permit and the provisions of the Chesapeake Bay TMDL program.

STATISTICAL SUMMARY – FY 2018 ACTIVITIES

Land Use and Zoning Issues – 2,425 hours

- Development-Related Agreements – Reviewed 22 conditional zoning agreements and 45 stormwater management facilities maintenance agreements.
- Ordinances/Resolutions - Prepared 33 ordinances and 10 resolutions adopted by the City Council
- Collected \$3,000 for violations assessed by Wetlands Board and \$5000 by the Chesapeake Bay Preservation Area Board.

Boards and Commissions – 952 hours

- The Land Use attorneys act as legal counsel to all of the City's boards and commissions having functions related to land use or environmental protection.

Code Enforcement – 573 hours

- Housing/Zoning Code Violations – Represented the City in General District Court in 18 cases, and in Circuit Court in 29 cases, involving housing code or zoning violations in matters requiring assistance of legal counsel.

FY 2019 AND BEYOND

- It is anticipated that work will continue to focus on final adoption of ordinances for home sharing and short term rentals. However, the effective date will be no sooner than November 1, 2019. Process and procedures will also need to be finalized.
- It is anticipated that the Mobile Food Vending Ordinance will need revision and redrafting to allow it to be adopted by City Council for the use by food trucks prior to the 2019 summer season.
- The process for the five (5) year update of the Comprehensive Plan will begin, so that the Plan can be updated in 2021. Public workshops and hearings by the Planning Commission will require time and attention.
- The introduction of regular training to the zoning and housing inspectors in substantive issues, process and practical measures will be a priority in the coming year.



Christopher S. Boynton,
Deputy City Attorney

The Litigation team represents the City, its departments, boards, commissions, employees and volunteers in matters pending before judicial and administrative tribunals. The Litigation team provides court representation to the City and public employees in traditional civil court cases much like a private law firm would represent a private corporate client. These advocacy roles include prosecuting and defending personal injury, civil rights, contract, real property, collection and construction claims in state and federal courts.



This litigation also includes defending City ordinances and administrative actions in the face of constitutional, statutory and policy challenges, advocating the needs of vulnerable children and the elderly on behalf of the Department of Human Services, acquisition of real property through the principled exercise of eminent domain, and limited criminal prosecution where requested by the Commonwealth Attorney.

FY 2018 SIGNIFICANT CASES

- Prevailed in overcoming federal court challenge to City Council's Chesapeake Colony neighborhood dredging program.
- Prevailed in state court lawsuit seeking to overturn firefighter promotional process outcome.
- Prevailed in lawsuits seeking delay damages and additional costs in the construction of two sanitary sewer pump stations, and settled on favorable terms suits involving two other pump stations.
- Facilitated cost-participation resolutions of disputes with developers involving storm water drainage facilities in two residential subdivisions.
- Successfully defended the constitutionality of the City's Disturbing the Peace ordinance in the Supreme Court of Virginia.

STATISTICAL SUMMARY – FY 2018 ACTIVITIES

- General Litigation Matters
 - Civil Litigation-2,760 hours, 12 cases closed, 40 cases pending
 - EEO Litigation & Disputes – 519 hours
 - Collections- 191 hours, 17 closed cases, recovering payment of \$29,664 owed to the City , 12 cases pending
- Eminent Domain
 - Litigation – 970 hours
- Human Resources Hearings
 - Personnel Board Hearings – 582 hours
 - Unemployment Hearings – 86 hours
 - Workers Compensation – 1,408 hours, 49 cases pending
- Social Services
 - Child Abuse and Neglect & Child Protective Services – 6,093 hours, closing 262 cases with an average of 512 cases pending
 - Adult Guardianship Services – 504 hours, 36 cases closed, 28 cases pending

FY 2019 AND BEYOND

- The number of service hours expended in general civil litigation matters increased from 1,305 to 2,760 hours over the last two fiscal years, a 111% increase, and the number of civil cases pending increased from 25 to 40 cases, a 60% increase. We have seen a trend of increasing civil litigation filings and time involved on certain of those cases, including personal injury and wrongful death claims. We expect this elevated level of service hours to continue through FY 19.
- Workers Compensation service hours have stabilized, but at a historically elevated level. The number of cases pending as we enter FY 19 represents a 29% increase over the prior year, so we expect this elevated level will continue through FY 19.
- The number of litigation service hours expended in Department of Human Services representation has stabilized, but at a historically elevated level. Prior years' increases resulted in the reallocation of existing attorney and staff resources away from general civil litigation toward social services litigation and in City Council authorizing this office to have an "embedded" attorney located at the DHS headquarters and hire an additional attorney FTE to address increased DHS service needs in FY 19 and beyond. We are continuing to monitor this balancing of resources between DHS and general civil litigation given the above trends.

REAL ESTATE, INFRASTRUCTURE & DEVELOPMENT



Rebecca D. Kubin,
Deputy City Attorney

The Real Estate, Infrastructure & Development Team conducts the activities necessary to support the acquisition, maintenance and operation of the City's infrastructure and to support development activities intended to enhance the City's tax base.

The Team's efforts support the Public Utility and Public Works departments, real estate acquisition of property for City projects and public uses, including eminent domain actions, sale of public sites, open space acquisitions, contract review services, and matters concerning cable, telecommunications and public service corporation franchises as well as the commercial real estate services necessary to support development efforts.



MAJOR FY 2018 ACCOMPLISHMENTS

- Telecommunications – provided legal support to departments working on subsea cables, Smart-Cities initiatives, a regional broadband system, small cell regulations and cable franchises.
- Town Center – continued work on Phase 6, including retail, apartments and the Zeiders American Dream Theater.
- APZ-1 and ITA/RAA Acquisitions – continued maintenance phase of program to reduce encroachment and protect the mission of NAS Oceana; acquisitions and agreements to acquire and program expenses reached \$122.4 million; City has removed or prevented 792 residential units and 65 incompatible businesses from APZ-1 and Clear Zones and protected 2,213 acres from incompatible development in ITA and RAA by 6/30/18.
- CIP Support – provided legal advice during design, acquired properties either by voluntary agreement or condemnation and advised regarding relocation assistance for the following projects: 19th Street Corridor Improvements, Burton Station, Indian River/Kempsville Roads, Indian River Road Phase VII, Pacific Avenue, Shipps Corner Road, Princess Anne Phase VII, First Colonial Road/Virginia Beach Blvd., Bellamy Manor Outfall Ditch, and Princess Anne/Gum Bridge/Pleasant Ridge Roads.
- Neighborhood Dredging – provided legal services for SSD projects in the following neighborhoods: Buchanan Creek West, Gills Cove, Hurds Cove, Little Neck Creek, Chesapeake Colony, Dix Creek and Brock Cove.
- Flooding/Drainage: provided legal services to Public Works/Operations for projects to address flooding and for stormwater maintenance in Windsor Oaks, Windsor Woods, Sherwood Lakes and Ashville Park.
- Sold City's former Owls Creek Golf Course property to GTS for development of a factory that will create ____ jobs.
- Assisted Public Works/Real Estate with revamping the process for the disposition of property to make it more accessible to prospective purchasers.
- Closed on the following special acquisitions:
 - 9.1 acres of property along the Elizabeth River with partner Living River Restoration Trust for a future canoe/kayak launch.
 - 1.1-acre Doyle Park site adjacent to I-264 in the Lynnhaven area from VDOT.

STATISTICAL SUMMARY – FY 2018 ACTIVITIES

- Acquisitions of Real Estate/ Sale of Public Property – 5,020 hours
 - Acquisitions – acquired 44 parcels and easements, costing nearly \$3.7 million.
 - Dispositions – sale of 19 parcels and easements.
 - Eminent Domain – completed 7 acquisitions.
 - Relocation – 97 hours
- Leases/Franchise Agreements – completed 38 lease/franchises – 1,048 hours
- Agricultural Reserve Program – 214 hours
- Encroachments – 21 encroachment requests completed – 163 hours
- Street closures – 10 street closure ordinances were adopted
- Title Issues – completed 19 matters involving ownership of real property
- Easements – 39 easement matters
- Economic Development – 1,880.3 hours
 - Development Authority – 517.1 hours
 - Public/Private Partnerships and Commercial Development – 901 hours

FY 2019 AND BEYOND

- FY '19 will bring continued activity related to the development of the Sports Center, the possible development of the Dome Site in the Resort Area, a hotel near TCC, and the assemblage of the Kempsville/Witchduck Corridor for redevelopment.
- Several road projects have been funded for real estate acquisition in FY'19.
- Legal services will continue to be needed to support SSD programs for neighborhood dredging and projects addressing flooding, sea level rise and water quality projects throughout the City.
- In addition to new subsea cables, there are expected to be new telecommunications franchises, cable landings data centers and services to be negotiated.
- Development of the first phase of BioPark in the Princess Anne Road corridor is expected in FY'19



Kamala H. Lannetti,
Deputy City Attorney

The Public Education Team delivers legal services in support of core public education and administrative functions including student issues, human resources, School Board policies, administrative support and public policy issues, and school finance matters. Supplemental services in support of the School Board's initiatives include litigation and real estate services.



MAJOR FY 2018 ACCOMPLISHMENTS

- Prevailed on an eight day Section 504 impartial hearing regarding a high school student
- Obtained dismissal by federal court of request by parent advocate for \$30,000 in attorney's fees related to a special education due process hearing
- Successfully reduced by \$20,000 the award of attorney's fees in a federal court appeal of a special education case
- Finalized sale of surplus property adjacent to Renaissance Academy for \$15,000
- Resolved 19 federal and state complaints related to disability discrimination in the School Division's favor
- Drafted and implemented new procedures for all Citizens Advisory Committees

STATISTICAL SUMMARY – FY 2018 ACTIVITIES

- Student Issues – 3,496.1 hours/278 Student Matters
 - 1,800 hours on Special Education/ Section 504 cases
 - Represented School Division in 6 due process hearings and 1 Section 504 hearings
 - Discrimination complaints 14 USDOE OCR/ 5 VDOE discrimination complaints
 - Handled 83 student discipline cases
 - Handled 7 truancy/CHINS/parental participation cases
 - Drafted 12 parent/ community member ban or limitation of access letters
 - Responded to 26 subpoena *duces tecum* for student records
- Human Resources – 857.2 hours
 - Resolved ___ employee leave, ADA, contract or grievance issues
 - Handled 21 employee grievance hearing and discipline matters
 - Responded to 15 EEOC complaints
 - Responded to 32 subpoenas for witnesses or records
- Contract Review – 360.7 hours
 - Reviewed 554 goods and services contracts for legal sufficiency
 - Reviewed 9 construction contracts for legal sufficiency
- Administration/Policy – 492.3 hours
 - Reviewed and updated 87 Bylaws, policies and regulations
 - Responded to 9 Freedom of Information Act requests
- Real Estate Matters – 236 hours
 - Finalized sale of land adjacent to Renaissance Academy
 - Negotiated offers to purchase the Laskin Road Annex
 - VDOT acquisition of easements related Laskin Road Annex
 - Princess Anne High School U.S. Army Corps project

FY 2019 AND BEYOND

- Prepare for Corrective Action Plan requirements and appeal of a Virginia Department of Education Systemic Complaint and anticipated litigation
- Prepare for class action litigation in federal court related to employment matters