

March 7, 2012

MEMBER JURISDICTIONS

CHESAPEAKE

FRANKLIN

GLOUCESTER

HAMPTON

ISLE OF WIGHT

JAMES CITY

NEWPORT NEWS

NORFOLK

POQUOSON

PORTSMOUTH

SOUTHAMPTON

SUFFOLK

SURRY

VIRGINIA BEACH

WILLIAMSBURG

YORK

Mr. Scott Kudlas, Director  
Office of Surface and Ground Water Supply Planning  
Virginia Department of Environmental Quality  
P.O. Box 1105  
Richmond, Virginia 23218

RE: Addendum to the Hampton Roads Regional Water Supply Plan Local Program Adoption Documents

Dear Mr. Kudlas:

The Hampton Roads Planning District Commission (HRPDC), on behalf of member localities, submitted the Hampton Roads Regional Water Supply Plan to the Virginia Department of Environmental Quality (DEQ) on October 31, 2011. The submittal package included a document entitled "Hampton Roads Regional Water Supply Plan Local Program Adoption Documents" containing locality resolutions and records of public hearings on the adoption of the plan. HRPDC kindly requests the addition of this letter and attachments to DEQ's administrative record as an addendum to the local program adoption documents.

The following are being transmitted:

- August 10, 2011 Hampton City Council Meeting Minutes: The City of Hampton held a public hearing on the Hampton Roads Regional Water Supply Plan on August 10, 2011. Council meetings are structured such that a public comment period precedes the regular Council meeting. Separate meeting minutes are provided for each meeting segment. The regional water supply plan submittal package to DEQ included the minutes of the public comment period, but did not include the regular Council meeting minutes that document the public hearing. The final meeting minutes of the regular City Council meeting are provided herein (see Attachment A).
- October 6, 2011 Isle of Wight County Board of Supervisors Meeting Minutes: The Isle of Wight County Board of Supervisors held a public hearing on the Hampton Roads Regional Water Supply Plan on October 6, 2011. As indicated in the regional plan submittal package, the record of the public hearing was not available at the time of submittal. Since then, the Board of Supervisors has finalized the meeting minutes documenting the public hearing. The final meeting minutes are provided herein (see Attachment B).

**MAILED**

**MAR - 7 2012**

Mr. Scott Kudlas  
March 8, 2012  
Page 2

If you have any questions or need further information, please do not hesitate to call John Carlock, Deputy Executive Director, at (757) 366-4350 or Whitney Katchmark, Principal Water Resources Engineer, at (757) 366-4342.

Sincerely,

A handwritten signature in cursive script that reads "Dwight L. Farmer". The signature is written in black ink and is positioned above the printed name and title.

Dwight L. Farmer  
Executive Director/Secretary

TS/fh

Attachments



**City of Hampton, VA**  
**Meeting Minutes**  
**City Council**

22 Lincoln Street  
Hampton, VA 23669  
www.hampton.gov

*Ross A. Kearney, II*  
*Angela Lee Leary*  
*Will Moffett*

*Christopher G. Stuart*  
*Donnie R. Tuck*  
*George E. Wallace*

*Molly Joseph Ward, Mayor*

*Staff:*

*Mary Bunting, City Manager*  
*Cynthia Hudson, City Attorney*  
*Katherine K. Glass, CMC, Clerk of Council*

---

Wednesday, August 10, 2011                      7:24 PM                      Council Chambers, 8th Floor, City Hall

---

**CALL TO ORDER/ROLL CALL**

**MOLLY JOSEPH WARD PRESIDED**

**PRESENT:** Ross A. Kearney, II, Angela Lee Leary, Will Moffett, Christopher G. Stuart, Donnie R. Tuck, George E. Wallace

**INVOCATION**

Prior to giving the invocation, Reverend Steven Brown asked everyone to participate in a moment of silence in honor of the Navy Seals who lost their lives last week.

**PLEDGE OF ALLEGIANCE TO FLAG**

**MAYOR'S COMMENTS**

Mayor Ward welcomed everyone to the evening meeting and recognized Councilman Stuart to give comments.

Councilman Stuart apologized for being absent during the citizen comment portion of the meeting which he considers a very important part of what takes place on Council. He explained he was absent due to the passing of his father-in-law Mr. Ronald W. Maust, and thanked the Wythe Fire Station #3, the ICU staff and doctors at Sentara Hampton Careplex who made a difference in his family's lives during this difficult time.

Councilman Stuart continued stating Hampton lost a fantastic businessman in Mr. Maust. He was an inspiration to his family and friends, was a visionary when he came to downtown Hampton, was a lesson in perseverance given his physical and health challenges, was able to clearly define the true meaning of family and was an example to his children and himself (Councilman Stuart) of how to live a life of dignity.

Mayor Ward stated all of our thoughts are with Councilman Stuart and his family.

Mayor Ward recognized Councilman Kearney to give comments regarding the Phoebus Post Office.

Councilman Kearney stated on August 1st, the Postal Service announced the closing of over 3,000 post offices nationwide. Over 60 people from the Phoebus community met on August 4th at the Phoebus Firehouse. The group unanimously endorsed a petition drive to keep the Phoebus Post Office open which resulted in a resolution for Council approval to be sent to elected members of Congress.

Councilman Kearney continued. We have lost the Buckroe Beach Post Office and the Hampton University Post Office and will lose the Fort Monroe Post Office which means a great percentage of the citizens in the community of Hampton will be denied service delivery. He continued stating that the post office building built in the 1930's is owned by the post office and meets the criteria for the Phoebus community with regards to the Antiquities Act and preserving the Olde Town Main Street program, etc. Councilman Kearney read the resolution urging the Postmaster General to keep the Phoebus Post Office open and asked for Council's approval.

Mayor Ward thanked Councilman Kearney for his efforts in that regard. Councilman Kearney thanked City Manager Ms. Mary Bunting for assigning staff members, particularly Special Projects Manager Mr. Brian DeProfio to this task and for his work in contacting our Congressional offices, and local politicians. Councilman Kearney noted that the petitions are in all of the Hampton City Libraries and asked everyone to encourage their friends and neighbors to go to the branches to sign the petition.

#### CONSENT AGENDA

Clerk of Council Ms. Katherine Glass read the protocol for the consent agenda items.

Mayor Ward stated Councilman Stuart requested the removal of item four.

1. 11-0237 Approval of the minutes from the afternoon sessions of February 9, 2011, March 9, 2011, and March 23, 2011; the public comment session of July 13, 2011; and the evening session of July 13, 2011.

APPROVED - items 1 (11-0237) through 3 (11-0240) and 5 (11-0243) through 13 (11-0255) on the consent agenda.

**Motion made by:** Councilmember Ross A. Kearney, II

**Seconded by:** Vice Mayor George E. Wallace

**Ayes:** 7 - Ross A. Kearney, II, Angela Lee Leary, Will Moffett, Christopher G. Stuart, Donnie R. Tuck, George E. Wallace, Molly Joseph Ward

**Nays:** 0

2. 11-0239 Resolution Approving the City of Hampton, Virginia's Participation and Appropriation of the Criminal Justice Systems Improvement Grant through the Virginia Department of Criminal Justice Services.

**WHEREAS**, the City of Hampton has been awarded the Criminal Justice Systems Improvement Grant in the amount of \$33,506 in Department of Criminal Justice Services funds with a \$11,169 required local match; and

**WHEREAS**, the grant award covers the period 07/01/2011 through 6/30/2012;

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Hampton accepts and appropriates the Criminal Justice Systems Improvement Grant and any other supplemental funding in the total amount of \$44,675 (grant including locality match) awarded/ made by the Virginia Department of Criminal Justice Services, in accordance with the grant agreement;

**BE IT FURTHER RESOLVED** that the City Council authorizes the City Manager or his designee to take the necessary steps to implement this grant award.

APPROVED - items 1 (11-0237) through 3 (11-0240) and 5 (11-0243) through 13 (11-0255) on the consent agenda.

**Motion made by:** Councilmember Ross A. Kearney, II

**Seconded by:** Vice Mayor George E. Wallace

**Ayes:** 7 - Ross A. Kearney, II, Angela Lee Leary, Will Moffett, Christopher G. Stuart, Donnie R. Tuck, George E. Wallace, Molly Joseph Ward

**Nays:** 0

3. 11-0240 Resolution Approving the City of Hampton, Virginia's Participation and Appropriation of the 2010-2011 Byrne Justice Assistance Grant Program through the Virginia Department of Criminal Justice Services.

**WHEREAS**, the Virginia Department of Criminal Justice Services has awarded the Byrne Justice Assistance Grant (in Prevention and Education) to the City of Hampton in the amount of \$69,992 in federal funds and \$3,684 in cash/in-kind match (provided by Hampton City Schools), for a total award of \$73,676; and

**WHEREAS**, the grant award covers the period July 1, 2011 through June 30, 2012;

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Hampton accepts and appropriates the Byrne Justice Assistance Grant in the amount of \$73,676 and any related supplemental funding by the Virginia Department of Criminal Justice Services in accordance with the grant agreement;

APPROVED - items 1 (11-0237) through 3 (11-0240) and 5 (11-0243) through 13 (11-0255) on the consent agenda.

**Motion made by:** Councilmember Ross A. Kearney, II

**Seconded by:** Vice Mayor George E. Wallace

**Ayes:** 7 - Ross A. Kearney, II, Angela Lee Leary, Will Moffett, Christopher G. Stuart, Donnie R. Tuck, George E. Wallace, Molly Joseph Ward

**Nays:** 0

4. 11-0242 Resolution Approving the City of Hampton, Virginia's Participation and Appropriation of the 2011-2012 Comprehensive Community Corrections Act and Pretrial Services Act Grant Funding Program through the

Hampton-Newport News Criminal Justice Agency from the Virginia Department of Criminal Justice Services.

**WHEREAS**, the Hampton-Newport News Criminal Justice Agency anticipates award notification from the Virginia Department of Criminal Justice Services on their allocation amount for the Comprehensive Community Corrections Act and Pretrial Services Act Grant, for \$1,877,328 in State funds, \$35,481 cash match from the City of Hampton; and,

**WHEREAS**, the grant award covers the period July 1, 2011 through June 30, 2012.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Hampton accepts and appropriates the Comprehensive Community Corrections Act and Pretrial Services Act Grant award in the amount of \$1,877,328 in State funds, \$35,481 cash match from the City of Hampton, and an estimated \$62,500 in client service fees collected this granting period, for a total grant award of \$1,975,309 along with any supplemental funding made by the Virginia Department of Criminal Justice Services in accordance with the grant agreement.

**BE IT FURTHER RESOLVED** that the City Council authorizes the City Manager, or his designee, to take the necessary steps to implement this grant award.

Councilman Stuart stated this item is a good example of the State having the best of intentions of privatizing pre-trial services which takes an industry that has been in existence for over 200 years and pushes it out of the way to use taxpayer funds. He further stated it is an issue he voted against last year and intends to vote against this year. He said it may not be confrontational to the other members of Council; however, it is something he is not comfortable with.

APPROVED - Councilman Stuart requested that this item be removed from the consent agenda.

**Motion made by:** Councilmember Angela Lee Leary

**Seconded by:** Councilmember Ross A. Kearney, II

**Ayes:** 6 - Ross A. Kearney, II, Angela Lee Leary, Will Moffett, Donnie R. Tuck, George E. Wallace, Molly Joseph Ward

**Nays:** 1 - Christopher G. Stuart

5. 11-0243 Resolution Approving the City of Hampton, Virginia's Participation and Appropriation in the 2012 Homeless Intervention Program through the Hampton Department of Human Services from the Virginia Department of Housing and Community Development.

**WHEREAS**, the Virginia Department of Housing and Community Development has awarded the Homeless Intervention Grant to the City of Hampton in the amount of \$163,197 in state funds; and

**WHEREAS**, the grant award covers the period July 1, 2011 through June 30, 2012; and

**WHEREAS**, loan repayment funds will be collected on behalf of this grant; and

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Hampton accepts and appropriates the Homeless Intervention Program Grant in the anticipated amount of \$163,197 and related supplemental funding by the Virginia Department of Housing and Community Development, and any unspent loan repayment funds and program funds from the last granting period, and any loan repayments collected from this granting period in accordance with the grant agreement;

APPROVED - items 1 (11-0237) through 3 (11-0240) and 5 (11-0243) through 13 (11-0255) on the consent agenda.

**Motion made by:** Councilmember Ross A. Kearney, II

**Seconded by:** Vice Mayor George E. Wallace

**Ayes:** 7 - Ross A. Kearney, II, Angela Lee Leary, Will Moffett, Christopher G. Stuart, Donnie R. Tuck, George E. Wallace, Molly Joseph Ward

**Nays:** 0

6. 11-0244 Resolution Approving the City of Hampton, Virginia's Participation and Appropriation in the 2012 Emergency Solutions Grant Through the Hampton Department of Human Services from the Virginia Department of Housing and Community Development.

**WHEREAS**, the Virginia Department of Housing and Community Development has awarded the Emergency Solutions Grant to the City of Hampton in the amount of \$45,893 in state funds; and

**WHEREAS**, the grant award covers the period July 1, 2011 through June 30, 2012; and

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Hampton accepts and appropriates the Emergency Solutions Grant in the anticipated amount of \$45,893 and related supplemental funding by the Virginia Department of Housing and Community Development.

APPROVED - items 1 (11-0237) through 3 (11-0240) and 5 (11-0243) through 13 (11-0255) on the consent agenda.

**Motion made by:** Councilmember Ross A. Kearney, II

**Seconded by:** Vice Mayor George E. Wallace

**Ayes:** 7 - Ross A. Kearney, II, Angela Lee Leary, Will Moffett, Christopher G. Stuart, Donnie R. Tuck, George E. Wallace, Molly Joseph Ward

**Nays:** 0

7. 11-0245 Resolution Accepting and Appropriating Funds for the FY2012 Comprehensive Services Act Pool Funds.

**BE IT RESOLVED** by the Council of the City of Hampton, Virginia, that the total Comprehensive Services Act Pool Funds in the amount of \$7,050,000 be appropriated for the fiscal year beginning July 1, 2011 and ending June 30, 2012. In addition, the Council accepts any additional supplemental revenues from the state and Medicaid for

the Funds Pool subject to the availability of local match.

APPROVED - items 1 (11-0237) through 3 (11-0240) and 5 (11-0243) through 13 (11-0255) on the consent agenda.

**Motion made by:** Councilmember Ross A. Kearney, II

**Seconded by:** Vice Mayor George E. Wallace

**Ayes:** 7 - Ross A. Kearney, II, Angela Lee Leary, Will Moffett, Christopher G. Stuart, Donnie R. Tuck, George E. Wallace, Molly Joseph Ward

**Nays:** 0

8. 11-0247 Resolution Approving and Authorizing Submission to the State of the Fiscal Year 2012 Hampton-Newport News Community Services Board Performance Contract.

**WHEREAS**, the Cities of Newport News, Virginia, and Hampton, Virginia, established the Hampton-Newport News Community Services Board (the "CSB") in January 1971; and

**WHEREAS**, Virginia Code Section 37.2-508 requires that a performance contract negotiated between the State Department of Mental Health, Mental Retardation and Substance Abuse Services ("DMHMRSAS") and the CSB and approved by the CSB be submitted for approval by formal vote of the governing body of each political subdivision that established the CSB; and

**WHEREAS**, DMHMRSAS has provided to the CSB a Letter of Notification setting out the amount of state and federal funding that would be available to the CSB during FY 2012; and

**WHEREAS**, the CSB has approved the FY 2012 Community Services Board Performance Contract and recommended it to the Hampton City Council for approval.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of Hampton, Virginia:

1. That it approves the FY 2012 Community Services Board Performance Contract between the DMHMRSAS and the CSB;
2. That the City Manager is hereby authorized and directed to approve the performance contract and to forward a copy of this resolution to the State Commissioner of DMHMRSAS.

APPROVED - items 1 (11-0237) through 3 (11-0240) and 5 (11-0243) through 13 (11-0255) on the consent agenda.

**Motion made by:** Councilmember Ross A. Kearney, II

**Seconded by:** Vice Mayor George E. Wallace

**Ayes:** 7 - Ross A. Kearney, II, Angela Lee Leary, Will Moffett, Christopher G. Stuart, Donnie R. Tuck, George E. Wallace, Molly Joseph Ward

**Nays:** 0

9. 11-0248 Resolution Authorizing the Execution of a Deed of Lease With the Commonwealth of Virginia, Department of General Services for 100 Square Feet of Office Space Known as Office Number 656 Located on the 6th Floor of 1 Franklin Street in Downtown Hampton

**WHEREAS** the City of Hampton (the "City") owns a parcel of land at 1 Franklin Street upon which is located the Ruppert L. Sargent Building;

**WHEREAS**, the Commonwealth of Virginia, Department of General Services-Department of Minority Business Enterprises ("DMBE") has been seeking office space for its staff located in Hampton Roads;

**WHEREAS**, the Commonwealth of Virginia, Department of General Services desires to enter into a lease with the City for 100 square feet of office space on the 6<sup>th</sup> floor of the Ruppert L. Sargent Building inasmuch as having a DMBE site in the Department of Economic Development (Minority Business Program) would enhance delivery of services to City small businesses; and

**WHEREAS**, the terms contained in the Deed of Lease with the Commonwealth of Virginia, Department of General Services are deemed fair and reasonable, a copy of which is attached to this Resolution.

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Hampton, Virginia, that the Deed of Lease between the City of Hampton and the Commonwealth of Virginia, Department of General Services is hereby approved and, accordingly, the City Manager or her Authorized Designee is hereby authorized to execute and deliver to the Commonwealth of Virginia, Department of General Services the Deed of Lease in substantially the form attached hereto.

APPROVED - items 1 (11-0237) through 3 (11-0240) and 5 (11-0243) through 13 (11-0255) on the consent agenda.

**Motion made by:** Councilmember Ross A. Kearney, II

**Seconded by:** Vice Mayor George E. Wallace

**Ayes:** 7 - Ross A. Kearney, II, Angela Lee Leary, Will Moffett, Christopher G. Stuart, Donnie R. Tuck, George E. Wallace, Molly Joseph Ward

**Nays:** 0

10. 11-0252 Resolution Authorizing And Directing The City Manager To Execute On Behalf Of The City Of Hampton, Virginia, The Memorandum Of Agreement Between The Federal Bureau Of Investigation And The City Of Hampton, Virginia Acting By And Through Its Police Division For Access And Use Of The Hampton Police Weapons Range.

**WHEREAS**, the Federal Bureau of Investigation desires to contract with the City of Hampton, Virginia, for the use of the Hampton Police Weapons Range; and

**WHEREAS**, the Federal Bureau of Investigation has previously contracted with the City of Hampton, Virginia for the use of the Hampton Police Weapons Range, and

**WHEREAS**, the City Manager, Chief of Police and Federal Bureau of Investigation agree that the terms of the proposed memorandum of agreement are mutually beneficial;

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of Hampton, Virginia, that it hereby authorizes and directs the City Manager to execute on behalf of the City of Hampton, Virginia, the Memorandum of Agreement between the Federal Bureau of Investigation and The City of Hampton acting by and through its Police Division for Access and Use of the Hampton Police Weapons Range.

APPROVED - items 1 (11-0237) through 3 (11-0240) and 5 (11-0243) through 13 (11-0255) on the consent agenda.

**Motion made by:** Councilmember Ross A. Kearney, II

**Seconded by:** Vice Mayor George E. Wallace

**Ayes:** 7 - Ross A. Kearney, II, Angela Lee Leary, Will Moffett, Christopher G. Stuart, Donnie R. Tuck, George E. Wallace, Molly Joseph Ward

**Nays:** 0

11. 11-0253 Resolution Determining Todds Lane Veterinary Hospital to be the only Source Practicably Available from Which to Procure Veterinary Care for Wildlife and Authorizing the Negotiation and Execution of a Purchase Contract with Todds Lane Veterinary Hospital

**WHEREAS**, Hampton City Council recognizes the public interest in providing through its Hampton Parks and Recreation Department the most cost-effective means reasonably available and affordable to receive veterinary care for wildlife under the protection and care of Hampton Parks and Recreation.

**WHEREAS**, Todds Lane Veterinary Hospital provides specialty veterinary services for wildlife within Hampton, VA and by virtue of its prior service to city-owned wildlife is uniquely positioned to ensure continuity of treatment and more efficient medical service; and

**WHEREAS**, the price at which Todds Lane Veterinary Hospital has offered its specialty veterinary services has been determined to be fair and reasonable.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of Hampton, Virginia as follows:

1. That the contract for providing veterinary services described above may be negotiated and awarded to Todds Lane Veterinary Hospital as a "sole source" without competitive sealed bidding or competitive negotiation as set forth in Virginia Code Section 2.2-4303.E;

2. That the City Manager or his authorized designee is hereby authorized to negotiate and execute a service contract to Todds Lane Veterinary Hospital; and

3. That the notice awarding the contract to Todds Lane Veterinary Hospital shall be posted in a public place pursuant to Virginia Code Section 2.2-4303.E.

APPROVED - items 1 (11-0237) through 3 (11-0240) and 5 (11-0243) through 13 (11-0255) on the consent agenda.

**Motion made by:** Councilmember Ross A. Kearney, II

**Seconded by:** Vice Mayor George E. Wallace

**Ayes:** 7 - Ross A. Kearney, II, Angela Lee Leary, Will Moffett, Christopher G. Stuart, Donnie R. Tuck, George E. Wallace, Molly Joseph Ward

**Nays:** 0

12. 11-0254 Resolution Determining Warwick Animal Hospital to be the only Source Practicably Available from Which to Procure Veterinary Care for Snakes and Reptiles and Authorizing the Negotiation and Execution of a Purchase Contract with Warwick Animal Hospital

**WHEREAS**, Hampton City Council recognizes the public interest in providing through its Hampton Parks and Recreation Department the most cost-effective means reasonably available and affordable to receive veterinary care for snakes/reptiles under the protection and care of Hampton Parks and Recreation.

**WHEREAS**, Warwick Animal Hospital provides specialty veterinary services for snakes/reptiles within Hampton, VA area, and by virtue of its prior service to city-owned snakes and reptiles is uniquely positioned to ensure continuity of treatment and more efficient medical service; and

**WHEREAS**, the price at which Warwick Animal Hospital has offered its specialty veterinary services has been determined to be fair and reasonable.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of Hampton, Virginia as follows:

1. That the contract for providing veterinary services described above may be negotiated and awarded to Warwick Animal Hospital as a "sole source" without competitive sealed bidding or competitive negotiation as set forth in Virginia Code Section 2.2-4303.E;

2. That the City Manager or his authorized designee is hereby authorized to negotiate and execute a service contract to Warwick Animal Hospital; and

3. That the notice awarding the contract to Warwick Animal Hospital shall be posted in a public place pursuant to Virginia Code Section 2.2-4303.E.

APPROVED - items 1 (11-0237) through 3 (11-0240) and 5 (11-0243) through 13 (11-0255) on the consent agenda.

**Motion made by:** Councilmember Ross A. Kearney, II

**Seconded by:** Vice Mayor George E. Wallace

**Ayes:** 7 - Ross A. Kearney, II, Angela Lee Leary, Will Moffett, Christopher G. Stuart, Donnie R. Tuck, George E. Wallace, Molly Joseph Ward

**Nays:** 0

13. 11-0255 Resolution Determining Tidewater Equine Clinic Hospital to be the only Source Practicably Available from Which to Procure Veterinary Care for Hoofed Animals and Authorizing the Negotiation and Execution of a Purchase Contract with Tidewater Equine Clinic

APPROVED - items 1 (11-0237) through 3 (11-0240) and 5 (11-0243) through 13 (11-0255) on the consent agenda.

**Motion made by:** Councilmember Ross A. Kearney, II

**Seconded by:** Vice Mayor George E. Wallace

**Ayes:** 7 - Ross A. Kearney, II, Angela Lee Leary, Will Moffett, Christopher G. Stuart, Donnie R. Tuck, George E. Wallace, Molly Joseph Ward

**Nays:** 0

## PRESENTATIONS, PROCLAMATIONS, AWARDS

## PUBLIC HEARINGS

The Clerk of Council read the protocol for the public hearing items.

## ORDINANCES

14. 11-0251 Ordinance Amendment to amend and re-enact chapter 35 of the City Code of the City of Hampton, Virginia entitled "Subdivisions" and to establish or increase fees for review and administration of subdivision ordinance as authorized by Va. Code § 15.2-2241.A.9.

Ms. Bunting gave the following introduction to the item: This is an update of our subdivision ordinance. Staff did brief Council at its meeting last month in some detail.

We had also offered to each individual Councilmember the opportunity to sit down with staff and explore in more depth should you want it (the update to the subdivision ordinance). Several of you took advantage of that; others of you felt that you had received what you needed previously. Tonight we are moving the item forward to action and not just briefing. Senior City Planner Mr. Thomas Jordan is here to give a brief presentation and will be able to address questions that were posed earlier this afternoon regarding fees. Several of you had noted to us that even with the increase in fees, we were going to be the second lowest in the region. Given that the subdivision ordinances are advanced by a developer, there was some thought that perhaps we ought to look a little bit closer at the fees so that the general taxpayer was not underwriting a portion of that. She commented she asked Mr. Jordan to address that this evening in his presentation.

Mr. Jordan greeted the Mayor, Vice Mayor, members of Council and City staff and stated he would present the proposed ordinance provisions to amend and re-enact the subdivision provisions to the Hampton City Code. This ordinance before you is over a year's worth of work by City staff representing several departments and multiple specificities and disciplines and the dedication of hundreds of hours of their time in addition to their regular staff duties.

Mr. Jordan noted, in the interest of time, the briefing in July included background information; therefore, he would not repeat that information and move to the next portion of the presentation.

Mr. Jordan gave the following explanation regarding why we need to amend the subdivision ordinance: The most important reason is to bring the ordinance to full compliance with the State Code; however, the existing core ordinance dates to 1956, which is over 45 years old and has only received minor amendments over the years. This results in challenges to staff and the City as the City has become mature and built out and has seen an increasing shift to more complex urban projects such as multi-family infill and redevelopment which require more flexibility.

Mr. Jordan continued that while the update mainly emphasizes State Code compliance, it also allowed the opportunity to step back and look at the existing code as a whole and make changes to increase user friendliness and consistency, eliminate loopholes and update the fee schedules. In addition to enhancing efficiency, we clarified processes and procedures and modernized and simplified the language while maintaining a streamlining review for minor subdivision applications.

Mr. Jordan continued the presentation by listing the following primary changes: Any division of property is now considered a subdivision, a subdivision agent will be designated to approve plats and the creation of an exceptions process to allow flexibility to standard provisions in the Code only authorized through the public hearing process by Council.

Mr. Jordan continued. Content requirements have been shifted to the preliminary plat stage from the final plat to address changes in the vested rights statues in the State Code. Final plat approval will require the consensus of both the subdivision agent and the Public Works Director.

Mr. Jordan continued that design and construction for public improvements will be incorporated in the Public Works design and construction standards. All streets must be designed and constructed in accordance with the Public Works design and construction standards whether public or private.

Mr. Jordan continued. The Public Works Director will be responsible for the final plat as it goes to record, the subdivision agreement, sureties and maintenance bonds and enforcement of violations.

Mr. Jordan continued and listed the following additional changes: Review periods are now in compliance with the Virginia State Code. Fee schedules have been reorganized and either established or increased as authorized by the Virginia State Code and surety release provisions now comply with the Virginia Code.

Mr. Jordan continued. As part of the evaluation, regulations from localities in the Hampton Roads Region were researched as well as comparable localities throughout the entire State representing over 16 drafts compiled by staff.

Mr. Jordan stated the ordinance language you have before you today has been presented and approved by the Zoning Ordinance Advisory Committee, an industry stakeholders group and the Planning Commission – the staff believes the proposed ordinance provisions you have before you today best implement the authority localities are offered by the State to ensure orderly development and redevelopment of the land in Hampton.

Mr. Jordan said the below listed individuals and staff members provided assistance during the subdivision ordinance revision process.

**City Staff:**

**Community Development Department**

Terry O'Neill, Director  
 Steve Shapiro, Asst. Director  
 Greg Goetz, LDS Manager  
 Keith Cannady, Planning Manager  
 Delane Carty  
 Jeff Conkle  
 David Stromberg  
 Thomas Jordan

**Public Works**

Lynn Allsbrook, Director  
 Gayle Hicks  
 Walt Crockett

**City Attorney's Office**

Vanessa Valdejuli  
 Ryan Johnson, Intern  
 Marshall-Wythe School of Law College of W&M

**Stakeholders:**

Zoning Ordinance Advisory Comm. (ZOAC)  
 CC-BID / Phoebus Imp. League / DHDP  
 Various City Boards and Commissions

Neighborhood Associations  
Business Community

Susan Gaston, Virginia Peninsula Association of Realtors (VPAR)  
Robert Duckett, Peninsula Housing and Builders Association (PHBA)  
Lawrence Cumming, Attorney  
Duane Potts, Land Surveyor  
Donald Davis, Land Surveyor

Mr. Jordan noted he would answer any questions Councilmembers may have including questions regarding fees. Mayor Ward asked Mr. Jordan to briefly go over the fee schedule issues.

Mr. Jordan explained during the process when they had discussions with ZOAC, the Planning Commission and staff, it was staff's intent to propose fees that were originally competitive and allow the City to recoup a portion of the cost if not all of it. One thing they discovered is there is a real challenge with fee comparisons when you compare Hampton to other localities within the region. When you look at some of the localities that have additional larger tracks of land available, they could load their fees based on lot numbers; they can have a lower base fee and have \$100 lot subdivisions with \$100 cost per lot which would add up quickly compared to Hampton where we are dealing with infill development, smaller lots with a lot of development challenges and constraints. It is really hard to have apples to apples comparison of these. Also, localities have a host of fees they charge where they have the impact fees, for example, or they will have sewer or utility connection tap fees. He stated he has seen in his research bond calculation fees, 911 addressing fees, environmental impact review fees—things that Hampton performs free, other localities charge for; so it is really hard to get a handle on the fees entirely, but when staff looked regionally, their goal was to be competitive and hit in the middle or slightly lower, but not to discourage any development or redevelopment in the City.

Mayor Ward stated Council was looking for more specific numbers, for example a certain amount in Hampton and/or a certain amount in Newport News and asked if Mr. Jordan had that type of information. Mr. Jordan stated he did have that information and handed the members of Council copies of a comparison chart he had prepared.

Mr. Jordan continued. He stated he looked at six major categories including boundary line adjustment, vacation plats, minor subdivisions, preliminary plats, development plans, final plats and ordinance exceptions. Boundary line adjustments and vacation plats vary between Hampton's existing fee of zero dollars to approximately \$336 in Virginia Beach which is the highest in this scenario. The proposed fee with Hampton would be \$150. From a regional perspective, adding all of the localities together and having a scenario of two development lots being created, the regional average was \$158; so, Hampton's proposal would be \$150 which is just below that scenario. Minor subdivisions or small lot subdivisions can vary between one to three lots typically in most localities and fees range from \$55 in the City of Portsmouth to approximately \$300 in the City of Suffolk. The regional average was approximately \$256; Hampton's proposed fee was \$150.

Mayor Ward noted the chart has a lot of information; so, perhaps it should be made available on-line so that people could understand it. She asked for confirmation that it appears Hampton is in the middle or lower than most localities. Mr. Jordan concurred.

Mayor Ward asked if these fees cover the actual costs and how the fees were calculated.

Mr. Jordan said the proposed fees came from reviewing the regional cost and what comparable localities charged. The fees presented today are a product of discussions with ZOAC, the Planning Commission and internal staff meetings. We did additional research on actual City costs and staffing costs based on the number of individuals and their salaries and that information is something which can be provided to Council.

Mayor Ward stated Council was interested in how this relates to the actual cost of the service.

Vice Mayor Wallace asked Ms. Hudson when we vote on this, could the proposed motion give an indication that we would have the City Manager reflect the wishes of City Council in terms of looking and revising the fees over and above what is being proposed here to reflect our philosophy of being in the middle and recouping as much cost as possible and at the same time, maintaining competitiveness.

Ms. Hudson noted as long as there is something specific to reference as to what those adjustments would be so that you are adopting an ordinance where people will know exactly what those fees will be as opposed to something to be determined in the future. You could reference the chart in making the motion.

Mayor Ward noted what is in the chart is what is proposed.

Ms. Bunting said for instance, if you wanted us to be in the regional average, the proposals are in some cases right at the regional average and in other cases lower than the regional average and perhaps the City Attorney was saying she would want us to reflect the actual regional averages as opposed to what we proposed. For instance, in a case of development plans, the regional average was \$960 and we were proposing \$800; so, if you directed us to follow the regional average, specifically, that might be acceptable or if you are uncomfortable in doing that, we could always come back subsequently either as part of the budget process or as a separate Council action item in the future depending upon how Council wanted us to proceed.

Mayor Ward stated she would want to know how much it would cost us; however, she personally does not have enough data to make a change.

Councilwoman Leary said when she reviewed the documents; there was the agony of defeat and the thrill of a lifetime because she felt as though we had finally done something that was going to really make a difference. She said she would like to see us be in the middle of the road—not second from the last, or second from the first. From some of the calculations she looked at, you had used the 50% level as the place to be and she would like to see you go to approximately 65% of what that range is. She asked if that would give the percentage the City Attorney was referring to.

Ms. Hudson stated she was simply looking for specificity. She explained you need specificity in an ordinance to give notice to the public of exactly what their obligations are fee wise. She continued stating you could either adopt the ordinance tonight with the fees established where they are with those specific numbers, with the stated expectation

that staff will bring back to you for a later amendment of this newly adopted ordinance, if you adopt it, with increased rates that are set at the regional average.

Councilwoman Leary asked for clarification if a time certain could be included, 60 days for example. Ms. Hudson concurred and stated you could say the next regular meeting.

Vice Mayor Wallace said in terms of staff time and utility, if we want to be in the middle which is average and the average is reflected here, even though we are not recouping all of our costs, but will be competitive with the jurisdictions in the region—if that is our philosophy regarding what we want to do—we can indicate we passed the ordinance with the cost associated with review comparison with the ones that reflect the average of the region reflected here. That gives specificity and gives us the middle of the road process.

Ms. Hudson noted if Council is comfortable with that and as long as there is a point of reference for the numbers, then that is fine.

Vice Mayor Wallace said if we are suggesting we recoup all of our cost and that puts us out of line with everybody else in the region, it would put us at a distinct disadvantage and that is not the intent. The intent is to recoup as much of the cost that we possibly can and at the same time be comfortable with what is transpiring in the region on a mid-range basis.

Councilman Tuck said we have talked about cost and asked if we are also making this a part of the motion since we haven't talked about it. Mayor Ward confirmed right now we are just asking questions and getting information and we don't have a motion yet.

Councilman Kearney stated he raised questions at the last meeting regarding the fact that we were increasing taxes and he didn't like the process with the new fees. He further stated, after seeing the material that was presented earlier and last week in the Manager's memo, we are justified to adopt this and he would support it.

Mayor Ward stated there were some citizens signed up to speak on this public hearing item.

Mr. Larry Cumming, 2236 Cunningham Drive, spoke on behalf of the Zoning Advisory Committee and as a land use Attorney that practices in the City regularly. He said he does not believe the development community had any objections to making the fees in the mid-range of the communities. We understand they have not been revised for quite a period of time and it would be harmful to the competitive nature of our community if we bumped them up excessively, but an adjustment to a mid-range area would not be a problem as far as he can recall during any of the discussions. He said he believes the ordinance is a significant improvement and helps us operate more efficiently. There is more flexibility in the approval process and all of that is helpful; therefore, he would recommend approval.

Ms. Susan Gaston spoke on behalf of the Virginia Peninsula Association of Realtors. She said we were involved and a member of ZOAC and have spent, along with staff, many months in this review process. She thanked Community Development Department Director Mr. Terry O'Neil, Planning Services Manager Mr. Keith Cannady, Senior City Planner Mr. Thomas Jordan and the City Attorney's office for being extraordinarily helpful. She stated this has been an extremely collaborative effort with

multiple meetings and input; therefore, we are very comfortable supporting the document before Council this evening. She echoed what Mr. Cumming said she doesn't believe that if the fees were to fall in the mid-range we would have any adverse reactions to that because we do want to maintain our competitiveness, but we also understand the reality of the City of Hampton with undevelopable raw land. She said we wholeheartedly support this ordinance and appreciate the opportunity to be part of the process.

Ms. Elizabeth McCory, Executive Director of Coliseum Central Business Improvement District, stated we represent 650 business and property owners and have been engaged in this process the entire time. She further stated we applaud the efforts of the Community Development Department, Mr. Thomas Jordan, in particular, who is a very dedicated City employee. She urged Council to adopt the ordinance tonight.

Mayor Ward asked if anyone else was present to speak on this item; no one else spoke; therefore, the Mayor closed the public hearing.

Ms. Hudson stated what has been suggested is that the amendment the Council discussed this afternoon related to the text at 35-3 making the City Manager the expressed designee of the Council to administer and enforce the ordinance that that be the amendment made tonight. That the City Manager in consultation with me (the City Attorney) asked that Council not seek to amend the ordinance tonight with the general language about an increase in fees in this chart because she would like to be more certain of those numbers, but she has made a commitment that she will bring back to Council the specific numbers that place those fees at the regional (or mid-range) average which is the preferred approach rather than have the ordinance be at all ambiguous with respect to what fees are expected.

Ms. Hudson noted the one she gave speaks of the text amendment about the City Manager, it doesn't address the fees. The Manager may speak for herself but has told me she is committed to come back with specific numbers to change the fees in the ordinance so that they all reflect the median or the middle range to the extent they don't already.

Ms. Bunting stated her concern was that these regional averages are based upon development scenarios, so if someone went to this chart, they wouldn't know what the exact fee would be. For clarity for the citizens, it would be best for us to detail them. Although this chart makes references to it, the numbers are based upon a specific development scenario for comparison purposes. She recommended it be written out in actual language and that is why the City Attorney provided language without the fees and she (City Manager) would come back next month with the actual fee proposal and we could amend it once again.

Mayor Ward stated what she needs clarification on is whether or not we are adopting the ordinance as written with the fees that are in there on the chart as proposed.

Ms. Bunting concurred that was correct and stated we will come back and modify them.

Ms. Hudson stated she didn't believe that the fees on the chart are the fees in the ordinance before Council. Mayor Ward noted there was a Hampton proposed column.

PRESENTED by Thomas Jordan, Senior City Planner.

HELD PUBLIC HEARING - Larry Cumming of the Zoning Ordinance Advisory Committee, Susan Gaston of the Virginia Peninsula Association of Realtors, and Elizabeth McCoury of the Coliseum Central Business Improvement District spoke in favor of the item.

MOVED TO approve with the text amendment provided by staff at Section 35-3, expressly naming the City Manager as Council's agent for administration and enforcement of the subdivision ordinance. Staff will bring back amendments regarding fees.

**Motion made by:** Councilmember Angela Lee Leary

**Seconded by:** Vice Mayor George E. Wallace

**Aye:** 6 - Ross A. Kearney, II, Angela Lee Leary, Will Moffett, Donnie R. Tuck, George E. Wallace, Molly Joseph Ward

**Nay:** 0

**Abstain:** Christopher G. Stuart

### Resolutions

15. 11-0246 Resolution Adopting the Hampton Roads Regional Water Supply Plan for Submission to the Virginia Department of Environmental Quality

**WHEREAS**, pursuant to Virginia Code Section 62.1-44.38:1, local governments are required to undertake a comprehensive water supply planning process for the development and establishment of a water supply plan to (i) ensure adequate and safe drinking water is available to all citizens of the Commonwealth; (ii) encourage, promote, and protect all other beneficial uses of the Commonwealth's water resources; and (iii) encourage, promote, and develop incentives for alternative water sources; and

**WHEREAS**, pursuant to Virginia State Water Control Board Regulation 9 VAC 25-780 entitled "Local and Regional Water Supply Planning," all counties, cities, and towns in the Commonwealth of Virginia are required to prepare and submit a water supply planning program to the Virginia Department of Environmental Quality ("DEQ"); and

**WHEREAS**, in 2006, local governments served by the Hampton Roads Planning District Commission ("HRPDC") – including the Counties of Gloucester, Isle of Wight, James City, Southampton, Surry, and York, the Cities of Chesapeake, Franklin, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg, and the towns of Boykin's, Branchville, Capron, Claremont, Courtland, Dendron, Ivor, Newsoms, Smithfield, Surry, and Windsor – elected to develop a regional water supply plan; and

**WHEREAS**, in accordance with the Memorandum of Agreement signed in 2007, the Hampton Roads Regional Water Supply Plan (the "Plan") was

developed through the oversight of the standing HRPDC Directors of Utilities Committee; and

**WHEREAS**, each locality represented under the Plan must approve the Plan prior to its submission to DEQ by November 30, 2011;

**WHEREAS**, approval of the Plan, a copy of which is attached to this Resolution, is reasonable and acceptable.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HAMPTON, VIRGINIA:**

1. That the Hampton Roads Regional Water Supply Plan is hereby approved; and

2. That the City Manager or her designee is hereby authorized to execute the Hampton Roads Regional Water Supply Plan and any other related documents on behalf of the City of Hampton as set forth in this Resolution.

Ms. Bunting stated the Virginia State Water Control Board has a regulation which deals with local and regional water supply planning and requires the City of Hampton (as one of the regional localities) to receive a report and adopt the Hampton Roads Regional Water Supply Plan for submission to the Department of Environmental Quality (DEQ). She said all localities in the region must similarly receive the report and adopt it prior to its submission. She noted it needs to be submitted in September; therefore, the briefing and Council's action has been scheduled for this evening.

Ms. Bunting introduced Acting Director of Public Works Mr. Lynn Allsbrook to give a presentation on this item. She noted there were representatives from Newport News Waterworks present and explained Newport News Waterworks is the entity on the Peninsula responsible for water supply; however, the fact that we get our water from Newport News Waterworks, that does not alleviate us from this requirement.

Mr. Allsbrook greeted the Mayor, Vice Mayor, Councilmembers, City Manager and City Attorney and introduced Mr. David Morris from Newport News Waterworks who was present to answer any technical questions.

Mr. Allsbrook stated the issue at hand is that each locality in Virginia must submit a local or regional water supply plan to DEQ by November 2, 2011. He said the presentation will explain when, why and how the regulation was established, the required elements of the water supply plan, the Hampton Roads Planning District Commission (HRPDC) role and the Memorandum of Agreement (understanding) among the Hampton Roads localities in the regional plan. He noted he would also explain the content of the Hampton Roads Regional Plan and specify the Peninsula part with the Newport News Waterworks, the local approval process and the State approval process.

Mr. Allsbrook said in November 2005, the State Water Control Board regulations were established requiring all counties, cities and towns in Virginia to submit a local water supply plan or participate in a regional planning unit and the submittal of a regional water

supply plan. The water supply plan would be a description of existing water sources, uses and water resource conditions; assessment of projected water demand; description of water management actions in a drought response; the statement of needs (supply versus demand); and alternative analysis for potential alternatives to address deficits in water supplies.

Mr. Allsbrook gave the following explanation regarding the Memorandum of Agreement: In 2007, Hampton and other Hampton Roads localities entered into the Memorandum of Agreement. The Hampton Roads Directors of Utilities were charged with following this process through. He noted he (Mr. Allsbrook) is the representative for Hampton at the Directors of Utilities Committee meeting.

Mr. Allsbrook showed a map of the Community Water Supply System for the Peninsula and stated Hampton is covered by Newport News Waterworks. He also showed a map of the Self Supplied Water Systems and stated Hampton is one location; the Tarmac site on Rip Rap Road is the private source there.

Mr. Allsbrook reviewed the Statement of Need and stated the water supply is adequate to meet demand into the year 2040.

Mr. Allsbrook discussed the following four levels of drought: Stage 1 where there is voluntary water conservation, Stage 2 where there is mandatory water conservation, Stage 3 where there are water restrictions, rate increases and water allotments and Stage 4 usually during an extreme drought which may result in rate increases.

Mr. Allsbrook showed a slide listing the two Newport News Waterworks Drought Response Management tools. They are: (1.) Water Conservation and Management Plan. (2.) Local government authorization during droughts. He explained if we get into a drought situation, they would provide guidance as to what would happen in the community.

Mr. Allsbrook said staff is seeking approval of the resolution. Once the resolution is approved, they would have a Public Hearing on it, and get it to the HRPDC by the end of September for them (HRPDC) to submit to the State by November 2nd.

Mr. Allsbrook gave the following explanation regarding the State Approval Process and State Water Supply Plan: The State Water Control Board has not established a process or criteria to evaluate the local and regional water supply plan. DEQ will develop a State Water Supply Plan based on the local and regional plans, but that content and format have not been determined. DEQ is leading the Advisory Committee that is proposing the recommendations for evaluation of local and regional plans. HRPDC is participating on that committee.

Councilman Tuck asked what the reasonable options were beyond 40 years. He noted the Desalination plant was one, and asked Mr. Allsbrook as the Public Works Director to state what he foresees.

Mr. Allsbrook referred the question to Mr. Morris and stated he would rather not speak for Newport News Waterworks.

Mr. Morris stated there are a number of alternatives we would be reviewing in the long-term, and explained we currently desalt water from the deep wells. This is accomplished using groundwater that is millions of years old and was previously unusable. It is a limited resource, and we have maximized that source out. He continued stating sea water is an alternative and while it is expensive and has many environmental concerns; there is a lot of it. He said the beauty of this is that we have now found that we do have adequate supplies to get us to 2040; therefore, we have time to do proper research into those technologies that will bring the cost down and will deal with environmental issues. He stated it is critical that we make sure our existing supplies stay viable through that time frame and with climate change that is a challenge.

In response to Vice Mayor Wallace's comment regarding an agreement about priority of supplying water, and if the City of Hampton is on equal footing with the City of Newport News; Mr. Morris stated all of the communities served by them are served on a retail basis. He said he was not aware of a specific agreement with the City of Hampton; however, there is an agreement with York County which states businesses and residents of York County will be treated the same as the citizens of Newport News. He said they try to be fair and equal in the treatment of all customers within the waterworks regional system.

Vice Mayor Wallace explained he raised the issue because he is concerned that when we reach the year 2040, there may be no new supply. We want to have equal access as the community in Newport News. He asked the City Manager to research that issue with Mr. Paul Burton, former City Attorney, because this is something that may go back to 1915 which stipulates that.

Mayor Ward noted that no one had signed up to speak on this Public Hearing item and asked if there was anyone in the audience who wished to speak. No one spoke on the item. The Mayor closed the public hearing.

PRESENTED by Lynn Allsbrook, Acting Director of Public Works. Dave Morris of Newport News Waterworks also provided information.

HELD PUBLIC HEARING - there were no speakers on the item.  
ADOPTED

**Motion made by:** Councilmember Ross A. Kearney, II

**Seconded by:** Councilmember Christopher G. Stuart

**Aye:** 7 - Ross A. Kearney, II, Angela Lee Leary, Will Moffett, Christopher G. Stuart, Donnie R. Tuck, George E. Wallace, Molly Joseph Ward

**Nay:** 0

## GENERAL ITEMS

## ORDINANCES

16. 11-0250 Ordinance to Amend and Reenact Chapter 37 "Taxation", of the Code of the City of Hampton, Article II, Real Estate Taxes", Sections 37-17.2 and 37-22 to Adjust the Current Assessment Appeal Deadlines to Comply with Recent Amendments to the Virginia Code, and Section 37-42, to Extend

the Application Deadlines by Sixty (60) days, and Establish a Late Application Period and a Late Revalidation Period.

Ms. Bunting gave the following introduction to the item: These are housekeeping changes; the appeal date change is noted in your reading and brings us into compliance with recent amendments to the Virginia Code. The late fee is the only substantive new change to this ordinance. The reason why we are suggesting adding a late fee is because there is a propensity for people to file late and that is putting pressure on the staff and we want to try to incentivize people to get their applications for renewals of these programs in on a timely basis. Mr. Brian Gordineer is prepared to make a presentation (if Council wants), but as they are housekeeping changes she has described, she doesn't know if Council needed that full presentation.

In response to Mayor Ward inquiring about the number of slides in the presentation, Mr. Gordineer noted there are six slides. Mayor Ward asked Mr. Gordineer to provide information on the late fee.

Mr. Gordineer explained there are 28 property owners within the City that are involved in the Land Use Program. Currently, we have a May 1st deadline and the State Code enables us to have a late deadline which gives the property owners another 60 days to file. Those jurisdictions that have instituted the late application have also associated a fee with it to encourage people to make the May 1st deadline. It still offers them the opportunity for that additional 60 days if they have to.

In response to Councilman Kearney's question regarding whether or not there is ever an occasion where waiving the late fee is ever permitted, for example if someone is ill, Mr. Gordineer stated no, and if the late filing period was adopted as recommended, there would not be an ability to waive the fee.

In response to Mayor Ward asking what the late fee is, Mr. Gordineer stated we have recommended a late fee of \$50 which is typical of other jurisdictions which have late fees on their applications as well.

In response to Councilwoman Leary asking if there is any discretion in waiving the late fee, Ms. Hudson noted there is nothing in the language of the ordinance or the State Code that gives that discretion, unless we were to write it in.

Mayor Ward stated from experience, it is almost better if you do not have discretion because it puts the Assessor's office, or whoever is handling it, in a difficult position in making a case by case determination; so, it is much better if it is statutory. Councilwoman Leary concurred with the Mayor.

Mr. Gordineer said we believe it is a benefit to give the property owners that additional 60 days which they don't currently have.

PRESENTED by Brian Gordineer, City Assessor.  
APPROVED

**Motion made by:** Councilmember Will Moffett  
**Seconded by:** Councilmember Angela Lee Leary

**Aye:** 6 - Ross A. Kearney, II, Angela Lee Leary, Will Moffett, Donnie R. Tuck, George E. Wallace, Molly Joseph Ward

**Nay:** 1 - Christopher G. Stuart

17. 11-0261 Resolution Approving the Terms of a Cooperation Agreement Between the City of Hampton and the Hampton Redevelopment and Housing Authority, and Authorizing the Execution and Delivery of Said Cooperation Agreement for the Acquisition, Maintenance and Operation of the Harbor Square Apartments in Downtown Hampton.

**WHEREAS**, the Council of the City of Hampton (the "Council") has set as a priority the revitalization of downtown to attract investment, new business and new vitality to downtown and has adopted the 2004 Downtown Master Plan, as amended, which *inter alia* calls for the redevelopment of the two parcels encompassing the Harbor Square Apartments in Downtown Hampton;

**WHEREAS**, the Hampton Redevelopment and Housing Authority (the "Authority") proposes to accomplish Council's priorities through the acquisition of the Harbor Square Apartments located at 101 and 102 W. Pembroke Avenue (the "Property");

**WHEREAS**, the Authority proposes to maintain and operate the Property after acquisition thereof until such time as the City is ready to proceed with redevelopment of the Property, including, but not limited to, the extension of Franklin Street from Lincoln Street to Pembroke Avenue;

**WHEREAS**, the Council has determined that the future redevelopment of the Property will increase tax revenues, improve the image and economic vitality of downtown Hampton and stimulate its redevelopment, and therefore acquisition of the Property at this time is in the best interest of the citizens of the City of Hampton;

**WHEREAS**, the City Council is willing to financially participate in the acquisition of the Property by entering into a Cooperation Agreement to meet the obligations of the Authority for the acquisition, maintenance and operation of the Property, subject to appropriation; and

**WHEREAS**, the City Council has determined that the Summary of Terms negotiated with the Olde Towne Associates, LLC, the owner of the Property is acceptable.

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Hampton, Virginia, as follows:

1. That it approves the terms of the Cooperation Agreement attached hereto; and
2. That the City Manager or her Authorized Designee be and is hereby authorized to execute and deliver to the Hampton Redevelopment and Housing Authority the Cooperation Agreement in substantially the form attached hereto.

Adopted at the regular meeting of the City Council of the City of Hampton, Virginia, held on August 10, 2011.

Mayor Ward explained her father passed away in 2005 and left a will that created a trust in which he placed many of his assets. She is a beneficiary of that trust along with her siblings and his wife, but she has no management authority or control over the trust whatsoever. She further explained her interest in the trust is such that it has been determined to be divided and passive enough that she does not have a conflict, but she has chosen to recuse herself from all discussions on this matter and all votes at City Council.

Mayor Ward handed the gavel to Vice Mayor Wallace to preside over the meeting.

Councilwoman Leary stated she appreciated the fact that this item was moved on the agenda since there were so many people that spoke about the topic this evening. She said she kept track of the yeses and nos and a few questions as well. She said this has been a difficult decision and she has been a proponent of taking that section of property for a long time. She said her vision for it was to use it as a site where we could add more completion to our civic center which she thinks is our Courthouse, Public Safety Building, City Hall and the General District Courthouse and the Juvenile and Domestic Relations District Court. She said she did not bring that up previously because she couldn't understand the drama that she heard about public safety prior to July 13th.

Vice Mayor Wallace apologized for interrupting Councilwoman Leary and stated she made the perfect segue for what he neglected to do in the context of first having a staff statement relative to this issue. He said since Councilwoman Leary used the term "drama", he would like staff to have the opportunity to make a statement regarding what we are attempting to do and the rationale for it. He stated that was his error and would

appreciate it if she would allow him to interrupt her in order to allow staff to give the report and she would be given the opportunity to make comments after the staff report.

Councilwoman Leary asked for clarification if Vice Mayor Wallace was requesting staff be given the opportunity to make a statement and Council would be given the opportunity to ask questions. She noted this would save a lot of time. Vice Mayor Wallace confirmed that is what he meant and yes, questions would be appropriate.

City Attorney Ms. Cynthia Hudson clarified, for consistency with how we normally proceed with parliamentary procedure, the Manager is allowed to present the item and Council discussion would ensue based on a motion having been made so that it is properly on the floor for discussion and debate.

Vice Mayor Wallace explained we will have a statement from the City Manager, entertain a motion for action and have statements by members of Council.

Ms. Bunting gave the following statement regarding the matter: Thank you Vice Mayor Wallace and Council members. I will be brief because I think that the issue here, although there are many complexities, is also rather simple. Back in March of this year, the City Council was approached by the Richman Group, a very reputable firm out of Florida, with a proposal to rehabilitate Harbor Square Apartments, the subject of today's matter. There was nothing wrong with the Richman Group's qualifications; had the Council at that time felt like rehabilitation was a viable option and something that the Council wanted to pursue, they would have been a reputable firm as is the competing firm that has spoken tonight, a very reputable firm. At that time, the Council heard from many representatives of the downtown community imploring us not to allow a reinvestment in the apartments because a reinvestment may improve the property for a short period of time, but wouldn't fundamentally alter the characteristics of the property which make it inadequate for today's marketplace some of which the public adequately described this evening: the garden style layout in a major concentrated area, 18 acres roughly built in 1969, very difficult to fundamentally alter that layout or design short of tearing it down, lacking modern amenities and an inability to do much other than some minor improvements to change those fundamental characteristics. The concern of the downtown community and the staff was if we wanted the buildings rehabilitated, the Richman Group, Merrimac Group--any of these groups could come in and do that, but the Master Plan envisioned a different use of that block. While it didn't specifically call out the acquisition of Harbor Square Apartments because when Urban Design Associates (UDA) did that Master Plan, there was no hint on the horizon that the property owners would be willing to sell it, it did speak to the necessity of breaking up that mega block into smaller blocks and looking at modernizing it as opportunities presented themselves. So, we called to your attention in March that the Master Plan really envisioned something different from downtown. We also called to your attention that it was commonly held--whether you looked at it from a crime statistics standpoint, you looked at it from a utility of the property, whatever factor you looked at, the property was one of the single if not the single biggest negative detractor to downtown when you marketed downtown to other parties, they would reference Harbor Square Apartments as being an inhibitor. So, in March, Council considered a proposal for reinvestment from the private sector--again, a very qualified firm--and ultimately indicated you were not comfortable with extending the life of that project. It might get better for a few years we all said and acknowledged, but it ultimately would deteriorate once again.

Ms. Bunting continued. It is worth noting that there have been reinvestments in the property in years past. We tend to go through cycles of reinvestment and then ultimate deterioration again and one of the things the downtown community and the staff really highlighted and Council ultimately agreed with was that while it would get better in the short-term, ultimately we would still have a fundamentally flawed concept there that was not significantly altered from its state. Council at that time indicated—no disrespect to the Richman Group or anyone else—that you would pass on that opportunity and directed staff to look at other opportunities to include acquisition of the property given that we were fundamentally saying we didn't want a reinvestment in the property as is.

Ms. Bunting continued. At that time, back in March, I immediately approached the owners of the property to say we would never interfere with an existing contract you have with another party, but if and when that contract is terminated, please keep us in mind. We would be willing to entertain conversations with you about the future of that project. Recently, I was contacted by the owner's representative to say "Please put in a bid". At that point I came to Council; we discussed in closed session the fact that we had that overture made to us; we talked about what we thought would be a realistic maximum to offer. I was able to negotiate significantly better than the maximum Council allowed me to negotiate up to and that is where we are now.

Ms. Bunting continued. It is also worth noting that about the same time I was contacted to put in an offer on the property, I was also contacted by the Drucker and Falk agents and made aware of the interest of the Merrimac Group. I spoke with Mr. Tim Slagle, one of the partners in that project. He was very gracious and explained their interests. I was in turn gracious and acknowledged what a wonderful job they had done with the apartments that are there on Kecoughtan Road. They are a great company, and this is not an issue of whether they are a good company and would do a good job or not—it goes back to the issue we struggled with in March—do we fundamentally want to perpetuate a use there that is inconsistent with the Master Plan and that we think is fundamentally flawed from its design and its scale. The Council discussed that and was fully aware of the presence of the other bidder and their willingness to invest in the property. We talked about the pros and cons of that and ultimately, I was directed by Council to proceed if I could get a purchase price at less than the maximum Council authorized which is how we come to today.

Ms. Bunting continued. The price that we have offered is \$14.5 million. We acknowledge that there is a Virginia Housing Development Authority (VHDA) outstanding loan on the property of roughly \$12.7 million; of course, the actual balance will be something less than that on closing as payments continue to be made during the period we have our due diligence. The difference between the VHDA loan assumption and the final price will be made up in cash and that is why you have a second item on your agenda tonight for an appropriation which is enough to cover that balance as well as any associated expenses we have to do structural studies and environmental studies, title searches and all of those kinds of other work that we would do during our due diligence period.

Ms. Bunting continued. It is important to note that that cash that we are appropriating tonight comes from another downtown capital project. It is not coming from other areas of the City budget. It is something that we have said to the downtown community—if you want us to proceed with this; you need to understand we are going to be taking money already allocated to downtown to do this project. They have been supportive of that and

understanding of that and you will see that tonight's action actually pulls money out of what was the Goodyear project account.

Ms. Bunting continued. The price that we offered is under the City's assessment. The City's assessment stands currently at \$17.183 million. I know there have been some questions in the public about how do you find that. Some people have looked only at 101 West Pembroke Avenue in our Geographic Information System (GIS) and found roughly \$11 million of that value; however, the assessment records are broken up into two pieces: 101 and 102 West Pembroke Avenue make up the assessment records for this property. If you pull both of those, you get to that total \$17.183 million. It is also important to note that that value is less than what the Assessor's office originally assessed the property. Earlier this year, they assessed it at \$17.750 million. The owners appealed that assessment to the Board of Review. The Citizen Board of Review confirmed an assessment of \$17.183 million after receiving information from the owners, and so the assessment is not just the assessment of the assessors; it is actually an assessment that has been verified by our citizen appointed Board of Reviews. During the appeal, the owner made a case for a lower evaluation than that based upon a contract that was possessed at the time, and again, the Citizen Board came back with the value of \$17.183 million. It is absolutely true that that is comprised of land and building components; however, if we or anyone else wants to buy a property from a seller, they will sell it for what it is worth, not what our ultimate use and disposition of that property is. I know that some people made reference to the land value versus the building value. Any seller is going to hold out to get what the value of the property is and that is part of City redevelopment. We need to fundamentally decide whether we believe strongly enough in the redevelopment needs of the property—and if we do, we have to be prepared to pay that. I feel very proud that we were able to negotiate significantly under the assessed value and again, more than what we understand the contract that had been previously held on the property for. To conclude with how this would work, we were fully aware and presented to Council that the property is currently operating a shortfall in the neighborhood of \$275,000-\$300,000. The Housing Authority would operate the property for us until we can prepay the VHDA note. We do not believe that we would necessarily run deficits at that level. In fact, we believe it is entirely plausible that—and this is also to our due diligence of course, and I want to caveat that—we will get in and look at all the records when we have that chance. We do think it's entirely possible for us to break even with rents and there are two fundamental factors to that among others, but the two biggest are that the Housing Authority would not have to pay taxes which are currently paid on the property and are in that operating shortfall. Without getting into the specifics of all the taxes paid on that property, the taxes paid on that property are close to the operating shortfall. Further, the Housing Authority would not be taking a management fee as is typical for a parent company to take on individual properties. We have other ways of managing the property when we come into it depending upon where the tenants are placed, the utility costs and those kinds of things that we feel we would be able to do. That said, the cooperation agreement before you tonight does acknowledge that if there is a shortfall, the City Council would be responsible for that, but our intent—the Housing Authority staff and the City Staff—is to get in there, do an active due diligence, make sure we understand all of the structural issues associated with the property, make sure we understand all of the financials, look at all of the leases, look at all the lease terms, look at how we might manage that property in a different fashion that is consistent with our City and Housing Authority goals. The VHDA note does have a pre-payment clause on it which currently says that the owner cannot prepay before October 2015. That is a blessing in some ways, as it

was noted earlier this evening, in that it gives the Housing Authority up to four years to work with existing tenants to place them in higher quality projects. As you all know, the Housing Authority is actively working several other projects throughout the community in smaller concentrations which is as was alluded to earlier this evening by some of our citizens that the way that subsidized housing is being done in today's world is in smaller pockets, integrated with different income housing and the Housing Authority is committed to bringing on several units of higher quality and has pledged their support to place the people who are at Harbor Square, as appropriate, in these newer, higher quality housing projects. The four year time gives them plenty of opportunity to work with folks to either place them in their projects or in other projects in the private market place without having to displace anybody or kick them to the curb unexpectedly.

Ms. Bunting continued. I will note that there has been some discussion (and this is something Council will ultimately need to reach some conclusion on) on the part of some Councilmembers of some public purposes. If it is ultimately agreed that any or all of those public purposes are to be put there and there is a desire to do that immediately, we do have the ability to renegotiate with VHDA to allow for those public purposes. So, for instance, I know that Councilwoman Leary has publicly made notice of the fact that she would like to see the Courthouse potentially go there. If the Council is so inclined then we would renegotiate with VHDA and we do always have the opportunity with public purposes to condemn if absolutely necessary to achieve public purposes. That would enable us if we went that route or other routes such as the parking for the garage which has also been mentioned or any other numerous public purposes, we would always have the ability to renegotiate with VHDA and/or ultimately acquire it if necessary through condemnation to put a public purpose there enabling us to work on that note. I need to acknowledge that. Our intention, as of this date, is to work with all of the residents out there to get them placed into higher quality apartments and we do have ample time based upon the VHDA note to do so.

Ms. Bunting continued. The Housing Authority has been consulted on this transaction. I met with the Housing Authority in their closed session to share with them the Council's interest and to make sure that they were similarly comfortable in managing this property. The Housing Authority indicated their unanimous support of us proceeding in this fashion. Mr. Ronald Jackson, the new Housing Authority Director, and his staff have been actively engaged with us in preparing to do our due diligence and to make plans to properly manage this property.

Ms. Bunting continued. In conclusion, as I said earlier, this ultimately comes down to the very question we wrestled with in March—do we want the project rehabilitated, in which case, the Richman Group, the Merrimac Group, either of those are very reputable firms who would do a good job, no question about that. Or, do we still believe as we did in March that it is more important to pursue the strategic vision of the Master Plan and commit to the long-term future of downtown and look to acquire the property so that this project which is outdated can ultimately be taken down and replaced with a combination of public uses and market uses. The Master Plan, while not definitively an absolute specific project speaks to an integration of housing types of different economic levels. It also speaks to commercial and retail and office capabilities. When you are dealing with an 18 acre site as we are in this case, there is ample opportunity to marry these different types of uses together in a smart way to forward the progress of downtown. That is why we are doing this tonight.

Ms. Bunting concluded the introduction to items 17 and 18 and stated staff would answer any questions Council may have.

Vice Mayor Wallace commended the Manager for giving an excellent presentation which presented a frame of reference on the issues and concerns that surround this issue and gave Council the parameters on their deliberations and considerations. He opened the floor to the members of Council to ask questions they had regarding the Manager's presentation.

Councilman Tuck stated he had a conversation with Mr. Jackson and his (Councilman Tuck) understanding was that these units are approximately 25% occupied. He continued stating given the \$1 million anticipated that can be paid off or toward the \$12.7 million loan each year suggests a price of \$800 per unit on average. He further stated the lowest unit in the Heritage Apartments, the newest apartments downtown, is approximately \$864 a month, and asked if it is reasonable to think that we will get \$800 a month average out of these units in order to pay \$1 million a year over three years toward this \$12.7 million note.

Ms. Bunting stated there are a couple of different things we might do. This is all depending upon our due diligence, when we go in and look at the actual tenant roles. I don't have actual numbers of people who are renting currently. I also do not know the status of each individual apartment to know whether apartments are currently vacant that are suitable for rent if we are going to be managing it for four years and there are apartments suitable for rent, there really is no reason why we wouldn't rent those out. Similarly, there may be buildings we can take out of service all together and take away certain costs of operating with the properties. For instance, if there was a building with no tenants, we would not have expenses associated with that building. It is a little bit more complicated than just taking the debt service and dividing it by the number of current renters there and saying we would have to get this rent. That is why I said we need to get in and do our due diligence and understand fully what we are dealing with. We have some information based upon prior Codes inspections that we have done and we have done active Codes inspections on the property over the years. We have also had police officers actively at the property over the last several years. The Housing Authority has been in the property actively over the last several years as they have section 8 tenants in the property already. We don't have all of the information we need which is specifically why we request and require a 60 day due diligence period, so we could get updated structural studies, environmental studies and have the opportunity to look at the rent roles, have the opportunity to look at the placement of tenants in specific apartments so we know which buildings are fully occupied, which ones are fully empty, which ones we might be able to move tenants to so that we can maximize operational efficiency at the complex. There are all of these factors and until we get to do that, I cannot say for certain, but I do feel fairly confident that we have a very competent Housing Authority staff that knows how to manage housing complexes and will apply the appropriate analysis along with our external reviewers of the property so that we can make a fully informed decision within that due diligence period.

Ms. Bunting gave the following explanation in response to Councilman Tuck's asking if we are able to pay \$1 million a year for three years towards the \$12.7 million and asking how we plan to pay off the balance of \$9.7 million: There are a couple of different alternatives and it really depends upon what Council ultimately decides. She stated as she has already alluded to, there are many potential uses for the property. As just one

example—and she cautioned, this is one example--if we acquire the property and we decide to put courthouse parking on that property, we could avoid spending the roughly \$6 million we were going to spend on a structural garage on this property out here and use that \$6 million to pay off part of that note. There are also other downtown capital projects currently sitting; although we are taking some of the balance of the Goodyear project money, there are other monies sitting there that have been borrowed since 2005. This being a high priority for downtown would cause me to recommend the further re-appropriation from that project to help pay down the note. This is just one example. If you didn't decide to put parking there, if you wanted to maintain a courthouse garage on the City Hall site, that would not be an option. What we need to do and what we suggested to Council we would do when we had the Closed Session with you was that we would actively pursue any of the suggestions that Councilmembers had and model those economically so that we would know the various pros and cons to making such land use decisions and then we would be able to come back with the best recommendation for you as to how to pay that off. She commented she had given one example of how you can get pretty close to the balance of the note by the time we would be able to prepay it.

Councilwoman Leary said several things are bothering her about the acquisition of this property, and she had expressed those and had given about four scenarios of what could be done with that property. She said her first interest is in the people; the people that are going to have to live there for four or five more years and the people that are going to pay for it. She would like to see what we do to improve the quality of life for the people who are there and for the people who are paying for it and who have to live around it.

Councilwoman Leary continued stating the first thing she questioned was why was that kind of money owed on that property; so, she requested we look at Codes and Compliance to see what the value of the building permits were for the rehabilitation discussed in March that the City requested the owner do. She noted we got the information the other day, but she has not had the opportunity to go over the value of these things.

Councilwoman Leary continued stating the second thing she questioned was the assessment, the \$17.5 million from information provided by the owner. She said she remembered another landlord that owned a piece of property in Hampton and we went to VHDA to look at his application, but they put a box in front of us to look at and we saw that he valued his property at \$4.9 million, but we had already done research and knew it was assessed for \$1.9 million; therefore, he was trying to use that as collateral to get his VHDA loan. She said she called the Assessor today (she apologized that she didn't go through you--Ms. Bunting) and was trying to work out in her mind how the assessed rate works. City Assessor Mr. Brian Gordineer explained this in layman's terms and may be better at answering the question regarding how we come to that component.

In response to Vice Mayor Wallace, Councilwoman Leary clarified her question was how did we get to the assessed value of \$17.5 million. Ms. Bunting noted if Councilwoman Leary needed the specific process the Assessor's office uses, she (Ms. Bunting) would defer the question to Mr. Gordineer. Ms. Bunting clarified we had assessed it at \$17.75 million and the Board of Review, based upon additional staff input after having reviewed the material submitted by the owner, corrected that assessment to \$17.183 million. Ms. Bunting asked Mr. Gordineer to address Councilwoman Leary's question.

Mr. Gordineer gave a brief summary of the process. He explained the apartment complexes throughout the City are grouped into classes/categories ranging from A to E. Brand new apartments with many amenities are considered a class A property, while older apartments in need of many repairs are considered a class E property; Harbor Square Apartments were classified as a D. Mr. Gordineer further explained once the complexes are classified, we look at the incoming expenses associated with all of the apartments in that particular class and establish a model based on an average ratio of operating expenses, we then apply the average operating expenses as well as typical vacancy and collection expenses associated with the property in order to get a net income. We then apply a capitalization rate which is the rate a typical investor in that type of property would expect as a return. This is how we derive the value. He said we are not only looking at the specifics of that property, but we are also looking at it as it relates to the other properties in that class.

In response to Councilwoman Leary, Mr. Gordineer explained that what they look at is the vacancy in collections as well as the operating expenses for that entire class, so it may not be the specific operating expense ratio for just that property because we are looking---just like we do in residential properties, we are looking at the full gamut of properties in a neighborhood, we are looking at the full gamut of properties of the apartments in that class, so we are not going to make a specific adjustment just for one property because we are equalizing them with all of the apartments in that class. In response to Councilwoman Leary asking Mr. Gordineer if that is the same philosophy used in hotels, Mr. Gordineer replied, yes it is.

Councilwoman Leary stated she was trying to determine how one of our best hotels keeps dropping in its value, yet this property seems to be up there. She said that is where she is having a problem.

Ms. Bunting explained this property has dropped in value as well. She said she didn't go over the whole assessment history. In 2009, it was valued at nearly \$20 million (\$19,952,000) and it has been dropping with the economy the way other properties have been dropping as well as other factors Mr. Gordineer mentioned. It is not as if this one has gained or maintained value. There has been a substantial drop in the assessment. Ms. Bunting clarified that the owners had asked for a lower assessment when they appealed. They tried to make a case for evaluation of \$16.2 million (that is what the owner went to the Board for). The owner reviewed all of the information and ultimately did adjust it to the \$17.1 million. The Citizen Board felt \$17.183 was fully justifiable even after the owner making a case for something substantially lower than that.

Vice Mayor Wallace noted that the owner was the trust. Councilwoman Leary concurred with Vice Mayor Wallace and stated she would have preferred paying what the owners trust felt that it was worth than what we have come up with.

Ms. Bunting clarified what we are paying is less than what the owner represented and the owner asked for an assessment of \$16.2 million which is what she had asked the Council for as a maximum not to exceed. She stated she came in at \$14.5 million. Councilwoman Leary concurred with the City Manager and said she asked a question about a document she received called the "revised letter of intent", but wanted to know what it was revised from and what the original looked like.

Ms. Bunting stated the original letter of intent had some language that the owners put forward that we found to be unacceptable. For instance, the owner had proposed writing the sales contract and we wanted to write the sales contract. We wanted to be in control of presenting that sales contract. Ms. Bunting commented she wrote a letter of intent then the owner's legal counsel wrote one back accepting our offer and put certain conditions in there such as that they would draft the sales contract and also they had a due diligence period that would commence immediately upon the signing of the letter of intent acceptance. We did not want to start the due diligence period until the Council and the Housing Authority had taken its actions, so we made two requests that their acceptance of our letter of intent be modified to allow us to write the sales contract and to not have the due diligence period start until the Housing Authority ultimately signed its contract which would happen after their formal action and after Council's formal action.

Vice Mayor Wallace asked for clarification if Ms. Bunting meant the staff modifications were designed to gear to our best interest. Ms. Bunting stated that was correct. In response to Councilwoman Leary asking in which document the escape clause was included, Ms. Bunting stated it was included in all of them. Councilwoman Leary stated she felt when she read these documents that there was a place because she insisted on it when we were saying you would do the negotiating, writing and advising. Ms. Bunting said we even extended it further by changing the acceptance letter which said it would start immediately upon her (the City Manager) signing the acceptance terms, we changed it to not have that clock start ticking until the Housing Authority approves its transaction which is scheduled to happen on August 25th.

Councilwoman Leary said she sent emails with her questions on the 27th through the 1st and her emails about the letter of intent, the contract and all of these other things and to this day they have not been answered. She said she was forced to ask her questions in the public and that is why she wanted the opportunity to talk about all these different issues because she goes back to where we talked about the tenants. She said she does not understand why we as a City cannot use the Landlord Tenant Act, use our own Codes and Compliance to prevent landlords from allowing properties to get in this kind of disrepair.

Vice Mayor Wallace noted that was a subject for future discussion. If we are going to talk globally about apartments and Codes and Compliance and enforcement, then that is an issue for a subsequent meeting that you (Councilwoman Leary) are saying we need to have. He continued stating staff is being put on notice that this is a discussion we need to have by virtue of Councilwoman Leary's comments this evening.

Ms. Bunting state the pile of information Councilwoman Leary referenced earlier are all of the Codes violations that we have cited over the years as well as other actions the property owner has taken and it is rather extensive, probably 100 pages of information we provided at her request that shows all the times that Codes has sited violations and has ensured they have been corrected. So, it is not as if we have not been monitoring the property, but as we discussed some time ago and would be glad to do so again, we had staff do a presentation upon what minimum Code standards were to allow to enforce and how that is oftentimes different from what we might want to have in the way of enforcement ability. We will be glad to re-present that information. She stated she is also unaware of any email that she has not answered so she will need to get with Councilwoman Leary to see what happened because we believe we have answered everything.

Councilwoman Leary noted that she brought copies of the emails with her tonight.

Councilwoman Leary continued with her comments and questions. She said we started talking about re-allocation fees for people that lived at Harbor Square and her question was why would we want to take it and operate it for four or five years in the condition it is in with only 25% occupancy. We are not going to make any money, we are not going to make living conditions any better; therefore, why couldn't we allow the people that are there now to live there rent free to accumulate the money they would need for relocation which would probably be three or four months of payments and then assist them in finding something else in the other housing that we have. She stated she doesn't understand—and she thinks we have to be mindful of this—that there are other ways that we can do things besides always writing a check. We've talked about land swaps and other things going directly to VHDA. She stated she thinks we have asked a lot of good questions. She commented she thinks that we have done very well with this.

Vice Mayor Wallace asked if within Councilwoman Leary's discourse if there was a question somewhere.

Councilwoman Leary said she didn't mean to chastise anybody, but it is hard enough to think of every single question to ask in an orderly manner and when you hear people talking, it distracts you that much more. She said she is trying to get through this as painlessly as possible but it is hard for some people.

Councilwoman Leary stated the purchase of Harbor Square Apartments is in the best interest of the City. There were two papers written; one she wrote and one her husband wrote, and he was much nicer than she. She asked if we have any consideration to tearing half of it down and building the new courthouse on the land fronting Pembroke Avenue, then at a later date replace the present jail and place it next to the courthouse or in that perimeter?

Councilwoman Leary continued. She stated the answer to that is no, to her knowledge, but what she wants is to buy a little time and if she is not mistaken we have until August 24th when HRHA meets; so, we essentially have fourteen days and we could take one week to defer this and look at a couple of more things and come back to vote on whether or not we want to proceed. There are people that are sick of hearing about it, but this is such an important decision and probably one of the most important ones we will make as far as downtown.

Councilwoman Leary continued. She stated she would like to try to take the venom and angst out of this and come back with legitimate questions and handle this better than we have. There was some information that got out in the media that she was very upset about because she knew that she had not authorized a sales contract, she did not vote for that. She stated she doesn't know who else in the room did, but she doesn't recall hearing it. She said negotiate, negotiate, negotiate and she gave examples of what she would try to do and with whom. She would like to defer it and give you her questions in writing and we can go from there.

Councilwoman Leary made a motion to defer one week and come back in a week to come back for this one question. Vice Mayor Wallace stated the Chair did not wish to entertain a motion for that because the other peers have not had an opportunity to make

their statements. He said he would entertain that motion after the other members of Council have had an opportunity to speak. Councilwoman Leary concurred with Vice Mayor Wallace and stated it is important to have a little bit more due diligence before we make this big leap.

Vice Mayor Wallace asked the members of Council if they had further questions for the City Manager on the basis of her presentation.

Councilman Tuck said Mr. Alan Diamonstein stated approximately two years ago, the City approached his client about purchasing this (property), and asked if he could repeat what he said. Councilwoman Leary confirmed he said "You approached the City two years ago". Councilman Tuck continued and asked if the City was not interested at that time.

Ms. Bunting explained she was not Manager at the time, so she has only been able to piece together some pieces of that, but our understanding was that it was not ready for total acquisition. We weren't ready to do total acquisition. There were a variety of factors that went on back and forth during that time frame. We had looked at possibly a piece and not all, but to get the piece as opposed to the whole thing would have been more expensive on a per acre basis than getting the whole thing. It was not the right opportunity for either the buyer or seller at that time.

Councilman Tuck stated two months ago he proposed taking money that was already borrowed (sitting at the bond funds) and applying it to the courthouse bond issue; however, Councilman Stuart and Vice Mayor Wallace said our word and trust was at stake because people had already attended public hearings and said what they wanted and if we changed things, there would be a trust problem. Councilman Tuck continued stating we are proposing to take money from a Master Plan where money has already been borrowed and use it for another purpose and are proposing as a possible solution that money that we are borrowing specifically for a parking garage may in fact be used to pay off this indebtedness, but we are not allowing a public hearing to discuss it. He said he would like to know what the Merrimac Group proposes. He said we talk about public/private partnerships all the time and it may be conceivable that they can make this project work with less, we can make our project work with less and the cost can be reduced for both of us, but we are not being given that opportunity because we are expected to make a decision this evening.

Councilman Tuck stated we are overly committing ourselves considering what lies ahead or what some of the prospects are ahead of us. What is unsettling about this is we have in the next month or two a consultant who will come before us to lay out a plan which says we need to be prepared to spend anywhere from \$100,000-\$300,000 per month for two to three months for a consultant to try to tell us what we can do, not only in downtown Hampton, but also City-wide. Out of that, at some point we need to be prepared to spend \$100 million a year for ten years to try to make some of that a reality.

Councilman Tuck noted that he had talked to Assistant City Manager Mr. James Gray about the emergency services center that we are still contemplating building and where that money is going to come from. Assistant City Manager Mr. James Peterson talked about the Waterway Committee and what it is doing and the fact that they are going to need money for storm water issues and the other kinds of drainage issues we have in the City. We don't have the money right now, but this is all still money that we are going

to have to need. We have said this is a once in a lifetime opportunity. In December purchasing the 50 acres for the School for the Deaf and Blind was a once in a lifetime opportunity, and there is no doubt there will be another once in a lifetime opportunity whether six months from now or a year from now. Mr. Jackson said there would be a possibility that we would try to rent more of these units to people, so instead of transitioning people out of Harbor Square Apartments over the next three years, we are actually bringing people in so we can try to make this projection of how much money we need to be paying down work. He said that makes him very uncomfortable.

Ms. Bunting stated staff has been in consultation with the downtown stakeholders to ask them how they felt about reallocating money to Harbor Square Apartments. As you will recollect, and as she mentioned earlier, they came out in force in March speaking against the Richman Group proposal. Following that and knowing that Council asked her to look at acquisition and knowing she would need to come to Council with the source of funds, she began conversations with those stakeholders to say "How would you feel?". We have consulted them and it is her understanding—she hasn't spoken to 100% of them—but in talking with members of the Downtown Hampton Development Partnership (DHDP) and other people who have been participating in our downtown master planning efforts, they are in support. The reason why it wasn't on there before was because we didn't have a viable prospect for doing it, but we now do and they understand that this is a choice, but it is still staying in downtown and they understand that. In all candor—and she shared this with you—one of the reasons why she felt particularly uncomfortable reallocating money from downtown when we were talking about the Circuit Court and the garages, she knew that Council had asked her to look at this and she knew that this was a funding source she was going to recommend which is again why she had been consulting with the downtown stakeholders. The other thing she failed to mention earlier, but she will bring it up now because you have raised the issue of it is, she did make an offer to both Mr. Slagle when she spoke to him on the phone as well as Mr. Cumming when he called her letting her know he was representing his clients that we would be more than willing to entertain a possible joint partnership of us doing something with the property and them doing something with the property if we were successful in acquiring it. She offered to Mr. Cumming to meet with Mr. Ricky Hewitt and Mr. Slagle even before today to pursue some sort of joint partnership and to this date, they have not taken her up on that opportunity, but she did make that offer.

Vice Mayor Wallace asked if Council had any further questions for the City Manager.

Councilwoman Leary said that is what happens when we collaborate; we generate those things from each other. She asked Ms. Bunting if she just stated she (Ms. Bunting) had asked as recently as today if they would like some type of partnership.

Ms. Bunting said she did not say she had asked as recently as today, she said she had offered that to Mr. Cumming when he called her last Thursday or Friday and as of today, they have not taken her up on the opportunity.

Councilwoman Leary asked if we were to vote to defer, then we would be giving you and Mr. Cumming that opportunity, correct? Ms. Bunting replied they have had that opportunity. Councilwoman Leary asked if Ms. Bunting was saying that is no longer on the table. Ms. Bunting said it is always an opportunity, but she wants to make clear that Council understands that she already extended that opportunity and she is always willing to sit down—she told them when she talked to Mr. Slagle and let him know after the

Closed Session that she had shared the information with Council and that Council nonetheless felt like (nothing against them) proceeding with acquiring and ultimately demolishing the properties where we wanted to go. She further indicated that if we went down that path and we were not the successful bidder, we would not get into a bidding war with them; we would make our offer and if we were successful, we would be open to working with them because we value their corporate investment in our community. We knew them to be outstanding developers. We were very proud of what they had done on Kecoughtan Road and that if they had wanted to work with us if we were a successful bidder, we would be more than willing to talk with them at any time. She reiterated that offer through Mr. Cumming as early as late last week. She stated she is always willing to talk, whether it is today before a vote, whether you defer a vote, even if you don't defer the vote, she is always willing to entertain a partnership with a private sector firm that wants to invest in our community, but she does want you all to understand that that offer has been on the table for several weeks and it has been reiterated as of last week. That has been their choice and she respects that choice.

Vice Mayor Wallace said the short answer is that we are not precluded from having relationships and partnerships with other outside parties even after we assume ownership if we assume ownership. Ms. Bunting concurred with Vice Mayor Wallace's summary.

Councilwoman Leary said she pulled a document and found through Councilman Tuck looking for it as well that was attached to some questions she had asked of staff. She said the portion of pages 1-12 does not have a date on it or when this information was given. She said she had asked how much Master Plan money remains unallocated to projects and on this date whenever this was, it was \$32,450,947 and that was on all 6 master plans, and that included the \$4,500 for the Downtown Community Center. She said she keeps all of the documents she gets.

Vice Mayor Wallace asked Councilwoman Leary to move forward with her question.

Councilwoman Leary stated we were told that we had to borrow \$38 million for the Newport House, the new parking garage and things for the school projects, yet in this we had \$32 million left in unallocated projects and asked the City Manager how much was left in unallocated projects.

Ms. Bunting stated those are not unallocated projects. That money is all assigned to specific projects. That is the issue Councilman Tuck raised during the budget process about the courthouse and the garage and about possibly moving some of that money; he was probably drawing on that document because he made reference to the roughly \$30 million. We explained yes, you could take that money away, but what you would be doing is taking money away from other capital projects that we have committed to the community to execute. In this particular case—as she has already noted—the money that we are talking about moving here, we have consulted with the impacted stakeholders as to whether they think it is more important to stay the course with what we budgeted or if they prefer us to move it so we can achieve Harbor Square. Those projects that you note which are allocated to specific purposes range all over the community from downtown to Phoebus to Buckroe, North King Street and a handful of other places that aren't specific to Master Plans. She commented she can't rattle off each project and there is probably a schedule attached to that document, if not, we can certainly get it to you. For instance, if we were to move that money you referenced, the

money that had been set aside for a community center would no longer be there for the community center; the money that is there for North King Street improvements would no longer be there for North King Street improvements.

In response to Councilwoman Leary's question regarding the \$5 million we borrowed for the downtown garage, and whether or not it is the money that you are using to put down this initial payment of \$1.8/1.9 million, Ms. Bunting responded that we borrowed \$5 million for a downtown garage associated with the Goodyear project. The Goodyear project has not materialized as of yet. She noted she doesn't see it materializing in the immediate future, given where we have been with Collins recently terminating his option on the property. That money having sat there since 2005 is entirely—we really do need to reallocate it to something. This being a downtown project, she recommends you take the money from that project.

Councilwoman Leary requested the City Manager send her information regarding what we spent \$3.1 million on since we didn't spend it on a garage.

Ms. Bunting explained we haven't spent that \$5 million. The money we are appropriating tonight would come from that project and any balance sitting in that account, which would be roughly \$3.1 million, could also go toward the VHDA loan when we are able to repay it. Vice Mayor Wallace noted that is if the Council decides they want to do it that way.

Councilwoman Leary said the \$3.1 million from that project (garage) and the new garage you are going to the bond market for which is \$7 million equals \$10.1 million which could be used to pay off—pretty close to the whole shebang. Ms. Bunting concurred with Vice Mayor Wallace and pointed out again--it is if Council agrees with it. Ms. Bunting said we would come back and give Council various scenarios and Council could weigh the pros and cons about what you (Council) would be doing in those cases. Councilwoman Leary said this is why she asked about deferring the item which would give time to come back with all of the questions that have been asked in Closed Session and give us the best shot. There are some serious things about the courthouse and she (Councilwoman Leary), Ms. Bunting and Assistant City Manager James Peterson went over these the other day as well.

Vice Mayor Wallace stated we have definitive presentation stipulations and information in terms of how this process is structured by the City Manager, and she has given ample time regarding what the ramifications are from the particular proposals she has done and it is appropriate at this juncture that we take some course of action one way or the other. He stated he would take a motion on items 17 and 18 and asked for clarification if he can do them jointly or if they had to be handled separately. Ms. Hudson stated they may be done jointly unless someone suggests they remain divided.

Clerk of Council Ms. Katherine Glass confirmed the City Attorney stated a motion could be taken on items 17 and 18 jointly, but she suggested Council leave them divided.

Ms. Hudson clarified what she said was the items could be taken together unless Council had an objection and wanted them to remain divided; but, that is up to the body. She explained that item 17 is the cooperation agreement with the Housing Authority pursuant to which you agree to fund this purchase by making sure the Housing Authority has the money it needs both at closing and with respect to any shortfalls and the

expenses of operating the property. She further explained item 18 is the resolution that appropriates the \$1.9 million cash needed at closing as well as to cover closing cost to effectuate the purchase. If you vote the cooperation agreement down, there is no need to do item 18. She said you might as well take them together because they are so closely associated.

Vice Mayor Wallace said the Chair will entertain a motion to vote up or down items 17 and 18 on our agenda in reference to the terms and conditions and other identified information in the documentation.

Councilman Kearney said this is and should be a difficult decision because it involves spending money. He thanked staff, particularly Mr. Peterson, for answering his questions regarding the financial part of this. He said one selling point to him was the due diligence period in which the City staff would go through the records and find out whether or not it is a good deal. He said in his opinion, the due diligence protects us. He continued stating of the 24 respondents, 6 people said yes, buy it; 9 people didn't speak but showed support of the deal; 18 people said no, 7 of which work for the Merrimac Corporation which is a very honorable corporation with honorable people. He commented he was surprised to hear there had been no offer made by any other group until Hampton had instituted theirs—we were the only ball game that was going on at that time. In March, this Council turned down the idea of rehabbing those apartments and following the Master Plan and looking for something better. He said the Merrimac Group may be something better, he didn't know, but will say we have a Master Plan and Ms. Joan Charles says we change them all the time; however we improve them to make them better like we did in Buckroe. It is a planning process that goes on for several months in which everyone is allowed to speak and give their thoughts and comments.

Councilman Kearney continued stating this is a Master Plan in which he took part and didn't always agree with everything said, but it was well represented. He said it bothered him that somebody referred to the trailer court because the people who died in the fire in the trailer court in Buckroe attended his Church at Saint Josephs, and the funeral for the children was held there. It was owned by private individuals, not the City of Hampton. Any reference made by somebody should be ashamed. It was a tragedy waiting to happen and the City inspectors said so. That is one reason we went to buy it.

Councilman Kearney continued stating he feels very confident in this whole thing. He thinks we will be achieving a goal established many years ago with the adoption of the first plan. He said he will support this and thinks the financing of it will be good and it will add something to our community that we want. He said one of the biggest sellers was Ms. Lisa Hall and the residents of the community asking for a change to take place. Councilman Kearney thanked staff for providing all of the information and stated Alan's statement was a kicker to push him to one side. He said everyone involved with this in the private sector is doing a great job. The Merrimac Group has a good track record. He reiterated that he will support this motion and hopes the other members of Council will do the same.

Councilwoman Leary stated she does not rush to judgment and feels for her, this is a rush to judgment because she doesn't feel comfortable and does not believe that this is in our best interest and feels she is rewarding a landlord with \$2 million that they don't deserve to be awarded. She said she expects more of our landlords and maybe her standards are too high. She stated in her opinion a deferral would have helped and she

is sorry she couldn't be a part of that because she wanted to vote with Council on this. She said she is not going into the business of making peoples lives continue the way they are and come back in 8 months and tell the taxpayers we have to have 10 more cents on the real estate taxes because we can't make our payments, but you don't have a problem with adding a position for somebody to strategize over our communication and leave doubt in her (Councilwoman Leary) mind about the message we are trying to give. She said unfortunately she would have to vote no.

Councilman Moffett stated he promised the citizens that regardless of whether anyone agrees with him or not, he would be prepared to explain his position. He further stated with regard to this property acquisition, a rehab obviously is not an option and we concurred on that several months ago. The first developer who approached Council was as equally qualified as those who attempted to approach Council with the redevelopment of this project.

Councilman Moffett continued by stating when he ran for office, he was determined not to make himself a career politician; instead, he would call it like he sees it and is not running for the next election or the next higher office. He said the bottom line is there are decisions that have to be made and there have been times in the past when he was a skeptic and he is sure there were skeptics when there was a proposal for the Hampton Coliseum while Ms. Anne Kilgore was Mayor. He said he was a skeptic when there was talk about the \$100 million Convention Center and when there was talk about the Power Plant; but, those who made those tough decisions under criticism made correct decisions and as a result of their decisions, we have seven new hotels and a \$200 million private investment. He said he doesn't mind criticism for making a tough decision, and believes most people in our community are civil and are respectful when they make their points, but believes we have to move Hampton forward. He said when he ran for office, he did so to help Hampton reach its greatness, and you cannot get to second base with your foot stuck on first. He said if he wanted to say no to everything he could have just stayed as a community advocate and criticized Council every two weeks.

Councilman Moffett continued stating it is important to have vision because if there is no vision; the people will perish. He said in response to those who stated he was not black enough; he has served this community for over 20 years as a volunteer regardless of race and has served his country as an American first and as a Hamptonian. He stated it is not an issue of race; it is a matter of how we are going to move this City forward and he is more concerned about our future. He said he is here to sway the future by the decisions he makes and will stand accountable for the decisions he makes. He said he is thankful and grateful for the City staff's hard work.

Councilman Moffett concluded his comments by stating history will judge—just as it has judged those who made tough decisions in the past. We have heard people discuss the deals that went bad, but haven't heard them discuss the deals that worked. He said in his opinion it is important that we be equal handed in our criticism. He said he is very disappointed in the spirit that is sweeping America and this City—mean spirited, hateful people that say if you don't vote my way, we may as well put a communist flag in front of City Hall—and in his opinion, that is flat out wrong. He said we have the right to agree and disagree, but we don't have to be hateful and mean spirited about it. He reiterated he wants to move Hampton forward; therefore, will be voting yes on this motion.

In response to Vice Mayor Wallace asking the City Attorney for confirmation on whether or not it was appropriate for him to give comments prior to the vote, Ms. Hudson noted typically, he would turn the gavel over to someone else, but she thinks he may comment at the time he gives his vote.

Vice Mayor Wallace gave the following statement: I just want to speak to one issue in terms of my blackness. I've been this way all my life and people who know me, don't raise that issue, so I don't need to address it. Having said that, we will call for the clerk to call the roll (vote).

Ms. Glass confirmed this is a motion to approve both item numbers 17 and 18 on tonight's published agenda with Councilman Kearney making the motion and Councilman Stuart making the second.

MOVED TO to deviate from the published agenda to take items 11-0261 and 11-0262 after the consent agenda but before the other items on the published agenda.

At 7:36 p.m. Mayor Ward explained her reasons for recusing herself from any discussion of this matter and passed the gavel to Vice Mayor George Wallace to preside over items 11-0261 and 11-0262.

**Motion made by:** Councilmember Angela Lee Leary

**Seconded by:** Councilmember Ross A. Kearney, II

**Ayes:** 6 - Ross A. Kearney, II, Angela Lee Leary, Will Moffett, Christopher G. Stuart, Donnie R. Tuck, George E. Wallace

**Nays:** 0

**Abstain:** Molly Joseph Ward

PRESENTED by Mary Bunting, City Manager, who briefly explained the time line of recent activities involving the property known as Harbor Square Apartments.

APPROVED - the motion was to approve item 17 (11-0261) and item 18 (11-0262).

**Motion made by:** Councilmember Ross A. Kearney, II

**Seconded by:** Councilmember Christopher G. Stuart

**Aye:** 4 - Ross A. Kearney, II, Will Moffett, Christopher G. Stuart, George E. Wallace

**Nay:** 2 - Angela Lee Leary, Donnie R. Tuck

**Abstain:** Molly Joseph Ward

18. 11-0262 Resolution Appropriating \$1,900,000 From the "Downtown-Goodyear Site" Capital Account/Fund To The Hampton Redevelopment And Housing Authority In Support Of The Authority's Purchase Of The Real Property Commonly Known As "Harbor Square Apartments"

**WHEREAS**, the City Manager, as authorized by the City Council on July 13, 2011, has signed a letter of intent with Olde Towne Associates, LLC committing the City

to pursue acquisition of the property at 101 and 102 West Pembroke Avenue, Hampton ("the Property") in furtherance of the City's Downtown Master Plan goals;

**WHEREAS**, the Hampton Redevelopment and Housing Authority ("HRHA") has been requested to assist the City in the acquisition of the Property as purchaser, for the sum of \$14.5 million dollars (\$14,500,000) with the understanding that HRHA will assume the existing balance on the mortgage loan encumbering the Property (approximately \$12,684,079) with the difference to be paid by HRHA in cash or readily available funds, and the further understanding that HRHA will incur closing costs which must also be paid in cash or readily available funds; and

**WHEREAS**, the City Council has authorized the City Manager to enter into a cooperation agreement with HRHA in substantially the form attached hereto, pursuant to which the City undertakes, among other obligations, to provide funds to HRHA to acquire the Property.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Hampton, Virginia that \$1,900,000.00 (One Million Nine Hundred Thousand Dollars and no cents) be and hereby is appropriated to the Hampton Redevelopment and Housing Authority from the Downtown-Goodyear Site account/fund for the reasons and purposes described above.

APPROVED - the motion was to approve item 17 (11-0261) and item 18 (11-0262).

**Motion made by:** Councilmember Ross A. Kearney, II

**Seconded by:** Councilmember Christopher G. Stuart

**Ayes:** 4 - Ross A. Kearney, II, Will Moffett, Christopher G. Stuart, George E. Wallace

**Nays:** 2 - Angela Lee Leary, Donnie R. Tuck

**Abstain:** Molly Joseph Ward

Vice Mayor Wallace returned the gavel to Mayor Ward to preside over the remainder of the meeting.

## APPOINTMENTS

19. 11-0238 to consider an appointment to the Finance Committee.

COUNCIL designated Vice Mayor Wallace and Councilman Tuck to work with the Clerk of Council in advertising the vacancy and conducting the interviews.

**Ayes:** 6 - Ross A. Kearney, II, Angela Lee Leary, Will Moffett, Donnie R. Tuck, George E. Wallace, Molly Joseph Ward

**Nays:** 1 - Christopher G. Stuart

20. 11-0258 to consider an appointment to the Golf Course Advisory Committee.

APPOINTED Pat Uribes to serve a three year term from September 1, 2011, until August 30, 2014.

**Motion made by:** Councilmember Ross A. Kearney, II

**Ayes:** 6 - Ross A. Kearney, II, Angela Lee Leary, Will Moffett, Christopher G. Stuart, George E. Wallace, Molly Joseph Ward  
**Nays:** 1 - Donnie R. Tuck

21. 11-0259 to consider an appointment to the Wetlands Board.

COUNCIL designated Councilwoman Leary and Councilman Moffett to work with the Clerk of Council in advertising the vacancy and conducting the interviews.

**Ayes:** 6 - Ross A. Kearney, II, Angela Lee Leary, Will Moffett, Christopher G. Stuart, George E. Wallace, Molly Joseph Ward  
**Nays:** 1 - Donnie R. Tuck

22. 11-0260 to consider the appointment of an alternate to the Cultural Alliance of Hampton Roads.

APPOINTED Brian Deprofio to serve as Councilman Stuart's alternate until June 30, 2012.

**Motion made by:** Councilmember Ross A. Kearney, II

**Ayes:** 6 - Ross A. Kearney, II, Angela Lee Leary, Will Moffett, Christopher G. Stuart, George E. Wallace, Molly Joseph Ward  
**Nays:** 1 - Donnie R. Tuck

23. 11-0267 Resolution Urging the Post Master General to Keep the Phoebus Post Office Open

**WHEREAS**, the Phoebus post office is an integral part of the community serving Hampton University, the Veterans Administration Medical Center, and the Phoebus and Buckroe areas of the City; and

**WHEREAS**, the Phoebus post office has been at its current location since 1938 in a building that is owned by the United States Postal Service and is a contributing element of the Phoebus National Historic District; and

**WHEREAS**, the Phoebus community is currently preparing for the loss of over 5,000 jobs from the closure of Fort Monroe by the U.S. Army as part of the 2005 Base Realignment and Closure; and

**WHEREAS**, the closure of Fort Monroe and its post office is scheduled for September 15, 2011; and

**WHEREAS**, demand for postal services at the Phoebus branch will increase over time as new businesses, residents and visitors are attracted to reuse the 2 million square feet of existing buildings on Fort Monroe; and

**WHEREAS**, it is the City Council's belief that past actions by the United States Postal Service to close the Buckroe and other post office locations in the City has left a significant portion of the Hampton Community underserved; and

**WHEREAS**, the reduced hours of operation and limited manning at the Phoebus post office has had a negative impact on the utilization of the post office; and

**WHEREAS**, keeping the Phoebus post office open would ensure citizens and businesses in Hampton continued convenient access to postal service.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HAMPTON, VIRGINIA:** that we strongly urge the United States Postal Service to keep the Phoebus Post Office open.

ADOPTED

**Motion made by:** Councilmember Ross A. Kearney, II

**Seconded by:** Councilmember Angela Lee Leary

**Ayes:** 7 - Ross A. Kearney, II, Angela Lee Leary, Will Moffett, Christopher G. Stuart, Donnie R. Tuck, George E. Wallace, Molly Joseph Ward

**Nays:** 0

**THERE WERE NO REPORTS BY CITY MANAGER, CITY COUNCIL, STAFF, COMMITTEES**

#### **MISCELLANIOUS NEW BUSINESS**

Councilman Stuart stated the Peninsula Pilots and War Memorial Stadium have wrapped up their season and requested the Morgan family, who manages the property, give an assessment of the season. Councilman Kearney concurred with Councilman Stuart and stated that was a great idea.

Ms. Bunting noted she would follow up on Councilman Stuart's request and report back to Council.

Mayor Ward announced tomorrow at 10:30 a.m. is the ground breaking ceremony for the New Little England Cultural Center at the corner of Ivy Home Road and Kecoughtan Road.

Councilwoman Leary stated she and Vice Mayor Wallace discussed something near and dear to her involving an individual that passed. She (Councilwoman Leary) would like to propose a reading room be named after Ms. Mary Johnson. She asked to be informed of the protocol for that because she would really like to have that done.

Councilwoman Leary reminded everyone that September 11th is on a Sunday this year. The ceremony will begin at 8:00 a.m., the time the airplanes left from Boston. She noted the names of the 30 Navy Seals who lost their lives during the recent helicopter crash will be added to the reading this year. She thanked Director of Parks and Recreation Mr. James Wilson for assisting with the tent which will seat 120 people including our Congressional Delegation. She stated she understands it is the Bay Days weekend, but hopes every member of Council will attend because this is a special 10th Anniversary remembrance of September 11th. Councilwoman Leary continued stating there are several employees that have children currently in Afghanistan and in her opinion, it would be nice if we showed our appreciation of them. She said she hopes to see everyone on September 11th at Gosnold Hope Park at 8:00 a.m.

#### **ADJOURNMENT**

City Council

Meeting Minutes

---

\_\_\_\_\_  
Molly Joseph Ward  
Mayor

\_\_\_\_\_  
Katherine K. Glass, CMC  
Clerk of Council

Date approved by Council \_\_\_\_\_

REGULAR MEETING OF THE ISLE OF WIGHT COUNTY BOARD  
OF SUPERVISORS HELD THE SIXTH DAY OF OCTOBER IN THE  
YEAR TWO THOUSAND AND ELEVEN

PRESENT: Thomas J. Wright, III, Chairman  
Stan D. Clark, Vice-Chairman  
Al Casteen  
JoAnn W. Hall  
Kenneth M. Bunch

Also Attending: Mark C. Popovich, County Attorney  
W. Douglas Caskey, County Administrator  
Carey Mills Storm, Clerk  
LuAnn Delosreyes, Deputy Clerk

Chairman Wright called the meeting to order at 5:00 p.m.

//

Supervisor Casteen delivered the invocation.

//

The Pledge of Allegiance was conducted.

//

Chairman Wright called for Approval of the Agenda.

County Attorney Popovich requested the following revisions to the agenda: Under the County Attorney's report, add three (3) closed meeting items; under the Consent Agenda, add consideration of the bid results for the roof replacement at the Smithfield Health Department building; under the Consent Agenda, revise the dollar amount of the request for the grant application with the Division of Motor Vehicles Highway Safety Selective Enforcement Project Grant; move the three (3) school items under the County Administrator's section to follow Special Presentations; and, add one (1) personnel matter to the closed meeting.

Supervisor Casteen moved that the agenda be approved, as amended. The motion was adopted by a vote of (5-0) with

Supervisors Bunch, Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

//

Chairman Wright called for Special Presentations/Appearances.

Chief Animal Control Officer DelleDonne introduced a dog currently available for adoption at the County's animal shelter.

Chairman Wright advised that the American Flag on display in the Board Room lists the names of those who perished during the September 11<sup>th</sup> attack on the United States and has been donated by the Isle of Wight Citizens Association for display in the Young-Laine Courts building.

Chairman Wright recognized Libby Burgess Jernigan.

Supervisor Casteen moved that the following Resolution be adopted:

RESOLUTION TO RECOGNIZE  
LIBBY BURGESS JERNIGAN

WHEREAS, Libby Burgess Jernigan was born near Conway, North Carolina, on November 23, 1919; and,

WHEREAS, Mrs. Jernigan has been a resident of Isle of Wight County since 1952; and,

WHEREAS, Mrs. Jernigan has been a member of Beaver Dam Baptist Church since 1952, previously serving as a member of the Chancel Choir and currently serving in the Kingdom Builders Sunday School class and the Eager Beavers Senior Adults; and,

WHEREAS, at age 91, Mrs. Jernigan is still gainfully employed in the retail industry; and,

WHEREAS, the Isle of Wight County Board of Supervisors desires to recognize senior citizens like Mrs. Libby Burgess Jernigan who serve as an inspiration to others and are deserving of recognition.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Isle of Wight County, Virginia hereby recognizes the longevity and accomplishments of Mrs. Libby Burgess Jernigan.

The motion was adopted by a vote of (5-0) with Supervisors Bunch, Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

Teresa Weaver, Red Cross Mid-Atlantic Blood Services Senior Account Manager, presented a Mayor's Cup award to the Board for the County contributing the highest Type "O" blood collection percentage of all participating localities.

The Route 460 Corridor Improvement Project presentation was delayed until the arrival of Mr. Phil Reinhart, Design Manager, Virginia Department of Transportation.

Lisa T. Perry, Director of Economic Development, advised that the Small Business Close-Up presentation by American K-9 Interdiction of Walters needs to be rescheduled due to a scheduling conflict.

Mark W. Furlo, Director of Parks and Recreation, addressed the Board regarding the results of the 2011 Isle of Wight County Fair survey which reflected that most citizens were satisfied with the Fair event overall.

Mike Stevens, Fair Chairman, reported on the success of the Fair which was attended by 15,000+ individuals.

Tammie Rollins-Hines, Director of Special Ed Services, Isle of Wight County Public Schools, briefed the Board regarding special education services provided within the County's school system.

Phillip A. Bradshaw, Chief Financial Officer, Isle of Wight County Schools requested the Board's consideration of the Schools' Fiscal Year 2011 encumbrance carry over year-end accounting and reporting.

Supervisor Clark moved to approve an amended amount of \$389,409.37 as the FY11 year end School's carry over amount. The motion was adopted by a vote of (5-0) with Supervisors Bunch,

Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

Chairman Wright moved to adopt the following Resolution:

RESOLUTION TO APPROPRIATE FUNDS FROM THE  
UNDESIGNATED FUND BALANCE FOR THE COMPLETION OF  
SCHOOL OPERATING BUDGET

WHEREAS, the Board of Supervisors of the County of Isle of Wight, Virginia in its 2011-12 appropriation resolution, appropriated funds for County Schools Operating Budget and;

WHEREAS, funds for the Operating Budget have been set aside by the Board of Supervisors to the Schools provide education to county students and;

WHEREAS, the Board of Supervisors deems it necessary to set aside and restrict these funds appropriated in Fiscal Year 2011-12 to make certain that appropriated funds are available and to segregate said funds from the General Fund;

NOW THEREFORE BE IT RESOLVED that the following sums of money appropriated for Fiscal Year 2011-12 and remaining unspent, or as much thereof as may be authorized by law, as may be needed or deemed necessary to defray all expenses and liabilities of the County of Isle of Wight, Virginia are hereby appropriated, set aside and restricted for the completion of Isle of Wight Schools Operating Budget:

General Fund – Instructional Services	\$ 98,390
---------------------------------------	-----------

The motion was adopted by a vote of (5-0) with Supervisors Bunch, Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

Supervisor Hall moved that the following Resolution be adopted:

RESOLUTION TO AUTHORIZE A BUDGET TRANSFER WITHIN  
THE FY2010-11 BUDGET FOR ISLE OF WIGHT PUBLIC SCHOOLS

WHEREAS, the Board of Supervisors of the County of Isle of Wight, Virginia adopted the FY2010-11 Isle of Wight County Public Schools Budget by category; and,

WHEREAS, the Schools anticipate overages in the Instructional Services and Pupil Transportation categories due to unanticipated personnel expenses and higher fuel and bus repair costs respectively; and,

WHEREAS, sufficient funding exists within the Administration, Attendance & Health and the Operations and Maintenance categories to cover the overages in the aforementioned categories; and,

WHEREAS, transfers between categories in the Isle of Wight County Public Schools budget require authorization by the Board of Supervisors.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of Isle of Wight County, Virginia that the Isle of Wight County Public Schools is authorized to transfer funds in the amount of \$60,000 from the Administration, Attendance & Health and \$70,000 from Operations and Maintenance categories to the Instructional Services (\$100,000) and Pupil Transportation (\$30,000) categories in the FY2010-11 Isle of Wight County Public Schools budget.

BE IT FURTHER RESOLVED that the County Administrator is authorized to do all things necessary to make the appropriate accounting adjustments in the budget and to give this resolution effect.

The motion was adopted by a vote of (5-0) with Supervisors Bunch, Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

//

Chairman Wright called for consideration of the Consent Agenda.

- A. Section 8 Management Assessment Program Self-Certification
- B. Library of Virginia

- C. Local Emergency Management Performance Grant Award – FY2011-12
  - . Resolution to Accept and Appropriate Grant Funds from the Virginia Department of Emergency Management for the LEMPG Program
- D. Grant Application – Division of Motor Vehicles (DMV) Highway Safety Selective Enforcement Project Grant
  - . Resolution to Accept and Appropriate Grant Funds from the Virginia Department of Motor Vehicles for the Highway Safety Project Grant
- E. Grant Application – V-Stop Program for FY2011-12
  - . Resolution to Authorize the Submission of a Grant Application and to Accept and Appropriate Funds Received from the Commonwealth of Virginia Department of Criminal Justice Services
- F. Revenue Sharing Application/Benns Church Boulevard and Brewers Neck Boulevard Intersection
  - . Resolution Authorizing Isle of Wight County to Apply for Revenue Sharing Funds through the Virginia Department of Transportation for Fiscal Year 2012-13
- G. Potential Change Orders: Young-Laine Courts Building and Sheriff's Office Renovation
- H. Voting Credentials for the VACo Annual Business Meeting
- I. Cost Savings Measures
- J. Part-time Human Resources Assistant Position
- K. Quarterly Report/Economic Development
- L. Community and Citizen Outreach Communications

- M. Budget and Finance Project Schedule – Status Update
- N. Fiscal Year 2011-12 Monthly Financial Reports for County and Schools
- O. Route 460 (Water) Storage/Pump Station – FY2012 Capital Improvement Plan
- P. Planning Commission Resolution of Appreciation for Bryan L. Babb
- Q. July 7, 2011 Regular Meeting Minutes
- R. Bid Results for the Roof Replacement at Smithfield Health Department Building (Added under Approval of the Agenda)

Supervisor Casteen moved that Item N, Fiscal Year 2011-12 Monthly Financial Reports for County and Schools, be removed and the remaining items be approved on the Consent Agenda. The motion was adopted by a vote of (5-0) with Supervisors Bunch, Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

Regarding Item N, Fiscal Year 2011-12 Monthly Financial Reports for County and Schools, Supervisor Casteen moved to approve as received and that in the future the Capital Budget Report reflect the full Capital Budget. The motion was adopted by a vote of (5-0) with Supervisors Bunch, Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

//

Chairman Wright called for Regional Reports.

Supervisor Hall reported that the Chamber's Annual Trade Show will be held on October 12<sup>th</sup> from 4:00 p.m. until 7:00 p.m. at Aberdeen Farms.

Supervisor Clark reported that the Hampton Roads Economic Development Alliance had discussed the concept of a regional identity for Hampton Roads. He advised that the County is the largest prospect with the largest employer base and largest investment.

Chairman Wright reported that the Hampton Roads Partnership had held its annual retreat.

Supervisor Clark reported only routine business matters had been discussed at the most recent meeting of the Hampton Roads Planning District Commission.

W. Douglas Caskey, County Administrator, reported that only routine business matters had been discussed at the most recent meeting of the Southeastern Public Service Authority. He advised that participating jurisdictions are beginning to focus on post 2018 options.

Supervisor Bunch reported that certain committees were appointed at the most recent meeting of the South Hampton Roads Resource Conservation and Development Council to determine the direction for existing contracts.

Colonel William Smith, Superintendent, Western Tidewater Regional Jail, reported on the Jail's budget and noted that Jail staff continues to examine ways in which inmates can support the community by performing certain labor tasks.

Supervisor Clark reported that the Hampton Roads Planning District Commission members had received a report on economic indicators. He advised that the growth rate for this area has rebounded some and those indicators which bottomed out in January 2009 have recovered on a slow incline.

//

Chairman Wright called for Transportation Matters.

Supervisor Clark, responsive to inquiries from residents in Booker T. Estates Subdivision, moved that staff be directed to research who owns the dirt road in the Booker T. Estates Subdivision and return to the Board with a recommendation on how it can be graded and graveled so that it can be used by buses and pedestrian traffic. The motion was adopted by a vote of (5-0) with Supervisors Bunch, Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

Supervisor Clark further moved that staff be directed to investigate and advise the Board regarding the plat of record with respect to who owns the easement or platted unused road off of Nelson Main in the Carisbrooke Subdivision. The motion was adopted by a vote of (5-0) with Supervisors Bunch, Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

//

Chairman Wright moved that the order of the agenda be amended in order to conduct the special presentation on the Route 460 Corridor Improvement Project. The motion was adopted by a vote of (5-0) with Supervisors Bunch, Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

Phil Reinhart, Design Manager, Virginia Office of Transportation Public-Private Partnerships, briefed the Board relative to the proposed new US 460 Corridor Project with respect to background information, details on the project objectives and anticipated timeline for completion of the project.

//

Chairman Wright called for Citizens Comments.

Tim Lavalley, 1405 Lawnes Creek Road, spoke in opposition to the proposed Cypress Creek Power Plant noting that released emissions will force the County to endure cumbersome regulations that will limit the County's ability for new industry.

Robby Robertson thanked the Board for its service and spoke in favor of Sheriff Phelps.

Ed Easter of Hideaway Lane addressed a recent article in *The Smithfield Times* which stated that the task of the Redistricting Committee was to select the type of plan, whether five or seven member, for recommendation to the Board. He advised that the Committee actually took a vote to not make any recommendation on the type of plan to be adopted by the Board.

Michael Uzzle of Central Hill Road requested that the new Smithfield Health Department facility be operational as soon as possible.

Kenny King of Smithfield shared 176 cards expressing opposition the proposed Cypress Creek Coal Plant which were obtained at the Isle of Wight County Fair.

Joe Joyner of 31334 Walters Highway commended the Board for getting rescue service in Carrsville during the daytime. He advised that there has already been a leak in the new \$12 million dollar Clerk of Circuit Court's office. He advised that he has heard that the new School Superintendent is already fixing some of the existing problems in the school organization. He stated the Board's assets should be maintained. He commented there were a number of issues discussed by the Board at its September 1, 2011 meeting which the Board waived back and forth on. He recommended that instead of providing a 5% raise to County employees, the Board might consider lowering the tax rate which can be enjoyed by all citizens of the County. He stated that the five (5) minute limitation to address the Board has been reduced to three (3) minutes and he recommended that the Board allow for a rebuttal time.

Herb DeGroft 15411 Mill Swamp Road thanked those Board members who participated in the Commission on Aging health care event at The Smithfield Center. He requested that all County citizens be reminded of the approaching December 5, 2011 tax deadline.

//

Chairman Wright called for Board comments.

Supervisor Clark addressed the County's debt load, which has declined to 2.8%. He stated there is no connection between the Norfolk water deal and County residential or commercial water rates and that the Norfolk water deal is an economic development tool to fuel development in the Windsor area. He stated that the accurate amount to build the new Courthouse was \$12 million and \$1.2 million of that amount was related to the rehabilitation of the old Courthouse for the Sheriff's office and emergency services. He stated that the *Virginia Commerce Quarterly* addressed the repurposing of the closed International Paper Mill which will create 213 new jobs in the County. He stated as a result of the County becoming members of the NACo

Prescription Discount Card Program, a savings of \$334,804 has been enjoyed by County residents. He advised that approximately \$50,000 has also been saved by County residents since 2010 by participation in the U.S. Communities Participants Program.

//

Chairman Wright called for the County Attorney's report.

County Attorney Popovich requested the Board's consideration of an agreement with Redflex Traffic Systems, Inc. for the installation of a camera to deter motorists from running the red light at the six-way intersection in the Town of Windsor.

Chairman Wright moved to authorize the County Administrator to execute the Agreement on behalf of the Board. The motion was adopted by a vote of (5-0) with Supervisors Bunch, Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

County Attorney Popovich requested the Board's consideration of a renewal letter with Resource International for engineering services.

Supervisor Clark moved to authorize the County Administrator to execute the renewal letter on behalf of the Board. The motion was adopted by a vote of (5-0) with Supervisors Bunch, Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

County Attorney Popovich requested the Board's consideration of a renewal letter with Kimley-Horn and Associates, Inc. for engineering services.

Supervisor Clark moved to authorize the County Administrator to execute the renewal letter on behalf of the Board. The motion was adopted by a vote of (5-0) with Supervisors Bunch, Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

County Attorney Popovich advised the Board regarding a stewardship plan offer from Turner Forestry, LLC for the Blackwater property.

Supervisor Clark moved to authorize the County Administrator to enter into a contact in a form approved by the County Attorney. The motion was adopted by a vote of (5-0) with Supervisors Bunch, Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

County Attorney Popovich requested the Board's consideration of a tax refund request for VW Credit Leasing, Ltd.

Supervisor Casteen moved to authorize the County Attorney to sign the request approving the refund. The motion was adopted by a vote of (5-0) with Supervisors Bunch, Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

County Attorney Popovich requested the Board's consideration of a letter of interest from the Isle of Wight Hunt Club to renew the lease of the property for hunting purposes.

Supervisor Casteen moved to authorize the County Attorney's office to advertise the matter for public hearing at the Board's November 17, 2011 meeting. The motion was adopted by a vote of (5-0) with Supervisors Bunch, Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

County Attorney Popovich requested the Board's consideration of a Release of Lien for the Pruden Center submitted by the Isle of Wight County Public School system.

Supervisor Clark moved to authorize the Chairman to execute the Release of Lien on behalf of the Board. The motion was adopted by a vote of (5-0) with Supervisors Bunch, Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

County Attorney Popovich recommended the Board oppose House Joint Resolution No. 693 because the County may face condemnation actions from a business owner who could allege lost profits or access as a result of the County sponsoring an event and having to close a street.

Supervisor Bunch moved to authorize the Chairman to execute a letter to the County's local General Assembly representatives opposing House Joint Resolution No. 693. The motion was adopted by a vote of (5-0) with Supervisors Bunch, Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

Supervisor Clark moved that staff forward a copy of the letter to VACo and that staff be authorized to contact the appropriate VACo Steering Committee to have this placed on their legislative agenda in opposition. The motion was adopted by a vote of (5-0) with Supervisors Bunch, Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

County Attorney Popovich advised the Board of his appointment as Chair of the Local Government Attorney's Amicus Committee.

County Attorney Popovich advised that he has been approached by animal control staff regarding what is required to recover costs associated with an animal being housed at the animal shelter. He recommended the implementation of a policy authorizing his office to seek the recovery of costs should it exceed \$500.

Supervisor Clark moved that the issue be postponed until the Board's November 17, 2011 meeting. The motion was adopted by a vote of (5-0) with Supervisors Bunch, Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

County Attorney Popovich advised that he had five (5) matters to discuss with the Board later during the closed meeting.

//

Chairman Wright called for the Community Development report.

Matthew Smolnik, Assistant Director of Planning and Zoning, requested that the Board extend the grace period for the implementation of civil fines until January 1, 2012 to allow staff to continue to educate business owners throughout the County on the requirements associated with temporary signage.

Supervisor Clark moved that the grace period be extended for the implementation of civil fines until January 1, 2012 so that staff may continue to educate business owners and their employees throughout the County on the requirements for temporary signage. Staff will utilize the additional time to continue to meet with local business owners in the central and southern parts of the County and possibly film a follow-up episode on The County Beat regarding temporary signs. The motion was adopted by a vote of (5-0) with Supervisors Bunch, Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

//

Chairman Wright declared a recess until 6:55 p.m.

//

Chairman Wright called for the Parks and Recreation report.

Mark W. Furlo, Director of Parks and Recreation, presented a Resolution to Authorize the Submission of a Grant Application and to Accept and Appropriate Grant Funds from the Virginia Department of Transportation for the Board's consideration.

Supervisor Casteen moved that the following Resolution be adopted:

RESOLUTION TO AUTHORIZE THE SUBMISSION OF A GRANT  
APPLICATION AND TO ACCEPT AND APPROPRIATE GRANT  
FUNDS FROM THE VIRGINIA DEPARTMENT OF  
TRANSPORTATION

WHEREAS, the Board of Supervisors of Isle of Wight County has authorized submission of an application for funding from the Virginia Department of Transportation through the Transportation Enhancement Grant Program; and,

WHEREAS, the amount of grant funding as shall be determined and received from the Virginia Department of Transportation needs to be accepted and appropriated to the FY 2012-13 Capital Budget of Isle of Wight County, Virginia.

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED by the Board of Supervisors of Isle of Wight County that grant funds in the amount as shall be determined and received from the Virginia Department of Transportation be appropriated to the appropriate line item in the FY 2012-13 Capital Budget of Isle of Wight County.

BE IT FURTHER RESOLVED that the County Administrator of Isle of Wight County is authorized to make the appropriate accounting adjustments and to do all things necessary to give this resolution effect.

The motion was adopted by a vote of (5-0) with Supervisors Bunch, Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

Mr. Furlo requested the Board's consideration of a Resolution to Endorse the Smithfield to Nike Park Enhancement Project.

Supervisor Casteen moved to adopt the following Resolution:

RESOLUTION TO ENDORSE THE SMITHFIELD TO NIKE PARK  
ENHANCEMENT PROJECT

WHEREAS, in accordance with the Commonwealth Transportation Board construction allocation procedures, it is necessary that a request by resolution be received from the sponsoring local jurisdiction or state/federal agency in order that the Virginia Department of Transportation (VDOT) can establish an enhancement project in the County of Isle of Wight;

NOW, THEREFORE, BE IT RESOLVED, that the County of Isle of Wight, requests the Commonwealth Transportation Board to establish a project for the improvement of the Smithfield to Nike Park Trail;

BE IT FURTHER RESOLVED, that the County of Isle of Wight hereby agrees to provide a minimum twenty (20) percent of the total cost for planning and design, right of way, and construction of this project;

BE IT FURTHER RESOLVED, that the County of Isle of Wight hereby agrees to enter in to an agreement with VDOT to provide oversight that ensures the project is developed in accordance with all

State and Federal requirements for design, right of way acquisition, and construction of a Federally funded transportation project;

BE IT FURTHER RESOLVED, that the County of Isle of Wight will be responsible for maintenance, upkeep and operating costs of any facility constructed with Enhancement Program funds;

BE IT FURTHER RESOLVED, that if the County of Isle of Wight subsequently elects to cancel this project, the County of Isle of Wight hereby agrees to reimburse VDOT for the total amount of costs expended by VDOT through the date that VDOT is notified of such cancellation. The County of Isle of Wight also agrees to repay any funds previously reimbursed that are later deemed ineligible by the Federal Highway Administration.

The motion was adopted by a vote of (5-0) with Supervisors Bunch, Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

//

At 7:00 p.m., Chairman Wright called for a public hearing on the following:

A. Hampton Roads Regional Water Supply Plan

A Resolution Approving the Hampton Roads Regional Water Supply Plan for Submission to the Virginia Department of Environmental Quality

Frank Haltom, Assistant Director of General Services, advised that all Commonwealth of Virginia local governments are required to prepare a water supply plan that provides information relative to water sources that support current water use, which includes groundwater, surface water reservoirs and water that may be supplied from a combination of sources. He advised that a regional water supply plan, prepared by the Hampton Roads Planning District Commission, provides information about the water sources and water systems serving the entire Hampton Roads region. He advised that staff believes that the Plan adequately represents the existing water sources and water systems within the County.

Whitney S. Katchmark, P.E., Principal Water Resources Engineer, Hampton Roads Planning District Commission, stated the Regional Water Supply Plan was originally created in order to comply with a State requirement established in November of 2005. She advised that in 2002, most of Virginia was under critical drought conditions and the Department of Environmental Quality wanted to gather additional information to ensure that all localities have the tools in place to implement water restrictions in the event of critical events. She advised that localities are required to document sources of water and water usage and what type of drought ordinances a locality may have in place so that those restrictions can be implemented if needed. She advised that while each locality could have developed its own plan, a regional plan had been developed to save time and money. She recommended that the Board adopt the proposed Resolution contained in the agenda in order to comply with the State regulation.

Chairman Wright called for persons to speak in favor of or in opposition to the proposed Resolution.

No one appeared and spoke.

Chairman Wright closed the public hearing and called for comments from the Board.

Supervisor Clark moved that the following Resolution be adopted:

A RESOLUTION APPROVING THE HAMPTON ROADS  
REGIONAL WATER SUPPLY PLAN FOR SUBMISSION TO THE  
VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

WHEREAS, pursuant to Virginia Code §62.1-44.38:1 local governments are required to undertake a comprehensive water supply planning process for the development and establishment of a water supply plan; and,

WHEREAS, the Virginia State Water Control Board Regulation 9 VAC 25-780, Local and Regional Water Supply Planning, requires all counties, cities and towns in the Commonwealth of Virginia to prepare and submit a water supply planning program to the Department of Environmental Quality (DEQ); and,

WHEREAS, Isle of Wight County is part of the Hampton Roads Regional Water Supply Plan which includes the Counties of Gloucester, Isle of Wight, James City, Southampton, Surry and York, the Cities of Chesapeake, Franklin, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach and Williamsburg and the Towns of Boykins, Branchville, Capron, Claremont, Courtland, Dendron, Ivor, Newsoms, Smithfield, Surry and Windsor; and,

WHEREAS, the Hampton Roads Regional Water Supply Plan was developed in accordance with the State Water Control Board Regulation and has been the subject of a public hearing pursuant to the applicable regulations.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Isle of Wight County hereby adopts the Hampton Roads Regional Water Supply Plan and approves the plan for submittal to the Virginia Department of Environmental Quality.

The motion was adopted by a vote of (5-0) with Supervisors Bunch, Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

Chairman Wright called for a public hearing on the following:

B. Proposed Isle of Wight County Enterprise Zone

Resolution of the Board of Supervisors of Isle of Wight County, Virginia to Approve the Application of Isle of Wight County to the Virginia Department of Housing and Community Development for Inclusion in the Joint City of Franklin Southampton County Enterprise Zone

Lisa Perry, Director of Economic Development, requested the Board's consideration of a resolution requesting the County's inclusion in the City of Franklin Southampton County Enterprise Zone, which will serve as an important tool for the Economic Development team to utilize in its efforts to attract new and expanding businesses to the County.

Chairman Wright called for persons to speak in favor of or in opposition to the proposed Zone.

No one appeared and spoke.

Chairman Wright closed the public hearing and called for comments from the Board.

Supervisor Clark moved to adopt the following Resolution and allow for the application process:

RESOLUTION OF THE BOARD OF SUPERVISORS OF  
ISLE OF WIGHT COUNTY, VIRGINIA  
TO APPROVE THE APPLICATION OF ISLE OF WIGHT  
COUNTY TO THE VIRGINIA DEPARTMENT OF HOUSING AND  
COMMUNITY DEVELOPMENT FOR INCLUSION IN THE JOINT  
CITY OF FRANKLIN SOUTHAMPTON COUNTY ENTERPRISE  
ZONE

WHEREAS, the City of Franklin and Southampton County were designated as a Joint Enterprise Zone in 2010 after the closure of the International Paper mill and the loss of 1,100 jobs; and

WHEREAS, on March 18, 2011, the General Assembly of the Commonwealth of Virginia enacted an amendment to Section 59.1-544 of the Code of Virginia regarding redesignation of certain joint enterprise zones; and

WHEREAS, Isle of Wight County desires to make application to the Virginia Department of Housing and Community Development for inclusion in the Joint City of Franklin-Southampton County Enterprise Zone; and

WHEREAS, one of the areas in Isle of Wight County proposed for inclusion in the redesignated zone is contiguous to the existing Franklin-Southampton County Joint Enterprise Zone and the same contiguous area includes a revenue-sharing district that has experienced the loss of 900 permanent full-time positions within a twelve-month period; and

WHEREAS, the governing bodies of the City of Franklin and Southampton County have passed resolutions supporting the proposed redesignation; and

NOW, THEREFORE, BE IT RESOLVED by the Isle of Wight County Board of Supervisors to authorize the County Administrator

to submit all information needed to apply for inclusion in the Joint Franklin-Southampton County Enterprise Zone designation and to meet other program administrative and reporting requirements, as defined by the Enterprise Zone regulations, throughout the life of the Zone.

The motion was adopted by a vote of (5-0) with Supervisors Bunch, Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

Chairman Wright called for a public hearing on the following:

- C. The application of Ivor Properties Incorporated, owner and applicant, to amend the proffered conditions of approximately 2.36 acres of land located on the south side of Windsor Boulevard (Route 460) in the Windsor Election District. The request is to amend Zoning Case #ZA-13-04 to allow for the continued residential use of the property until such time as the property is developed as a commercial use under the General Commercial zoning classification.

Tristan Barnes, Planning and Zoning, introduced the application.

Chairman Wright called for persons to speak in favor of or in opposition to the proposed application.

No one appeared and spoke.

Chairman Wright closed the public hearing and called for comments from the Board.

Chairman Wright moved that the application be approved. The motion was adopted by a vote of (5-0) with Supervisors Bunch, Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

Chairman Wright called for a public hearing on the following:

- D. The application of Robert G. Johnston, owner, and Maurice DeShazo and Eric Saxton, applicants, for a Conditional Use Permit to allow for a used motor vehicle dealership located at 22313 Brewers Neck Boulevard in the Newport Election District.

Mr. Smolnik introduced the application.

Chairman Wright called for persons to speak in favor of or in opposition to the proposed application.

No one appeared and spoke.

Chairman Wright closed the public hearing and called for comments by the Board.

Supervisor Clark moved that the application be approved. The motion was adopted by a vote of (5-0) with Supervisors Bunch, Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

Chairman Wright called for a public hearing on the following:

- E. The application of University Square Associates, owner and applicant, for a change in zoning classification from Conditional General Commercial (C-GC) to Conditional Urban Residential (C-UR) of approximately 22.01 acres of land located on the east side of Carrollton Boulevard (Route 17) and to amend Zoning Case #ZA-11-02, approved October 17, 2002, in the Newport Election District. The request is to allow for multi-family residential development on approximately 22.01 acres and to amend conditions of General Commercial Zoning to allow for multi-family residential to be developed in conjunction with a retail shopping center and associated out-parcels.

Mr. Smolnik introduced the application. He advised that the applicant has now proffered a multi-use path along Route 17 and to construct a regional sanitary pump station on the back right-hand corner of the property. He advised that the applicant is offering a cash proffer of \$7,500 per unit for a total of \$1.8 million, less an \$800,000 credit per the incentive policy, if approved. He advised that there are some concerns that if the project does not meet the requirements of the incentive policy, should the \$800,000 proffer credit still be available? He advised that new language has been developed in the proffers to require a certificate of value from the lender approved certified appraisal showing that there is a net taxable

investment of at least \$20 million in this project before the issuance of a Certificate of Occupancy.

Chairman Wright called for persons to speak in favor of or in opposition to the proposed application.

Whitney Saunders advised that the proffer had been changed to ensure that certain weaknesses in the staff report were met. He advised that down zoning in this situation is appropriate due to the extent of wetlands which were found on the property. He stated that the wetlands area consists of 8.5 acres and the Department of Environmental Quality and the Army Corps of Engineers have indicated that this land can be developed if 4.5 acres of the wetland area is able to be placed within a preservation status. He stated that the proposed application does meet the County's Comprehensive Plan and the requirements under the Route 17 Master Plan. He stated it is also situated in the Newport Development area which calls for mixed-use developments. He advised that with respect to the number of units that can be placed on the property, the County only wants 240 units, not 300 units. He stated with respect to incentive credit, staff has determined that it is not appropriate for the applicant to get credit for other infrastructure that has been put in place and that will be used by others and the applicant just wants credit for moving the pumping station that will service everyone in this area. He advised that the applicant's fiscal impact study indicates that this development will generate \$6.5 million to the County over the course of the fiscal impact study. He distributed information showing that under any circumstance, the apartment use being requested does create substantially less traffic than as currently zoned commercial. He advised that there is a deadline with the Army Corps of Engineers of October 7, 2011 to keep in place the permit for the wetlands on the property.

Chairman Wright closed the public hearing and called for comments from the Board.

Responsive to Supervisor Clark's inquiry, Calvin Davis, the applicant, advised that if the application is not approved by the Board tonight, he will have to get rid of the property.

Supervisor Casteen expressed a concern that a number of other parcels have been rezoned in this area using traffic studies that were based on this parcel being fully commercial. He stated that this area

had been presumed to be developed General Commercial and he is unsure what that does to the reasoning that the Board followed with other rezonings.

Supervisor Clark stated that he understood the applicant's need to proceed quickly; however, he needed additional time to study the traffic impact, particularly with respect to Channel Way and Whippingham Parkway and what this development will do to the Carisbrook Subdivision. He stated that the Board has, in the past, tried to tie rooftop development to commercial development.

Supervisor Clark recommended that the Board conduct a special meeting to discuss the transportation aspect of this application with respect to how it affects Whippingham Parkway and Channel Way.

Supervisor Bunch moved that the application be tabled until the Board's November 17, 2011 meeting. The motion was adopted by a vote of (5-0) with Supervisors Bunch, Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

Supervisor Clark moved that staff be directed to set up a special work session on the proposed intersection with the developer between now and the Board's November 17, 2011 meeting. If staff can not work out a date with the developer, the special work session shall be set between the November or December 2011 Board meeting. The motion was adopted by a vote of (5-0) with Supervisors Bunch, Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

Chairman Wright called for a public hearing on the following:

- F. An Ordinance to Amend and Reenact the Isle of Wight County Code by Amending and Reenacting Chapter 15. Taxation. Article II. Real Estate Taxes. Section 15-7. Exemption for the Elderly and Handicapped.

County Attorney Popovich advised that the Ordinance has been properly advertised.

Gerald H. Gwaltney, Commissioner of the Revenue, advised that the proposed Ordinance proposes to increase the cap of \$800 per year to \$1,000 per year. He distributed a sheet reflecting regional income

and net worth levels of surrounding localities in comparison to the County.

Chairman Wright called for persons to speak in favor of or in opposition to the proposed Ordinance.

No one appeared and spoke.

Chairman Wright closed the public hearing and called for comments from the Board.

Supervisor Clark recommended that the proposed income levels be increased by \$1,000 in each category.

Supervisor Casteen moved to adopt the following Ordinance, as amended, to reflect that the gross income shall be raised to \$40,300; the maximum net worth shall be \$169,501; and, each category shall be increased by \$1,000:

AN ORDINANCE TO AMEND AND REENACT THE  
ISLE OF WIGHT COUNTY CODE BY AMENDING AND  
REENACTING  
CHAPTER 15. TAXATION.  
ARTICLE II. REAL ESTATE TAXES. SECTION 15-7.  
EXEMPTION FOR THE ELDERLY AND HANDICAPPED

WHEREAS, the Board of Supervisors of Isle of Wight County, Virginia adopted an Ordinance providing for a real estate tax exemption or deferral for qualified elderly and handicapped property owners or partial owners, Chapter 15, Article II, Section 15-7 of the Isle of Wight County Code on November 7, 1974, and subsequently amended the ordinance on November 3, 1977; August 6, 1981; June 21, 1984; March 4, 1993; August 23, 2004; February 17, 2005; October 5, 2006; and January 22, 2009; and

WHEREAS, the Board of Supervisors, in compliance with Sections 58.1-3210 et seq. of the Code of Virginia (1950, as amended), desires to amend the Ordinance to increase the amount of the exemption allowed and to reduce the need for making annual application for an exemption.

BE IT, AND IT IS HEREBY ORDAINED, by the Board of Supervisors of Isle of Wight County, Virginia, that Chapter 15,

Taxation, Article II, Real Estate Taxes, Section 15-7, be amended and reenacted to read as follows:

Sec. 15-7. Exemption for the elderly and handicapped.

(a) Real estate tax exemption is provided for qualified property owners or partial owners who are either:

(1) Heads of households and sixty-five (65) years of age and older; or

(2) Permanently and totally disabled and who are eligible according to other terms of this section, as provided in subsection (b) of this section.

(b) Exemption shall be granted to qualifying persons subject to the following provisions:

(1) The title of the property for which exemption is claimed is held, or partially held, on December 31 of the immediately preceding taxable year by the person claiming exemption;

(2) The person claiming the exemption was, as of December 31 for the year immediately preceding the taxable year, either:

a. Sixty-five (65) years of age or older, or

b. Permanently and totally disabled, which, for the purposes of this section, means to be unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment or deformity which can be expected to result in death or can be expected to last for the duration of such person's life.

(3) The total combined income during the immediately preceding calendar year from all sources of the occupants of the dwelling living therein does not exceed thirty-five thousand dollars (\$40,301.00); provided, that the first six thousand five hundred dollars (\$6,500.00) of income of each relative, other than spouse, of the owner or owners, who is living in the dwelling, shall not be included in such total. The county, in subsequent tax years, shall increase the thirty-five thousand dollars (\$40,301.00) combined income limit by the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) for

the twelve-month period ending September 30 of the year immediately preceding the affected tax year, provided such increased amount shall not exceed the limits imposed by Section 58.1-3211 of the Code of Virginia (1950, as amended);

(4) The net combined financial worth, including equitable interests, as of December 31 of the immediately preceding calendar year, of the owners and the spouse of any owner, excluding the value of the dwelling and the land not exceeding one (1) acre upon which it is situated, does not exceed one hundred fifty thousand dollars (\$168,501.00);

The county shall annually increase the net combined financial worth limit by an amount equivalent to the percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W), for the twelve-month period ending September 30 of the year immediately preceding the affected tax year.

(5) Changes in respect to income, financial worth, ownership of property or other factors occurring during the taxable year for which the statement shown in subsection (e)(2) of this section is filed and having the effect of exceeding or violating the limitations and/or conditions of this section, any relief from real estate tax liability for the current taxable year shall be prorated to the date of such change.

(c) When the person or persons claiming exemption conforms to the standards and does not exceed the limitations contained in this section, the tax exemption is on the sole dwelling owned and occupied by the applicant or applicants and up to one (1) acre of land upon which the dwelling is situated.

(d) If the person elects exemption, the real estate described in this section shall be exempt from the following percentages of the real estate taxes based upon the total combined income as described in paragraph (b)(3) above:

<u>Range of Income</u>	<u>Exemption</u>
0 - \$23,400.00	100% up to a maximum of \$1,000.00
\$23,401.00 - \$29,100.00	75% up to a maximum of \$1,000.00
\$29,101.00 - \$34,600.00	50% up to a maximum of

	\$1,000.00
\$34,601.00 - \$40,300.00	25% up to a maximum of \$1,000.00
\$40,301.00 and above	0%

provided, that if the ownership of the property for which the application is made is not held solely by the applicant, or jointly with the applicant's spouse, than the amount of the tax exemption, hereunder, shall be in proportion to the applicant's ownership interest in the subject real property, as that ownership interest may appear.

(e) (1) The Commissioner of the Revenue, or his authorized designee, shall administer the exemption according to the general provisions of this section. The Commissioner is hereby authorized and directed to prescribe forms and make such further inquiry of persons applying for exemption, including the requirements of answers under oath, production of certified tax returns and appraisal reports or other proofs, as may be reasonably necessary to determine income, financial worth and qualifications.

(2) On a three-year cycle, but not later than October 15 of that third taxable year, unless otherwise approved by the Commissioner of the Revenue for good cause shown, the person or persons claiming an exemption must file a real estate tax exemption statement with the Commissioner of the Revenue. The statement shall set forth, in a manner prescribed by the Commissioner, the location and assessed value of the property, the names of related persons occupying the dwelling for which exemption is claimed, the gross combined incomes of such persons, the net combined financial worth of such persons, the age or nature of the disability of the applicant and, if the person is eligible for social security, a certification by the Social Security Administration or, if such person is not eligible for social security, a sworn affidavit by two medical doctors licensed to practice in the state, to the effect that such person is permanently and totally disabled as defined in subsection (b)(2)b of this section.

(3) On such years as a real estate tax exemption statement is not required to be filed with the Commissioner of the Revenue pursuant to subsection (e)(2) above, the person or person claiming an exemption shall file an affidavit certifying that no information contained in the statement or last preceding affidavit has changed to violate the limitations and conditions provided by this Section.

(f) Any person who has title to real estate transferred to his name after he becomes permanently and totally disabled or reaches age sixty-five (65), solely for purposes of obtaining the benefits permitted under this section, shall be disqualified from obtaining the exemption created by this section.

(g) When the person or persons claiming exemption do not qualify for said exemption based upon the previous year's income limitations and financial worth limitations, such person may, nonetheless, qualify for the current year by filing an affidavit with the Commissioner of the Revenue that clearly shows a substantial change of circumstances, that was not volitional on the part of the individual to become eligible for the exemption, and will result in income and financial worth levels that are within those set forth in subsection (d) of this Section. Such exemption by the Commissioner of the Revenue shall be conditioned upon the individual filing another affidavit at the end of the year in which the exemption is granted showing that the actual income and financial worth levels were within the limitations set forth in subsection (d) of the Section. If the actual income and financial worth levels exceed the limitations set forth in this Section, any exemption shall be nullified for the current taxable year and the taxable year immediately thereafter.

(h) This section shall apply to tax bills due in June, 1993 and semiannually thereafter until amended or repealed. (11-7-74, Sections 1, 2; 11-3-77, Sections 1 to 6; 8-6-81; 6-21-84; 3-4-93; 8-23-04; 2-17-05; 10-5-06; 1-22-09.)

This ordinance shall be effective for real estate taxes for the fiscal tax year beginning July 1, 2011, and ending June 30, 2012, and subsequent fiscal tax years, and shall be effective for mobile homes for the calendar year beginning January 1, 2011, and ending December 31, 2011, and subsequent calendar tax years.

For state law as to authority of the county to enact this section, see Code of Virginia, Section 58.1-3210 (1950, as amended).

The motion was adopted by a vote of (5-0) with Supervisors Bunch, Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

Chairman Wright called for a public hearing on the following:

G. An Ordinance to Amend and Reenact the Isle of Wight County Code by Enacting Chapter 11. Motor Vehicles and Traffic. Article VI. Red Light Photo-Monitoring

County Attorney Popovich advised that the proposed Ordinance has been properly advertised.

Chairman Wright called for persons to speak in favor of or in opposition to the proposed Ordinance.

No one appeared and spoke.

Chairman Wright closed the public hearing and called for comments from the Board.

Supervisor Bunch moved that the following Ordinance be adopted:

AN ORDINANCE TO AMEND AND REENACT  
THE ISLE OF WIGHT COUNTY CODE BY ENACTING  
CHAPTER 11. MOTOR VEHICLES AND TRAFFIC.  
ARTICLE VI. RED LIGHT PHOTO-MONITORING.

WHEREAS, Section 15.2-968.1 of the Code of Virginia (1950, as amended) empowers any county, by ordinance, to establish a traffic signal enforcement program imposing monetary liability on the operator of a motor vehicle for failure to comply with traffic light signals; and

WHEREAS, the Town of Windsor has expressed its interest in enacting such an ordinance in order to provide for traffic light monitoring on State Route 460 within its jurisdictional limits; and

WHEREAS, the Board of Supervisors of Isle of Wight County has agreed to assist the Town of Windsor in developing such a monitoring system in accordance with the provisions of the Virginia Department of Transportation regulations by enacting a similar ordinance in order to allow the Town of Windsor to qualify for the placement of such photo-monitoring system.

NOW, THEREFORE, BE IT ORDAINED by the Isle of Wight County Board of Supervisors, Virginia, that Chapter 11. Motor

Vehicles and Traffic. be amended by enacting Article VI. Red Light Photo-Monitoring as follows:

Article VI. Red Light Photo-Monitoring.

*For state law as to authority of the Board of Supervisors to enact an ordinance to establish a red light photo-monitoring system, see Code of Va., § 15.2-968.1.*

Sec. 11-55. Establishment.

There is hereby established a traffic signal enforcement program pursuant to and in accordance with Section 15.2-968.1 of the Code of Virginia (1950, as amended). The program shall include the installation and operation of traffic light signal violation monitoring systems in a number up to the maximum number permitted by state law. No traffic light signal violation monitoring system shall be operated for enforcement purposes at an intersection until all prerequisites for such operation have been fulfilled.

Sec. 11-56. Implementation.

The Isle of Wight County Sheriff or his designee shall have the authority to implement the provisions of this Section, promulgate the rules and regulations necessary to administer the traffic signal enforcement program in compliance with all requirements of Section 15.2-986.1 of the Code of Virginia (1950, as amended) and this Section and be responsible for the compliance of all aspects of the traffic signal enforcement program with applicable state law.

Sec. 11-57. Private contractor.

The County may enter into an agreement with a private entity for the installation and operation of traffic light signal violation monitoring systems and related services as permitted by and subject to the restrictions imposed by Section 15.2-968.1(I).

Sec. 11-58. Penalties.

(a) For failure to comply with traffic light signal. The operator of a vehicle shall be liable for a monetary penalty of Fifty Dollars (\$50.00) if such vehicle is found, as evidenced by information obtained from a traffic signal violation monitoring system, to have failed to

comply with a traffic signal within the County. Any person found liable under this ordinance may contest the summons as provided by Section 15.2-968.1 of the Code of Virginia (1950, as amended).

(b) For disclosure of personal information. Any person who discloses personal information collected by a traffic light signal violation monitoring system in violation of the provisions of Section 15.2-968.1(H) of the Code of Virginia (1950, as amended) shall be subject to a civil penalty of One Thousand Dollars (\$1,000.00).

The motion was adopted by a vote of (5-0) with Supervisors Bunch, Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

Chairman Wright called for a public hearing on the following:

#### H. Pons Hunt Club Hunting Lease

County Attorney Popovich advised that the lease has been properly advertised.

Chairman Wright called for persons to speak in favor of or in opposition to the proposed lease.

Joe Evans, President, Pons Hunt Club, advised that the Pons Hunt Club has leased this property for fifty (50) years and pays real estate taxes on the property, as well as maintains the road and gates. He advised that the Club supports local businesses; restaurants, gas stations and convenient stores in the County. He advised that the Club supports the Hunters for the Hungry Program and have been asked to host several hunters in the Wounded Warrior Program. He advised that several members from Windsor Hunt Club have joined the Pons Hunt Club and three (3) new County residents were voted in at its last meeting. He advised that the Club carries a \$1 million insurance policy to protect the County.

Attorney Al Jones and Brian Carroll, President of the Mill Swamp Hunt Club, distributed letters from adjoining landowners in support of Mill Swamp Hunt Club as an alternative to the Pons Hunt Club utilizing the property to hunt on the property. He stated the Mill Swamp Hunt Club was created in 1965 by landowners who were primarily farmers and the exiting members of the Mill Swamp Hunt Club are second and third generation County landowners of the initial

members. He advised of the 32 members, all are County residents except one (1). He stated local residents being the steward of this land is beneficial in that their equipment is nearby; they have the know how; there are twenty (20) people within a four (4) mile radius of the property; they have the support of local landowners; they are familiar with the insurance; and, they are prepared to offer the County an amount equal to the real estate tax due on the property.

Chairman Wright closed the public hearing and called for comments from the Board.

Chairman Wright moved that consideration of the lease renewal be deferred until the Board's November 17, 2011 meeting at which time staff should be prepared to advise the Board if the lease should be closed, bids solicited or a lottery system for this property. The motion was adopted by a vote of (5-0) with Supervisors Bunch, Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

//

Supervisor Casteen moved that the Board revert back to regular order of agenda. The motion was adopted by a vote of (5-0) with Supervisors Bunch, Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

//

Richard Rudnicki, Planner, requested Board approval to pursue Request for Proposals for the proposed reuse through private interests/resources of County-owned property known as the Stoup property.

Following discussion on the need and cost associated with an environmental analysis of the property to ensure that the soil contains no hazardous toxins, Supervisor Hall moved that staff be authorized to issue a Request for Proposal. The motion was adopted by a vote of (5-0) with Supervisors Bunch, Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

//

Chairman Wright called for the General Services report.

Eddie P. Wrightson, Director of General Services, advised that the Department of General Services has solicited and received sealed bids from suppliers for construction of a landfill gas interception trench at the closed County landfill. He requested Board approval to accept the low bid from Conley Environmental Corporation.

Supervisor Clark moved to accept the low bid from Conley Environmental Corporation for the IOWC Landfill Gas Interception Trench Construction project. Pending review by the County Attorney, the Chairman would execute the standard County Invitation for Bids Agreement. The motion was adopted by a vote of (5-0) with Supervisors Bunch, Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

Mr. Wrightson advised that the County has entered into an agreement with C&P Isle of Wight Water Company to purchase their private water systems which are located in the County. He requested the Board to adopt a resolution appropriating funds for the water system purchase.

Supervisor Clark moved that the following Resolution be adopted:

RESOLUTION TO APPROPRIATE FUNDS FROM THE FUND  
BALANCE FOR  
PRIVATE WATER SYSTEM PURCHASE

WHEREAS, Isle of Wight County entered into an agreement on May 12, 2011 to purchase certain water systems owned by C&P Isle of Wight Water Company; and,

WHEREAS, payment by the County for the C&P Isle of Wight Water Company water systems consists of both bond funds and cash; and

WHEREAS, funds in the amount of Five-Hundred Thousand Dollars (\$500,000.00) need to be appropriated from the Fund Balance of the General Fund to the FY 2011-12 General Operating Budget of the County of Isle of Wight, Virginia.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Isle of Wight, Virginia that Five-

Hundred Thousand Dollars (\$500,000.00) from the Fund Balance of the General Fund be appropriated to the FY 2011-12 General Operating Budget of the County of Isle of Wight, Virginia.

BE IT FURTHER RESOLVED that the County Administrator of the County of Isle of Wight, Virginia is authorized to make the appropriate accounting adjustment in the budget and to do all things necessary to give this resolution effect.

The motion was adopted by a vote of (4-1) with Supervisors Bunch, Clark, Hall and Wright voting in favor of the motion and Supervisor Casteen voting against the motion.

Mr. Wrightson requested permission to convert a part-time Project Engineer position to full time to address TMDL issues and increased VDOT work load.

Chairman Wright moved to authorize the conversion of the part-time Project Engineer position to full time and to fill the position beginning January 1, 2012 at a salary up to the current position grade mid point of \$54,063. The motion was adopted by a vote of (5-0) with Supervisors Bunch, Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

Supervisor Clark moved to authorize Mr. Wrightson to immediately proceed with filling the Project Manager's position. The motion was adopted by a vote of (5-0) with Supervisors Bunch, Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

Responsive to Mr. Uzzel's comments earlier in the meeting under Citizens Comments concerning the status of use and operation of the Health Department building, Supervisor Clark moved that Mr. Robertson be prepared to provide a report to the Board at its November 17, 2011 meeting. The motion was adopted by a vote of (5-0) with Supervisors Bunch, Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

//

Chairman Wright called for the Emergency Services report.

Joseph R. Chase, Chief of Emergency Services, presented a request for a Medical Billing Coordinator and HIPAA Compliance Officer within the Department of Emergency Services,

Chairman Wright moved to authorize the creation of the position of Medical Billing Coordinator and HIPAA Compliance Officer. The motion was adopted by a vote of (5-0) with Supervisors Bunch, Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

Concerning the issue of in-house EMS billing for emergency medical services revenue recovery program versus outsourcing EMS billing, Supervisor Casteen moved to authorize moving forward with in-house EMS billing for emergency medical services revenue recovery program. The motion was adopted by a vote of (5-0) with Supervisors Bunch, Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

//

Chairman Wright called for the Tourism report.

Jennifer Williams, Historic Resources Manager, addressed the Board regarding the demolition of the old jail and repairs to Boykin's Tavern.

Supervisor Casteen moved to task the Division of Historic Resources and the Department of General Services to proceed with asking the Historic Architectural Review Committee to approve the demolition of the old jail to include demolition quotes, documentation and in-house archaeological assessments, as well as proper restoration and all future oversight of Boykin's Tavern. The motion was adopted by a vote of (5-0) with Supervisors Bunch, Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

//

Chairman Wright called for the County Administrator's report.

Regarding the issue of senior citizen recognition, Donald T. Robertson, Director of Information Resources and Legislative Affairs, advised that the Commission on Aging will be providing its

recommendations at its next meeting. He requested that the issue be deferred until that time.

Supervisor Clark moved that the matter be deferred until Mr. Robertson obtains recommendations from the Commission on Aging, which is to be forthcoming at its next meeting. The motion was adopted by a vote of (5-0) with Supervisors Bunch, Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

//

Chairman Wright called for Appointments.

Supervisor Casteen moved that Kelly Sauber be reappointed to serve as the County's representative on the Virginia Alcohol Safety Action Program. The motion was adopted by a vote of (5-0) with Supervisors Bunch, Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

Supervisor Bunch moved that Brian Carr and Ronald Carr, Jr. be appointed to serve on the Southern Development Committee. The motion was adopted by a vote of (5-0) with Supervisors Bunch, Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

Supervisor Clark moved that Brenda Lee be appointed, replacing Grace Keen and representing the Newport District on the Beautification Committee. The motion was adopted by a vote of (5-0) with Supervisors Bunch, Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

//

Chairman Wright called for Old Business.

Regarding the issue of the Zuni welcome sign, Ben Rideout, on behalf of the Southern Development Committee, distributed price quotes for a Zuni welcome sign, associated landscaping and a flag pole in the amount of \$15,289.39.

Supervisor Clark moved that Mr. Rideout be authorized to use up to \$14,000 of Southern Development Committee funds. The

motion was adopted by a vote of (5-0) with Supervisors Bunch, Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

//

Chairman Wright called for New Business.

Supervisor Bunch was recognized for his public service on the Board.

Supervisor Clark moved that County Attorney Popovich be directed to research if the County has any statutory authority with respect to the control of private water systems which do not have emergency generators for use during power outages. The motion was adopted by a vote of (5-0) with Supervisors Bunch, Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

//

County Attorney Popovich requested a closed meeting pursuant to Section 2.2-3711.A.3 of the Freedom of Information Act regarding consultation with legal counsel requiring the provision of legal advice pertaining to the acquisition of real property in the Smithfield District; pursuant to Section 2.2-3711.A.7 regarding consultation with legal counsel requiring the provision of legal advice pertaining to the provision of legal services being provided to the School Board; pursuant to Section 2.2-3711.A.7 regarding consultation with legal counsel requiring the provision of legal advice pertaining to actual litigation; pursuant to Section 2.2-3711.A.5 regarding a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community; pursuant to Section 2.2-3711.A.3 of the Freedom of Information Act regarding consultation with legal counsel requiring the provision of legal advice pertaining to the acquisition of real property in the Carrsville District; and, pursuant to Section 2.2-3711.A.1 concerning the assignment, appointment, promotion, performance, demotion, salaries, disciplining or resignation of a specific public employee.

Chairman Wright moved that the Board enter the closed meeting for the reasons stated by County Attorney Popovich. The motion was

adopted by a vote of (5-0) with Supervisors Bunch, Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

Chairman Wright moved that the Board return to open meeting. The motion was adopted by a vote of (5-0) with Supervisors Bunch, Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

Chairman Wright moved that the following Resolution be adopted:

CERTIFICATION OF CLOSED MEETING

WHEREAS, the Board of Supervisors has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and,

WHEREAS, Section 2.2-3712.D of the Code of Virginia requires a certification by this Board of Supervisors that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Board of Supervisors.

VOTE

AYES: Bunch, Casteen, Clark, Hall and Wright

NAYS: 0

ABSENT DURING VOTE: 0

ABSENT DURING MEETING: 0

Supervisor Clark moved that the Director of Economic Development be authorized to continue negotiations with the prospective businesses discussed in closed meeting and authorize the Chairman to submit the additional information required as a part of those negotiations. The motion was adopted by a vote of (5-0) with

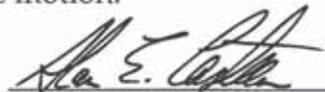
Supervisors Bunch, Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

Supervisor Casteen moved to proceed with the purchase of real property in the Hardy District. The motion was adopted by a vote of (5-0) with Supervisors Bunch, Casteen, Clark, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

//

At 10:00 p.m., Supervisor Hall moved that the Board adjourn its meeting. The motion was adopted by a vote of (5-0) with Supervisors Bunch, Clark, Casteen, Hall and Wright voting in favor of the motion and no Supervisors voting against the motion.

  
Carey Mills Storm, Clerk

  
Alan E. Casteen, Chairman