



# City of Hampton, VA

## Meeting Minutes

### City Council

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

*Anderson W. Clary, Jr.*  
*Randall A. Gilliland*  
*Angela Lee Leary*

*Charles N. Sapp*  
*Joseph H. Spencer, II*  
*Paige V. Washington, Jr.*  
*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*

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Wednesday, January 9, 2008

7:29 PM

Council Chambers, 8th Floor, City Hall

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### **CALL TO ORDER/ROLL CALL**

**Ross A. Kearney, II presided**

**Present:** Anderson W. Clary, Jr., Angela Lee Leary, Charles N. Sapp,  
Joseph H. Spencer, II

**Absent:** Anderson W. Clary, Jr., Paige V. Washington, Jr.

### **INVOCATION - Councilman Charles N. Sapp**

### **PLEDGE OF ALLEGIANCE TO FLAG**

### **MAYOR'S COMMENTS**

Mayor Kearney stated that Councilman Clary would be arriving late to the meeting , Vice Mayor Gilliland is out of town and Councilman Washington is hoping to come home soon after a couple of the days in the hospital.

Mayor Kearney stated that he attended the third meeting of the Career Academy. He thanked Dr. Patrick Russo, Superintendent of Hampton City Schools, for allowing him to participate in the implementation of a trade school or a workforce development in the high schools. He said that it is in the planning stages and he hopes the program will be stationed at each of the high schools. He said that one would possibly be medical another would teach building trades and another would be engineering. He said that the student would have a choice of going into a career mode instead of attending college. Mayor Kearney said that there are a lot of things to work out including funding and transportation, but he believes it will make the community better and address the issue of the large number of drop outs between the 9th and 12th grade. Mayor Kearney said this is exciting and believes everyone will be very proud.

**CONSENT AGENDA****Consent Items - Other**

1. 07-0673 Resolution Designating NewsBank, Inc. as the Only Source Practically Available for the Purchase of Web-based Research Products that Provide Access to Current and Archived Content from More than 2,000 Newspaper Titles, Newswires, Transcripts, Business Journals, Periodicals, Government Documents and Other Publications.

**RESOLUTION**

**WHEREAS**, the Hampton Public Library provides the citizens of Hampton with web access, both current and archived, to various news sources (Daily Press, America's Newspapers), for the main library and three branches and that continued access via the library's webpage is desirable and in the public interest; and

**WHEREAS**, this service is very popular with library patrons and the Hampton Public Library is one of the few ways in which the patrons can have access to this information without purchasing it at considerable cost; and

**WHEREAS**, the price at which NewsBank, Inc. offers the service/information has been determined to be fair and reasonable for technology of this unique nature and of this level of sophistication;

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HAMPTON, VIRGINIA as follows:**

1. That the contract for procuring the web access to the various news sources described above may be negotiated and awarded to NewsBank, Inc. as a "sole source", i.e., the only source practically available for this service, without competitive sealed bidding or competitive negotiation as set for in the Virginia Code Section 2.2-4303.E;
2. That the City Manager or his authorized designee is hereby authorized to negotiate and execute a purchase contract with NewsBank, Inc.; and
3. That the notice awarding the contract to NewsBank, Inc. shall be posted in a public place pursuant to Virginia Code Section 2.2-4303.E.

APPROVED

**Motion made by:** Councilmember Joseph H. Spencer, II

**Seconded by:** Councilmember Angela Lee Leary

**Ayes:** 4 - Angela Lee Leary, Charles N. Sapp, Joseph H. Spencer, II,  
Ross A. Kearney, II

**Absent:** Anderson W. Clary, Jr., Paige V. Washington, Jr.

**Nays:** 0

2. 07-0679 Request to Vacate the Undeveloped Rights-of-way Known as Thomas Street and Wright Street, Near the Intersection of Briarfield Road and Power Plant Parkway.

APPROVED

**Motion made by:** Councilmember Joseph H. Spencer, II

**Seconded by:** Councilmember Angela Lee Leary

**Ayes:** 4 - Angela Lee Leary, Charles N. Sapp, Joseph H. Spencer, II,  
Ross A. Kearney, II

**Absent:** Anderson W. Clary, Jr., Paige V. Washington, Jr.

**Nays:** 0

3. 07-0686 Approval of the Minutes from Afternoon and Evening Sessions of City Council on December 19, 2007.

APPROVED

**Motion made by:** Councilmember Joseph H. Spencer, II

**Seconded by:** Councilmember Angela Lee Leary

**Ayes:** 4 - Angela Lee Leary, Charles N. Sapp, Joseph H. Spencer, II,  
Ross A. Kearney, II

**Absent:** Anderson W. Clary, Jr., Paige V. Washington, Jr.

**Nays:** 0

4. 07-0687 Resolution Correcting a Resolution Appropriating \$503,439.53 from Fund Balance to Capital Improvement Fund for School Maintenance Which was Adopted by Council on December 19, 2007.

**WHEREAS**, the Hampton School Board had \$503,439.53 in unexpended funds at the end of FY 2007 that it saved for the purpose of improving locker rooms at the four high schools, and

**WHEREAS**, these funds were returned to the City's undesignated fund balance when the FY 2007 financial books were closed, and

**WHEREAS**, the Resolution adopted by Council on December 19, 2007, contained an incorrect number which should be corrected for the record;

**NOW, THEREFORE BE IT RESOLVED** by the Council of the City of Hampton, Virginia that \$503,439.53 be appropriated from fund balance to the Capital Improvements Fund.

APPROVED

**Motion made by:** Councilmember Joseph H. Spencer, II

**Seconded by:** Councilmember Angela Lee Leary

**Ayes:** 4 - Angela Lee Leary, Charles N. Sapp, Joseph H. Spencer, II,  
Ross A. Kearney, II

**Absent:** Anderson W. Clary, Jr., Paige V. Washington, Jr.

**Nays:** 0

**PRESENTATIONS, PROCLAMATIONS, AWARDS****REPORTS BY CITY MANAGER, CITY COUNCIL, STAFF, COMMITTEES****PUBLIC HEARINGS****Rezoning - Second Reading**

5. 07-0662 Rezoning Application No. 1259 by the Hampton Redevelopment and Housing Authority (HRHA) to Rezone 3.2456+/- Acres at Old Point Avenue and Woodland Road from One Family Residence District (R-9), and Limited Commercial (C-2) to One Family Residence District (R-9) and Multiple Dwelling District (MD-2) for up to five single family homes and up to 30 townhouse units. [LSRNs: 12003597, 12003599, 12003596, 12003595, 12003594, and 12003590]

Mr. Jesse T. Wallace, Jr., City Manager, stated that the proposed development includes five (5) single-family homes which will line Old Point Avenue and Woodland Road. He said the townhouse development is located on the majority of the property behind the new houses. He stated that Planning Commission and Planning Staff recommend approval subject to the following six (6) proffered conditions:

1. The property will be developed to be substantially consistent with the attached conceptual site plan labeled Old Point Homes, dated October 16, 2007, including configuration of roadway, alleys, and sidewalks, the orientation and placement of townhouse buildings, and the location of parking areas and open space.
2. A 40' right-of-way for the primary street through the development will be dedicated to the City of Hampton.
3. Up to five (5) single-family homes will be built facing Old Point Avenue and Woodland Road with design and materials consistent with the attached document entitled "Design Information, dated October 16, 2007" and example images.
4. Up to 30 two- and three- bedroom townhouses will be built with design and materials consistent with the attached document entitled "Design Information, dated October 16, 2007," and example images.
5. Single-family homes will be a minimum of 1,500 square feet in accordance with Residential District R-9 zoning. Townhouses will be a minimum of 900 square feet.
6. Townhouse and single-family buildings on corner lots will use architectural elements that address both streets.

Mayor Kearney stated that Council received a memo from Mr. Phillip Page, Director of Community Development for the Hampton Redevelopment and Housing Authority (HRHA), addressing the issues that had been brought up by the public and members of Council concerning the adoption of this housing venture. He said that Mr. Page

answered most of the questions that he was concerned with regarding traffic and other issues. He thanked Mr. Page for the report.

Councilwoman Leary requested that Ms. Katherine K. Glass, Clerk of Council, add Mr. Page's memorandum to the minutes.

#### HELD PUBLIC HEARING

APPROVED on second and final reading

**Motion made by:** Councilmember Joseph H. Spencer, II

**Seconded by:** Councilmember Charles N. Sapp

**Aye:** 4 - Angela Lee Leary, Charles N. Sapp, Joseph H. Spencer, II, Ross A. Kearney, II

**Absent:** Anderson W. Clary, Jr., Paige V. Washington, Jr.

**Nay:** 0

6. 07-0663 Rezoning Application No. 1265 by Eric and Janine Grayson to Rezone 1204 East Pembroke Avenue (Parcel B) from General Commercial District (C-3) to One Family Residence District (R-11) for an Existing Single-family House. [portion of LSRN 12000782]

Mr. Jesse T. Wallace, Jr. City Manager, stated that rezoning the property will make the existing use legally conforming. He stated that Planning Commission and Planning Staff recommend approval of Rezoning Application No. 1265 on second and final reading.

#### HELD PUBLIC HEARING

APPROVED on second and final reading

**Motion made by:** Councilmember Angela Lee Leary

**Seconded by:** Councilmember Charles N. Sapp

**Aye:** 4 - Angela Lee Leary, Charles N. Sapp, Joseph H. Spencer, II, Ross A. Kearney, II

**Absent:** Anderson W. Clary, Jr., Paige V. Washington, Jr.

**Nay:** 0

#### Rezoning - First Readings

7. 07-0682 Rezoning Application No. 1264 by Stan Wilson to rezone 10.91± acres, including the Wilson Trailer Park and adjacent parcels: 11, 11B, 13, 13B and 15 Old Fox Hill Road and 16 Severn Street from One Family Residence District (R-9) to Limited Commercial District (C-2), with conditions, for multi-family units; and to rezone a portion of 5 Old Fox Hill Road and 1221, 1224, 1226, 1244 and 1246 North King Street from Limited Commercial District (C-2) to C-2, with conditions, for multi-family units; and to rezone a portion of 5 Old Fox Hill Road from R-9 to C-2, with conditions, for multi-family and/or retail.

Mr. Jesse T. Wallace, Jr. City Manager, stated that Rezoning Application No. 1264 is for a mix of multi-family and retail units along North King Street and townhouses on the

remainder of the property. The City Manager stated that Planning Staff recommends denial of Rezoning Application No. 1264 and the Planning Commission recommends approval.

Mayor Kearney asked the City Manager for clarification on the recommendations for Rezoning Application No. 1264. He said that Planning Staff has recommended denial of Rezoning Application No. 1264 and the Planning Commission passed this in a 4/2 vote. In response, the City Manager stated that Mayor Kearney was correct.

Ms. Caroline Butler, City Planner, stated that the State of Virginia tasks localities with creating land use plans for the orderly growth and development of a community. She explained that it is the role of the City Council to regularly adopt a community plan, in this case was adopted in 2006. She explained that the Community Plan establishes future land uses for areas within the community and to further implement the policies through zoning and other actions. Ms. Butler stated the plan that was adopted in 2006 identified six (6) strategic initiative areas within the City, including the North King Street Plan. She said that specifically with the North King Street Plan, the Wilson Property was identified as another strategic initiative area. She said the Community Plan was developed and adopted with the assistance of professional consultants and the community.

Ms. Butler stated that from February 2006 until its adoption in June 2006, the North King Street Master Plan process was a very open, inclusive consensus process and involved neighborhood and community leaders, the general public who participated in a series of design charettes, public meetings, open houses prior to public hearings before the adoption by the Planning Commission and City Council. She noted that when the North King Street Plan was adopted in June 2007, it became the blueprint for any future redevelopment and development along this corridor. She said the community has an expectation that any development along this corridor will occur in accordance with the principles adopted in the North King Street Master Plan. She said the Plan specifically identifies the Wilson property as a strategic area. She said that it is strategic because of its position on North King Street as a gateway to Downtown Hampton and Langley Air Force Base (LAFB). Ms. Butler said there was a strong community recognition that the aging trailer park at the site is not an asset to the community and that it needs to be replaced with something that will spark new development that is positive in this area.

Ms. Butler said the hundreds of stakeholders and community participants in the North King Street Plan, including the owners of the Wilson property, participated in these charettes and design hearings and in the formulation of the plans for this area. She stated that a series of public hearings were held before the Planning Commission and City Council before Council adopted the policies in this plan and specifically those that relate to the Wilson property.

Ms. Butler described the following principles as described in the North King Street Plan as they relate to this particulate property:

- There shall be a mixture of housing types on the property. The plan that was adopted in the North King Street Plan shows a mixture of apartments along North King Street, townhouses along Fox Hill Road and interior to the project and single-family housing that is adjacent to the existing single-family housing on Longwood Drive and on Severn Street.

- There will be changes in density and in intensity on the property, so the more intense uses will be fronting on North King Street stepping down in size and scale to the interior of the project and having low density, low intensity single-family housing adjacent to the existing single-family housing.
- Buildings on the site are to be designed so that neighbors face neighbors.
- Single-family housing will back up to single-family housing as well as to each so people can have a chance to form a community and relationships.
- Streets will be connected throughout the site in order for people to have eyes on the neighborhood and easy access.
- Endorsed by City Council and the neighborhood removes an old trailer park and weaves a new residential development into the fabric of the community.

Ms. Butler stated that the plan, which is already being used as a blueprint by developers, shows them what is intended to be built along North King Street, thereby reducing their development risks.

Ms. Butler explained that the entire site is about 11 acres and 60% of that is currently zoned for single-family development. She said that it has always been zoned for single-family and there has never been any indication in any of the adopted comprehensive plans or Master Plans for this area, that this particular area would be anything other than single-family. Ms. Butler stated that the front of the property that fronts on North King Street is zoned commercial and it has been in place for many years, probably since the inception of the zoning ordinances. She said that given the long history of single-family zoning, the applicant should not have any realistic expectation that the zoning should be changed for multi-family or the property should be used for apartments. She said that it has been zoned single-family and all of the plans that have been adopted recommend it to remain single-family.

Ms. Butler said the area along North King Street that is zoned commercial would remain commercial but the proposal under the rezoning is that the remaining 60% of the property that is now zoned for single-family residential would also be zoned commercial to allow the development of 222 rental apartments.

Ms Butler stated that the proposed land use along North King Street is mixed retail and apartments and the entire remainder of the property is rental apartments. She said that the plan creates a fortress of the property with a six foot fence around it with landscaping and virtually no access other than from King Street and Granella Street. She said that it is dead ended at Severn Street. She said that this will fail because it separates the apartment rental complex from everything else that is around it in the community.

Ms. Butler noted that because it is a small site, it needs to be part of the greater community. She stated that the plan, with its lack of access from anywhere but King Street will essentially hide this development from the community at large and the dead end means there will be one way in and one way out. She said there are no "eyes" on the street and there is no way for other people in the community to access it to see what is going on. Ms. Butler said that if the property were to be developed as all multi-family there are principles and ways to develop it as such so that it would become an asset to the community.

Ms. Butler stated the applicant is requesting to rezone 60% of the site from single-family to commercial for multi-family units which conflicts with all of the previously adopted Comprehensive Plans that the City has had, as well as the North King Street Plan that was adopted in 2007.

Ms. Butler stated that if Rezoning Application No. 1264 is denied, the property owners will have the exact same property rights they have today and they would lose nothing by retaining the single-family zoning of this property.

Ms. Butler stated that nothing in the plan indicates that the entire site should be developed as multi-family. She said that it shows multi-family, high density along King Street and stepping back to lower density townhouses and then to single-family adjacent to the existing single-family housing. She said this plan removes an old trailer park and puts a new residential development there. This plan is a good guideline for good developers because it shows them what can be built in the area and it reduces their risk.

Ms. Butler stated that since this plan was adopted a developer has built a new house on Severn Street that sold for \$275,000. The previous price for a house in that area was in June 2005 and it sold for \$165,000. She said that in just over a year, the price of housing in this area has increased dramatically. She said that this plan with its connection from King Street, Severn Street and Granella, invites the community into it to see that it is being developed in a way that the principles of the North King Street Plan recommend.

Ms. Butler said that very few of the elements recommended in the North King Street Master Plan are presented in this rezoning application. She said that staff is very disappointed about that. She noted that under the current zoning, 60% of the property that is zoned single-family could be developed into 25 single-family houses. She stated that under the current C-2 zoning that has always been there, the applicant could develop 88 multi-family units by right.

Ms. Butler provided Council with a comparison of the numbers.

- By right 25 single-family, 88 multi-family, for a total of 113 units
- The North King Street Master Plan recommends 18 single-family houses, 19 townhouses, 116 multi-family for a total of 153, an increase of 40 units on the site.

Ms. Butler stated that the Rezoning Application offers no single-family houses and 222 rental apartments which is almost double which is allowed by right. She said that the project should incorporate the principles of the North King Street Master Plan. She said that staff believes the proposal is a bad land use and a bad plan.

Ms. Butler reminded Council of Sinclair Commons, which demolished a few years ago and pointed out the similarities between this and the proposal for the Wilson property. She said that Sinclair Commons had 270 rental apartments that were low income, crime ridden and eventually had to be purchased by the Hampton Redevelopment and Housing Authority (HRHA). She said that the area became a public nuisance. She noted that a few years later it was replaced by Bailey Park and was rezoned in 2003. She said that even though the North King Street Master Plan was not adopted at that point, Bailey Park embodies some of the design concepts that are found in the North

King Street Master Plan. She explained that it shows a density of uses and intensity that has multi-family in the middle surrounded by single-family that backs up to the adjacent single-family. She noted that it offers diverse housing types and the buildings are placed so that neighbors face neighbors in a neighborly way. She further noted that the parking is placed within the interior of the multi-family development and in rear alleys to the single-family houses.

Ms. Butler stated that Rezoning Application No. 1264 conflicts with the recommendations and objectives of the North King Street Master Plan that was adopted early last year and staff recommends denial of this application.

Mr. Larry Cumming, 2236 Cunningham Drive, stated that he is representing the Wilson and Wallace families who are the applicants.

Mr. Cumming stated that the proposed development conforms with and promotes the North King Street Master Plan for the following reasons:

- It revitalizes a piece of property that is inappropriately utilized and is out of date and is funded with private funds.
- There are no City funds - Sinclair Commons was redeveloped with the assistance of public funds.
- Sinclair Commons was not on the throughway of King Street, it was set off of King Street.
- The development is only 210 units
- Developers are highly experienced and have been in business for 17 years.
- Developers are currently operating 14 developments
- Owners have owned the property for 100 years and currently operating a use that is comparable to a multi-family use.

Mr. Cumming stated that 40% of the property is already zoned C-2 without any conditions and the applicant proposes to impose conditions on the entire property. He said the current neighborhood is a shopping center, auto parts store, self-storage units, used car sales, Auto Zone and 7-11 and an insurance business.

Mr. Cumming said that the development represents \$24 million of private investment and not a single dollar of public investment. He provided Council with diagrams showing the frontage with retail on the first floor and market rate development apartment units on the top floor representing approximately one-third of the development being market driven and not tax credit financed in any way.

Mr. Cumming noted that 150 affordable housing units, which are two and three bedrooms, are to the rear. He noted that the development will include playgrounds, pool, volleyball court, bicycle racks, wellness and fitness center and a community meeting room. He said that individuals that would be occupying these units would have incomes ranging \$38,648 up to \$90,160. He said that all occupants would have a criminal background check before they are admitted to the development. He noted that the rental rates would be \$775 for a two-bedroom and \$950 for a three-bedroom. He said that it is not Section 8 or Public housing and it is not rent subsidized housing. Mr. Cumming said that the Virginia Housing Development Authority (VHDA) financing

has to do with the developer and it permits the developer to construct an excellent quality development, yet rent it at affordable prices.

Mr. Cumming said that it is their position that they meet the North King Street Master Plan requirements. He said that it is not a rote type of plan and the City is not required to comply with every picture in the plan. He said that it is merely an idea.

Mr. Cumming stated that the property would provide a gateway to the residential neighborhood and provide a transition from the intense uses along King Street to the residential development and it will provide a mix of retail, market rate units and tax credit units or affordable housing.

Mr. Cumming said that this is not an appropriate location for high value single-family homes. He said that it would abut a high intense use along King Street. He also noted that it would not be sufficient to create a separate neighborhood environment that would be sustainable on its own. He said that additional moderate cost housing is not needed.

Mr. Cumming stated that the mixture of uses provides more green space and the single-family residential development is designed to be along the west side of North King Street rather than along King Street in the Selden Farm and Tyler Elementary School areas. He said that it provides for Severn Street to come through to provide a cut-through to King Street from Old Buckroe Road.

Mr. Cumming said that single-family homes adjoin multi-family homes in the plan which would provide higher multi-family density directly abutting single-family homes.

Mr. Cumming stated the issues of the public are traffic, the building heights, too many apartments, impact on single-family homes and impact of crime and drainage problems.

Mr. Cumming said that apartments generate less traffic per unit than single-family homes do and the study indicates that there would be no change in the traffic. He said that the development would not change the level of traffic in the neighborhood the day after it is developed.

Mr. Cumming said that they control the existing access points because there are a number of private entrances along King Street and Old Buckroe Road which they are closing. He said they would focus all the access and control them by putting two entrances on King Street; one aligned with Quinn Street and one with Granella Street. He said that Severn would be preserved as a dead end street as it is now.

Mr. Cumming said there was a question regarding a left turn lane. He said that it already exists and there are five lanes.

Mr. Cumming said that most importantly, if the North King Street Master Plan is successful you hope there would be more traffic. He said the whole purpose of this is to revitalize the area and to stimulate people being there who are not there now.

Mr. Cumming said that the neighborhood does not want multi-family housing near them and the Planning Staff shows multi-family housing directly connected with roads connecting it. He said they are torn between the Planning Staff's philosophy and the neighborhood's desire to keep the multi-family and high density uses away from them

and not connected. He said that there would be a six foot fence and more landscaping than is required by site plan statutes.

Councilman Clary arrived at the meeting at 8:09 p.m.

Mr. Cumming stated that the owners are operating a facility on their property that should be removed but they have operated it excellently over decades and no one is complaining about their operation. He said that they are taking a substantial risk to develop the property and to be the first on King Street.

Mayor Kearney thanked Mr. Cumming and stated that Council received his report.

Mr. David Oquendo, 10 Severn Street, stated that he went to the first meeting. He thanked Ms. Butler for her presentation and stated that she did an outstanding job expressing how the people feel. He said that many people are afraid to speak. He said that Pinnacle Construction is charging \$24 million for the project. He said that he has a \$165,000 investment on Severn Street. Mr. Oquendo said that he moved from Norfolk and wanted to be in a small, quiet community. He said that he doesn't see any reason to change anything. He said that apartments are the not the way to go. He said there is no reason why a hard-working person cannot get a home. He said that it doesn't have to be apartments. He asked Council to take the concerns of the people to heart.

Ms. Marie Stokes, 4 Donald Street, stated that she opposes the Wilson project because it would put another 1,900 cars or more per day on North King Street and Fox Hill Road. She said that King Street already has between 20,000 and 29,000 cars per day and that is not just at peak times. She said that North King Street is a busy street all day long. She urged Council to stay consistent with low density that people have worked years for. She said that King Street looks better than it used to and it will look better in years to come.

Mr. Duayne Cotton, 3749 Hardwood Terrace, President of Harbor Properties and Builders, thanked Mr. Stan Wilson for meeting with him at the job site. He said that he was a very professional man. Mr. Cotton said that he researched Pinnacle Construction and learned that they are a standup company and one of the best in the industry. He said that when they looked at the building permits, they looked at the North King Street Master Plan. He said that they had the property for over a year before tearing down a dilapidated house. He said that at the point it was time to break ground, they looked at the Master Plan that was adopted in June 2007 and the first building permit was obtained in July 2007. He said that City Code requires that the houses be larger than 1,650 square feet, or 1,400 square feet with garage. He said that he would like to see something done with the property and he believes that going back to the Master Plan would be the best way to approach it. Mr. Wilson said that this is a conceptual plan and it would be changed anyway because part of the inner roadwork goes across a house. He said that as a developer he is looking at going in to certain areas to modernize and update the area. He said that he believes the City of Hampton needs to go that route instead of the path they are on now. He said that they are putting additional purchases on hold pending the outcome of this project. He thanked Council for their time and for the Wilson family for their cooperation.

Mr. Ray. Puscher, 15 Thornrose Avenue, said that he has an uncomfortable feeling about how this project has been handled. He said that he applauds the Wilsons for a

fine presentation but he has too many questions without answers. He said that the Wilsons have never taken the time, with the exception of once, to speak to the public. Mr. Puscher said that during the planning process there were never any meetings between the public, the neighborhood and the Wilsons to let them know what was going on in the neighborhood. Mr. Puscher said that if the City hasn't learned by now, the people in that neighborhood have a very strong interest in what goes on in their neighborhood. Mr. Puscher said that he is concerned that there is nothing in the plan for a retention pond to collect stormwater and it is a very important issue. He said that there has never been a traffic study and he knows that 222 apartments will increase the traffic on King Street.

Mr. Puscher said that recently there was a shooting at the end of his street and a bullet when through the window of an eighty-year-old woman's house. He said that she is scared to death. He said the bullet came from the apartment complex, not from the neighborhood. He said that the people want the City to make them feel comfortable about something like this being shoved down their throats.

Mayor Kearney stated that no one is shoving anything down anybody's throat. He thanked Mr. Puscher for his comments.

Mr. Dorolyn Moyle, 5 Quinn Street, provided Council with petitions against the project. She said that the neighbors have no real objection to retail on King Street and some nice attractive stores would be a real asset, but 222 apartments are not needed.

Ms. Moyle stated that North King Street has 22% of all the apartments in the entire City of Hampton, and that doesn't include townhouses or condos. She said that her house is surrounded by apartments except a small section on King Street. She said another problem is the height of the building, noting that ten three-story buildings, 50 feet high would cover the whole corner. Ms. Moyle stated that the traffic will also be a major problem if you take 57 households out and add 222 apartments you get more vehicles on King Street.

Ms. Moyle asked the people who were against this project to stand. Note: about 25 people stood. She thanked Council for the opportunity to speak.

Mr. Larry Penn, 17 Bland Street, stated that he is on the North King Street Master Plan committee and he is not very happy with the plans from the Wilsons. He said that he has nothing against them, but he is concerned about the impact it will have on the neighborhood. He requested that Council consider all the issues. He said that he believes the traffic will increase with the additional apartments.

Ms. Chris Auskink, 66 Salem Street, stated that at the Planning Commission meeting comments were made regarding why the neighbors didn't show up and why there was no representation from Cedar Park. She said that Cedar Park is not an organized neighborhood. She said that there was not even a two week time period in between when the Planning Commission met and when this project was brought to Council. She said that there has not been a meeting with the residents of Cedar Park, it was a general meeting at John Tyler Elementary School. She said that she put information out for the Tyler Seldondale Community and over 80 people attended. She said that she believes it is important that the neighborhoods that are not organized have an opportunity to speak.

Mr. James Williams, 10 Plantation Drive, stated that he and his wife moved to Hampton in 1992. He said that Hampton has the slogan of making Hampton the most livable city in Virginia. Mr. Williams said that the traffic frequently backs up from the 7-11 to the underpass and you can't come off of the ramp. He said sometimes the light will change before you can get onto King Street before the light changes again. He said that to say that the traffic is not going to have an impact is not right.

Mr. Williams said that when the City develops a master plan and asks for citizen input, to some extent there is an obligation to honor the wishes and desires of those of us who do live in that beautiful area.

Mr. Stan Wilson, 111 Creekview Lane, stated that he didn't intend to speak, but he thought there were a couple of points that were worthy of noting. He said that Bailey Park is beautiful but not a good comparison to this project. He said the City bought that property and the streets, sidewalks, and sewer were already in place and they built a very nice project. He said that single-family homes are not going to pay for streets, sidewalks and utilities and everything else that is involved in creating what you would like to see. He said that it is private money and existing infrastructure.

Mr. Wilson said that the senior living facility in the center of Bailey Park is VHDA financed, exactly the same financing that this project is using. He said that concerns have been voiced about bringing in low-income people and that the area will be crime-ridden. He asked Council to drive through the area now and see that it is well landscaped and well maintained. He said that the Wilson project has the same exact level of scrutiny. He assured Council that what is being done to finance this project and to build it has a far greater level of scrutiny, requirements and inspections than the City, no disrespect intended, would ever provide. He said that they have investors' scrutiny, VHDA scrutiny and they have owned the property for close to 100 years. He said that he would be the first to admit that the trailer court is not the best looking thing. He said that a lot of those trailers are privately owned and he cannot kick those people out because they don't maintain their trailers. He said that trailer courts present a dilemma because the City has problems with that as well. Mr. Wilson said that the trailer court was built 60 years ago by his father to take advantage of Langley Air Force Base, the business, the revenue that it brought to provide affordable housing to military families when mobile homes were an acceptable form of living. He said that they still are, but he would have to say that most people feel like it is time to upgrade. He said that is exactly what they are doing. He said they are going from one level of affordable housing to another level of affordable housing and it is a major private investment and it is stepping up what is there.

Mr. Wilson said that his family will continue to own the property and partner with an experienced developer to build it quickly and to build it properly. He said that it will be designed to be built and maintained for the long haul and it will look better than a 60-year-old trailer court.

Mr. Wilson said that nowhere in the master plan does it say that a property owner has to sell their property. He said that is what the City is asking his family to do. Cut their land up and sell it and take the risk of single-family development in today's marketplace. He said the bottom line is that the property has been in his family for 100 years and they are third generation owners and they do not want to sell the property.

Ms. Erica Maiculi, 151 Ransone Street, stated that her concern is the level of input the community has been allowed to have in the process. She said when people purchase homes adjacent to things that are zoned a certain way, they expect that their neighbors will maintain that zoning and if it is developed, it is developed consistent with that. Ms. Maiculi said the people who live and have purchased property adjacent to this property purchased it with the understanding of how it would be developed if it was developed. She said the entire process has been done very quickly. She noted that in November 2007 the developer met with the community and she attended the meeting and expected another meeting and the next thing to occur was the Planning Commission meeting. She said that people were there to speak at the original Planning Commission meeting and it was postponed until January 2008. She said that she didn't receive notice of the new meeting until the day before the meeting. She said that there is only a certain amount of time that citizens who work can take off to come to meetings at 3 o'clock in the afternoon. She urged Council to revisit this issue later until the community can get some real input in this. She said that two weeks is not enough time for this massive undertaking.

Councilwoman Leary thanked everyone for their comments. She said that she believes in the citizens' ability to voice their concerns to Council. She said that in the last month she has tried to gather information that she felt the community would ask for, because she is a grassroots person and she lives in the same neighborhood off of King Street on West Gilbert Street. She said that she uses North King just like everyone else does and she knows what Mr. Williams is talking about and what others are talking about.

Councilwoman Leary said that she wants to try and answer all the questions. She said the reason that the project is being heard in this manner is because the VHDA loan has a certain number of loans they can make and they have to close by March of every year. She said that they went through this with the developer of Sinclair Commons and she is sure the Wilsons are facing something similar. She said that is not a decision factor, it is just to try to provide information about why the process. Councilwoman Leary explained that Mr. Wilson asked her about the area and she told him that he needed a good construction company, a reputable group of people to work with to advise him from a construction standpoint as well as from a legal standpoint. She said that she explained to Mr. Wilson that she was not a developer or a lawyer, but she tries to surround herself with good people who are. She said that she knows the community's fears. She said that she did not attend the Planning Commission meeting because she wanted to watch it at home so that she could take notes. She said that she listened to the concerns and then she researched the answers to be able to respond to the concerns. She said that there are a couple of things that are still out. She said that the number of apartments in the Corridor. She said that information is still being provided by staff. She said the other information she requested is the number of calls for service by the Hampton Police Division to those areas. She said that she wants to know how many calls there were, what was the call for and when the call took place. She said that information is still forthcoming. She said those are all things that should be considered. She said one of the things that she requested Mr. Wilson to do was to meet with the neighborhood, which she understood took place in November 2007. She said it was supposed to be the neighborhood meeting that everyone knew about. She said that the residents of the Pastures community didn't attend the meeting, but the Pastures and Tyler Seldendale combined is 525 families. She said that she doesn't know what took place at the meeting.

Councilwoman Leary said that Mr. Puscher asked about retention basins. She said that the City of Hampton, at one time, was going to take the entire property at Bailey's Park, 25 acres, for a retention basin that addressed the drainage issues of 225 acres which would have gone beyond this past the overpass where you get on North King Street. She said that it would have addressed all of the drainage problems from there to Little Back River Road. She explained that was not what happened; however, they asked the developer to put in two retention basins to help with the drainage on North King Street. She said that she doesn't know if a retention basin can be worked into the proffers or if it is part of the proffers. She said that once the people moved into Bailey's Park, they became very upset because they heard gunfire at night and thought that the properties on Roane and Tyler Seldendale had some type of criminal element because they heard gunfire all the time. She explained that the gunfire was coming from the Police Firing Range which is on the other side of Mercury Boulevard.

Councilwoman Leary stated that every home that is located in that subdivision of 77 dwellings has a front porch on the upper and lower level. She said that they are trying to get people to realize the value of the community and encourage them to look out for each other. She said that criminal activity can only thrive if you are not looking out for each other.

Councilwoman Leary asked staff to pull the employee payment records to employees of the City. She said that 56% of the City's workforce makes less money than what is required to rent the apartments in Mr. Wilson's project. She said that 56% of the City's workforce needs what Mr. Wilson has to offer.

Councilwoman Leary said that she asked the manager of the restaurant she had dinner at what the standard pay was for waitresses. She said that manager told her that it was \$2.13 per hour, plus tips. She said that she doesn't believe her neighbors are saying that the people who make under \$35,000 a year are not wanted in her neighborhood. She said that she is in favor of the project because she has lived on the corridor for 25 years and one of the things they wanted to do is take the apartments at Sinclair Gardens and get rid of them because they were a nightmare waiting to happen. She said that was proved to City Council. She said that Council thought they could be kept for affordable housing, but after sending an Engineer there, the engineer said the apartments should come down. She said the insulation was straw and the wiring was frayed and there were gas leaks. She said this was a landlord who clearly did not take care of his property. She said that what the Wilson's are proposing is that they go into this together. She said the owners are asking Council and the community to help them put in housing that you know there is a workforce for. She said that she would like to be able to walk up King Street to a deli or to a dry cleaner. She said there are a lot of things that she would like to do but it hasn't been built.

Councilwoman Leary stated that she believes that VHDA is adamant and they have criteria and codes that are generally higher than the locality because they are funding these types of projects. She said that one of the things she looks for is a sense of community and she has seen that from the Wilsons. She said that she feels that she is obligated to call for an additional public meeting to provide an opportunity for the developer, the powers that be, a staff member and the community to sit down to work this out. She requested a day meeting and an evening meeting so that those people who work will have an opportunity to attend the meeting and those retirees who don't like to come out at night can attend a day meeting. She said that she would notify all of the

people when the meeting would be held. She said that she hopes the meeting would be scheduled on Wednesday, January 16, 2008 or Monday, January 21, 2008. She said that this is a very significant proposal and it is exactly what Council was thinking of when Bailey's Park was done.

Councilman Spencer said that he thought staff made an excellent presentation and he thought Mr. Cumming did an outstanding job with very compelling comments. He said that he appreciates the desires of the Wilson family and he understands what they would like to do. He said his major concern is that this is really the first development after going through months and months with the North King Street Corridor Master Plan. He said that it was fairly set out that King Street would transition back to residential and the zoning is 40% commercial and 60% residential. He said that it was stated that the Community Plan recommends low residential use for this site.

Councilman Spencer said that he sees no reason to go against the wishes and the very compelling statements that were given by the Planning staff. He said that he has a difficult time that the first issue doesn't model the plan as close as possible. He said that he is reminded of what happened Downtown with a plan that was in place and apartments were built without commercial in them as the plan stated. He said that he is not forgetting that because commercial should have been there because that was what the buy-in was. He said that he is very mindful of what occurred during that time period and that was basically the first development after the Downtown Master Plan. He said that he sees no compelling reason to not follow the plan as was worked out for many months. He said that he would not support the rezoning request.

Councilman Clary said that he believes Councilwoman Leary's point about not enough time to get everyone together to be heard to really assess the project is valid. He thanked Councilwoman Leary for the in-depth study and he is sure there is more to come. He said that he believes the community needs to come together with the developer who is also a resident of this community to get more information and discuss the issue and look at all the questions that were not answered and come back to Council with a more agreed upon plan. He said that he is sensitive to the fact that there is a time constraint on the VHDA in terms of the financing so the Wilson family can take advantage of that. He said this is the first reading and he can support this on the first reading with the conditions. He said that he would like to be involved in the meetings to hear what the community has to say. He said that he doesn't expect a developer to be all things to all people and to match word for word the North King Street Master Plan and would not want to hold him to that. He said that he believes they have to hold Council and the community to a higher standard of communication with each other to get the information out. He said the more information available about the project the better they are going to be able to make decisions.

Councilman Sapp thanked everyone for their comments and stated that he appreciated the civility of the exchanges and the well presented comments that were heartfelt. He thanked Councilwoman Leary for the work she has done and he looks forward to the answers to the questions. He said that it is problematic with plans and plans are plans and not hard blueprints. He said that if they want something to look like it does in a sketch then the City needs to buy it and build it like they want it. He said that he believes that the meeting and working out the final details is being in substantial compliance with the plan and he will support that moving forward. He said that part of the guarantee in this is the supervisory requirements that are put in by the VHDA

process. He said that if they loan the money or back up the funding there are some oversight requirements that are more stringent than what is required locally. He said that the loan is no guarantee and it may or may not be granted. He said that he also understands that the project as been presented to Council is contingent on VHDA financing. He said that if the Wilson family doesn't get the VHDA financing then they are back to the drawing board. Councilman Sapp said that he will support this and looks forward to the meeting and having the questions answered.

Mayor Kearney stated that he would not support the project because it depends on what the residents in the community felt. He said that he spent a lot of time going out and seeing the homes that were built in the area and there was a great discomfort factor. He said that realizing that he is going to vote no is going to kill it. He said that he believes there should be a motion to defer this until the next meeting. He said that two things would happen during that. He said that it gives a chance to have the meetings that are being scheduled. He said they are wonderful but they should have been done earlier and he believes it will give the opportunity for two more members of Council to attend so that four members of Council would not be making the decision or three be making the decision which may be completely wrong. He said that he believes it would be in the best interest of the applicant if he would come forward and ask for a deferral to the January 23, 2008, Council meeting.

Mayor Kearney stated that if the City rezones property and the family wants to sell the property after rezoning, the rezoning goes with the property and it doesn't stay. He said that if the family wants to turn around and sell it to someone to build apartments they could do it. He said that he very seldom has ever voted to downsize which is exactly what he is doing. He said that he doesn't believe it is helpful to the City of Hampton and he has made the mistake a couple of times and he has regretted it.

Mr. Cumming stated that he discussed this with the applicant and they are on a time frame but they have time for one more deferral to the January 23, 2008, Council meeting. He said that they look forward to meeting with Councilwoman Leary and the public.

Councilwoman Leary said that provided there is an agreement reached and they can move forward would it be approved on first and final reading. In response, the City Attorney stated that two readings are required.

Councilwoman Leary asked Mr. Cumming if this would allow them the time they needed. In response, Mr. Cumming stated that they have the time frame to do this.

#### HELD PUBLIC HEARING

DEFERRED (1/23/2008)

**Motion made by:** Councilmember Charles N. Sapp

**Seconded by:** Councilmember Anderson W. Clary, Jr.

**Aye:** 4 - Anderson W. Clary, Jr., Angela Lee Leary, Charles N. Sapp,  
Ross A. Kearney, II

**Absent:** Paige V. Washington, Jr.

**Nay:** 1 - Joseph H. Spencer, II

**Ordinances - Second Reading**

8. 07-0655 ORDINANCE TO ESTABLISH A NO WAKE ZONE AT THE MOUTH OF BACK RIVER ADJACENT TO FACTORY POINT FROM DAY MARKER #4 TO 100 FEET NORTH OF DAY MARKER #2

Mr. Jesse T. Wallace, Jr. City Manager, stated that the establishment of a No Wake Zone from Day Marker #4 to 100 feet north of Day Marker #2 will significantly decrease the risk to the public in the Factory Point area.

**HELD PUBLIC HEARING**

No one appeared before Council to speak on the issue

**ADOPTED ON SECOND AND FINAL READING**

**Motion made by:** Councilmember Angela Lee Leary

**Seconded by:** Councilmember Anderson W. Clary, Jr.

**Aye:** 5 - Anderson W. Clary, Jr., Angela Lee Leary, Charles N. Sapp, Joseph H. Spencer, II, Ross A. Kearney, II

**Absent:** Paige V. Washington, Jr.

**Nay:** 0

**Ordinances - First Readings**

9. 07-0678 AN ORDINANCE EXEMPTING FROM PERSONAL PROPERTY TAXATION CERTAIN PROPERTY LOCATED IN THE CITY OF HAMPTON OWNED BY NATIONAL MINORITY TV, INC., AN ORGANIZATION DEVOTED EXCLUSIVELY TO RELIGIOUS PURPOSES ON A NON-PROFIT BASIS AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Jesse T. Wallace, Jr. City Manager, stated that National Minority TV, Inc. has requested that the City of Hampton consider adopting an Ordinance designating its personal property located at 1435 Big Bethel Road to be tax exempt. He said the application was reviewed by the Tax Exempt Committee which considered all the factors and the Committee recommended the ordinance not be approved. He said that Council is being asked to hold a public hearing and also to deny the ordinance.

Ms. Cynthia E. Hudson, City Attorney, stated that Ms. Patricia Melochik and Ms. Karen Bever of the Commissioner of Revenue's Office, are available to answer questions based on the applicant's presentation. She said that it doesn't appear that the applicant is at the meeting.

**HELD PUBLIC HEARING**

No one appeared before Council to speak on the issue

**DENIED**

**Motion made by:** Councilmember Charles N. Sapp

**Seconded by:** Councilmember Anderson W. Clary, Jr.

**Aye:** 5 - Anderson W. Clary, Jr., Angela Lee Leary, Charles N. Sapp, Joseph H. Spencer, II, Ross A. Kearney, II

**Absent:** Paige V. Washington, Jr.

**Nay:** 0

**General Items****Ordinances**

10. 07-0648 ORDINANCE TO AMEND CHAPTER 41.1 OF THE CODE OF THE CITY OF HAMPTON, VIRGINIA, ENTITLED "WETLANDS", BY ADDING THERETO A NEW SECTION 41.1-17.1 ENTITLED, "WETLANDS MITIGATION" AND AMENDING SECTION 41.1-22 ENTITLED "PENALTIES".

Mr. Jesse T. Wallace, Jr., City Manager, stated that at the request of the Wetlands Board, the City Attorney's Office has prepared the proposed amendments to Chapter 41.1 of the Code of Hampton, Virginia, to provide that in-lieu fees and moneys from civil charges will go into a separate account to be used for wetlands creation, enhancement or restoration. He stated that Council is being asked to adopt this ordinance on second and final reading.

ADOPTED ON SECOND AND FINAL READING

**Motion made by:** Councilmember Angela Lee Leary

**Seconded by:** Councilmember Joseph H. Spencer, II

**Ayes:** 5 - Anderson W. Clary, Jr., Angela Lee Leary, Charles N. Sapp, Joseph H. Spencer, II, Ross A. Kearney, II

**Absent:** Paige V. Washington, Jr.

**Nays:** 0

11. 07-0654 AN ORDINANCE TO AMEND AND REENACT CHAPTER 21, ARTICLE VIII, ENTITLED, "POLICE REQUESTED TOWING" BY AMENDING SECTION 21-215, AND BY ADDING THERETO NEW SECTIONS 21-216 AND 21-217.

Mr. Jesse T. Wallace, Jr., City Manager, stated that the Towing Advisory Board is recommending these changes to the Article which has not been amended since its adoption in 2002. He stated that Council is being asked to adopt the ordinance on first reading.

Mayor Kearney asked what the ordinance does. In response, the City Manager stated that it changes the fee structure for police requested towing.

ADOPTED ON FIRST READING

**Motion made by:** Councilmember Joseph H. Spencer, II

**Seconded by:** Councilmember Anderson W. Clary, Jr.

**Ayes:** 5 - Anderson W. Clary, Jr., Angela Lee Leary, Charles N. Sapp, Joseph H. Spencer, II, Ross A. Kearney, II

**Absent:** Paige V. Washington, Jr.

**Nays:** 0

12. 07-0600 AN ORDINANCE TO AMEND CHAPTER 35, OF THE CODE OF THE CITY OF HAMPTON, VIRGINIA, ENTITLED "SUBDIVISIONS" SECTIONS 35-1, 35-23, 35-45 AND 35-118.

Mr. Jesse T. Wallace, Jr., City Manager, stated that the proposed amendment is part of the set of amendments to the Hampton City Code and Zoning Ordinance intended to add the upland areas of isolated non-tidal wetlands of undeveloped barrier islands to the Resource Protection Area (RPA) buffer. He stated that Council is being asked to adopt this ordinance on second and final reading.

The City Manager stated that there are five (5) ordinances and asked if Council wanted to hear them as a group.

Mayor Kearney asked the City Attorney if they could be heard as a group. In response, the City Attorney confirmed that they could be heard as a group.

ADOPTED ON SECOND AND FINAL READING - Items 12 through 16 were heard and voted upon together.

**Motion made by:** Councilmember Angela Lee Leary

**Seconded by:** Councilmember Anderson W. Clary, Jr.

**Ayes:** 5 - Anderson W. Clary, Jr., Angela Lee Leary, Charles N. Sapp, Joseph H. Spencer, II, Ross A. Kearney, II

**Absent:** Paige V. Washington, Jr.

**Nays:** 0

13. 07-0601 AN ORDINANCE TO AMEND CHAPTER 17, OF THE ZONING CODE OF THE CITY OF HAMPTON, VIRGINIA, ARTICLE X, SPI-CBPD: CHESAPEAKE BAY PRESERVATION DISTRICT, SECTIONS 17.3-60 AND 17.3-64.

Mr. Jesse T. Wallace, Jr., City Manager, stated that the proposed amendment is part of the set of amendments to the Hampton City Code and Zoning Ordinance intended to add the upland areas of isolated non-tidal wetlands of undeveloped barrier islands to the Resource Protection Area (RPA) buffer. He stated that the amendments to definitions and references thereto are necessary to accomplish this in all of the affected Chapters. He stated that Council is being asked to adopt this ordinance on second and final reading.

ADOPTED ON SECOND AND FINAL READING - Items 12 through 16 were heard and voted upon together.

**Motion made by:** Councilmember Angela Lee Leary

**Seconded by:** Councilmember Anderson W. Clary, Jr.

**Ayes:** 5 - Anderson W. Clary, Jr., Angela Lee Leary, Charles N. Sapp, Joseph H. Spencer, II, Ross A. Kearney, II

**Absent:** Paige V. Washington, Jr.

**Nays:** 0

14. 07-0602 AN ORDINANCE TO AMEND CHAPTER 33.1, OF THE CODE OF THE CITY OF HAMPTON, VIRGINIA, ENTITLED "STORMWATER MANAGEMENT" SECTIONS 33.1-4, 33.1-7, 33.1-8.1 AND 33.1-9.

Mr. Jesse T. Wallace, Jr., City Manager, stated that the proposed amendment is part of the set of amendments to the Hampton City Code and Zoning Ordinance intended to add the upland areas of isolated non-tidal wetlands of undeveloped barrier islands to the Resource Protection Area (RPA) buffer. He stated that the amendments to definitions and references thereto are necessary to accomplish this in all of the affected Chapters. He stated that Council is being asked to adopt this ordinance on second and final reading.

ADOPTED ON SECOND AND FINAL READING

**Motion made by:** Councilmember Angela Lee Leary

**Seconded by:** Councilmember Anderson W. Clary, Jr.

**Ayes:** 5 - Anderson W. Clary, Jr., Angela Lee Leary, Charles N. Sapp, Joseph H. Spencer, II, Ross A. Kearney, II

**Absent:** Paige V. Washington, Jr.

**Nays:** 0

15. 07-0603 AN ORDINANCE TO AMEND CHAPTER 9, OF THE CODE OF THE CITY OF HAMPTON, VIRGINIA, ENTITLED "BUILDING AND DEVELOPMENT REGULATIONS." SECTIONS 9-1 AND 9-142.

Mr. Jesse T. Wallace, Jr., City Manager, stated that the proposed amendment is part of the set of amendments to the Hampton City Code and Zoning Ordinance intended to add the upland areas of isolated non-tidal wetlands of undeveloped barrier islands to the Resource Protection Area (RPA) buffer. He stated that the amendments to definitions and references thereto are necessary to accomplish this in all of the affected Chapters. He stated that Council is being asked to adopt this ordinance on second and final reading.

ADOPTED ON SECOND AND FINAL READING - Items 12 through 16 were heard and voted upon together.

**Motion made by:** Councilmember Angela Lee Leary

**Seconded by:** Councilmember Anderson W. Clary, Jr.

**Ayes:** 5 - Anderson W. Clary, Jr., Angela Lee Leary, Charles N. Sapp, Joseph H. Spencer, II, Ross A. Kearney, II

**Absent:** Paige V. Washington, Jr.

**Nays:** 0

16. 07-0623 AMENDMENT TO THE ZONING MAP.

Mr. Jesse T. Wallace, Jr., City Manager, stated that the proposed amendment is part of the set of amendments to the Hampton City Code and Zoning Ordinance intended to add the upland areas of isolated non-tidal wetlands of undeveloped barrier islands to the Resource Protection Area (RPA) buffer. He stated that the amendments to definitions and references thereto are necessary to accomplish this in all of the affected Chapters. He stated that Council is being asked to adopt this ordinance on second and final reading.

ADOPTED ON SECOND AND FINAL READING

**Motion made by:** Councilmember Angela Lee Leary

**Seconded by:** Councilmember Anderson W. Clary, Jr.

**Ayes:** 5 - Anderson W. Clary, Jr., Angela Lee Leary, Charles N. Sapp,  
Joseph H. Spencer, II, Ross A. Kearney, II

**Absent:** Paige V. Washington, Jr.

**Nays:** 0

17. 07-0671 AN ORDINANCE TO AMEND THE CAPITAL BUDGET AND APPROPRIATE MONIES FOR THE GENERAL EXPENSES OF THE AMENDED CAPITAL BUDGET FOR THE FISCAL YEAR BEGINNING JULY 1, 2007 AND ENDING JUNE 30, 2008.

Mr. Jesse T. Wallace, Jr., City Manager, stated that Council is being asked to formalize the agreed upon changes within the Capital Budget by adopting an ordinance to amend the Fiscal Year 2008 Capital Budget. He said that bonds authorized to fund the agreed upon changes were included in the 2007 bond issue and the proceeds are available for use.

Councilman Spencer stated that the year 2005 was referenced in one place and the ordinance should have been 2007.

ADOPTED ON SECOND AND FINAL READING AS AMENDED

**Motion made by:** Councilmember Joseph H. Spencer, II

**Seconded by:** Councilmember Anderson W. Clary, Jr.

**Ayes:** 5 - Anderson W. Clary, Jr., Angela Lee Leary, Charles N. Sapp,  
Joseph H. Spencer, II, Ross A. Kearney, II

**Absent:** Paige V. Washington, Jr.

**Nays:** 0

### Appointments

18. 07-0637 to consider an appointment to the Hampton-Newport News Community Services Board.

APPOINTED Dr. Turner M. Spencer to fulfill the unexpired portion of Dr. Watkins' term which is scheduled to expire on June 30, 2009.

**Motion made by:** Councilmember Angela Lee Leary

19. 07-0674 to consider an appointment to the Parks and Recreation Advisory Board.

REAPPOINTED Lillian Gist to a second term which will expire on January 30, 2012.

**Motion made by:** Councilmember Angela Lee Leary

20. 07-0675 to consider appointments to the Hampton Clean City Commission.

REAPPOINTED Don Bartlett, John Golden, Pat Parker and Harriet Storm to terms which will expire on January 30, 2012, and appointed Arne Hasselquist to a first term which will also expire on January 30, 2012.

**Motion made by:** Councilmember Angela Lee Leary

21. 07-0684 to consider an appointment of an alternate to the Wetlands Board.

DEFERRED (2/13/2008)

**Motion made by:** Councilmember Angela Lee Leary

**Seconded by:** Councilmember Anderson W. Clary, Jr.

**Ayes:** 5 - Anderson W. Clary, Jr., Angela Lee Leary, Charles N. Sapp, Joseph H. Spencer, II, Ross A. Kearney, II

**Absent:** Paige V. Washington, Jr.

**Nays:** 0

### **Audiences Granted to the General Public**

Mr. William Webster, 201 Greenbriar Avenue, stated that when he comes to Council with a problem he expects to be dealt with personally and he expects answers. He said that when he arrived before the meeting he talked with Councilman Sapp, Mayor Kearney and Councilwoman Leary and he received answers which is all he wanted. He said that he believes they can work it out.

Mayor Kearney said that he would see Mr. Webster on Tuesday, January 15, 2008. Mayor Kearney said that the City Manager would also attend the meeting.

Mr. Arne Hasselquist, 100 State Park Drive, thanked Council for their support.

Mr. Frank J. Ottofaro, 63 Wheatland Drive, thanked Mayor Kearney for the nice note acknowledging the need for crosswalks and sidewalks on Mercury Boulevard.

Mayor Kearney stated that when he went to a doctor's appointment in the Coliseum Area he decided to walk to another appointment and he nearly got killed trying to walk across the street. He said that he would talk to the City Manager and Council about establishing a committee. He said that he would like Mr. Ottofaro to serve on the committee. In response, Mr. Ottofaro stated that he did not want to serve on a committee, but he appreciated the offer.

Mr. Ottofaro stated that he has requested a meeting with the City Manager and Council eight times and is still waiting for a reply.

Mr. Ottofaro requested a letter from the State Supreme Court, if there is a letter, because he doesn't believe there is.

Mayor Kearney requested that Ms. Cynthia E. Hudson, City Attorney, address Mr. Ottofaro's comment. In response, the City Attorney stated that she is fairly confident that the Supreme Court order that was entered in litigation in which he challenged the condemnation of his property at 11 Pine Chapel Road is something that he received as a party to the litigation, as well as the City. She explained that the order makes it clear

that the City acted legally with respect to the condemnation and that you were paid what the court determined to be a fair price and the proceedings ended at that point. She further explained that the order makes it clear that the City doesn't have to do anything else. She said that she hopes that clarifies the status of the order and what the order establishes.

Mr. Ottofaro stated that the City Attorney worked for McGuire Woods Law Firm and the City has paid almost a million dollars in legal fees and the City paid \$84,465,000 to take him out and the City wasn't supposed to take him out. He said that they didn't take the other nine houses out and he asked why he was singled out. He said the road wasn't coming through his property. He said there is a lot more to it. He said that this put a burden on the United States Supreme Court and this case should have never been heard. He said that it was a done deal and he knows more about politics in this City than they think he knows. He said that what was done to him was wrong and he is fighting for his constitutional rights. In response, the City Attorney stated that she was trying to clarify for him that according to the State Supreme Court, Mr. Ottofaro has been given all the process that is due with respect to the condemnation of his property.

Mr. Ottofaro said that he wants the City to correct the wrong that has been done to him. He said that what the City has done to him is an embarrassment to the City of Hampton.

### **Miscellaneous New Business**

Councilwoman Leary stated that she feels very strongly about what is happening to returning Veterans. She said that she prepared some information that was given to her at the Military Affairs Committee meeting on January 8, 2008. She said that Congresswoman Thelma Drake's representative was there and he received the same information. She said that the extent of the program that she is talking about there are other headlines in other places that are talking about what she has talked about before with Post Traumatic Stress Disorder (PTSD) and Traumatic Brain Injury (TBI)s.

Councilwoman Leary noted the following headlines from various papers across the country:

- The Shockwave of Brain Injuries written by the Washington Post on April 8, 2007
- The Army Also Finds More Deployment Means More Mental Illness, Washington Post, May 5, 2007
- Fighting the Terrors of Battles that Rage in Soldiers Heads, the New York Times, May 13, 2007
- Families Say Inadequate Care Greats Iraq Veterans Upon Return, Washington Post, May 29, 2007
- Troops Struggle With Finding Therapist, Associated Press, June 11, 2007.

Councilwoman Leary stated that Dr. Robert Jones at Virginia Tech is doing extensive studies with the civilian population regarding wildfires. She explained that the people are suffering with PTSDs as a result of the wildfires in California. She said that she believes the same things occur in the civilian sector whenever there is a traumatic event such as Katrina, or Isabel or the wildfires in California and on September 11. She said that she believes that these traumatic events, can be singular occurrences, such as someone

finding a friend of a loved one who has committed suicide, a traffic accident and then on the other side, there are those injuries that are caused by industry, car accidents.

Councilwoman Leary said that she is looking for a way to keep the military with a limited involvement in the community so that they do not lose that and that the City doesn't have such a heavy impact on our community from the closing of Fort Monroe in 2011.

Mayor Kearney stated that they have been working on this. In response, Councilwoman Leary stated that she wasn't talking about the whole unit, but an adaptive new use.

Mayor Kearney said that he believes what Councilwoman Leary is taking about is really good and he loved her letter to the Daily Press editor. He said it was really well done. Mayor Kearney said that he asked the VA Center if they wanted the old hospital at Fort Monroe, hoping that they would be willing to come across and take over some of that land. He said that it might be good to talk with Mr. Davis, who is the number one man in the Veteran's Administration in Washington, D.C. Mayor Kearney said that Mr. Davis was once the head of the VA Center in Hampton and he loves Hampton and the community. He said that Mr. Davis had a lot to do with the VA Center receiving funding.

Councilwoman Leary said that she believes it is important and she would love to have that opportunity. She noted that the people at Virginia Tech have suffered PTSDs by the gun shootings and the deaths. She said that these are life long events that affect even the civilian population.

Mayor Kearney said that he believes it is great and he believes it is virgin ground with regards to what the City can do. He said that Ms. Mims, Director of the VA Center stated that they were going to have 13,000 additional veterans coming to the Center from the War on Iraq. He said that if the Federal Areas Development Authority would be willing to set land and buildings aside, because it is State property, it would be a wonderful idea. He said that medical attention for these young men and women is a dire need.

Councilwoman Leary stated that the part that plays off of that is that they go to Washington, D.C. in March to lobby our Congressional group then and that might be a time when they could include this.

Mayor Kearney stated that the meeting with the Director is more important.

Councilman Clary asked Councilwoman Leary if she was advocating for the military and the civilians. In response, Councilwoman Leary stated that he was correct.

Councilman Clary congratulated Councilwoman Leary on her insight. He said that his son had three tours to the Gulf and he never left the ship, but he is showing signs. Councilman Clary said that he knows a nurse at the VA Center who asked him to send any young men and women that he may know to the Center. He noted that he attended a regional meeting of ministers with the military chaplains to learn what kind of spiritual treatment they could provide the veterans. He asked if this could go back to the Viet Nam Era veterans as well. He said that a lot of them are the same people that are homeless and they won't go to the VA Center just because they can't go there.

Councilwoman Leary said that is why she felt that the City needed to address this because you can look back at Viet Nam and you can see evidence of this but they didn't

see it, but now we can see it because you have had more civilian events. She said that when Hurricane Isabel came through she thought she was okay and she didn't realize until Hurricane Katrina occurred that she had suffered some type of incident of her own and she was able to relate to the people. She said that when she asked the Mayor if she could do a Katrina Relief Committee he agreed. She said that she knew that they would need the community services such as the American Red Cross and the Salvation Army, to partner with the City so that everyone was seen and treated that came in from New Orleans.

Mayor Kearney stated that New Orleans is still in a traumatic state.

Councilman Clary said not to forget the faith based community.

Mayor Kearney said that they met in the church basement.

Councilwoman Leary stated that 180 churches stepped up to the plate to assist.

**Adjournment**

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Ross A. Kearney, II  
Mayor

\_\_\_\_\_  
Katherine K. Glass  
Clerk of Council

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