



City of Hampton

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

Council Approved Minutes - Final City Council Work Session

Mayor Donnie R. Tuck
Vice Mayor Linda D. Curtis
Councilmember Jimmy Gray
Councilmember W.H. "Billy" Hobbs
Councilmember Will Moffett
Councilmember Teresa V. Schmidt
Councilmember Chris Snead

STAFF: Mary Bunting, City Manager
Vanessa T. Valldejuli, City Attorney
Katherine K. Glass, CMC, Clerk of Council

Wednesday, November 8, 2017

1:00 PM

Council Chambers

CALL TO ORDER

Mayor Tuck called the meeting to order at 1:03 p.m. All members of the City Council were present.

Present 7 - Vice Mayor Linda D. Curtis, Councilmember Jimmy Gray, Councilmember Billy Hobbs, Councilmember Will Moffett, Councilmember Teresa V. Schmidt, Councilmember Chris Snead, and Mayor Donnie R. Tuck

DONNIE R. TUCK PRESIDED

AGENDA

Mayor Tuck thanked the Division of Facilities Management for overseeing the renovations to the Council Chambers.

2. [17-0355](#) Hazard Mitigation Loan Program Presentation

Attachments: [Presentation](#)

This item was taken out of order due to last minute edits needed for Agenda Item #1.

City Manager Mary Bunting gave a brief overview of the Hazard Mitigation Loan Program, noting that the City always pursues State and Federal grants first, but there are some homes that do not qualify for this grant funding. This program provides a means for those residents to pursue home elevation. There has been very little use of this program by residents. Councilwoman Schmidt had made the suggestion in the past to look at funding less expensive improvements, such as flood vents, with this program. She commended the Office of Emergency Management for their success in grant writing. She introduced Assistant City Manager Steve Bond,

who presented on this item.

Mayor Tuck asked what the “first or second position” meant on Slide 5. Mr. Bond stated that a person could have a mortgage, which would be the “first position,” meaning that this loan program would be in the “second position.” However, if a person had a second mortgage, the two mortgages would take the “first and second positions,” so they would be ineligible for this program.

Mayor Tuck asked about the “Hampton Roads Housing Authority” on Slide 6. Mr. Bond clarified that this was a typo and should read “Hampton Redevelopment and Housing Authority.”

Councilwoman Schmidt asked for the interest rate on this loan. Mr. Bond stated that he was not sure of the current rate, but it fluctuates with the prime interest rate. He confirmed that it is not an interest free loan.

Councilwoman Schmidt asked if the home elevation certificate would be included in the cost of various projects. Mr. Bond stated that if the cost of the certificate is included in the cost of the project when they apply, then it will be. He noted that Old Point National Bank is the first place that evaluates the loan to determine if it meets all the criteria, then it comes to the City’s loan committee.

Councilwoman Schmidt noted that she had never considered converting the bottom level of a home. This could help people stay in their homes. She asked if they would be required to gut the first floor of their homes. Mr. Bond stated that there are specific guidelines from the Federal Emergency Management Agency (FEMA) for converting the first floor of your home. He noted that once a floor has been “abandoned,” it can only be used for storage or parking, not as livable space.

Ms. Bunting stated that there will be some items on this evening’s Consent Agenda that relate to this program.

Presented by Steve Bond, Assistant City Manager.

1. [17-0346](#) Briefing and Approval of the City of Hampton, Virginia's 2018 General Assembly Priorities

Attachments: [Afternoon Presentation](#)
[Evening Presentation](#)

This item was taken out of order due to necessary last minute edits to the presentation.

Ms. Bunting introduced the City’s lobbyists, Ms. CJ Stolle and Mr. David Hallock

from Two Capitols Consulting, who presented on this item. She stated that the City is identifying its legislative priorities to present to its delegation. This item will be voted on this evening to meet filing deadlines.

Mr. Hallock noted that Two Capitols Consulting met with various City stakeholders to include the City Council, the City Manager, and department heads. He stated that there will be a lot of new faces in Richmond based on the election results from yesterday. This creates challenges and opportunities, as there will be structural changes in January, to include new cabinet secretaries for the new Governor.

Ms. Stolle reviewed the priorities that have been developed for the City to bring to Richmond.

Councilman Gray asked for the cost estimate of the 62 remaining acres for the Langley Clear Zone. Ms. Bunting introduced Mr. Bruce Sturk, Director of Federal Facilities. Mr. Sturk stated there are approximately \$1.5 million of assessed properties left.

Regarding the Fort Monroe Authority (FMA) request, Ms. Bunting clarified that the City is already receiving a Payment in Lieu of Taxes (PILOT). The additional funding request is necessary to increase the PILOT to reflect the additional acreage that the U.S. Army has transferred to the City. The City would continue to get the baseline PILOT, even without this funding. It would also fund additional items FMA needs as a result of this additional acreage.

Ms. Stolle reviewed the City's position on various policies.

Mayor Tuck asked if Northern Virginia was advocating for a local gas tax floor. Mr. Hallock confirmed that they were, along with other regional entities, so this will be a coalition of localities in Northern Virginia and Hampton Roads.

Councilman Moffett asked about the unfunded mandates related to veterans. He noted that the constitutional amendment presented a disproportionate cost to Hampton based on its status as being veteran friendly. He asked if data is being provided to Richmond to show this, stating that approximately 30% of Hampton's population are veterans. Mr. Hallock stated that the City has the largest concentration of veterans of any locality. They are going to educate the legislators that passing items like this on the ballot has a disproportionate impact on localities like Hampton and try to look at other steps that can be taken to correct that, such as a PILOT. Ms. Bunting noted that the Commissioner of the Revenue has prepared that information for a later presentation and it could be included in the legislative package.

Councilwoman Schmidt asked to add in the cost of equipment repair to the argument for the ability to ban plastic bags.

Councilwoman Schmidt noted that tonight the Council will be voting on the Virginia Department of Emergency Management grant to elevate seven homes. On average, it takes \$359,000 per home to elevate them, and some of these homes are not even worth \$160,000. If the homeowner had the option to tear the home down and build a new one, this could be a cost-saving measure. She believes it would be appropriate to put this information into the legislative package. Ms. Bunting noted that while she agrees that adding such an option is prudent, it is not a State regulation that prohibits that currently, but FEMA. This is being worked on as part of a Federal legislative agenda. She stated that the City could make State legislators aware of the option to provide more power than just from the locality. Mr. Hallock stated that they will ask for support in this.

Mayor Tuck asked for clarification on Councilwoman Schmidt's plastic bag request. Councilwoman Schmidt noted that she learned from the Virginia Municipal League (VML) that plastic bags get caught in drainage pipes and municipal lawnmowers, which then require City time and maintenance to repair. Mayor Tuck asked if she was requesting that this be added as background information to that request. Councilwoman Schmidt confirmed this, stating that the environmental impact is listed, but not the repair costs. Mr. Hallock stated that they will add the economic impact to the City in the request.

Mayor Tuck stated that he is uncomfortable with the banning of plastic bags.

Councilwoman Snead asked why the unfunded mandates and constitutional inequity was not listed as a legislative request actually asking the State to give the City some remedy instead of a policy statement. Mr. Hallock stated that it is up to Council, but the perspective was that the City has a number of funding requests out there, and it comes to a point where it has to determine priorities. Councilwoman Snead stated that she can accept that reasoning, but noted that if the City does not ask for it, it will not get it. Putting it as a priority now will at least alert Richmond that the City will continue to come back with that request. Ms. Bunting stated that, on the veterans one specifically, it would make more sense to form a coalition and make that financial request with other localities. This will secure legislative support from other parts of the State. Councilwoman Snead stated that the City needs to work on creating that coalition.

Councilman Moffett stated that he was glad to see a request for dedicated funding for transit. With other localities, the Transportation Planning Organization, and

Hampton Roads Transit, the City needs to keep working on this to get some movement forward.

Councilman Moffett stated that he was impressed with Two Capitols Consulting and their ability to grasp so much information in such a short period of time.

City Attorney Vanessa Valldejuli asked if there were any specific requests other than those already mentioned. Councilman Moffett asked what was going to be done about Councilwoman Snead's request. Ms. Bunting stated that the City does not have time to form a coalition to get in a budget request this year, but will begin immediately to create a coalition in preparation for next year.

Presented by C. J. Stolle and David Hallock of Two Capitols Consulting.

3. [17-0360](#) Briefing on Cemetery Maintenance

Attachments: [Presentation](#)

Ms. Bunting introduced Mr. Brian DeProfio, Director of Budget and Strategic Priorities, who presented on this item. She noted that the City occasionally receives requests from the community for the upkeep of private cemeteries. There are a lot of laws around these sites, and staff wants to make sure people are aware of what the City can and cannot do based on the law. She noted that Marketing will be releasing a "For the Record" report of this information.

Councilman Gray noted that there are 74 cemeteries or burial sites, and asked how many are covered by perpetual care legislation. Mr. DeProfio stated that 61 of these sites are not covered by perpetual care or by situations like those at St. John's. While there are some private community groups maintaining some of the sites, they are included in the 61.

Mayor Tuck noted that the City is allowed to cut back grass that could be harboring rodents, snakes, or other items. He asked what would qualify grass as a public nuisance. Ms. Valldejuli stated that it can be designated as such because of high grass, garbage, and debris. The City is allowed to cut the grass because of this under the Code. The City does not have the authority to trim back overgrown trees or shrubs.

Mayor Tuck asked for the significance of the zoning designation. Mr. DeProfio stated that citizens believe the City can address the issue from a zoning perspective, requiring people to maintain the property to certain standards. He noted that he included this question because it is one that has come up during previous discussions on this topic.

Mayor Tuck asked what the zoning designation does. Ms. Valldejuli stated that the Zoning Ordinance deals with how a piece of land is used. It could be that people believed if cemeteries are zoned a certain way, these issues would go away; however, you cannot force maintenance through zoning. Mr. DeProfio stated that they can add to the Frequently Asked Questions that this would not resolve the problem.

Vice Mayor Curtis asked for the history of the cemetery committee. Mr. DeProfio noted that it was later in the presentation, but stated that there were approximately 10-20 people who met with the City to address this issue. Anybody who was interested was invited to attend.

Councilman Gray emphasized that 61 of these burial sites do not fall into the perpetual care legislation. He asked how many of these are actually abandoned. Mr. DeProfio stated that "abandoned cemeteries" is a legal term, so there is a legal process involved in this designation. Councilman Gray asked how many of the cemeteries are no longer being cared for by the owner. Mr. DeProfio stated that he will need to review his list to pull out the ones that have community groups caring for them. He noted that he uses the total of 61 despite those groups, because if the City were to step in on ones that were not being cared for by volunteer groups, it is possible the groups may decide to no longer care for them.

Councilman Gray noted that he has received several emails regarding the Oakland Cemetery. The owners of that property owe approximately \$40,000 in property taxes, and the City has not been able to locate the property owners. The person who sent the email stated that they are able to identify the property owner. He also received emails regarding the Thornton Cemetery, near Mercury and Woodland. He stated that one of the options available is the City petitioning the Circuit Court to require the owners to maintain the properties. He asked if this is something the City is pursuing. Ms. Bunting stated that the City has been working with community volunteers. The problem with choosing to take the matter to court is that the court could order the City to take care of these properties. Previous Councils have been clear that they do not want to raise taxes to maintain private cemeteries. She noted that each Council can choose their own stance on the matter, but it is a considerable expense to pass on to the general taxpayer, without including the repair of headstones or other items that have been impacted by lack of care.

Councilman Gray stated that Hampton does not want to be known as the locality with the most abandoned cemeteries. He believes the City should be able to do something more proactive with neighborhood groups, such as assistance with resources and grants. He does not believe that doing nothing will benefit the City in

the long run.

Ms. Bunting stated that the number of unmaintained cemeteries is not growing, but many were developed prior to the perpetual care laws. The City will not have to worry about the 13 covered by those laws. She noted that several of the cemeteries are very actively maintained by community groups. If these groups are funded with neighborhood grants, this is still taxpayer money, but it would be a lower value than completely maintaining the property. This would be a policy decision from Council. She noted that in the past she has also suggested pursuing some opportunities through private grants because of the historical figures buried in those areas. This is also a policy decision.

Councilman Moffett summarized that there are limitations regarding State law, and there is an issue of affordability. He would like to discuss a more proactive path as suggested by Councilman Gray to determine what something like that would look like. The City could provide technical advice, assist in establishing a foundation, and identify resources. He wondered if the City needs to work on strengthening a structure, because there is a Neighborhood Commission and a Clean City Commission, to build capacity for volunteers. Mr. DeProfio stated that during the meetings with the cemetery committee workers, they were provided contact information for neighborhood organizations.

Mr. DeProfio cautioned that the City needs to be careful not to become liable though the indirect support it provides to these groups. Proposed assistance would need to be vetted with the City Attorney's Office.

Vice Mayor Curtis stated that she appreciates the suggestions made by Councilman Gray and Councilman Moffett. She noted that there are 61 cemeteries the City needs to be concerned about. Over time, the City has not been able to garner sufficient volunteer support to keep all of them in reasonably maintained condition. City Council periodically hears from those groups who are unhappy with the perception of the City's lack of support for the work they are doing. She is concerned that if the City goes down this road, and does not address all 61 cemeteries, the inequities will continue to be there, and the City does not have the capacity to address them all. The City cannot force volunteers to come forward. She is not sure getting or helping volunteers is going to stop the problem from cropping up every six months.

Vice Mayor Curtis noted that the City Manager got some very preliminary information about potential cost per acre of maintenance, and it was pretty expensive. She does not believe the periodic complaints will stop unless the City takes care of all the properties, and she does not know if the City can do that.

Mr. DeProfio stated that Norfolk budgets \$2.1 million to maintain 354 acres over 8 cemeteries, which comes out to approximately \$6,000 per acre annually. Hampton has 55 acres across 61 cemeteries. The best case scenario is an estimation of \$300,000 to \$330,000 annually. The City would not get the same economies of scale as Norfolk because the acreage is spread out all over. He noted that this does not include fixing headstones, and many of the City's cemeteries have broken and deteriorated headstones. There can also be issues with the family when replacing or fixing these that adds another layer of cost.

Ms. Bunting noted that Norfolk has public cemeteries; they do not pay to maintain private cemeteries, which they also have in their city.

Councilman Gray asked Mr. DeProfio to determine which of the 61 cemeteries are not being maintained. He stated that he cannot see where the City has done anything to initiate or help the neighborhood approach. He would like to reconstitute the cemetery committee because the City does not have an organized effort.

Ms. Bunting stated that she does not ask for additional personnel positions unless there is a need, but she does not believe the City can do the proactive work requested without adding another staff person. The Neighborhood staff would not be able to do their current asset based development work and add this additional workload; there is just not the organizational capacity. These things are currently worked on as time allows, but there is not a dedicated, focused effort.

Councilman Moffett clarified that he wants the neighborhoods to push this forward with technical support from the City. He is not advocating for additional funding for the City to take on the expense because this is not an expense the City can afford. He would like to use the energy that exists and make the community own the process. He would like to see what possibilities there are, and how we can make this sustainable. He noted that it would not cost anything to begin the discussions.

Mayor Tuck shared that in 1991, Dr. Mary Christian organized a cleanup effort of Mary Peake Cemetery. He noted that people are energetic at first but as time goes on, they do not continue their efforts. The community has gotten older and younger people have not stepped up to take over volunteer efforts. He shared an experience with another cemetery and the need they have for additional support. He asked how cemeteries not being maintained reflect on areas the City is trying to revitalize. He stated that the City owns this situation because it is in our City and it cannot let this continue to deteriorate. He noted that when a group of Air Force volunteers contacted the City about additional assistance, and the City informed them it could not help, they pulled out as volunteers.

Mayor Tuck suggested that the City could make appeals to the professional athletes from the area to set up fundraisers.

Presented by Brian DeProfio, Director of Budget and Strategic Initiatives

REGIONAL ISSUES

Mayor Tuck noted that the Fort Monroe National Monument is having a Veterans Day Ceremony this Saturday, November 11th at 9:00 a.m. in the area adjacent to Paradise Ocean Club. They will recognize and honor men and women who served in the military. They will also plant flags. If a citizen would like to participate, they request arriving at 8:30 a.m.

NEW BUSINESS

CLOSED SESSION

- 4. [17-0307](#) Closed session pursuant to Virginia Code Sections 2.2-3711.A.1, .3 and .8 to discuss appointments to the Citizens Police Advisory Group (CPAG), the Thomas Nelson Community College Board of Visitors, and as listed on the agenda (Peninsula Agency and Aging; to discuss or consider the acquisition of real property for a public purpose, or the disposition of publicly held real property in the Downtown Hampton area where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the city; and to consult with legal counsel employed by the city regarding specific matters concerning an economic development agreement requiring the provision of advice by such counsel.

At 2:49 p.m., a motion was made by Councilmember Moffett and seconded by Councilmember Gray, that this Closed Session - Motion be approved. The motion carried by the following vote:

Aye: 7 - Vice Mayor Curtis, Councilmember Gray, Councilmember Hobbs, Councilmember Moffett, Councilmember Schmidt, Councilmember Snead and Mayor Tuck

- 5. [17-0351](#) Consideration of appointments to Peninsula Agency on Aging

CERTIFICATION

6. [17-0341](#) Resolution Certifying Closed Session

A motion was made by Councilmember Moffett and seconded by Councilmember Gray, that this Closed Session - Certification be approved. The motion carried by the following vote:

Aye: 7 - Vice Mayor Curtis, Councilmember Gray, Councilmember Hobbs, Councilmember Moffett, Councilmember Schmidt, Councilmember Snead and Mayor Tuck

ADJOURNMENT

The meeting adjourned at 3:49 p.m.

Donnie R. Tuck
Mayor

Katherine K. Glass, CMC
Clerk of Council

Date approved by Council _____