

HAMPTON VA

**Hampton  
Cemeteries  
Burial Sites  
Maintenance**

**November 8, 2017**



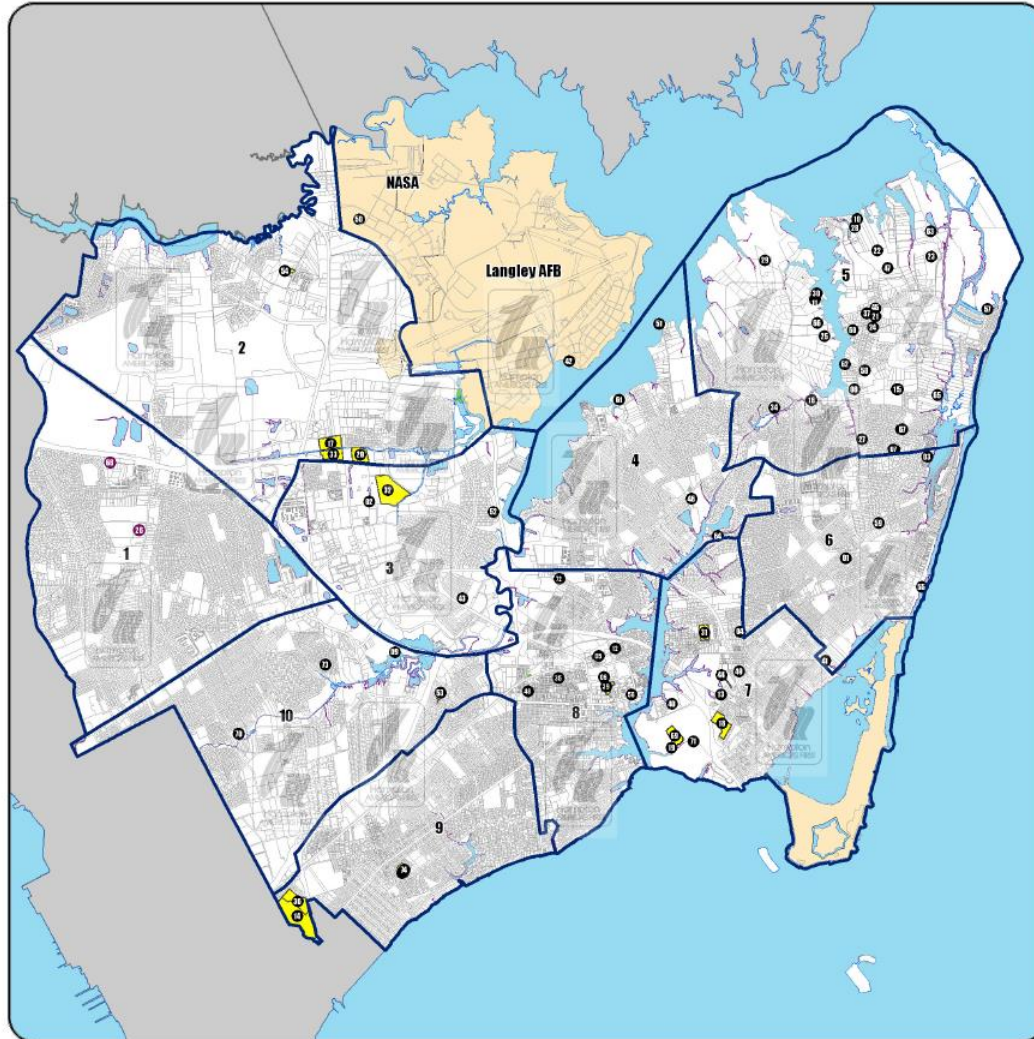
# Agenda

- Background/Overview
  - Legal Considerations & Implications
  - Other Frequently Asked Questions
  - Addressing the Issue
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# Background/Overview

- 74 identified burial sites in Hampton range from active modern cemeteries to small family plots
- All cemeteries in Hampton are private property
- Modern cemeteries fall under perpetual care laws which require the owner to place funds in a trust to care for the cemetery
- Older cemeteries/burial sites were developed under the premise that the families of those buried there would maintain the grave sites
  - Sometimes they own title to the actual burial site at the cemetery

# Identified Burial Sites



**Cemeteries in  
Neighborhood Districts 1-10**

Scale: 1" = 2,400'

2,400' 1,200' 0' 1,200' 2,400'

NORTH

Prepared by:  
Military Heritage Dept of Public Works  
Hampton Roads VA

Date: May, 2011

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**LEGEND**

Cemetery Number

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**1991 Cemetery Categories:**

- A. Parsonial Care
- B. Maintained by Veterans or Church
- C. No Maintenance
- D. Full Maintenance Care
- E. Disposed or Disposed
- F. Unknown
- G. Buried in Civil Court House

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**Cemetery List**

Cemetery No.	Cemetery Name	Category
01	Ashley-Egypt Church	B
02	Bellair	C
03	Bishop Cemetery	C
04	Bishop Cemetery	B
05	Bishop Cemetery	C
06	Bishop A.M.E. Church Cemetery	B
07	Bishop Episcopal Cemetery	C
08	Clark Cemetery	B, I
09	Deer	C
10	Deerfield South	C
11	Deerfield	C
12	Deerfield Cemetery	C
13	Good Shepherd Cemetery	B
14	Goodwill Cemetery	A, I
15	Gray Cemetery	C
16	Hanover	C
17	Hopewell Cemetery	A, I
18	Hopewell National Cemetery	A, I
19	Hopewell National Cemetery	B
20	Hopewell Veterans National Cemetery	A, I
21	Jack Evans Cemetery	B, I
22	John Smith	C
23	John Smith Cemetery	C
24	Joseph Brown	B
25	Lithium - Elk Run	A
26	Lordship House	C, I
27	Milby	C
28	Mixon	C
29	Mixon	C
30	Mixon	C
31	Oakland Cemetery	B, I
32	Parsonage Cemetery	A, I
33	Parsonage Chapel Burial Ground	C
34	Phillips Cemetery	C
35	Phillips Cemetery	C, I
36	St. James Church Cemetery	C, I
37	Richard of Bowler Cemetery	B, I
38	St. James Episcopal Church Cemetery	A, I
39	St. James Episc. Church Cemetery	B, I
40	St. James Episc. Church Cemetery	B, I
41	St. James Church of Elm City Parish Cemetery	D, I
42	Shelton	C
43	Shelton	B
44	Shelton-McIntosh Cemetery	B
45	South Cemetery	B
46	Lawrence Reunion Cemetery	B, I
47	Stuart	D
48	Thomas	D
49	Thos O. Ellis, Chp County Parish Church	D
50	Thurston Cemetery	D
51	Vanguard Foundy	D
52	Walker - Trues	D
53	Watts	D
54	West Cemetery	D
55	West Cemetery	D
56	Windsor Cemetery	D
57	Confederate Cemetery	D
58	Wren Burial Ground	D
59	Wrenbur	D
60	Wrenbur	D
61	Wrenbur	D
62	Wrenbur	D
63	Wrenbur	D
64	Wrenbur	D
65	Wrenbur	D
66	Wrenbur	D
67	Wrenbur	D
68	Wrenbur	D
69	Wrenbur	D
70	Wrenbur	D
71	Wrenbur	D
72	Wrenbur	D
73	Wrenbur	D
74	Wrenbur	D

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# Legal Considerations & Implications

- Cemeteries are governed by Title 57 of the Code of Virginia
- City has no jurisdiction over how a cemetery is maintained or operated unless it is actually owned by the locality
- Cemeteries in Hampton are private property and their maintenance and access is governed by Section 57-27.1.C of the Code of Virginia

# Legal Considerations & Implications

- State Code does not allow the City to maintain abandoned or otherwise uncared for cemeteries
  - If we did so we would be subject to liability for any damage
  - Applies to any person who is **not**
    - (i) family members and descendants of deceased persons buried there;
    - (ii) any cemetery plot owner; and
    - (iii) any person engaging in genealogy research, who has given reasonable notice to the owner of record or to the occupant of the property or both

# Legal Considerations & Implications

- City could petition the court to order the owners to care for the cemetery, however, we would open ourselves up to potential liability (Virginia Code § 57-39.1.)
  - “...any owner of adjacent land or the local governing body may file a bill in equity in the Circuit Court of the county or city wherein the graveyard is located, for the purpose of requiring the graveyard to be placed in a suitable condition.”
  - “...court may allow **the petitioners, at their own expense, to improve the graveyard** and place it in suitable condition and **may also require bond to ensure that the petitioners will not injure or remove any tomb, monument, gravestone, grave marker, or vault without having first obtained court approval....**”

# Legal Considerations & Implications

- How do we address damaged grave stones?
- How do we choose which of the 74 burial sites in Hampton to maintain?
- How much would it cost and how do we pay for the maintenance costs?
- Is it fair to ask our citizens to pay the costs of maintaining sites that family members do not maintain?



# Other Frequently Asked Questions

- Can the Sheriff maintain/mow/remove debris from my cemetery?
  - Per state code, the City can only request that the Sheriff provide one-time grass cutting and debris removal when the Community Development Department makes a determination that the conditions on the property constitute a public nuisance.
  - Only a one-time action and is not intended to be for routine grass cutting and maintenance.
- Why doesn't the City take over the property and sell it if back taxes are owed?
  - Ability for the City to take property and sell it when back taxes are owed is designed for the City to recoup the tax revenue that has not been paid.
  - Often the cemeteries that are being neglected no longer have value in excess of the costs to maintain the property.

# Other Frequently Asked Questions

- Will the City provide a cemetery zoning designation?
  - There is currently a zoning designation that incorporates cemeteries into its permitted uses
  - Use under existing zoning would be grandfathered in if the City were to change any zoning designation
  - An owner can apply to change their zoning designation
- What is the process for having a property declared historic and what would be the benefits to taking that step?
  - Contact Virginia Department of Historic Resources
    - Virginia Department of Historic Resources
    - Phone: (804) 367-2323
    - Fax: (804) 367-2391
    - Website: <https://www.dhr.virginia.gov/>

# Other Frequently Asked Questions

- Why isn't a cemetery covered under the perpetual care laws?
  - Contact:
    - Virginia Cemetery Board
    - Phone: (804) 367-8552
    - Fax: (866) 826-8863
    - Website:  
<http://www.dpor.virginia.gov/boards/cemetery/>

# Addressing the Issue

- 2010-2011 City formed a Cemetery Committee of interested residents to explore the issue
  - At least second such committee formed
  - Anyone interested was welcomed to participate
- Concluded neighborhood based response was the best solution
- Developed list of Frequently Asked Questions to assist those that wished to become involved:  
<http://hampton.gov/documentcenter/view/1912>
- Clean City Commission assists neighborhood groups with their efforts  
<http://www.hampton.gov/179/Clean-City-Commission>
  - Materials (garbage bags, gloves, etc.)
  - Advertising clean ups
  - Curb side trash pickup

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## Questions

