



City of Hampton, VA

Meeting Minutes

City Council

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

*Randall A. Gilliland
Charles N. Sapp
Rhet Tignor*

*Angela Lee Leary
Joseph H. Spencer, II
Paige V. Washington
Ross A. Kearney, II, Mayor*

*Staff:
Jesse T. Wallace Jr., City Manager
Cynthia Hudson, City Attorney
Katherine K. Glass, Clerk of Council
Brenda J. Vaccarelli, Deputy Clerk*

Wednesday, September 13, 2006

7:32 PM

Council Chambers, 8th Floor, City Hall

CALL TO ORDER/ROLL CALL

Ross A. Kearney, II presided

Present: Randall A. Gilliland, Angela Lee Leary, Charles N. Sapp,
Joseph H. Spencer, II, Rhet Tignor, Paige V. Washington

INVOCATION - Randall A. Gilliland

PLEDGE OF ALLEGIANCE TO FLAG

MAYOR'S COMMENTS

Mayor Kearney thanked Councilwoman Angela Leary for the work she did on the 911 Day of Remembrance and Hope ceremony at Gosnolds Hope Park. He stated that it was a wonderful occasion. He explained that Councilwoman Leary started this project long before she came on Council. He said the remembrance was of heroes from the City of Hampton who were killed in the Spanish American War and going through the war today in Iraq. He stated that all the names of those who died were read during the ceremony. He stated that Councilman Spencer attended the ceremony as well.

Mayor Kearney thanked the Chamber of Commerce for the Walk for America. He stated that several hundred people attended along with Councilman Tignor.

CONSENT AGENDA**Consent Items - Second Reading**

1. 06-0366 An Ordinance to Amend and Re-Enact Chapter 2, "Administration", Article II, "City Council", Division 2, "Meetings", Section 2-43 of the Code of the City of Hampton, Virginia, entitled, "Order of Business – Regular Meetings."

APPROVED items 1 through 15 on the consent agenda.

Motion made by: Councilmember Rhet Tignor

Seconded by: Councilmember Paige V. Washington

Ayes: 7 - Randall A. Gilliland, Angela Lee Leary, Charles N. Sapp,
Joseph H. Spencer, II, Rhet Tignor, Paige V. Washington, Ross A.
Kearney, II

Nays: 0

Consent Items - First Reading

2. 06-0477 Request for Refund of Erroneous Tax Assessments

APPROVED items 1 through 15 on the consent agenda.

Motion made by: Councilmember Rhet Tignor

Seconded by: Councilmember Paige V. Washington

Ayes: 7 - Randall A. Gilliland, Angela Lee Leary, Charles N. Sapp,
Joseph H. Spencer, II, Rhet Tignor, Paige V. Washington, Ross A.
Kearney, II

Nays: 0

3. 06-0497 A Resolution authorizing the re-appropriation of \$225,704.00 from the General Fund balance to the Hampton Redevelopment and Housing Authority's Hampton Business Incentives Corporation.

WHEREAS, on October 1997, the City Council of the City of Hampton, Virginia ("Council") approved the formation of the Hampton Business Incentives Corporation under the auspices of Hampton Redevelopment and Housing Authority to provide loan guarantees and interest rate buy-downs to help business expansions or start ups in Downtown Hampton and Phoebus (the "Program");

WHEREAS, the Program fills a gap in the city's business assistance programs and provides a financial tool for the aforementioned business districts that experience more difficulty attracting new businesses and providing support for those existing businesses to expand;

WHEREAS, the Program covers small business costs that are not normally covered by any other City loan program; and the administration for the Program is

provided by the Small Business Development Center of Hampton Roads at no cost to the City;

WHEREAS, Council appropriated \$300,000.00 from the General Fund balance for this program in 1997 with the understanding that these funds be re-appropriated for the Program every year from the General Fund balance; and

WHEREAS, the sum of \$225,704.00 is available for re-appropriation.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Hampton, Virginia that the sum of \$225,704.00 be re-appropriated from the General Fund balance to the Hampton Redevelopment and Housing Authority's Hampton Business Incentives Corporation for the purpose of providing financial assistance to retain existing businesses, encourage their expansions, and attract new businesses to locate in Downtown Hampton and Phoebus.

APPROVED items 1 through 15 on the consent agenda.

Motion made by: Councilmember Rhet Tignor

Seconded by: Councilmember Paige V. Washington

Ayes: 7 - Randall A. Gilliland, Angela Lee Leary, Charles N. Sapp,
Joseph H. Spencer, II, Rhet Tignor, Paige V. Washington, Ross A.
Kearney, II

Nays: 0

4. 06-0507 Resolution approving FY06 Year End Budget Adjustments.

BE IT RESOLVED by the City Council of the City of Hampton, Virginia that the attached fiscal year 2006 year end budget adjustments be approved.

APPROVED items 1 through 15 on the consent agenda.

Motion made by: Councilmember Rhet Tignor

Seconded by: Councilmember Paige V. Washington

Ayes: 7 - Randall A. Gilliland, Angela Lee Leary, Charles N. Sapp,
Joseph H. Spencer, II, Rhet Tignor, Paige V. Washington, Ross A.
Kearney, II

Nays: 0

5. 06-0514 Resolution Appropriating Funds from the Retained Earning Reserve for Equipment Replacement for the Purchase of Four Knuckleboom Trucks.

BE IT RESOLVED that \$400,000 be appropriated from Retained Earning Reserve for Equipment Replacement in the Solid Waste Management Fund into the FY 07 Solid Waste Management Fund Capital Outlay Auto line item (08260) for the purchase of four knuckleboom trucks.

APPROVED items 1 through 15 on the consent agenda.

Motion made by: Councilmember Rhet Tignor

Seconded by: Councilmember Paige V. Washington

Ayes: 7 - Randall A. Gilliland, Angela Lee Leary, Charles N. Sapp,
Joseph H. Spencer, II, Rhet Tignor, Paige V. Washington, Ross A.
Kearney, II

Nays: 0

Consent Items - Other

6. 06-0483 Acquisition of property commonly known as 222 Pine Chapel Road from Armond C. Crump, Samuel A. Crump, and Barbara E. Macario.

APPROVED items 1 through 15 on the consent agenda.

Motion made by: Councilmember Rhet Tignor

Seconded by: Councilmember Paige V. Washington

Ayes: 7 - Randall A. Gilliland, Angela Lee Leary, Charles N. Sapp,
Joseph H. Spencer, II, Rhet Tignor, Paige V. Washington, Ross A.
Kearney, II

Nays: 0

7. 06-0489 Approval of Minutes from the Special Meeting of August 8, 2006 and the Afternoon and Evening Council Meetings of August 9, 2006.

APPROVED items 1 through 15 on the consent agenda.

Motion made by: Councilmember Rhet Tignor

Seconded by: Councilmember Paige V. Washington

Ayes: 7 - Randall A. Gilliland, Angela Lee Leary, Charles N. Sapp,
Joseph H. Spencer, II, Rhet Tignor, Paige V. Washington, Ross A.
Kearney, II

Nays: 0

8. 06-0490 2006 NFL Youth Football Grant

A RESOLUTION APPROVING THE CITY OF HAMPTON, VIRGINIA'S PARTICIPATION AND APPROPRIATION OF THE 2006 NFL YOUTH FOOTBALL GRANT THROUGH HAMPTON PARKS AND RECREATION DEPARTMENTS ATHLETIC DIVISION, THROUGH NATIONAL RECREATION AND PARK ASSOCIATION.

WHEREAS, the National Recreation and Parks Association has awarded the Hampton Parks and Recreation Athletic Division a grant in the total amount of \$2,000.00;

WHEREAS, the grant covers the period of August 16, 2006 and will terminate on December 30, 2006;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hampton accepts and appropriates the NFL Youth Football grant in the amount of \$2,000.00;

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

APPROVED items 1 through 15 on the consent agenda.

Motion made by: Councilmember Rhet Tignor

Seconded by: Councilmember Paige V. Washington

Ayes: 7 - Randall A. Gilliland, Angela Lee Leary, Charles N. Sapp, Joseph H. Spencer, II, Rhet Tignor, Paige V. Washington, Ross A. Kearney, II

Nays: 0

9. 06-0494 Acquisition of property, known as 1002 Kecoughtan Road, from Toby M. Boyea.

APPROVED items 1 through 15 on the consent agenda.

Motion made by: Councilmember Rhet Tignor

Seconded by: Councilmember Paige V. Washington

Ayes: 7 - Randall A. Gilliland, Angela Lee Leary, Charles N. Sapp, Joseph H. Spencer, II, Rhet Tignor, Paige V. Washington, Ross A. Kearney, II

Nays: 0

10. 06-0496 OEMS-Rescue Squad Assistance Fund

RESOLUTION APPROVING THE CITY OF HAMPTON, VIRGINIA'S PARTICIPATION AND APPROPRIATION OF THE 2006-2007 RESCUE SQUAD ASSISTANCE FUND GRANT SUBMITTED BY THE FIRE DIVISION THROUGH THE OFFICE OF EMERGENCY MEDICAL SERVICES, VIRGINIA DEPARTMENT OF HEALTH.

WHEREAS, the Virginia Department of Health, Office of Emergency Medical Services-Rescue Squad Assistance Fund has awarded the OEMS Consolidated Grant to the City of Hampton in the amount of \$116,000 in state funds and \$116,000 in cash match, for a total award of \$232,000.00; and

WHEREAS, the grant award covers the period of July 1, 2006 through June 30, 2007;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hampton, Virginia accepts and appropriates the OEMS Consolidated Grant in the amount of \$116,000 in accordance with the grant agreement and authorizes matching

funds in the amount of \$116,000 from the Matching Grant Funds Pool in accordance with the grant agreement;

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

APPROVED items 1 through 15 on the consent agenda.

Motion made by: Councilmember Rhet Tignor

Seconded by: Councilmember Paige V. Washington

Ayes: 7 - Randall A. Gilliland, Angela Lee Leary, Charles N. Sapp,
Joseph H. Spencer, II, Rhet Tignor, Paige V. Washington, Ross A.
Kearney, II

Nays: 0

11. 06-0504 Approval of Articles of Incorporation and Bylaws of The Hampton Military History Foundation for filing with the State Corporation Commission

APPROVED items 1 through 15 on the consent agenda.

Motion made by: Councilmember Rhet Tignor

Seconded by: Councilmember Paige V. Washington

Ayes: 7 - Randall A. Gilliland, Angela Lee Leary, Charles N. Sapp,
Joseph H. Spencer, II, Rhet Tignor, Paige V. Washington, Ross A.
Kearney, II

Nays: 0

12. 06-0508 Vacation Agreement between the City of Hampton, Virginia, and the Trustees of St. Mark's United Methodist Church.

APPROVED items 1 through 15 on the consent agenda.

Motion made by: Councilmember Rhet Tignor

Seconded by: Councilmember Paige V. Washington

Ayes: 7 - Randall A. Gilliland, Angela Lee Leary, Charles N. Sapp,
Joseph H. Spencer, II, Rhet Tignor, Paige V. Washington, Ross A.
Kearney, II

Nays: 0

13. 06-0512 Designation of ThyssenKrupp Elevator as the only source practically available for maintenance and repair services for the elevators in City Hall.

WHEREAS, the City Hall elevators require maintenance and repairs involving proprietary equipment; and

WHEREAS, ThyssenKrupp Elevator is the only manufacturer's representative in the region;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HAMPTON, VIRGINIA, that ThyssenKrupp be designated as the only source practically available for maintenance and repair services for the elevators in City Hall and the City Manager or his designee is authorized to execute purchase contracts directly with ThyssenKrupp as needed.

APPROVED items 1 through 15 on the consent agenda.

Motion made by: Councilmember Rhet Tignor

Seconded by: Councilmember Paige V. Washington

Ayes: 7 - Randall A. Gilliland, Angela Lee Leary, Charles N. Sapp, Joseph H. Spencer, II, Rhet Tignor, Paige V. Washington, Ross A. Kearney, II

Nays: 0

14. 06-0515 Resolution Authorizing the City Manager To Negotiate the Terms of a Cooperation Agreement Among the City of Hampton, the City of Hampton Federal Area Development Authority and OPC Hampton, LLC, to Seek an Alternative Site for Chamberlin Hotel Parking at Fort Monroe

WHEREAS, by Coded Ordinance No. 1399 adopted May 11, 2005 the Council of the City of Hampton, Virginia (the "Council") created FADA pursuant to the enabling authority set forth in Virginia Code §15.2-6300 *et seq.* (Authorities for Development of Former Federal Areas Act);

WHEREAS, the Council created FADA in order, *inter alia*, to enable more efficient cooperation with the federal government in the event of a closure or realignment of any of the City's federal installations pursuant to the federal Defense Base Closure and Realignment Act of 1990 (the "BRAC Statute");

WHEREAS, the Department of Defense has officially recognized FADA as the Local Redevelopment Authority ("LRA") for the development and implementation of a redevelopment plan ("REUSE PLAN") for the federal installation known as Fort Monroe in Hampton, Virginia which has been placed on the list of installations to be closed pursuant to the BRAC Statute;

WHEREAS, a significant portion of the acreage of Fort Monroe is subject to a reversionary interest in favor of the Commonwealth of Virginia;

WHEREAS, OPC Hampton, LLC has entered into a lease with the Department of the Army for use of 4.97 acres of land in Fort Monroe at the site of the former Chamberlin Hotel, which is located on accreted lands and may be subject to the reversionary interest of the Commonwealth of Virginia, for the use and operation of a senior independent living facility with an assisted living component and an adjacent parking facility (the "Lease");

WHEREAS, FADA as the LRA and the City as the zoning authority over Fort Monroe agree that the construction of a waterfront parking facility adjacent to the Chamberlin Hotel would not be in keeping with the vision for the ultimate reuse of Fort

Monroe under the BRAC Statute and accordingly, object to the construction of such a facility at such location by OPC Hampton, LLC;

WHEREAS, FADA and the City recognize that the use of the Chamberlin Hotel site for the purposes stated in the Lease requires adequate parking, and OPC Hampton, LLC is willing to explore alternative sites for the required parking, subject to the BRAC Statute, the Reuse Plan and any reversionary interest of the Commonwealth;

WHEREAS, the execution of a Cooperation Agreement among the City, FADA, and OPC Hampton, LLC is necessary to memorialize the intent of the parties to work cooperatively to seek an alternative site for parking to serve the proposed uses of the Chamberlin Hotel as limited by the BRAC Statute, the Reuse Plan and any reversionary interest of the Commonwealth; and

WHEREAS, FADA on August 14, 2006, adopted a Resolution authorizing its staff to negotiate the terms of a Cooperation Agreement with the City and OPC Hampton, LLC to seek an alternative parking site for the Chamberlin Hotel, subject to Hampton City Council's approval.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Hampton that

1. The City Manager negotiate the terms of a Cooperation Agreement among the City, FADA and OPC Hampton, LLC to seek an alternative site for the Chamberlin Hotel parking, as limited by the BRAC Statute, the Reuse Plan for Fort Monroe and any reversionary interest of the Commonwealth; and
2. The execution of said Cooperation Agreement shall be approved by formal action of FADA and City Council.

APPROVED items 1 through 15 on the consent agenda.

Motion made by: Councilmember Rhet Tignor

Seconded by: Councilmember Paige V. Washington

Ayes: 7 - Randall A. Gilliland, Angela Lee Leary, Charles N. Sapp,
Joseph H. Spencer, II, Rhet Tignor, Paige V. Washington, Ross A.
Kearney, II

Nays: 0

15. 06-0525 Approval of resolution of personnel matter on terms acknowledged by Council on September 5, 2006.

APPROVED items 1 through 15 on the consent agenda.

Motion made by: Councilmember Rhet Tignor

Seconded by: Councilmember Paige V. Washington

Ayes: 7 - Randall A. Gilliland, Angela Lee Leary, Charles N. Sapp,
Joseph H. Spencer, II, Rhet Tignor, Paige V. Washington, Ross A.
Kearney, II

Nays: 0

PRESENTATIONS, PROCLAMATIONS, AWARDS

16. 06-0431 Presentation of Proclamation declaring April 26, 2006, to April 26, 2007, as the Year of Regional Citizenship.

Mr. Dana Dickens stated that it was a pleasure to be in Hampton. He stated that he was working with Council on various things around the region and he complimented Council for their regional approach to things. He believes they understand the economy of the region is a regional economy and not a City-oriented economy. He stated that the quality of life and our financial future is based on what happens in the entire region.

Mr. Dickens stated that the Hampton Road Partnership appreciates the support from the City of Hampton. He explained that the Mayors and Chairs of the cities and counties in Hampton Roads sit on the board, along with five major military commands and seven institutions of higher learning, and fifty of the larger businesses in the Hampton Roads area.

Mr. Dickens stated that the Partnership believes that the economy of Hampton Roads is a global one, a regional one and if Hampton Roads is to be competitive in the marketplace the cities need to work together to pool the assets to be competitive with the Raleigh-Durhams, Charlottes, Savannahs, and Jacksonvilles of the world. Mr. Dickens explained that the partnership is working with the modeling and simulation industry. He said they work very hard to improve that. He stated the jobs are high paying jobs averaging \$60,000 a year. He stated that they are trying to make Hampton Roads the nexus of modeling and simulation. He said that there are competitors in Orlando, Florida and Huntsville, Alabama, but he believes the Hampton Roads area has as good as it gets in the modeling and simulation industry.

Mr. Dickens stated that the 1.6 million people in the Hampton Roads area live in a particular City and have allegiances to that City. He stated that they also are citizens of the region. Mr. Dickens explained that the regional citizenship effort is to help bring awareness of how interdependent the area is.

Mr. Dickens stated that a classic example is the closing of the Ford Plant in Norfolk. He said that when it closes in 2008 it will generate a \$2.4 billion hole in the economy which will impact everyone.

Mr. Dickens stated that on April 26, 2006 the year of regional citizenship was declared. He explained that April 26 was chosen because that was the day that three tiny ships from England landed in America.

Mr. Dickens read and presented the proclamation to Mayor Kearney.

Mayor Kearney thanked Mr. Dickens and thanked Councilman Tignor and Vice Mayor Gilliland for serving on the Hampton Roads Compact.

17. 06-0488 Proclamation welcoming Hampton University students and faculty to Hampton

Councilman Tignor presented the proclamation to Dr. Benne McMorris, Vice President for Student Affairs, and Mr. Justin Merrick, the Student Government Association representative to the Board of Trustees accepted the proclamation.

Dr. McMorris thanked Council on behalf Dr. William R. Harvey, the 6,300 students, parents and friends and faculty of Hampton University for the proclamation. He stated that in 2008 Hampton University will be celebrating 140 years.

Mayor Kearney thanked Dr. McMorris.

18. 06-0519 In Recognition of the 100th Anniversary of the Virginia School for the Deaf, Blind and Multi-Disabled at Hampton.

The City Manager explained that Ms. Harriet Storm requested a proclamation to celebrate the 100th Anniversary of the Virginia School for the Deaf, Blind and Multi-Disabled at Hampton. He stated that for a century, the Virginia School has provided services to students with sensory disabilities from Hampton and throughout the Commonwealth of Virginia.

Dr. Mary Christian, Co-Chair of the 100th Founder's Day Celebration Planning Committee, Mr. Ralph Shelman, of Insight Enterprises, Inc., and Mr. Jodie James, Co-Chair of the 100th Founder's Day Celebration Planning Committee accepted the proclamation.

Councilman Washington read and presented the proclamation to Dr. Mary Christian, Co-Chair of the 100th Founder's Day Celebration Planning Committee, Mr. Ralph Shelman, of Insight Enterprises, Inc., and Mr. Jodie James, Co-Chair of the 100th Founder's Day Celebration Planning Committee accepted the proclamation.

Dr. Christian thanked Council for their support during the last year and said that the General Assembly has the school in the palm of its hand. She thanked Council for the proclamation and support as they try to preserve the school.

Mr. Shelman thanked members of Council for recognizing the work and the value of the Virginia School for the Deaf Blind and Multi-disabled. He said that the members of coalition, alumni, and students, and members of community, are committed to insuring the future of the school and they appreciate the support that Council has provided.

Mr. Jodie James, thanked all those who support the school. Mr. James encouraged Council to participate in the various activities scheduled for the celebration including a Celebration of Dance on October 5, 2006, a

Fall Festival and Fish Fry on Friday, October 6, 2006, a parade on Saturday, October 7, 2006 and the Alumni Breakfast on Sunday, October 8, 2006.

Mayor Kearney thanked all the students and faculty of the school for attending the council meeting.

REPORTS BY CITY MANAGER, CITY COUNCIL, STAFF, COMMITTEES

PUBLIC HEARINGS

Rezoning - First Readings

19. 06-0505 Rezoning Application No.1224-C by the City of Hampton to rezone 15.92+/- acres (Part 1) in Buckroe from Multiple Residence (R-M) District to One Family Residence (R-9) District and 5.92+/- acres (Part 2) from R-M to Multiple Dwelling (MD-4) District.

The City Manager stated that the purpose of Rezoning Application No. 1224-C is to rezone properties currently zoned R-M since this district is being eliminated in the new Zoning Ordinance. He stated that the rezoning is also a tool to help accomplish the objectives of the Buckroe Master Plan.

HELD PUBLIC HEARING

APPROVED ON FIRST READING with the exclusion of the properties also included in Rezoning Application #1232.

Motion made by: Councilmember Paige V. Washington

Seconded by: Councilmember Joseph H. Spencer, II

Aye: 7 - Randall A. Gilliland, Angela Lee Leary, Charles N. Sapp, Joseph H. Spencer, II, Rhet Tignor, Paige V. Washington, Ross A. Kearney, II

Nay: 0

20. 06-0509 Rezoning Application No.1223 by Platinum Homes, Corp. to rezone approximately 5 parcels totaling 2.81+/- acres at 701 Aberdeen Road from Neighborhood Commercial (C-1) District and Limited Commercial (C-2) District to Limited Commercial (C-2) District with conditions.

The City Manager stated that the Planning Commission and Planning Staff recommend approval of Rezoning Application No. 1223 with the following three (3) proffered conditions:

1. The development of this property shall substantially conform with the following drawings:
 - 1) Conceptual Site Plan prepared by Applicant and dated June 12, 2006;
 - 2) Elevations prepared by Applicant and dated June 12, 2006;

- 3) Entry Landscaping and Fencing Plan prepared by Applicant and dated June 12, 2006.
2. Two color schemes shall be utilized with alternating schemes starting from Aberdeen Road toward the rear of the property. They shall feature earth tones and shall each be complimentary.
3. The only permitted uses shall be townhouses and multi-family dwellings.

HELD PUBLIC HEARING together with agenda item #23 (06-0500)
Community Plan Amendment #004-2006.

APPROVED ON FIRST READING with three (3) proffered conditions.

Motion made by: Councilmember Rhet Tignor

Seconded by: Councilmember Charles N. Sapp

Aye: 4 - Randall A. Gilliland, Angela Lee Leary, Charles N. Sapp, Rhet Tignor

Nay: 3 - Joseph H. Spencer, II, Paige V. Washington, Ross A. Kearney, II

21. 06-0510 Rezoning Application No. 1233 by the City of Hampton to rezone ten parcels totaling 3.6+/- acres within the Park Place neighborhood from Light Manufacturing District (M-2) to One-Family Residence District (R-9).

The City Manager stated that one of the key initiatives of the Greater Wythe Area Plan – Phase II recommends changes to the land use mix along various sections of the Pembroke Avenue corridor. Specifically, it recommends transitioning certain land uses within the Park Place neighborhood from manufacturing/industrial to residential. He stated that this proposed action would bring the zoning of the neighborhood into conformance with the recommendations contained in the Greater Wythe Area Plan, Phase II.

The City Manager stated that Planning Staff recommend approval of Rezoning Application No. 1233.

HELD PUBLIC HEARING

APPROVED ON FIRST READING

Motion made by: Councilmember Joseph H. Spencer, II

Seconded by: Councilmember Paige V. Washington

Aye: 7 - Randall A. Gilliland, Angela Lee Leary, Charles N. Sapp, Joseph H. Spencer, II, Rhet Tignor, Paige V. Washington, Ross A. Kearney, II

Nay: 0

22. 06-0511 Rezoning Application No.1232 by Renee Riley and Nell Denby to rezone 4.6+/- acres roughly bounded by South 1st Street to the north, Seaboard Avenue to the east, Bay Shore Lane to the south, and Atlantic Avenue to the west from Multiple Residence (R-M) District and One-Family Residence (R-13) District to Multiple Dwelling (MD-2) District for multi-family residences.

The City Manager stated that Rezoning Application No. 1232 involves the largest piece of privately owned vacant land in Buckroe. He explained that the applicant is requesting a rezoning to a district which allows a residential density of 16 units per acre which is similar to that which is recommended in the Buckroe Master Plan.

The City Manager stated that the Planning Commission and the Planning Staff recommend approval of Rezoning Application No. 1232 with the following two (2) conditions:

1. Prior to the issuance of building permits, the Director of Planning shall submit a letter of approval certifying that the site plan and building elevations meet the intentions of the Buckroe Master Plan, namely in the following ways;
 - A. Site design will adhere to the recommendations of the Buckroe Master Plan conceptual design found on Page 30 as it relates to the arrangement of streets, blocks, and open spaces.
 - B. The only uses permitted on the property shall be residential for-sale units at the multiple-dwelling (MD-2) density standard with a maximum number of sixteen units per acre.
 - C. All primary structures shall be limited to three stories in height. Structures may go to four stories in height if the first floor must be elevated due to flood plain requirements, and the first floor is used for parking. Accessory structures may be no more than two stories in height.
 - D. Residential structures that contain multiple dwelling units shall be designed to have the appearance of single-family structures.
 - E. Building design and colors shall replicate the local coastal vernacular architecture. The attached examples (building examples I-V) shall be used as a guide. Key features include generous porches, balconies, tower elements, and/or roof top watches.
 - F. All parking shall be interior to the block structure.
2. Prior to the issuance of building permits, building elevations and materials shall be submitted to the Planning Director for review and approval.

HELD PUBLIC HEARING together with agenda item #20 (06-0509)
Rezoning Application #1223.

APPROVED ON FIRST READING with two (2) conditions.

Motion made by: Councilmember Rhett Tignor

Seconded by: Councilmember Joseph H. Spencer, II

Aye: 7 - Randall A. Gilliland, Angela Lee Leary, Charles N. Sapp, Joseph H. Spencer, II, Rhett Tignor, Paige V. Washington, Ross A. Kearney, II

Nay: 0

Comprehensive Plan Amendment

23. 06-0500 Community Plan Amendment #004-2006 proposed by the City of Hampton Planning Department to change the Hampton Community Plan land use map recommendation at 701 Aberdeen Road and four adjoining parcels from low density residential to high density residential.

The City Manager stated that the Community Plan Amendment accompanies Rezoning #1223. He stated that through the evaluation of Rezoning requests that the Planning Department determine an amendment to the Hampton Community Plan was appropriate. He said that Planning staff and the Planning Commission recommend approval of the Community Plan Amendment 004-2006.

Mr. Michael Hayes, City Planner, stated that this is located in the area of the intersection of Briarfield Road and Aberdeen Road. He stated that the current recommendation is for low density residential. He explained that in reviewing the details high density residential would be appropriate and requested that the Hampton Community Plan be amended to reflect that high density is recommended in this area.

Mr. R. C. Mallory, 101 Maywood Drive, stated that he is concerned about the lack of parking available for the property owners.

Mayor Kearney asked Mr. Mallory if his issue was that the development does not have enough parking to satisfy the need of the people living there. In response, Mr. Mallory stated that is his biggest complaint and he believes that it will cause him trouble. Mr. Mallory said it would be a major problem for him and he believes it will be a major problem for the City.

Mr. Mallory stated that he is also concerned about the trash pickup. He stated that he is not against the project, but he is against the facilities and lack of parking available.

Mayor Kearney asked if the amendment meets the requirements established by the City with the 3 bedroom apartment having only two

parking spaces. In response, Mr. Hayes stated that it did meet the requirements.

Mr. Hayes explained that the garbage collection would be done with roll-a-ways similar to those that single-family homes have, and the garbage would be privately collected. Mr. Hayes said there would be 40 garbage containers.

Mayor Kearney asked if the containers would be on Aberdeen Road. In response, Mr. Hayes indicated that the containers would be in the development.

Mayor Kearney asked if the garbage trucks would come in the development to collect the garbage. In response, Mr. Hayes explained that is the reason the garbage would be privately collected.

Mayor Kearney asked if the area was large enough for a fire truck to get in. In response, Mr. Hayes explained that the plan was sent to the Fire Department for review and they are happy with the design.

Mr. Mallory asked Council to deny the plan until more spaces could be made available.

Councilman Spencer stated that Council is voting on the Community Plan change first, going from low density to high density. He asked if the surrounding area were single-family units. In response, Mr. Hayes stated that they were single-family units.

Councilman Spencer stated that he would rather see low density than high density. He said that a Community Plan change is being made and allow a land use that appears to be a concern that he shares regarding the availability of parking. He stated that he can't imagine anyone constructing townhouse units for sale and only having parking available for two cars and no additional parking in the complex. Councilman Spencer hopes that the applicant will address the issue.

Councilman Washington stated that he is also concerned about the lack of parking available in the complex.

Vice Mayor Gilliland believes that the applicant should address the questions raised.

Councilman Tignor stated that he doesn't believe anyone is against the Community Plan change and suggested that the applicant address the issues.

Mayor Kearney stated that he cannot support this because he believes it is more of a spot zoning. He stated that he is not convinced that it needs to be done.

Mayor Kearney stated that he is not sure that this is the best thing for the neighborhood.

Councilman Tignor doesn't consider it to be spot zoning. He said that Aberdeen Road is very wide artery and he believes that putting more high density property matches the area. He said that the issue he has concerns the parking and trash and if the applicant cannot defend them, he would not approve it.

Councilman Sapp stated that as the Council representative of the Planning Commission, the discussion was that Aberdeen Road is a major thoroughfare and there is more of a separation between the two sides of the street. He said with the Post Office at one end and high density housing on the other, the Planning Commission did not see it as spot zoning. He said that the Planning Commission felt it was a logical use for the property.

Vice Mayor Gilliland doesn't see this as spot zoning, but bringing the property in conformance with what is in the area. He believes it is highly unlikely to be a good parcel for single-family residential development.

Councilwoman Leary believes that the individuals on the Planning Commission give due diligence to everything that comes before them. She stated that she approves the recommendation.

Councilman Spencer requested clarification regarding the current zoning and asked if 9 units were allowed per acre. In response, Mr. Harris stated that 16 units are allowed per acre.

Councilman Spencer asked how many units that would allow with the current acreage. In response, Mr. Harris stated that 51 units would be allowed without changing the zoning with the same parking ratio.

Mr. Harris explained that 51 units could be developed without changing the zoning with the same parking ratio.

Councilman Spencer asked Mr. Harris to explain why the property is being rezoned. In response, Mr. Harris explained that the reason for rezoning is because the front portion of the parcel is C-1 and not C-2. He further explained that in order to develop the product that is being proposed, the entire parcel needs to be rezoned to C-2.

Councilman Spencer asked how many units per acre are in C-1 zoning. In response, Mr. Harris stated that there are 10 units per acre.

Mr. Brad Waitzer, President of Platinum Homes, 242 Mustang Trail Suite 1, VA Beach 23452, stated that the rear 2.4 acres is properly zoned C-2. He stated that he can build by right, multi-family housing at a density of 20 units per acre, or 48 units on the rear portion only. Mr. Waitzer explained that the front half acre is zoned C-1 and three simple townhouses can fit there, by right. He said that 51 units can be

developed, with no City control, as long as he meets the minimal code requirements. He explained that everything that has been proposed far exceeds the City Code requirements.

Mr. Waitzer would like to rezone the small front portion, which is less than 20 percent of the entire site to C-2 allowing utilization of the entire site to build fewer units on the entire parcel than they could otherwise build, by right, only on a portion of the land.

Mr. Waitzer is proposing a community of 48 condominium homes with attached one or two car garages. He said that he has worked for more than a year with staff to enhance elevations, upgrade garage doors, and add extra architectural detailing, and enhanced landscaping. He said that at staff's recommendation, the site plan has been proffered with elevations, fencing and landscaping. He stated that they will further proffer alternating color schemes for the buildings with complementary earth tones.

Mr. Waitzer stated that he has no problem deleting the fence along the property line and offered to split the cost of a vinyl fence with Mr. Mallory. He stated that Mr. Mallory declined the offer. He said that in substantial compliance of the site plan, he will be able to provide additional guest parking. He said it will be somewhere between 4 and 10 extra spaces. He explained that with the parking garages, the community will have a ratio that approaches 3.5 spaces per dwelling unit.

Mr. Waitzer said that each unit will have individual trash containers which will be stored in the garages which will be big enough for the car and garbage container. He stated that the condo association will pay a private contractor to provide garbage collection.

Vice Mayor Gilliland asked about recycling. In response, Mr. Waitzer said that recycling would be provided for along with regular garbage collection.

Vice Mayor Gilliland stated that what is left in dispute is the parking issue. He stated that the units are 3 bedroom units with one or two car garages which will allow for two parking spaces in the driveway and space for one or two cars in the garage.

Mr. Waitzer stated that consistent with what was proffered, additional guest parking will be added.

Vice Mayor Gilliland believes that it is important to have some common area for additional parking. He asked Mr. Waitzer what he can commit to for additional parking spaces. In response, Mr. Waitzer said that if the gazebo is eliminated he can commit to an additional 8 spaces and possibly more. He said that by shifting the location of the gazebo he can commit to 5 spaces.

Councilman Sapp asked Mr. Waitzer to review the interaction with the community. In response, Mr. Waitzer stated that he met with the local

civic league as well as anyone else who wanted to attend. He stated that no one voiced opposition.

Councilman Spencer asked what the projected sale price for units are. In response, Mr. Waitzer said the price is \$200,000 plus, per unit.

HELD PUBLIC HEARING together with agenda item #20 (06-0509)
Rezoning Application #1223.

APPROVED

Motion made by: Councilmember Charles N. Sapp

Seconded by: Councilmember Angela Lee Leary

Aye: 4 - Randall A. Gilliland, Angela Lee Leary, Charles N. Sapp, Rhet Tignor

Nay: 3 - Joseph H. Spencer, II, Paige V. Washington, Ross A. Kearney, II

24. 06-0502 Plan Amendment No. 005-2006: Proposal by the City of Hampton to amend the Hampton Community Plan by adopting the proposed Peninsula Multi-Jurisdictional Natural Hazards Mitigation Plan as it applies to the City of Hampton.

The City Manager stated that the hazard mitigation plan encompasses the entire City and the plan was prepared in accordance with the requirements of the Disaster Mitigation Act of 2000. He stated that the Planning Commission and planning staff recommend approval of Plan Amendment 005-2006.

Mr. Curt Shaffer, Assistant to the City Manager, stated that the Hazard Mitigation Plan process a means for communities to identify policies, activities and tools that can be used to implement mitigation actions. He explained that mitigation is any sustained action taken to reduce or eliminate long term risk to life and property from a hazard event. He further explained that it provides a framework for an organization put in place a program to prevent or lessen the effects of a man-made or natural disaster in the future, or provide a plan that will help guide decisions regarding rebuilding and redevelopment of an area after a disaster.

Mr. Shaffer made the following presentation to Council:

Hazard Mitigation Plan

- Required by Disaster Mitigation Act 2000
- Federal requirements to remain eligible for future federal disaster relief funding

Regional Grant

- Virginia Department of Emergency Management Grant (VDEM) to Peninsula jurisdictions for mitigation planning.

- Hampton, Newport News, Williamsburg, James City County and York County
 - AMEC Earth & Environmental, Inc. selected as Contractor
 - Follow FEMA's 10-step planning model
- Plan to identify:
 - Natural hazards
 - Vulnerability/risk assessment
 - Goals and objectives
 - Jurisdictional recommendations
 - Plan has been available on the internet for public comment

Planning Process

- Input by Peninsula Hazard Mitigation Planning Committee
- Each jurisdiction has also met independently
- Public meetings have been held

Essential Elements of the Plan

- Regional Plan – Natural Hazards
 - Includes the hazards and analysis of risk common to all Peninsula jurisdictions
 - Includes additional hazards and analysis of risk specific to Hampton
 - Provides Hampton specific recommendations
 - Adoption of the Plan acknowledges the regional planning approach but Hampton City Council approval is for the Hampton specific findings

Multi-Jurisdictional Plan Goals

1. Reduce impacts and losses from natural hazards.
2. Promote awareness of hazards and vulnerability among citizens, business, industry and government.
3. Maximize use of available funding.

Hampton Recommendations

1. Enroll Hampton in the Community Rating System. Prepare outreach materials.
2. Prepare a Repetitive Loss Plan.
3. Elevate flood prone homes.
4. Relocation of Hampton City Schools Maintenance Facility out of repetitive flood area.
5. Develop storm-resistant beach along Hampton waterfront from Grandview to Fort Monroe. Integrate beach profile with existing hard structures.
6. Public Notification/Warning System.
7. Wiring of critical facilities for generator quick hookup.

8. Re-Evaluate existing regulations/programs with regard to floodplain management. Consider adopting two foot freeboard requirement above base flood elevation (BFE for A zones V and Zone BFE +2).
9. Provide training and education materials to schools on local hazards and mitigation.
10. Preserve open space through floodplain park development.
11. Implement Drainage Improvement Projects to protect against blockage.

Mayor Kearney asked Mr. Shaffer to address what relief is available under this plan. In response, Mr. Shaffer stated that at City Line between Hampton and Newport News along the Newmarket Creek basis are a series of roads including Joynes Road. He stated that this area has flooded before and during Hurricane Floyd there was significant flooding. He explained that when a storm creates a storm surge that backs up into the Newmarket Creek basin and a tremendous amount of rainfall, the natural drainage basin through the Newmarket Creek area, the storm surge precludes the rain drain off from leaving Newmarket Creek area which results in flooding. He stated that it is an unfortunate event and the conditions have to be right for it to happen. Mr. Shaffer stated that these people are victims.

Mr. Shaffer stated that the City has conducted an initial damage assessment report and they have been submitted to the State. He stated that Governor Kaine has requested a federal disaster declaration. He stated that during Hurricane Isabel, the City received a very quick disaster declaration from the Federal Government. He stated that this was a smaller, more localized event and the Federal Government is in the process of reviewing Governor Kaine's request and will be making a determination on the applicability of applying disaster relief to the individuals and to the public entities. He stated that Hampton has been included in the request for disaster declaration.

Mr. Shaffer stated the emergency management program is managed by Battalion Chief Tracy Hanger and she has been working very diligently on the process.

Mayor Kearney stated that during the process the Hampton Health Department has been involved.

The City Manager stated that Social Services and Codes Compliance have also been involved and the City has been working with the Department of Emergency Management since the storm.

Councilman Spencer asked if the City was currently in the Community Rating System. In response, Mr. Shaffer stated the flood insurance program has what is known as the Community Rating System and discounts are provided to home owners depending on their level of adherence to increased standards. He stated that Hampton is enrolled in the system and there are specific measures that Hampton can take to

improve the rating and provide discounts to the insurance policy holders in the City of Hampton.

Councilman Spencer asked if the City can do that. In response, Mr. Shaffer stated that if they conform to the additional more stringent requirements.

Councilman Spencer said that this particular neighborhood has suffered from repetitive losses. He asked what is being done about that. In response, Mr. Shaffer stated that the flood insurance program has recently changed. He said that when signing up for the program administered through FEMA, there were no regulations about repetitive loss. He explained that the current regulations have changed in the last 10 years and they have been changing the regulations. He stated the regulations now say that they will pay for damages once, a second time, they may not. He explained that the Federal Government is pursuing that if the home is built in a risk location that is susceptible to repetitive flooding their policy is that they are not going to continue to pay for a home owner to fix up their home. He said they would like to see a home elevated or relocated or the property returned to green space.

Councilman Spencer asked if the home elevation program is based on allocation of funds from the government. In response, Mr. Shaffer explained that the funding that is being used for the current home elevation program was a result from Hurricane Isabel. He said that there is a percentage of federal disaster relief funds that have to be allocated for mitigation activities after a disaster declaration. He explained that Hampton qualified for a grant and they are in the process of elevating 13 homes in the City of Hampton that were flooded during Hurricane Isabel. He said it is a very complex and complicated process that involves Code and Compliance and contractors that come in and elevate the homes.

Mayor Kearney asked if the storm resistant beaches are the rock jetties. In response, Mr. Shaffer stated that several departments were involved in an evaluation of the beach front from Factory Point to Fort Monroe. He stated that it was proposed at that time, was a partial solution. He explained that the dredge material was used from the Salt Ponds inlet and the geotube was put along the homes on First Street, on the public part of the beach. Mr. Shaffer said that the beach at the end of what was North First Street, prior to the new Salt Ponds development, is private property and the beach and the private property extend out into the water. He said that Ms. Sally Andrews, Deputy City Attorney worked with the home owners to try to determine if easements could be received from the property to extend the geotube along the private property down to the public beach that is known as Buckroe Beach.

Mr. Shaffer stated that the plan is recommending that in order for Hampton to qualify for beach replenishment funds from the Army Corps of Engineers, in the future, and to be eligible for any other federal funding, the City needs to reach a point where the entire span of beachfront is qualified as an engineered beach where sand that migrates from Factory

Point and ends up in the deepest water by Fort Monroe is recycled and pumped back into the top end of the beach.

Mayor Kearney asked if that included the concrete jetties. In response, Mr. Shaffer stated that it looking at a specific part of the beach which is part of Fort Monroe.

Mayor Kearney stated that the concrete jetty was at the end of Buckroe Avenue and it is working. He said that if it worked, they would consider more jetties since the people on First Street were not willing to give up their rights to the beach and it could be done without violating their rights.

Mayor Kearney requested that the City Manager look into the matter.

Councilman Washington stated that he assisted in helping extract people from the apartments. He stated that many of the areas could not be reached because of the flooding. He said that it was intimated that there would be improvements along the Newmarket Creek area coming from the Newport News line down through Briarfield Road and into the Newmarket Creek area near the Coliseum. He stated that the Corps of Engineers did a study and the City went in and cleaned the area. He asked what is in the process that can be done to help that area with the draining problem. In response, Mr. Shaffer stated that it is in the realm of expertise of the Public Works Department and he is not qualified to speak to any detail on those issues. Mr. Shaffer stated that he does know that the process is ongoing relative to the situation.

Mr. Shaffer stated that is not what the people who have been flooded want to hear. He stated, from an emergency management perspective, the City gets a lot of rain and there is a natural drainage basin, the City has a similar situation to that in downtown Richmond.

Councilman Washington asked what mitigation points will address the area. In response, Mr. Shaffer stated that the mitigation points are to prepare a competitive loss plan, to continue to elevate flood prone homes, and to require base elevations of plus two feet as a new regulation in the City. Mr. Shaffer said that as a last resort to destroy the structures and leave it as open green space.

Councilman Washington asked about those properties that are continuously damaged in that area. In response, Mr. Shaffer stated that at the State and Federal level, any acquisition of a property is in perpetuity that the property be returned to green space.

Councilwoman Leary stated that elevating flood prone homes is not the cure all. She believes it is a partial solution. She said that they are relocating the Hampton City Schools Maintenance Facility out of a repetitive flood zone area, and yet there are those who are talking about building a new elementary school in the Buckroe area where there is definite flooding.

Councilwoman Leary stated that she and Grandview took a direct hit from Hurricane Isabel. She believes it took a direct hit from Hurricane Isabel. She said that a lot of the area doesn't exist any more. She stated that improving drainage projects to prevent blockage involves all citizens. She believes a better job has to be done of addressing the issues. She also believes that Public Works should be at the meeting to address some of the questions.

Vice Mayor Gilliland stated that Councilman Washington raised the point of acquiring homes in the flood prone areas. He asked the City Manager if that was one of the strategies included in the plan. He asked if that was under the Council or the HRHA. In response, the City Manager stated that it was under Council but there are not appropriations at this time to do that.

Vice Mayor Gilliland requested that the City Manager refresh Council on that matter. In response, the City Manager stated that the program is there, but suffers from a lack of funding at the time.

Mr. Shaffer continued with his presentation.

Current Status

- Reviewed and recommended for approval by the Hampton Planning Commission on August 14, 2006.
- Request that City Council amend the Hampton Community Plan and incorporate the Hazard Mitigation Plan by reference into the Hampton Community Plan.

Mayor Kearney stated that before Hurricane Isabel, they met with the Army Corps of Engineers and they wanted to have Grandview Beach for sand replenishment. He stated the Corps of Engineers turned the City down because it didn't meet the guidelines established by the Federal Government. He stated that perhaps guidelines need to be established for FEMA.

Mayor Kearney thanked Mr. Shaffer and everything that he has done for Emergency Management.

Ms. Carmen Taylor, 19 Janet Drive, stated that during the past weekend several residents came to her part of the neighborhood and voiced their concerns in reference to the flooding that continues to go on in the City of Hampton. She stated that she is in favor of a plan that takes into consideration preventive measures, however she is not sure that this particular plan is addressing the area she lives in. She would like to know specifically, if it takes into consideration Janet Drive and the cul de sac where she lives. She stated that she has lived there for over 20 years and she knows that the area will flood after a hard rain. Ms. Taylor stated that there is a large drainage pipe off Briarfield Road that has a lot of tree stumps and trash in it. She said that it has been blocked for years.

Ms. Taylor asked that before Council votes on this proposal, they listen to what the citizens of this community have to say.

Mr. Smith Becket, 101 McCall Court, stated that he received a notice from his neighbor to make a statement at the Council meeting. He stated that the information received as of September 6, 2006 from the Hampton City drainage department. He stated that Council has already approved for their department to start looking at the drainage system for changing the bridges over to Newmarket Creek , (2) improving the drains by dredging and cleaning, (3) doing a study to determine if it would be cost effective to buy the homes in the area instead of repairing the drains.

Mayor Kearney asked the City Manager if he knew what Mr. Becket was referring to. In response, the City Manager stated that he did not, but would look into the matter.

Mr. Becket stated that his house was surrounded by water and some of the water was in his den. He asked what the City could do to stop the flooding.

Ms. Mildred Harris, 323 Joynes Road, stated that she is speaking on behalf of the citizens in her community. She explained that the community experiences exhausting clean up processes after the heavy rains. She said that they suffer the flooding of their homes, yards and automobiles, costing thousands of dollars each year in damages. She said the results of these costs are numerous insurance claims to assist in the repair and replacement of their property that is damaged and destroyed by the flood waters. Ms. Harris stated that the loss of the property continues to affect them with the increasing costs of insurance premiums because the companies view them as a significant risk.

Ms. Harris stated that the citizens in this community are seeking answers to address this consistent and costly problem. Ms. Harris said that a study that was started 5 years ago has not made any progress.

Ms. Harris requested that the citizens be kept informed and to know what steps have been done in the past a proposed timeline on a fixed resolution for the issue.

Ms. Vernell Harris, 127 Bowen Drive, stated that she feels that her community has been left behind like the victims of Hurricane Katrina.

Mr. George Morgan, 4 Evans Street, stated that his home has been flooded 3 times and each time there is a heavy rain it is a problem.

Mayor Kearney asked Mr. Morgan how long he has been living there. In response, Mr. Morgan stated he has been living there since 1972.

Mayor Kearney asked Mr. Morgan if he has noticed that the condition has worsened in that last years. In response, Mr. Morgan stated that the condition has become worse. He said that he does not recall anyone

dredging the creek. He stated that he would like to see a plan for the creek to be dredged. Mr. Morgan stated that the City should be in a position to do something about the problem. Mayor Kearney stated that the something will be done about it.

Ms. Mattie Evans, 100 Janet Drive, stated that her first year on Janet Drive was in April, 1999. She explained that she came home from her job at Heritage High School at 2 pm and there were at least eight cars on the street with water to the roof of the cars.

Ms. Evans stated that the water comes from the creek and it stops at her house at 100 Janet Drive. She stated that the people in the cul de sac had to wade down the side of the yards because they did not know how deep the water was.

Ms. Evans stated that the first time the water came into her home she had to stay in a hotel because of the damage in her home.

Ms. Evans asked why they should have to move. She asked that Council help them, not just to talk about it.

Mr. W. D. Owens, 109 Bowen Drive, stated that he has lived there since 1969. He stated that he was impressed with the way Councilman Washington and Mayor Kearney addressed the questions concerning the parking problem.

Mr. Owens stated that it does not make sense for Newmarket Creek to flood on their property. He stated it is not a river; it is a creek. He said that if he was the boss of this situation he would have some type of solution for the problem tonight without having to do research. Mr. Owens believes a committee appointed by Council needs to be formed to represent the flooded areas.

Mr. Rudy Langford, 232 W. Gilbert Street, stated that he knows what Council feels. He stated that most of Council is interested in Buckroe, Grandview and the Fox Hill areas of the City. He stated that the City Manager knows nothing about these problems and he should have because Hurricane Isabel came in 2003 and three years later he asked what has been done.

Mayor Kearney stated that for there has been a problem for 34 years. He stated that he asked the City Manager if he was familiar with the study. He explained that a flyer was distributed that he did not know anything about. He stated that he is concerned about what happens in every area of the City.

Mayor Kearney stated that Council will find out what the problem is and he believes there is an underlying problem causing the flooding. Mayor Kearney stated that he recalls that Newport News refused to join in working the Newmarket Creek together. He stated that he Council is

going to do everything they can do so that the quality of life and the property are protected. He stated that it is a top priority with Council.

Councilman Sapp and Councilwoman Leary agreed with Mayor Kearney.

Councilwoman Leary stated that she noticed a change when Home Depot was built. She believes that is when Newmarket started sending silt and problems their way because they are on a tidal canal. She also believes that the grass clippings that are thrown into the ditch doesn't help the situation.

Councilwoman Leary asked if the H2O project increases a risk as far as drainage and the flow of water. She would like to see someone go in Newmarket Creek and see what needs to be done so the problem can be addressed. She believes that correcting the problem at Newmarket Creek will not only help the residents in that community but it will also help the residents in the Little Back River Road area.

Councilwoman Leary stated that she understands what the people are going through, but she takes exception when they come to Council to try and tear them apart.

Councilwoman Leary asked that the Home Depot and Sandler property be looked at again. She requested a report from the Wetlands Board.

Councilwoman Leary suggested that a committee be set up to look into drainage issues and dredging. She stated that she asked for a dredging committee a year ago. She stated that she would like to see a report within the next week.

Mr. Roger Winston, 111 Bowen Drive, stated that he remembers Hurricane Floyd. He stated that the Army Corps of Engineers met with members of the community at the First Station on Briarfield Road and staff from the City also attended. He said that the Corps of Engineers told them that they worked with Newport News, but Hampton refused to sign on. He stated that the ditches in Newport News are clean and the ditches are full.

Mayor Kearney asked when that meeting took place. In response, Mr. Winston stated that they met with the Corps of Engineers in 1999. He stated that the Corps of Engineers told them that there was nothing they could do because the loss was not great enough. He stated that his loss was \$70,000.

Mr. Winston said that it is good to say that you care, but if they don't see any results, the end result is still the same.

Mayor Kearney asked the citizens concerned about the flooding issue to sign up before leaving the Council Chambers. He said that Council would be contacting them.

Councilman Tignor stated that he would like to know if Newmarket Creek has been cleaned out and what it will take to clean it out. He suggested that Council not just correspond with the folks, but to gather them for a meeting to discuss the issue.

Councilman Washington stated that in 1999 when the Hurricane came through, he met with a group of people at Fire Station #9 on Briarfield Road. He stated that he also had meetings with others at Aberdeen School in relation to the flooding. He stated that Newport News initiated the cleanup on their side of Newmarket Creek and the Hampton side was filled with debris. Councilman Washington and Mr. Ted Henifin, Director of Public Works, walked the ditch together. He stated that clean up took place to make the water flow. He stated that when Hurricane Isabel hit, they returned to the area and talked to several residents whose homes were inundated with water. He said that one of the recommendations made was to put additional pipe in to drain off the water going into Newmarket Creek and put flapper valves on the end to allow the flood water to have a free flow.

Councilman Washington stated that Mr. Fred Whitley indicated that the City was going to clean Newmarket Creek from the Coliseum. He stated that he specifically asked what it would do to the east side of Interstate 64. He said that the same problem is there. He said that if anything is done to Newmarket Creek, it will have to begin from the Newport News City line and take it through the eastern side of the Creek.

Councilman Spencer stated that he agrees and he is sure that the City Manager will research the matter and provide Council with background information. He stated that he is in favor of a follow-up meeting to get the word out to everyone.

Mayor Kearney stated that he sees this as a water problem, but he doesn't see the adoption of this as a conflict of what Council is doing. In response, the City Attorney stated that it is on the agenda recommended for Council's approval as an amendment to the Community Plan. She stated that it is up to Council whether or not to defer action.

Mayor Kearney asked if passing the amendment would hurt the efforts. In response, Mr. Shaffer stated that it would not. Mr. Shaffer stated that it is complimentary to efforts to resolve the issue.

Mayor Kearney stated that the concerned that was raised was the item number that referred to raising the houses. In response, Mr. Shaffer stated that those recommendations are strategies that become part of a tool box for the City to consider using. He explained that they are not mandatory and do not require that any or others cannot be used. He said that they are a starting point for further review and development.

Mayor Kearney asked the City Attorney if that was correct. In response, the City Attorney stated that she trusted Mr. Shaffer's assessment.

Vice Mayor Gilliland stated that the briefing materials stated that the plan included a risk assessment of critical natural hazards that threaten the region, an analysis of the vulnerability of each community to each critical hazard and a capability assessment examining existing programs and mitigation goals to address areas where improved capabilities could reduce vulnerability. He said that the narrative speaks precisely to the issue. He stated that it does not harm and does good for this neighborhood and every other neighborhood in Hampton.

Mr. Shaffer stated that the plan was a five year jurisdiction plan to put in place the necessary building blocks by which the City would then get in to specific neighborhood recommendations and strategies for a variety of neighborhoods throughout the City.

Mayor Kearney stated that in order to qualify for FEMA money, this had to be included.

Councilwoman Leary stated that she agrees with Mr. Shaffer. She said that this plan will provide a guideline of where the City needs to go next.

Councilman Sapp stated that this is necessary, but not sufficient. He said that the plan serves a purpose at a higher level. He said the flooding can be fixed without the plan and the plan can be in place and the flooding problem not be fixed. He believes it is imperative that up-line requirements are met which help us interactive with FEMA in a more effective manner. Councilman Sapp said that this issue of whether Newmarket Creek is an adequate floodplain or flood zone is something that is mind boggling.

Councilman Sapp said that the entire drainage bed needs to be cleaned and cleaned in a way that it is meaningful. He stated that he is committed to supporting the effort. He believes that the amendment should be passed for the reasons that have been articulated.

Councilman Spencer agreed with Councilman Sapp.

HELD PUBLIC HEARING - Curtis J. Shaffer, Assistant to the City Manager, made a presentation to Council. Many citizens spoke concerning flooding issues in their neighborhood.

APPROVED

Motion made by: Vice Mayor Randall A. Gilliland

Seconded by: Councilmember Angela Lee Leary

Aye: 7 - Randall A. Gilliland, Angela Lee Leary, Charles N. Sapp, Joseph H. Spencer, II, Rhett Tignor, Paige V. Washington, Ross A. Kearney, II

Nay: 0

General Items**Appointments**

25. 06-0472 consider an appointment to the Peninsula Agency on Aging.

REMOVED

26. 06-0475 consider an appointment to the Hampton Arts Commission.

APPOINTED Steven James to a term to expire on June 30, 2009.

Motion made by: Councilmember Rhet Tignor

Ayes: 7 - Randall A. Gilliland, Angela Lee Leary, Charles N. Sapp,
Joseph H. Spencer, II, Rhet Tignor, Paige V. Washington, Ross A.
Kearney, II

Nays: 0

27. 06-0478 consider an appointment to the Hampton Roads Planning District Commission.

REAPPOINTED City Manager, Jesse T. Wallace, Jr. for a two year term to expire on June 30, 2008.

Motion made by: Councilmember Rhet Tignor

Ayes: 7 - Randall A. Gilliland, Angela Lee Leary, Charles N. Sapp,
Joseph H. Spencer, II, Rhet Tignor, Paige V. Washington, Ross A.
Kearney, II

Nays: 0

28. 06-0482 consider appointment of a Council representative to the Cultural Alliance of Greater Hampton Roads.

APPOINTED Councilman Joseph H. Spencer, Jr. to a one year term effective on July 1, 2006, and expiring on June 30, 2007.

Motion made by: Councilmember Rhet Tignor

Ayes: 7 - Randall A. Gilliland, Angela Lee Leary, Charles N. Sapp,
Joseph H. Spencer, II, Rhet Tignor, Paige V. Washington, Ross A.
Kearney, II

Nays: 0

29. 06-0484 consider an appointment to the Social Services Local Advisory Board.

DEFERRED (9/27/2006)

Motion made by: Councilmember Rhet Tignor

Seconded by: Councilmember Angela Lee Leary

Ayes: 7 - Randall A. Gilliland, Angela Lee Leary, Charles N. Sapp,
Joseph H. Spencer, II, Rhet Tignor, Paige V. Washington, Ross A.
Kearney, II

Nays: 0

30. 06-0499 consider an appointment to the Wetlands Board.

APPOINTED Dr. James C. Haug to fulfill an unexpired term which will expire on December 13, 2010.

Motion made by: Councilmember Rhet Tignor

Ayes: 7 - Randall A. Gilliland, Angela Lee Leary, Charles N. Sapp,
Joseph H. Spencer, II, Rhet Tignor, Paige V. Washington, Ross A.
Kearney, II

Nays: 0

31. 06-0518 consider an appointment to the Planning Commission.

REAPPOINTED Amy Thorstad to a term to expire September 30, 2010.

Motion made by: Councilmember Rhet Tignor

Ayes: 7 - Randall A. Gilliland, Angela Lee Leary, Charles N. Sapp,
Joseph H. Spencer, II, Rhet Tignor, Paige V. Washington, Ross A.
Kearney, II

Nays: 0

Audiences Granted to the General Public

Mr. Rudy Langford, 232 W. Gilbert Street, asked where the \$6 to \$10 million in law suits came from over the last four years. He stated that the money didn't come out of Council pockets and folks shouldn't have to pay that kind of money in legal fees because they didn't do anything. Council did it and Council should pay for it. He stated that the George Wallace law suit \$300,000 to \$500,000 spent in lawyer fees, he asked where that money was coming from. He asked who would be paying the \$2.4 million law suit to George Wallace. He stated that it is not in the budget or the contingency fund. He asked who is going to pick up the tab.

Ms. Veronica Davis, 1313 Colbrook Drive, stated that she received a letter from the Police Department stating that she needed to appear at the Police Department because of a small gable on her house that needs repair.

Ms. Davis asked why Codes Compliance is concerning themselves with such a small problem when there are other properties that are ignored and City cemeteries are overgrown.

Mayor Kearney asked Ms. Davis what she would like Council to do. In response, Ms. Davis said that she would like some fairness to go across the board.

Ms. Davis stated that she has been repairing and painting her grandmothers house. She admitted that she has not done well in taking care of the lawn because she was pregnant.

Mayor Kearney provided the information to the City Manager and asked him to look into the matter.

Ms. Davis thanked Mayor Kearney and stated that it is quite embarrassing. She explained that she has been hired as a docent in the Governor's Mansion in Colonial Williamsburg and issues like this have to be reported.

Mayor Kearney told Ms. Davis that the matter will be looked into and he will get back with her.

Ms. Davis inquired about the Boards and Commissions and is interested in knowing what she can do for the City of Hampton.

Ms. Katherine K. Glass, Clerk of Council explained that applications are available on line and it was suggested that Ms. Davis complete an application and submit it to the Clerk.

Ms. Davis thanked the City of Hampton for purchasing two books that she has written. She stated that she is no longer a local author because her books are now sold in five states and four countries.

Sandra Canepa, 3 Markham Drive, stated that the Green Space Ladies manned a booth for the entire three days of Hampton Bay Days to promote the upcoming planning sessions for Lots B at Buckroe Beach. She stated that the planning sessions will be held for three hours on October 3, 4, and for two hours on October 5. Ms. Canepa explained that Hampton residents only need to attend one of the sessions for 15 to 20 minutes each which is enough time to let the planning team know what your comments are regarding Lots B. She said that the sessions are held in the Rupert Sargent Building on the first floor.

Ms. Canepa provided Council with an additional 174 signatures for the petition for Lots B.

Danny Minton, 2300 Chesapeake Avenue, stated he is speaking on behalf of himself and other members of his community regarding a quality of life issue concerning the feeding of waterfowl. He explained that one of

the neighbors feeds the birds and they congregate around their homes. He said that the feeding is attracting other animals which is causing problems.

Mr. Minton requested that Council adopt an ordinance to prohibit the feeding of these birds.

Mayor Kearney stated that most of the problems that have to be faced in a neighborhood is an inconsiderate neighbor.

Mr. Minton said that there are areas in the City that when the feeding starts it becomes a big problem.

Councilman Spencer asked the City Manager and the City Attorney to provide Council with guidance on this matter. He stated that the birds are migratory birds, but by feeding them, they are staying in the area.

Mr. Minton stated that he is not complaining about a neighbor, but a neighborhood complaining about a legitimate problem.

Mayor Kearney stated that this is a problem that is hard to solve.

Vice Mayor Gilliland stated that another trouble spot are the soccer fields on Old Buckroe Road. He said there are folks that are actively feeding migratory birds.

Mayor Kearney thanked Mr. Minton.

Miscellaneous New Business

Adjournment

Ross A. Kearney, II
Mayor

Katherine K. Glass
Clerk of Council

Date approved by Council_____