



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 Linda D. Curtis
Councilmember Jimmy Gray
Councilmember W.H. "Billy" Hobbs
Councilmember Will Moffett
Councilmember Teresa V. Schmidt
Councilmember Chris Snead

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

Wednesday, March 8, 2017

6:30 PM

Council Chambers

CALL TO ORDER/ROLL CALL

Mayor Tuck called the meeting to order at 6:30 p.m. All members of the City Council were present.

DONNIE R. TUCK PRESIDED

Rollcall

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

INVOCATION - Vice Mayor Linda Curtis

Vice Mayor Curtis gave the invocation.

PLEDGE OF ALLEGIANCE TO FLAG

MAYOR'S COMMENTS

Mayor Tuck shared that he recently visited the Downtown Hampton Child Development Center and met Mildred Gray, a volunteer, who was 99 years old. He then learned that there were several volunteers with the Foster Grandparent Program in their 80s and 90s. Those individuals were recognized for their service:

Hattie Alston, 92 - Bassette Elementary

Bertha Davis, 82 - Cooper Elementary
Mildred Gray, 99 - Downtown Hampton Child Development
Center
Daisy Hart, 83 - Tyler Elementary
Catherine Moore, 87 - Downtown Hampton Child Development
Center
Annetta Taylor, 82 - Tyler Elementary.

Each of these ladies was presented with a certificate of
appreciation.

CONSENT AGENDA

Clerk of Council Katherine Glass read the protocol for the consent agenda and a
summary of the consent items.

Approval of the Consent Agenda

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

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

1. [17-0048](#) Resolution Appropriating \$27,500.00 from the Economic
Development Fund Balance to the Economic Development
Authority of the City of Hampton, Virginia for the Manufacturing
and Innovation Grant Program

Item approved.

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

2. [17-0064](#) Resolution Dissolving the City of Hampton's Sesquicentennial
Committee.

Attachments: [Resolution 08-0473](#)

Item approved.

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

3. [17-0088](#) Ordinance to Amend and Reenact Chapter 24 of the City Code of the City of Hampton, Virginia Entitled "Offenses Miscellaneous" by Repealing Section 24-50, to conform with federal case law

Attachments: [REDLINE - Chapter 24 Aggressive Panhandling.doc](#)

Item approved.

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

5. [17-0090](#) Approval of the minutes from the special closed session of January 25, 2017, and the work and legislative sessions of February 8, 2017.

Item approved.

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

4. [17-0089](#) Resolution Determining Q.Design, PLC to be the Only Source Practically Available From Which to Procure Engineering and Design Services for the Phase I Design of Renovations of War Memorial Stadium

Mayor Tuck noted that this item was pulled from the agenda for discussion at Councilman Gray's request.

The Clerk read the title for this item.

At Councilman Gray's request, City Manager Bunting explained why a sole source, Q Design, is providing the design service for this project as opposed to there being a competitive bid process.

Ms. Bunting reminded everyone that the Peninsula Stadium Authority briefed Council about its desire to move forward with Phase I of the stadium renovation this September. She explained that there is a tight timetable for getting construction

drawings complete, allowing the appropriate bid and protest period, and for the work to begin during the narrow window of time between the Peninsula Pilots and the Apprentice School seasons. In order to accomplish this goal, we needed to move forward with the company that has done the preliminary work with the Peninsula Stadium Authority, Q Design. Ms. Bunting clarified that this practical source determination is for Phase 1 work only; however, additional work such as drainage and parking improvements may be completed by other sources.

A motion was made by Councilmember Gray seconded by Councilmember Moffett, that this Resolution be approved. The motion carried by the following vote:

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

PRESENTATIONS, PROCLAMATIONS, AWARDS

PUBLIC HEARINGS

The Clerk read the protocol for Public Hearings including those pertaining to Land Use Applications.

Use Permits

6. [17-0065](#) Use Permit Application No. 17-00001 by Peninsula Main VA, LLC for a hotel at 3000 Allainby Way [LRSN 13002082], more specifically, the southern portion of the former Macy's building in Peninsula Town Center

Attachments: [UP 17-00001 Application](#)
[UP 17-00001 Concept Plan - as submitted January 18 2017](#)
[UP 17-00001 Concept Plan - as of March 3 2017](#)
[UP17-00001 Staff Report](#)
[UP 17-00001 Conditions](#)
[UP 17-00001 Elevations](#)
[UP 17-00001 Presentation](#)
[Applicant's Presentation](#)
[Planning Commission Resolution](#)

Mayor Tuck stated that the applicant had requested a deferral of this item.

A motion was made by Vice Mayor Curtis seconded by

Councilmember Snead, that this Use Permit be deferred until March 22, 2017. The motion carried by the following vote:

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

7. [17-0061](#) Rezoning Application No. 16-00012 by Marlyn Development Corp. and AH&H Corp. at 1300 N Mallory Street [LRSN: 12005714] to rezone from Multiple Dwelling (MD-4) District with conditions to One Family Residence (R-4) District with conditions for a single family subdivision of up to 49 single family residences on 16.48+ acres

Attachments: [Resolution](#)
[Application](#)
[Proffers](#)
[Concept Plan](#)
[Elevations](#)
[Title Certificate](#)
[Staff Report](#)
[PowerPoint](#)
[Attorney's Presentation](#)
[Proffer Agreement](#)
[Proffer Agreement - Redline](#)

Mayor Tuck noted that he has a relationship with one of the involved parties, and after consulting with the City Attorney, has decided to recuse himself from this item.

Vice Mayor Curtis presided over this item.

The Clerk read the title for this item.

Ms. Bunting noted that the applicant intends to submit new proffers with the application; therefore, a discussion will take place regarding the handling of the newly submitted proffers following presentations from staff and the applicant.

PART 1: STAFF PRESENTATION

Chief Planner Mike Hayes clarified that the request is to rezone the property from a MD-4 (Multi-family) District with conditions related to a nursing home facility to an R-4 Zoning District with conditions. He noted that an R-4 District is the City's

smallest single-family residential district which allows lots.

Mr. Hayes shared that in this case, the development is not built around alleys; therefore, would have front loaded homes with a minimum lot size of 50 feet with 5,000 total square feet. He also explained that R-4 District sites require special care; this is reflected in the manner in which the ordinance was adopted.

Mr. Hayes emphasized that every R-4 application must either come through as a proffer rezoning or a rezoning to be considered by City Council. He then quoted a portion of the Ordinance which describes the two scenarios in which an R-4 application could potentially come forward for approval: (1) Continuous lots collectively comprising a minimum of 24,000 square feet of land area to justify consideration for applying the R-4 District within the context of the recommendations of the Comprehensive Plan, and the surrounding zoning and development pattern. (2) Geographic areas within the boundaries of adopted Master Plans, small area plans or neighborhood plans, which recommend residential development on lots meeting R-4 standards and are further governed by a City adopted Pattern Book to which any development shall conform.

Mr. Hayes displayed a map which depicts the location of the property on Mallory Street near Tulip and Pansy Streets.

Mr. Hayes explained that the lots near the water are typically 85 to 100 feet wide; whereas, the lots closer to Mallory Street average 60 feet wide. There are also larger lots located across Mallory Street, toward Buckroe Beach and near the Hampton University horse stables. Mr. Hayes reminded everyone that the R-4 District differs from some of the surrounding districts in the area which have larger minimum lot size requirements and setbacks.

Mr. Hayes stated that the Hampton Community Plan recommends high density residential in this location which is reflective of the previous use, a nursing home. He explained that the nursing home no longer exists; only a concrete slab remains at the location. He also noted that development surrounding the location calls for low density residential.

Mr. Hayes shared information about additional policies within the Hampton Community Plan, key principles within the Buckroe Master Plan and key elements in the Buckroe Bayfront Pattern Book as they relate to this project.

Mr. Hayes spoke about potential driveway and parking options for the project. He also shared information about potential architectural styles presented in the Pattern Book.

Mr. Hayes noted that staff is aware that there are challenges with the site. He also spoke about the concept plan and analysis of the proposed rezoning.

Mr. Hayes closed stating staff and the Planning Commission recommend denial of this rezoning application.

Vice Mayor Curtis opened the floor for questions from those on the dais.

In response to Councilwoman Schmidt, Mr. Hayes explained the term “traditional lot patterns” refers to the typical block pattern as opposed to older neighborhoods which tend to have rectangular blocks. He noted that many of these blocks have an active alley which makes it easier to accommodate smaller lots.

In response to Councilwoman Schmidt, Mr. Hayes said that the R-4 Zoning District is being considered because it fits the density and lot size that the applicant requested.

In response to Councilwoman Schmidt, Mr. Hayes explained that staff adopted a new infill housing district created as an overlay to help accommodate existing small lots. Prior to that adoption, multiple neighborhoods had existing smaller lots and pockets with the potential for redevelopment; however, the districts which were on the books did not work for reasons including lot sizes that were too large. The R-4 District was then developed by staff with the requirement that whatever comes through for approval must help elevate the character of the given area. He emphasized the importance of these applications being reviewed on a case by case basis.

At Councilman Gray’s request, Mr. Hayes repeated the first scenario in which an R-4 application could potentially come forward for approval: Continuous lots collectively comprising a minimum of 24,000 square feet of land area to justify consideration for applying the R-4 District within the context of the recommendations of the Comprehensive Plan, and the surrounding zoning and development pattern.

Mr. Gray commented that it appears this project meets the second condition.

Mr. Hayes repeated the second scenario: Geographic areas within the boundaries of adopted Master Plans, small area plans or neighborhood plans, which recommend residential development on lots meeting R-4 standards and are further governed by a City adopted Pattern Book to which any development shall conform.

In response to Councilman Hobbs, Mr. Hayes clarified that it is acceptable for a lot

to go into a buffer; however, someone who purchases a lot is not allowed to build a home within the buffer. He added that staff worked closely with the applicant and the applicant ensured that there is enough room to build a home and have a back yard before getting to the buffer area.

PART 2: APPLICANT PRESENTATION

Mr. Larry Cumming, Attorney representing the applicant, made the Shelton on the Bay presentation.

Applicant representatives Mr. Frank Huff and Mr. David Jester were present to respond to questions and/or comments. Mr. Eric Shirey of Ryan Homes, Inc. was also in attendance.

Mr. Cumming displayed a slide which depicts numerous projects previously developed in Hampton by the applicant, Marlyn Development Corporation and builder, Ryan Homes.

Mr. Cumming shared information about how the property is currently zoned, the Buckroe Master Plan (2005), the Pattern Book (2007), and previous uses of the property. He clarified that the current Comprehensive Plan designates this property as high density; therefore, the applicant felt as though the R-4 Zoning District was appropriate to amend this intensely zoned property. He noted that the Buckroe Master Plan and Pattern Book were in place when the zoning was approved; the City Council at that time decided that it did not govern and demanded all the requirements of the Pattern Book when it approved this plan.

Mr. Cumming confirmed that the Buckroe Master Plan does refer to this property; however, this property is on the extreme end of the Buckroe Master Plan. He also noted that the Buckroe Bayfront Pattern Book references properties being designed like other beachfront communities; however, in his opinion, this property does not contend as a beachfront community.

Mr. Cumming shared information about some of the homes near the property which are similar to the homes being proposed. He added that these new homes would blend into the surrounding neighborhood and comply with what the Master Plan calls for in this area.

Mr. Cumming spoke about the average sales price of the proposed homes and the average sales price of homes in the neighborhood.

Mr. Cumming outlined the layout of the property.

Mr. Cumming emphasized that the applicant has attempted to accommodate the City's Pattern Book. He also shared that the homes would include some or all amenities such as porches, steps, street trees, garage doors, premium side finishing, a trail to the waterway, rear or side entry, and connection to the neighborhood through Tulip Street.

Mr. Cumming reviewed the proposed options: 275 multi-family affordable housing units or 49 single-family units.

Mr. Cumming summarized why Council should approve the proposed application.

Mr. Cumming offered the revised proffered conditions. Hard copies of the revised proffered conditions were provided to each member of Council.

Mr. David Jester, applicant, shared information about Marlyn Development Corporation's real estate development and accomplished projects. He emphasized that Marlyn has turned several low revenue properties in Hampton into successful properties. He also spoke about some of the challenges and limitations associated with this project including limitations imposed by City staff. Mr. Jester stressed the importance of Council determining what is best for the City: a plan that meets 100% of the Pattern Book or a plan that meets a large percentage of the Pattern Book while providing affordable, new housing for citizens. He assured Council that Marlyn would do a good job and encouraged Council to approve the application.

At Vice Mayor Curtis's request, City Attorney Vanessa Valldejuli outlined Council's options in consideration of receiving additional proffers. They include: (1) Defer the item and hold a Public Hearing at a subsequent City Council meeting to review the revised proffers if it is determined that the proposed changes will affect the overall proposal. (2) Approve or deny (with the modified proffers) the application following the Public Hearing if Council decides that the changes do not materially affect the proposal. (3) Refer the application back to the Planning Commission with the purpose of having the new proffers vetted through the public process at the Planning Commission level.

For the benefit of the public, Mr. Cumming shared information about the material changes included in the revised proffers such as inclusion of sidewalks, the height of the homes, and connectivity to the water via a mulch trail.

For the record, City Attorney Valldejuli clarified that the portion of the revised proffers which references a mulch trail for the neighborhood refers to the residents of the new development (members of the homeowners association). Mr. Cumming

agreed.

Vice Mayor Curtis opened the floor for questions regarding the revised proffers. No questions were posed.

PUBLIC HEARING:

Vice Mayor Curtis opened the Public Hearing.

Mr. Marshall Brown greeted those on the dais and made the following statement: Thank you for this opportunity to voice my objection to the rezoning application 16-00012. Shelton on the Bay is a retirement home quietly serving the City community for over 60 years. It began with a simple vision to create a place where the elderly could find comfort and care on land donated by Mary Shelton Sweeney. What happened to Ms. Sweeney's wishes? The developer's write-up states the existing infrastructure is adequate. As recent as Hurricane Matthew, October 2016, I have neighbors that could not use the toilets in their houses because of the questionable state of the existing City sewer. Forty-nine more homes would adversely affect the existing system. The Buckroe Master Plan, 2005 Amended, referenced in the proposals has many errors. One shows Hughes Lane extending through my property with four condos built on it. This proposed rezoning shows Tulip Street being changed from a very narrow street to a "Pedestrian Vehicular Connection" to the new development. Tulip Street is narrow with no sidewalks and no parking for the existing residents to park. The site plans shows 100 foot setback wetland requirement and stormwater management facility, ie: holding pond. Lots 13 through 17 are clearly within the 100 foot setback and the holding pond being located on the northwest corner of the property with the existing land to be raised 48 inches for construction could not prevent stormwater run-off from affecting adjoining properties. Anything can be written, but unless you have experienced a Nor'easter or a hurricane on Mill Creek, you know not what you talk about. The developers never mention one-time flood insurance on new houses in their discussion. Price it out and see what you find or read the Daily Press article dated February 12, 2017, Rising Tide - Falling Values. As stated in the Planning Commission meeting February 2, 2017, the new high-end homes proposed will be built with a life expectancy of 50 to 60 years. My old home in this old neighborhood was built in 1929. I would hate to have someone be able to look out a second floor window of one of the high-end homes at my 88 year old home in this old neighborhood. I am very proud of my neighborhood. My neighborhood does not need a development that would over-burden the existing infrastructures, streets and fragile waterfront that exists today. There is no beach on this property. This property is home for much wild life and water fowl which would be displaced with this development. Has anyone on City Council visited this property or the adjacent neighborhood prior to making

this decision tonight? Thank you.

Ms. Lucille Payne greeted those on the dais and made the following statement: I've lived next to 1300 North Mallory Street for over 50 years. Both of my children own and live in the neighborhood also. I have spent much time as a volunteer to buddy our neighborhood and organizations such as Junior Women's Club, Girls Scouts, Boys Scouts, Church PTA and schools of my children and my grandchildren. On Thursday, February 2nd, at the Planning Commission meeting at 3:30 pm, one member of that Committee fired me up when she made a remark about what the perspective owners of these large homes would think looking down at our old neighborhood. I'm here to tell you that I have enjoyed my peaceful old neighborhood over the past years and I do not want to look across and see a subdivision of anything close to 49 homes or the likes of it. The waterfront at the back of this property is not a beach, hardly any sand, mostly mud. It's the home of ospreys, bald eagles, geese, ducks and other wild life. Leave their home alone. Community access to the waterfront would bring in more people, traffic, trash, noise and run away our wild life. In the Daily Press article dated January 31, 2017, Losing Ground, it spoke of how important the Salt Marsh lands were used as a kidney to filter out the different things for land. Without the trees that makes a way for the erosion, flooding - can make us lose land. There is talk of a holding pond for the water that runs off. You will need more than that. When you build up land four feet before you put buildings up on that ground, it is higher and the flood waters will spill over on our streets. What about the ducks and geese? When you see the holding ponds around, the ducks and geese get in, what a mess. Talk about Tulip Street to be widened and made a through street? Have any of you gone down to Tulip Street to see how narrow this street is? It has shallow front yards. My son lives on this street. For this thought to be that you could widen this street that does not have sidewalks and all is unreal. My son living on this street, whenever his family has a cookout or celebration, I have to drive down to take gifts and food and take my car back home and walk down because there is no parking place to park. What if it was your neighborhood? Would you want this to happen? We may all not own large, extravagant new homes, but I am proud of my old home and my old neighborhood. Please hear our voice this evening. Protect our rights, our neighborhood and vote no to rezoning the multiple home subdivision. Thank you so much for my time to speak tonight.

Ms. Dixie Johnson greeted those on the dais and made the following statement: This is too many homes to be built on this piece of land. If they are going to build homes there, that's a decision you all have to make, but 49 is a lot of homes to put on that type of area. We are not large like over near Hampton High School where they built homes over there. This area is very closed in. If you put too much there you are going to downgrade it as far as I am concerned. If I had the money, I

wouldn't spend that kind of money to be on top of my next door neighbor. That is just the way I feel. I grew up in the neighborhood. I've been there since I was three years old. I grew up on Daniel Lane. My parents' home is on Lotus Street. They have one of the large brick homes back there. It's an area that is ever-changing, but everybody kind of takes care of each other. It's a neighborhood that really looks out for the elderly in the neighborhood and in our lot. A lot of people have been there since I was a little girl. If we are going to have something built there, it needs to be something that is not going to overwhelm the area. The places in Buckroe have large land down there. This is not that big of a piece of land when you start dividing up. Forty-nine is a lot of houses and I just feel like it is too much. Thank you.

Ms. Mary Martin greeted those on the dais and made the following statement: I own and operate a business at 1340 North Mallory Street which is also where I reside and am raising my 13 year old daughter. I am speaking tonight to urge you to approve the proposal for the 49 homes and the rezoning of the Shelton property. I do understand my neighbors concerns that own homes in the Tulip Lane section of Mallory Street, but they do own property on a public street which every citizen and taxpayer has a right to use. Every taxpayer in the City of Hampton pays to maintain those streets. I do not think they understand what could be built on this property. The property as you know is zoned for 275 multi-units which could be anything if not approved for the 49 \$250,500 homes that are being proposed. I have heard reasoning of: What about the traffic on Mallory? Well, what if there are 275 units? How will traffic be then? What about these large homes being able to look in the windows of the residents of the homes in the Hughes/Tulip Lane area of Mallory Street? Well, what if they are four to five story apartments? I think they could see a whole lot more. What about sidewalks on both sides of the street in the new development? Well, we only have one sidewalk on one side of Mallory Street in our area and that is on the other side of Mallory Street. What about the outlet from the new development onto Hughes and Tulip Lanes? Well, I suggest the developers and residents of that neighborhood come together and set some reasonable proffers to ensure the well-being of their homes and their street which is also the taxpayer street of the City. With that being said, I am all for the approval of the rezoning of the Shelton property from 275 units to 49 single-family homes. Thank you for your time.

Mr. Billy Lee made the following statement: I am a resident and landowner on Mallory Street as well. I am coming to you tonight as a proponent for this plan that you approve the rezoning for the simple fact that as Mary stated, it is zoned for up to 275 units and I would rather see single-family dwellings as opposed to a densely populated area for the instance of bringing in more crime. Traffic isn't to me that big of a deal. My house is directly on Mallory. You want to talk about traffic? Let's talk about when the summertime comes and we have visitors from all over the State

going to Buckroe Beach. I've had problems getting in and out of my driveway and it doesn't bother me because I use that beach as well. I think that the 49 units would be an asset to this neighborhood as opposed to something that could be way, way more out of hand. As I said, I'm a proponent and I'm asking you to go ahead and approve this rezoning. Thank you.

Mr. Patrick Laughlin greeted those on the dais and made the following statement: I was one of the first buyers in that lot across from Shelton. I bought that big brand new dream house of my dreams. I spent \$272,000 on it. I was active duty military. I served 23 years for our great country. In the last couple of years of my military career, I decided where I wanted to live. I wanted to find a great City to live, so I picked the City of Hampton to raise my family. I've been here seven years; the best City in the world. Love it. I haven't slept for three weeks, though, because I have been real excited about this whole proposal of building these 49 new homes. That is going to be great for me. I'm going to live there, die there, and pass it on to my kids. But now, I hear that they want to put high-density. What does high-density mean? Is that the politically correct term for Section 8? Let's be honest. The first two speakers up there, I understand your concern, but this is the lesser of the two evils. There are two evils here. One, you build 49 great homes that are going to look into your neighborhood, or two, you build 275 high-density Section 8 apartments. That is just horrendous. I don't think they are seeing that. I've dedicated 30 years in the military. I was a Sheriff for a year here in the City of Hampton. Now, I work for the Hampton Roads Transit Authority driving a bus. I love the City of Hampton. But now, I'm going to have to sell my house, uproot my family, will probably have to go into bankruptcy because nobody is going to buy the house because there is going to be Section 8 across the street. So, I would just hope that you would approve the 49 homes. Like everybody said, this guy put a lot of time into this. It's a great plan. It only improves it. Part of the reason for me living over here is because I missed out on Virginia Beach. I should have bought a house in Virginia Beach when I first joined the Navy. I could have bought a little \$6,000 townhome. All my other friends did it and now they are selling them for \$500,000 and \$600,000. Mr. Laughlin addressed some of the previous speakers who were in the audience and said: even your homes would go for that. We are all going to eventually die. Pass it on to your families. Mr. Laughlin continued his statement: The one thing they didn't talk about: crime, drugs. That is what comes with high-density. People are not getting that. Mr. Laughlin again addressed previous speakers saying: you think because a driveway is going through your yard now? They are going to put a fence up. They will climb the fence and get over the fence. Mr. Laughlin continued his statement: I hope you approve the 49 homes; otherwise, I hope you buy my property now before you do it and help me out so that I can uproot my family and go somewhere else because right now, I am not sleeping very well. Thanks.

There being no additional speakers, Vice Mayor Curtis closed the Public Hearing and provided Mr. Cumming an opportunity for rebuttal.

Mr. Cumming stated the majority of the speakers in opposition to the application spoke about site plan related issues such as drainage and access, things which are not factors to be considered in evaluating this application. He continued stating that Council can be assured that City staff will protect the adjoining properties and will ensure that the stormwater will not adversely affect them; this is why they require the number of retention ponds they require.

Mr. Cumming addressed the concern about the contact through Tulip Street stating that it was a requirement of the Planning staff and that the applicant prefers to build the project without that connection.

Mr. Jester addressed the flood insurance concern stating that the site has been engineered to mitigate that. He continued stating that the capacity for water and sewer exceeds what is needed and the plan involves bringing in new sewer lines, new water lines, underground electrical, street lighting, trees and landscaping to ensure this will be a nice community.

Vice Mayor Curtis opened the floor for questions and/or comments from those on the dais.

A discussion took place among the members of Council, members of staff and the applicant's representatives about potential changes to the application, some of which were material such as lot width, setbacks, zoning districts, and the extension of Tulip Street. Additional discussion took place regarding flooding, Section 8 housing and home pricing. In light of the material changes proposed, the Council referred the application back to the Planning Commission for further consideration.

Mike Hayes, Senior Planner, presented this item and responded to questions of Council.

Mr. Cumming and Mr. Jester responded to a few questions by members of City Council as did Mr. Hayes. Additional discussion between Council, the applicants, and City staff occurred.

Because the discussion was materially different from the original, the City Attorney recommended that the City Council refer the matter back to the Planning Commission for their consideration

and then return to Council again for a public hearing. Eric Shirey of Ryan Homes also provided information.

A motion was made by Councilmember Hobbs seconded by Councilmember Gray, that this Rezoning Application be referred back to the Planning Commission. The motion carried by the following vote:

Aye: 6 - Vice Mayor Curtis, Councilmember Gray, Councilmember Hobbs, Councilmember Snead, Councilmember Moffett and Councilmember Schmidt

Recuse: 1 - Mayor Tuck

Ordinances

PUBLIC COMMENT

The Clerk read the protocol for the Public Comment Period.

Ms. Edith Newkirk thanked Council for allowing her to speak and made the following statement: The reason I am here has to do with the area I live in, Pochin Place, Wythe, not Old Wythe, but Wythe. What has happened for me is a problem that began back in 1998. This area is also under the jurisdiction of the United States Army Corps of Engineers Wetlands. A permit was given: Teach Street Drainage Improvements Project #84-088. What was to be done was the removal of sediment and debris from the canal which would allow for positive drainage and reduce the chance of standing water. This was not done (and this is referring to the Indian River Creek). What was done instead: four men with shovels went into the creek and dug a ditch down to a lower elevation. The ditch was about twelve inches wide, maybe a couple of inches deep. With that ditch being dug, it didn't seem appropriate. I and another person went to the Army Corps of Engineers on Front Street in Norfolk and talked to a person there. The person stated that an embankment was created. This is a military person who stated this. I and another person witnessed it. Since that time, my flood insurance has gone up. About eight houses have been purchased. With that embankment that was created, the water can't run out. How does the song go? All day; all night; sinking sand. That is what we are doing. For me, before the City did all this, we moved into the house in 1975 and my husband and I did a lot of improvements. We put in all new windows and new siding. We converted the garage into a den and we enclosed a back porch. Since that time, I have been flooded four times. The first was with (hurricane) Isabelle.

Mayor Tuck assured Ms. Newkirk that he and staff are aware of the problem. He also assured her that the City wants to assist her; however, there are challenging components to the situation. He asked Ms. Newkirk to conclude her comments as her speaking time had expired.

Ms. Newkirk continued her statement: Negative impacts were caused by this embankment. I know that something has been said to me about money. That has a lot to do with it. How much is my income and other things that were asked.

Mayor Tuck noted that he is unaware of questions posed about income; however, reassured Ms. Newkirk that the City has tried to resolve some concerns in the area and will do what it can to help.

Ms. Newkirk continued her statement: In the meantime, I should send these people \$3,000 every year? I have my bills here and the flood insurance is due by April 13th. I hope the City can help some sort of way. If I was responsible or if it was Mother Nature, I could understand a bit better. With money: they say that's the root of all sorts of evil. The thing is with money, sometimes people that don't have much money have to take another course and this is what we had to do.

Ms. Edith J. Newkirk spoke about flooding problems in the area of Pochin Place (Indian River Creek).

GENERAL ITEMS

Ordinances

Resolutions

Appointments

The Clerk read the appointments for consideration.

8. [16-0391](#) Consideration of appointments to Citizens' Engagement Advisory Review Commission (CEARC)

Vlce Mayor Curtis made a motion, with no second required, to appoint Simeon Green to fill an unexpired term until March 30, 2019, Shannon Freeman and Alice Callahan to fill unexpired terms until June 30, 2019, Diana Gulotta to fill an unexpired term until June 30, 2020, and Yolanda Earl, Jim Williams, and Michele Benson to full five year terms expiring on March 30, 2022.

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

9. [17-0044](#) Consideration of appointments to Hampton Senior Citizens Advisory Board

Vice Mayor Curtis made a motion, with no second required, to appoint Martha Clark and Christine Evans to unexpired terms until September 30, 2018, and Martha Johnson to an unexpired term until November 30, 2017, and Carol Perenzin, Ingrid Kirschmann, and Peggy Marshburn to first terms expiring on March 30, 2021.

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

10. [17-0059](#) Consideration of appointments to Hampton Federal Area Development Authority

Vice Mayor Curtis made a motion, with no second required, to appoint Stevie Hunt to fill an unexpired term until November 30, 2017.

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

11. [17-0068](#) Consideration of appointments to Neighborhood Commission

Vice Mayor Curtis made a motion, with no second required, to appoint youth representative Xavier Williams until March 30, 2019.

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

12. [17-0093](#) Consideration of appointments to Community Policy & Management Team (CPMT)

Vice Mayor Curtis made a motion, with no second required, to appoint Linda Scott-Stone in the place of Deborah Moore as the

Hampton Health Department Representative; Kimberly Karle in the place of Therese Price as a non-voting member from the City Attorney's Office and Natale Ward in the place of Chuck Hall as the Hampton-Newport News CSB Representative.

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

13. [17-0094](#) Consideration of appointments to Hampton Commission on the Arts

Vice Mayor Curtis made a motion, with no second required, to reappoint Lynda Burke to a second term expiring on February 28, 2021.

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

14. [17-0095](#) Consideration of an appointment to Finance Committee

Vice Mayor Curtis made a motion, with no second required, to reappoint David Duxbury to a second term expiring on September 30, 2018.

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

[17-0105](#) Appointment to the Planning Commission

Vice Mayor Curtis made a motion, with no second required, to appoint James A. "Pete" Peterson in the place of Mary Bunting.

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

REPORTS BY CITY MANAGER, CITY COUNCIL, STAFF, COMMITTEES

There were no reports this evening.

MISCELLANEOUS NEW BUSINESS

Vice Mayor Curtis announced that Margot Lee Shetterly, Author of the book Hidden

Figures, was at the Hampton Roads Convention Center last evening. Many people were in attendance to hear about the Hidden Figures story. Vice Mayor Curtis recognized Ms. Shetterly as a hometown hero and stated she was proud of this and all historical stories based in Hampton which should be told.

ADJOURNMENT

The meeting was adjourned at 8:37 p.m.

Contact Info:

Clerk of Council, 757-727-6315, council@hampton.gov

Donnie R. Tuck
Mayor

Katherine K. Glass, CMC
Clerk of Council

Date approved by Council _____