



# City of Hampton

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

## Council Approved Minutes - Final City Council Legislative Session

*Mayor Donnie R. Tuck*  
*Vice Mayor Jimmy Gray*  
*Councilmember Eleanor Weston Brown*  
*Councilmember Steven L. Brown*  
*Councilmember Linda D. Curtis*  
*Councilmember W.H. "Billy" Hobbs*  
*Councilmember Chris Snead*

*STAFF: Mary Bunting, City Manager*  
*Cheran Cordell Ivery, City Attorney*  
*Katherine K. Glass, CMC, Clerk of Council*

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**Wednesday, January 23, 2019**

**6:30 PM**

**Council Chambers**

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### CALL TO ORDER/ROLL CALL

Mayor Tuck called the meeting to order at 6:32 p.m. with all members of the City Council present except for Councilman Hobbs who was away on a business matter.

**Present:** 6 - Councilmember Eleanor Weston Brown, Councilmember Steven L. Brown, Councilmember Linda D. Curtis, Vice Mayor Jimmy Gray, Councilmember Chris Snead and Mayor Donnie R. Tuck

**Excused:** 1 - Councilmember Billy Hobbs

### DONNIE R. TUCK PRESIDED

### INVOCATION - Councilmember Linda Curtis

Councilwoman Curtis gave the invocation.

### PLEDGE OF ALLEGIANCE TO FLAG

### MAYOR'S COMMENTS

Mayor Tuck extended Council's condolences to Councilman Brown on the recent loss of his mother. He stated that Councilman Hobbs was not present due to a personal matter.

Mayor Tuck acknowledged Ms. Anne-Marie Dwyer, Marketing & Outreach Graphic Designer, who created the Hampton 2019 Calendar. The idea was to create a giveaway product for the State of the City Address that would promote Hampton all year and show visually all the events offered by Hampton. Ms. Dwyer created

thirteen individual paintings in a unique and colorful style. She did this work at home on evenings and weekends, as well as designed all the graphics and pages. It was cost effective to make an additional 10,000 available for free for citizens. The reception has been tremendous. Ms. Dwyer thanked the Mayor for the acknowledgement. Ms. Robin McCormick, Communications Strategist, acknowledged Ms. Dwyer's hard work on this calendar, which was all her idea and construction. Mayor Tuck presented Ms. Dwyer with a 2019 City coin.

## CONSENT AGENDA

Ms. Katherine K. Glass, Clerk of Council, read the protocol for the Consent Agenda and a summary of the items contained therein.

2. [19-0002](#) Resolution Requesting the Virginia Department of Transportation to Add and Delete Certain Streets to Those Classified as Principal and Minor Arterial Roads and Collector Roads and Local Streets

**Attachments:** [Hampton VDOT Maintenance Streets Submittal - 1.23.19](#)

[Street Additions Request - 2.13.19](#)

[Street Deletions Request - 2.13.19](#)

A motion was made by Councilmember Linda Curtis and seconded by Vice Mayor Jimmy Gray, to remove this item from the consent agenda and that this Resolution be deferred until February 13, 2019. The motion carried by the following vote:

**Aye:** 6 - Councilmember Weston Brown, Councilmember Brown, Councilmember Curtis, Vice Mayor Gray, Councilmember Snead and Mayor Tuck

## Approval of the Consent Agenda

Motion made by Councilmember Curtis, seconded by Councilmember Snead, to approve the Consent Agenda. The motion carried by the following vote:

**Aye:** 6 - Councilmember Weston Brown, Councilmember Brown, Councilmember Curtis, Vice Mayor Gray, Councilmember Snead and Mayor Tuck

1. [18-0393](#) Resolution Determining Christopher L. Baker, M. D. of the Hampton Sentara CarePlex Hospital to be the Only Source Practicably Available from which to Procure the service of

Operational Medical Director for Hampton Division of Fire & Rescue and Authorizing the Negotiation and Execution of a Service Contract with Christopher L. Baker, M.D. as "Sole Source"

Item approved.

**Aye:** 6 - Councilmember Weston Brown, Councilmember Brown, Councilmember Curtis, Vice Mayor Gray, Councilmember Snead and Mayor Tuck

3. [19-0029](#) Resolution Authorizing the Acceptance and Appropriation of a Payment in the Amount of \$81,568.00 Received from Entrust Records Management Services to Fund the Extraction of Records from the City's Current Records Storage Vendor  
Item approved.

**Aye:** 6 - Councilmember Weston Brown, Councilmember Brown, Councilmember Curtis, Vice Mayor Gray, Councilmember Snead and Mayor Tuck

4. [19-0031](#) Approval of the minutes from the legislative sessions of December 12, 2018, and January 9, 2019.  
Item approved.

**Aye:** 6 - Councilmember Weston Brown, Councilmember Brown, Councilmember Curtis, Vice Mayor Gray, Councilmember Snead and Mayor Tuck

5. [19-0032](#) Resolution to Request the Virginia Department of Transportation Program the Citywide Emergency Vehicle Preemption Project into Its Six-Year Improvement Plan, to Amend the City Manager's Council Approved Budget to Incorporate that Project, to Appropriate \$178,788 in CMAQ Funds for the Project, and to Authorize the City Manager or Her Designee to Execute any Necessary Agreements  
Item approved.

**Aye:** 6 - Councilmember Weston Brown, Councilmember Brown, Councilmember Curtis, Vice Mayor Gray, Councilmember Snead and Mayor Tuck

6. [19-0037](#) Resolution Authorizing the Transfer of Two Hundred Nineteen Thousand Dollars from the Hampton Roads Center Parkway at Big Bethel Intersection Improvements Bond Fund Project to the Freeman Drive Re-Alignment Bond Fund Project; to Request the Virginia Department of Transportation to Program into its Six Year Improvement Plan the Full Cost of the Freeman Drive Realignment Project; and to Appropriate an Additional Sum of Eighteen Thousand Five Hundred and 00/100 Dollars for the Freeman Drive Re-Alignment Project

Item approved.

**Aye:** 6 - Councilmember Weston Brown, Councilmember Brown, Councilmember Curtis, Vice Mayor Gray, Councilmember Snead and Mayor Tuck

#### PRESENTATIONS, PROCLAMATIONS, AWARDS

7. [19-0043](#) 2019 Commemorative Commission Presentation

**Attachments:** [Presentation](#)

City Manager Mary Bunting gave a brief history of the 2019 Commission that was created in 2014. She introduced Co-Chairs of the Commission, Dr. Colita Fairfax and Lt. Col. Claude Vann (USAF Retired), who provided a presentation to Council. She acknowledged the various staff and Councilmembers who have been liaisons to and supported the Commission.

The official launch ceremony for the 2019 Commemoration will be on February 1st at Queen Street Baptist Church from 5:30 p.m. to 7:30 p.m. It is free and open to the public.

Mayor Tuck thanked Lt. Col. Vann and Dr. Fairfax for their leadership on this Commission. The members of the commission in attendance were honored with a commemorative City coin.

Presented by Dr. Colita Fairfax and LTC (R) Claude Vann, the Co-Chairs of the 2019 Commemorative Commission.

8. [19-0033](#) Briefing on Chapter 21 Amendment - Distracted Driving

**Attachments:** [Chapter 21 - Enactment Number 19-0001](#)  
[Presentation - at time of agenda publication](#)  
[Presentation - Final](#)

Ms. Bunting noted that Council adopted an ordinance on distracted driving during the last Legislative Session, and there was some confusion in the community regarding what the law meant. A presentation has been prepared to provide additional information on the ordinance. The ordinance will not be enforced until July 1st to provide the public with education on the ordinance and to train police officers on proper enforcement. She noted there are a number of bills related to distracted driving being considered in Richmond at this time, some of which are more restrictive than the City's. She introduced Chief Terry Sult, Hampton Police Division (HPD), and Ms. Brandi Law, Deputy City Attorney, who provided a presentation to the Council.

Mayor Tuck asked what is meant by non-visible injury. Chief Sult stated that this is a complaint of injury that may not show bruising, such as neck pain. Mayor Tuck asked if these complaints were from the people involved in the accident with the distracted driver. Chief Sult stated that it could also be a complaint from the distracted driver.

Chief Sult noted that a citation can be issued immediately if an officer sees someone using a cell phone illegally per State Code. To issue a citation for a violation of the City Code, the perpetrator must be visibly using their phone and acting in a distracted manner, such as running a stop sign or swerving in a lane.

Chief Sult stated that officers need to be trained, and there needs to be coordination with the Courts before the ordinance can be put into effect.

Councilman Brown noted that Spotsylvania has a fine of up to \$100. He asked if the officer had the ability to determine the amount of the fine. Ms. Law stated that the judges make the decision on fines. Councilman Brown asked if the fine was always \$125 for the first offense and \$250 for every offense after in Hampton. Ms. Bunting stated that the City's fines mirror the State Code. Councilman Brown asked if there was ever a time where a police officer can issue a warning instead of a citation. Ms. Bunting stated that officers always have discretion on whether or not to ticket. Chief Sult noted that officers issue warnings all the time.

Vice Mayor Gray stated that the data is clear that distracted driving with cell phones poses a risk. He stated that the State needs to adopt a law that covers the entire Commonwealth so that it is consistent. There are bills in the General Assembly now that could address this problem, with a requirement for hands-free mode on phones. He stated that the ordinance Hampton has adopted is a good start, but it does not cover all the issues presented. He stated that he hopes the General Assembly will put a tougher law in place. He is glad time is being taken before implementation to educate the public and train officers. He asked if the City could track the data once

the law is in effect to see how many summonses are being issued and who is receiving them, to ensure there are no unintended consequences. He noted that he is not sure this law will make a significant change because you cannot catch every person every time.

Chief Sult stated that any law in the City has the ability of being abused. This is why there are checks and balances in place, and one of the reasons HPD has body-worn cameras on all officers. HPD wants to ensure this new law is enforced equally and fairly across the board, and this is why officers need to be trained appropriately about what is expected. He noted that this would not be a primary enforcement offense, but could promote additional discussions about distracted driving. He stated that HPD needs to be on the forefront of preventing bias-based policing across the board. He acknowledged there are problems that exist across the country related to this, and HPD needs to be resilient, consistent, and absolutely adamant that bias-based policing is not allowed. He commented that he tells his officers it is not good enough for HPD to just be officers in the City, they need to be professional, fair and unbiased officers. He noted that he has a very capable Internal Affairs Unit and Office of Professional Standards, which includes training. He noted that HPD takes even anonymous complaints about officer behavior, and they are all evaluated.

Chief Sult stated that HPD polices where there is the most crime, and they go to areas where they are called to go. So while looking at the data of this new ordinance is important, it is important to look at it in context.

Ms. Bunting stated that if there are State Code changes, this matter will be brought before Council again. She believes checking the data in a year to see if a difference is being made is important.

Councilwoman Snead asked for clarification on putting on makeup and distracted driving. Chief Sult stated that this particular offense is not covered under this ordinance, which is about hand held devices in addition to distracted driving behaviors. However, if a person is applying makeup and rises to the level of reckless driving or some other offense, then the person would be charged accordingly. Any distracted driving measures, such as eating or putting on makeup, that result in hazardous driving can end in a citation for the hazardous driving.

Ms. Bunting noted that the Spotsylvania distracted driving ordinance does cover things such as eating food. The City felt it had clear authority on mobile devices and that the City's ordinance was more or less in line with the State Code.

Ms. Bunting stated that there are a number of laws that are set to send the

community a message: what is the norm - what is the expectation in our community? They are not necessarily primary offense codes, but they are there to say “this is the value of our community.” In this case, Hampton does not want distracted driving. The ordinance can be made broader, if that is what Council desires and the City Attorney’s Office feels the City has that authority.

Councilwoman Snead stated that the community needs to be aware of all distracted driving, and perhaps in the future other reasons behind distracted driving should be considered. Chief Sult stated that he sees this ordinance as a stepping stone. If the City can educate the public on something they are very aware of, it can educate them on other forms of distracted driving. He also stated that it gives the State the opportunity to do its job.

Mayor Tuck acknowledged Mr. Ryan Taylor-Fontes’ 25th birthday. Ms. Bunting also wished her husband a happy 26th anniversary.

Presented by Brandi Law, Deputy City Attorney, and Chief Terry Sult.

## **PUBLIC HEARINGS**

There were no public hearings.

## **PUBLIC COMMENT**

Ms. Glass read the protocol for the Public Comment period.

Ms. Gaylene Kanoyton greeted those on the dais and made the following statement: First of all, I want to say this. The Hampton Heroes ceremony was excellent. It was very well advertised and the honorees, I know, were very happy to be honored. I think that’s something and we’re going in the right direction with that, so I want to thank staff and Council for that. I am the President of the Hampton Branch of the National Association for the Advancement of Colored People (NAACP). I have members of the Hampton Branch of the NAACP with me, along with the Hampton University (HU) Branch of the NAACP with us as well. Our concern is the distracted driving. We all support safe driving. We support safe driving. But on a State level, and I’ve been talking to the legislators all week long, and even last year. This bill on the hands-free was up last year and it failed. Some of the questions that were asked that they wanted to see the data for was who was being pulled over, and it never was brought to fruition. The bill, House Bill 1811 (HB1811) is up again this year. Delegate Mike Mullin is championing the bill, and he and I have been emailing or texting back and forth on this as well. I can tell you that some of our local legislators here in Hampton are very concerned about the handheld law for the simple fact that it opens the door to racial profiling. We want to make sure that - I know the Police Chief says

that there are checks and balances and I get all that, but I think Chris Snead, that Councilwoman Snead made a good point about putting makeup on and everything else and whatever. Many times, we have some laws that's not really getting passed over to the citizens. And let me just say one of them. Did you know that if you park further than an inch, or so many inches from the curb, you can get a ticket? There's no signs anywhere. It's not on your driver's test, when you take your driving test or nothing like that, and I have been in several places where people come into the restaurant with a ticket because they didn't even know that they had to be so many feet away. I just want to say that this is a prime example, so education is going to be key, but racial profiling is really a big issue for us. Hampton's demographics are totally different than Spotsylvania. It can't be matched up.

Mr. Alton Blackley greeted those on the dais and made the following statement: Two months ago, I came before you requesting that you look at the ditch at our church, and I did that publicly. I thank the Public Works Director for coming to our rescue; he did an excellent job. Since I came to you in public, and asked for that request - we were going to send a letter, but the Secretary of Bethel felt it was fitting for me to come to you in public again to thank you for what you have done, to let the citizens know in Hampton that you are paying attention to the needs of our citizens. Thank you.

Mr. David Bramblent greeted those on the dais and made the following statement: I met you, Mr. Mayor, at the Veterans' thing in November. We talked for a few seconds. Our issue is, we don't have any information about what's going on with the expansion on the bridge (Hampton Roads Bridge Tunnel), and our house is right there. We heard that Hampton University turned it down and y'all are coming our way. I want to put a lot of money in our house; my wife and I retired here. She still works at the VA (Veterans Affairs Hospital); I'm retired from the VA. I didn't know if I should put money in my house because you guys are going to come through. We live across the street from the pump house and the Virginia Department of Transportation (VDOT) is right there on the corner. We just want to know how it'll affect our streets.

Mayor Tuck stated that the expansion of the Hampton Roads Bridge Tunnel (HRBT) will all be done in the right of way, so there will not be any taking of property along Hampton University's side nor the other side.

Mr. Bramblent asked if the wall would be moved. Mayor Tuck stated that nothing will happen; everything will be done in the available right of way. Mr. Bramblent thanked the Mayor and stated that they will be investing in their home.

Ms. Natasha McCain greeted those on the dais and made the following statement:



I'm Gaylene's second Vice President, newly elected, for the NAACP Hampton Branch, and I'm also speaking in reference to the handheld or hands-free ordinance. Now, this law does cover a broad scope, but it also involves areas and locations and racial profiling. For those who do not have the availability of having a Bluetooth capable vehicle or a hands-free device, whether it's headsets or headphones on their premises, on their body. In the actual State Code 46.2341.25 Prohibition on texting and use of handheld mobile telephones, it states that no person driving a commercial motor vehicle shall text or use a handheld mobile telephone while driving such a vehicle. A driver who violates this section is subject to a civil penalty not to exceed \$2,750. Now this is also pursuant to the Code of Federal Regulations of 386.81 in determining the actual civil penalties assessed based on consideration of information available at the time the claim is made, concerning the nature and gravity of the violation, and with respect to the violator, the degree of culpability, history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice and the public safety may require. So as we're looking at probability, just as Councilmember Snead stated about the lipstick. What if my lipstick is not in my hand, but it's on my dash, my middle console, and I'm reaching for it? The act of reaching for it is probable unless there is an investigation once the police officer stops me. That is the question that I have as far as this broad scope is concerned. And also racial profiling. Thank you.

Mayor Tuck noted that the City's ordinance does not go as far as the State Code, and commercial drivers are held to a different standard. City Attorney Cheran Cordell Ivery stated that one of the codes referenced speaks only to commercial vehicles, and the ordinance that the City of Hampton passed is not a hands-free ordinance. It strictly relates to distracted driving while holding a phone; it does not require hands-free devices.

## APPOINTMENTS

Ms. Glass read a summary of the appointments.

9. [19-0026](#) Consideration of appointments to the Hampton Federal Area Development Authority (HFADA)  
  
A motion was made by Councilwoman Curtis that Charlene Clark and Patrick Garvey be reappointed to their second terms expiring on January 31, 2023, and that Michelle Hammond and Danielle Woods-Lewis be appointed to their first terms expiring on January 31, 2023. The motion carried by the following vote:  
  
**Aye:** 6 - Councilmember Weston Brown, Councilmember Brown, Councilmember Curtis, Vice Mayor Gray, Councilmember Snead and Mayor Tuck

**Absent:** 1 - Councilmember Hobbs

10. [19-0027](#) Consideration of appointments to the Neighborhood Commission  
A motion was made by Councilwoman Curtis that Morgan Harris, a senior at Bethel High School, be appointed until June 30, 2019. The motion carried by the following vote:

**Aye:** 6 - Councilmember Weston Brown, Councilmember Brown, Councilmember Curtis, Vice Mayor Gray, Councilmember Snead and Mayor Tuck

**Absent:** 1 - Councilmember Hobbs

11. [19-0042](#) Consideration of appointments to the Eastern Virginia Regional Industrial Facility Authority

**Attachments:** [Creating Ordinance](#)

A motion was made by Councilmember Linda Curtis that Mayor Donnie Tuck and Scott Seymour be appointed and that Chuck Rigney and Mary Bunting be appointed as alternates to serve until January 30, 2023. The motion carried by the following vote:

**Aye:** 6 - Councilmember Weston Brown, Councilmember Brown, Councilmember Curtis, Vice Mayor Gray, Councilmember Snead and Mayor Tuck

**Absent:** 1 - Councilmember Hobbs

## REPORTS BY CITY MANAGER, CITY COUNCIL, STAFF, COMMITTEES

Mayor Tuck noted that tomorrow is the Virginia Municipal League's Legislative Day in Richmond. Several Councilmembers will be in attendance.

## MISCELLANEOUS NEW BUSINESS

Mayor Tuck recognized Deputy Sheriff John Williams for his seven years of service at City Council meetings and also Mr. Steve Fryer of PEG TV for his support of the meetings.

Mayor Tuck announced he will be holding a Town Hall gathering on Tuesday, January 29th at 6:00 p.m. at Sentara Complex. It will also be done on Facebook Live.

## ADJOURNMENT

The meeting adjourned at 7:40 p.m.

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Donnie R. Tuck  
Mayor

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Katherine K. Glass, CMC  
Clerk of Council

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