



# City of Hampton

22 Lincoln Street  
Hampton, VA 23669  
[www.hampton.gov](http://www.hampton.gov)

## Council Approved Minutes - Final City Council Legislative Session

*Mayor Donnie R. Tuck*  
*Vice Mayor Jimmy Gray*  
*Councilmember Chris L. Bowman*  
*Councilmember Eleanor Weston Brown*  
*Councilmember Steven L. Brown*  
*Councilmember Michelle T. Ferebee*  
*Councilmember Billy Hobbs*

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

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**Wednesday, June 8, 2022**

**6:30 PM**

**Council Chambers**

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### CALL TO ORDER/ROLL CALL

Mayor Tuck called the meeting to order at 6:31 p.m. Mayor Tuck announced that Councilwoman Brown was not present and was excused.

**Present:** 8 - Councilmember Chris L. Bowman, Councilmember Steven L. Brown, Councilmember Steven L. Brown, Councilmember Michelle T. Ferebee, Councilmember Jimmy Gray, Vice Mayor Jimmy Gray, Councilmember Billy Hobbs and Mayor Donnie R. Tuck

**Excused:** 2 - Councilmember Eleanor Weston Brown and Councilmember Eleanor Weston Brown

### DONNIE R. TUCK PRESIDED

### INVOCATION - Councilman Chris Bowman

Councilman Bowman gave the invocation.

### PLEDGE OF ALLEGIANCE TO FLAG

### MAYOR'S COMMENTS

Mayor Tuck read the following announcement from Langley Speedway about Wacky Wednesdays which take place on Wednesday evenings: Wacky Wednesdays are our premier midweek street car racing event. Any street legal car with current inspection tags is eligible for competition. Registration and spectator gates open at 6PM with the drivers meeting just after 7PM and competition beginning shortly after.

Racing is usually complete by 10PM, providing great family fun on a week night while still ending at a decent hour. Coolers are allowed in the grandstands during the events. Come out and join the fun.

Mayor Tuck shared a bit more information about the logistics of Wacky Wednesday races and invited everyone to come out on Wednesdays for some fun.

Lastly, Mayor Tuck reminded everyone that City Council meetings are held once a month on the second Wednesday of the month during the months of June, July and August.

## 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 Councilmember Hobbs, seconded by Councilmember Brown, to approve the Consent Agenda. The motion carried by the following vote:

**Aye:** 7 - Councilmember Bowman, Councilmember Brown, Councilmember Ferebee, Councilmember Gray, Vice Mayor Gray, Councilmember Hobbs and Mayor Tuck

1. [22-0162](#) Resolution to Amend the Fiscal Year 2022 Council Approved Budget to Accept and Appropriate the FY 2022 Violence Against Women's Act ("VAWA") Program - Prosecution Grant Awarded by the Virginia Department of Criminal Justice Services

**Attachments:** [DV SOGA 22-Z9367VA21-Hampton](#)  
[Grant Proposal Overview for VSTOP 2022](#)  
[22-Z9367VA21-Hampton VSTOP SOGA](#)  
[VSTOP Annual 2021](#)

item approved.

**Aye:** 7 - Councilmember Bowman, Councilmember Brown, Councilmember Ferebee, Councilmember Gray, Vice Mayor Gray, Councilmember Hobbs and Mayor Tuck

2. [22-0187](#) Resolution to Amend the Fiscal Year 2022 Council Approved

Budget to (1) Accept and Appropriate the 2022 Shelter Upgrade Fund Grant Awarded through the Virginia Department of Emergency Management and a portion of the Required Matching Funds to be Paid by Hampton City Schools; and (2) Appropriate the Balance of the Required Matching Funds Parks, Recreation, and Leisure Operating Funds to the Grants Fund

**Attachments:** [Grant Application](#)  
[Grant Routing and Overview Forms](#)  
[Grant Award Letter](#)

Item approved.

**Aye:** 7 - Councilmember Bowman, Councilmember Brown, Councilmember Ferebee, Councilmember Gray, Vice Mayor Gray, Councilmember Hobbs and Mayor Tuck

3. [22-0191](#) Resolution to Approve an Encroachment Agreement Pursuant to Hampton City Code § 34-86 Between the City of Hampton and Joseph Hella and Gabrielle L. Hella to Allow an Encroachment into City Property for Construction/Installation of a Fence at 327 Lakeland Drive

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

Item approved.

**Aye:** 7 - Councilmember Bowman, Councilmember Brown, Councilmember Ferebee, Councilmember Gray, Vice Mayor Gray, Councilmember Hobbs and Mayor Tuck

4. [22-0192](#) Resolution to Approve an Encroachment Agreement Pursuant to Hampton City Code § 34-86 Between the City of Hampton and Lumos Networks Inc. d/b/a Segra to Allow an Encroachment into the City's Right of Way for Installation of Communication Conduit with Fiber Optic Cable at 5 Armistead Pointe Parkway

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

Item approved.

**Aye:** 7 - Councilmember Bowman, Councilmember Brown, Councilmember Ferebee, Councilmember Gray, Vice Mayor Gray, Councilmember Hobbs and Mayor Tuck

5. [22-0200](#) Approval of the minutes from the legislative session of May 11, 2022, and the ceremonial and work sessions of May 25, 2022.  
Item approved.

**Aye:** 7 - Councilmember Bowman, Councilmember Brown, Councilmember Ferebee, Councilmember Gray, Vice Mayor Gray, Councilmember Hobbs and Mayor Tuck

## PRESENTATIONS, PROCLAMATIONS, AWARDS

## PUBLIC HEARINGS

7. [22-0181](#) Rezoning Application by Westview Landing, LLC. to Rezone +37.86 Acres at 10 Doris Carlson Dr [LRSN: 5000040], 51 Battle Rd [LRSN: 5000041], 30 Singleton Dr [LRSN: 5000042, portion], and 60 Battle Rd B [LRSN: 5001596] from One Family Residential (R-11) District to Multifamily Residential (MD-3) District with Proffered Conditions for Multifamily Development

**Attachments:** [Application](#)  
[Staff Report](#)  
[Presentation](#)  
[Wetlands Consultant Memo](#)  
[LAFB Comment Letter](#)  
[Citizen Comments](#)  
[Applicants Presentation](#)

City Manager Mary Bunting noted that staff recommends deferring the item to the August 10, 2022, meeting as opposed to a date uncertain. Mayor Tuck indicated that the individuals who signed up to speak under this evenings public hearing were welcome to speak under the public comment period tonight or under the public hearing scheduled for August 10.

Items 22-0181 and 22-0183 were taken out of order since a deferral had been requested by the applicant. There were individuals signed up to speak at the public hearing who did not speak since the items were being deferred.

A motion was made by Councilmember Billy Hobbs and seconded by Councilmember Steven Brown, that this be deferred to the City Council Legislative Session, due back on 8/10/2022. The motion carried by the following vote:

**Aye:** 7 - Councilmember Bowman, Councilmember Brown, Councilmember Ferebee, Councilmember Gray, Vice Mayor Gray, Councilmember Hobbs and Mayor Tuck

8. [22-0183](#) Use Permit Application by Westview Landing, LLC. for Construction of Multifamily Dwellings within the Multifamily Residential (MD-3) District at 10 Doris Carlson Dr [LRSN: 5000040], 51 Battle Rd [LRSN: 5000041], 30 Singleton Dr [LRSN: 5000042, portion], and 60 Battle Rd B [LRSN: 5001596]

**Attachments:** [Conditions](#)  
[Application](#)  
[Staff Report](#)  
[Presentation](#)  
[Wetlands Consultant Memo](#)  
[LAFB Comment Letter](#)  
[Citizen Comments](#)  
[Applicants Presentation](#)

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**Aye:** 7 - Councilmember Bowman, Councilmember Brown, Councilmember Ferebee, Councilmember Gray, Vice Mayor Gray, Councilmember Hobbs and Mayor Tuck

## Rezoning

6. [22-0184](#) Rezoning Application by Michel Properties, LLC to Rezone +0.865 acres at 53 Wythe Creek Road [LRSN: 6001176] from Limited Manufacturing (M-1) District to Light Manufacturing (M-2) District with Proffered Conditions for Light Vehicle Repair

**Attachments:** [Application & Proffers](#)  
[Staff Report](#)  
[Support Letter](#)  
[Presentation - July](#)  
[Presentation - June](#)

Ms. Glass read the protocol for public hearings and then read the title for this item.

Chief Planner Donald Whipple greeted those on the dais and began reviewing the slide presentation. The first half of the presentation included images of the site location (at Wythe Creek Road across from NASA and the steam plant); the layout of the proposed rezoning; and how the property currently looks from the front view on Wythe Creek Road and the side view off of Voyager Drive.

The next section of the presentation provided information about the application related to zoning (currently zoned limited industrial, M-1 zoning district); the future Land Use Plan which calls for business industrial; Public Policy/the Hampton Community Plan as it relates to this application; background information about the parcel; and the timeline of events related to the parcel dating back to 1986.

Mr. Whipple and Mayor Tuck engaged in a brief discussion after Mayor Tuck referenced the bullet point “2013 - Notice of Violation (mobile auto painting)” from the slide containing the background information. Mayor Tuck asked if the presentation referred to Mobil or Mobile and explained that the difference is whether they did vehicle painting at that particular site or if the violation was that they were going out and doing painting. Mr. Whipple agreed that that is a good question and said that his understanding at that time was that it was mobil and they could go offsite.

Mr. Whipple continued reviewing the presentation.

The final slides of the presentation provided information about proffered conditions related to use standards, development standards, parking and outdoor storage; a community meeting which was held May 17; and staff's analysis of the rezoning which is to uphold the City's land use policies, uphold the intent of the M-1 zoning district, and that vehicle related land uses would not be appropriate in this district.

Mr. Whipple stated that the Planning Commission and staff recommend denial of the item; opened the floor for questions and comments; and noted that the applicant was present.

**THE FOLLOWING DISCUSSION TOOK PLACE AFTER THE PRESENTATION:**

Vice Mayor Gray asked if the comprehensive rezoning that occurred in that particular park is all M-1 at this time. Mr. Whipple replied, yes, sir. Vice Mayor Gray also asked if there are no other M-2's or other zoning in that area. Mr. Whipple replied, no sir. Vice Mayor Gray thanked Mr. Whipple for his responses.

Mayor Tuck asked about the size of the entire commerce park area and shared that he recently visited the area and was reminded of the initial plan from 1986 which incorporated the belief that businesses there would support NASA Langley. He also asked Mr. Whipple to speak about how much of that area was being considered for that purpose initially back in 1986.

Mr. Whipple shared that the area being discussed is roughly an acre, and therefore, he estimates that the entire area is approximately 20 to 25 acres of M-1 zoning.

In response to Mayor Tuck, Mr. Whipple shared that the vision was that the areas in blue on the slide would be business industrial. It was originally a one-family residential district.

Mayor Tuck again indicated that he recently visited the area and saw a road that leads to St. George's Brewery and asked if all the other businesses in that area are ones which were initially thought would support NASA Langley.

Mr. Whipple explained that, when it was rezoned, there were very few properties that were developed and most of it was vacant at the time.

Mayor Tuck said that there is a landscape business, an auto repair shop and other businesses there and he wanted to know if other businesses got variances to do what they do because it does not look like anything back there supports NASA Langley. He mentioned seeing a house further down in addition to Charm'd Lounge and asked what has happened in the last 36 years to further the dream or vision of

this being a park that supports things that happen at NASA Langley.

Mr. Whipple explained that there are a number of uses there including a landscaping business and a few contractors, all of which are allowed by right uses per our zoning for M-1. He shared that a zoning inspector identified a couple of properties that need following up on as far as some code enforcement with respect to their use or outdoor storage that needs to be screened. He assured everyone that staff will follow up on these issues and instances in the area.

Councilman Hobbs asked if Lighthouse Mechanical, directly across the street from this property to the south, engages in sheet metal work and construction of duct work and things like that for heat and air conditioning systems.

Mr. Whipple said that he was uncertain of the specifics of each individual use; however, there are several contractor uses there which are allowed by right under the zoning. He continued saying that there may be other ones, but specifically, most vehicle (not all vehicle-related) uses are left off as a permitted use in M-1, but there are some things such as contractor offices which engage in light repair on units or make home visits and those are permitted uses.

Councilman Hobbs asked if this gentleman proposes to do sheet metal work in this facility, what's to stop Lighthouse Mechanical from doing sheet metal work in their facility? He indicated that he didn't understand the difference in one company doing sheet metal work on vehicles on one side of the street and another company doing sheet metal work for heating and air conditioning units and mechanical type of work involving building things on the other side of the street.

Mr. Whipple explained that the table does not separate by sheet metal work; instead, it separates according to what is being done. For example, there is a separation between work that is being done on vehicles and work that is being done on HVAC systems. He clarified that there is definitely a separation in the use table that way; however, all sheet metal uses are not lumped into one category.

Councilman Hobbs noted that this is a sensitive topic for him, as someone who works on vehicles for a living, and that he was having trouble understanding the difference.

Vice Mayor Gray indicated that he, too, visited the property to see the various businesses there and it reminded him of the situation at Langley Research Park where the initial vision was to have high-tech research kinds of businesses there that supported Langley and NASA; however, over the years, that did not materialize and instead resulted in many empty spaces there, so other property owners were



brought there and the City reimagined how more could be done there. He questioned if the same thing should occur with this park and whether the current M-1 zoning is suitable for the businesses currently operating there. He assured everyone that he is 100% behind trying to help businesses in the City expand, but is concerned about trying to rezone one piece of property as opposed to dealing with the entire park and determining how to reshape the zoning so that it fits the businesses there supporting Langley and NASA (if that's what they are doing). He suggested taking a holistic approach and considering the entire park as opposed to piecemealing the zoning since it is uncertain of what other business owners may want for their properties.

Mr. Whipple agreed that Vice Mayor Gray had a fair observation and briefly spoke about the Mayor's comments regarding the vision and goals coming to fruition. He added that staff's position is if they think there is a necessary change, the entire area should be considered holistically verses piecemealing uses and isolating rezoning to make change in the policy.

Councilman Brown echoed Vice Mayor Gray's comments and then shared that as a planning commissioner who was at the initial meeting, he recalls the Planning Commission recommending something similar to what the Vice Mayor suggested. He also said that years ago, when this was zoned the way it was zoned, it fit into NASA's plan for the type of work that NASA does. At that time, consideration for rezoning the entire area was recommended instead of piecing it, and it was recommended that we allow use for light manufacturing and consider possibly rezoning that entire area for this particular permitted use.

Mayor Tuck opened the floor for additional questions and comments, but none were posed. He then opened the public hearing.

Mr. Frank Michel greeted those on the dais and made the following statement: I think everybody has gotten my packet and I've only got about three minutes, so I'll try to get through it as quickly as possible. Page 2 is just pretty much a brief outline. After college, I managed dealerships for 13 years.

Mayor Tuck interjected for a moment to inform Mr. Michel that, as the applicant, he is allowed to speak for ten minutes. He also invited Mr. Michel to move to the podium where he may be more comfortable in making the presentation.

Mr. Michel continued: I've been currently in business there for 20 years. After graduating from ODU, I managed dealerships for 13 years as a sales manager and general sales manager. I started building cars when I was very young, so anyway, long story short - I've been (around) cars my whole life. I've owned this business for

20 years, of which I've spent the last 17 years at my current location which is 63 Wythe Creek Road which is basically 100 yards from where I bought the property. My business is a little bit different and this is kind of like - while we're in this light vehicle repair section, we don't do frame damage. We're express auto body meaning most of our repairs are same day or two days, maybe three days based on parts or something like that. We do bumpers, fenders, panels. We're a quick turnaround shop, and what we would like to do is expand on it. Insurance companies, of course, love it because their customers don't have rental cars for four months. In three days, we can get a car in and get a car out. If you go to pages 3 and 4, it's pretty much our current location. I've changed units a couple of times. I went from the same building, but I've just changed units. This is our current unit that we are renting out at 63 Wythe Creek Road. As you can see from picture 4, there's no lifts and cranes and frame machines and cars bent in half or anything else. It's a very sterile environment. Get them in; get them out. Very aesthetic and clean. Going over to page 5, you'll see that's a picture of the building when we bought it. I've been looking at the property for a long time wanting to expand my business. In my business, we are regulated by square footage. You can only produce X amount with the amount of square footage you have. The minute you exceed that, I mean, you can't work, so we have X amount of space, so our goal is to increase the size of our business by going to this new facility. So, that's picture 5: the before. Number 6 was the exterior. The property has been neglected for 25 years. In fact, one of the City Council ladies said oh, yeah, it has a gravel lot. Well, no it doesn't. It was actually asphalt, but it had 25 years of soot and trash on the parking lot where it actually looked like a gravel lot - it wasn't. It was actually asphalt underneath it. So, the trees were touching the ground, I mean from 40 feet up, the branches were touching the ground. That's picture 6. The wall that was originally there to promote the park and it had just overgrown nasty. So, basically, this thing hasn't been used in 25 years. Picture 7 is a picture of the wall. To say it the nice way, no one really cared, kind of, about this corner for 25 years. I mean it just got really, really bad, okay. We had a vision. We knew what we could do with the place. It has a lot of potential. If you look at picture 8, this is the inside of the building. The gentleman that had been running the place has a warehouse. For 25 years, he was a roofer and he started building a house in there. Picture 9 is another picture of the interior; 10 is the outside. It had knocked over fencing. It had...you can tell just from the age of - page 10 - this tarring machine, that's been there for a long time. Everything there had been there for a very long time. I mean no one has looked at this property or done anything with this property for 25 years. There was other machines...I guess it use to be a machine shop because there was an 1,100 pound saw casing that was left out in the parking lot that I had to hire cranes to come in and get it off the property. Picture 11 is actually what it looks like now. It looks like a building. It's all painted. It's striped. It's got a dumpster. All that junky fence is gone. All those thousands of pounds of machinery or whatever was left there is gone. And,

you can see now, it's actually got pavement. I mean, I didn't pave that. That was actually under all the trash that had been accumulating there for 25 years. Number 12 is the side view. Prior to us getting there, this entire area was overgrown. Now you can see that all the trees have been cut back. Everything has been landscaped. It has been striped, blocked. Thirteen is just a picture of - we hired a mobile company to come out and clean up that sign and you can just see the before and after. If you go by there today, it looks great. I'm not sure why for the last 25 years why no one's really looked at it. I mean, it was horrible. Number 14 is just some of the pictures...that is the office now. Fifteen is one of the sides. You'll see that we completely gutted the building inside and out. Roofing, insulation, HVAC systems. Number 16 is the same. You can just see it's the left side view of it. To talk more on this property: North of us. When we purchased the property...I'd been there, like I said, 17 years, I've been looking at the property and really wanted to grow the business. So, the sign finally came up. Same day, put a contract on the place. North of us...the lot north of us right there that attaches to my lot is who I purchased the property from (Dave - I can't remember his last name) but he had gotten it from his father. That property right there north of us is a car repair facility. It's got lifts, alignment machines. It used to be called Horsepower Solutions. For ten years allowed by the City. It's always been a car place. It's huge. It's got offices. It's got every kind of machinery you'd want in there. It's always been there. It's been there for the last 15 years. Dave bought it and now it's a private shop. So, he does...there's race cars...they build racecars in there; fix cars, whatever they do. There's cars back there. So, that is a vehicle repair facility. It is now; it's been for 15 years.

Mayor Tuck asked if this is the brick building which has a fence around the side.

Mr. Michel replied yes and continued with his statement: That's who we actually bought the property from. So, looking forward in the future, when Dave decides to sell his property, he's still selling a garage. It's a garage. It's a car garage which would be great income for the City because it's a big facility. If he sold it to somebody if it was zoned correctly, and he was to sell, it would do very well, especially with the amount of people that are in Poquoson and there's a lot of building going on in Poquoson now and then there's the road widening that's occurring as we speak. So, I having purchased this property, not being presumptuous, but thinking, well, I've been here 17 years, 100 yards away. Next to me is a vehicle repair facility, so is there a possibility of having this rezoned to accommodate what we do. So, that's why we are here today. If you went back there, you would see that the M-1 1986 never happened. The vision to be a NASA/Langley Research Center...It just never happened. I've been there for 17 years and I've only seen one person that has done work for NASA and he left probably 10 years ago, 12 years ago. There's vehicle repairs back there. There is

storage. There is a motley crew of businesses operating now that are not M-1, including the car repair place next door. So, what we are doing is asking one, to give us the opportunity because we would like to move our business in there, but two...

Mr. Michel did not finish his last sentence because his speaking time had expired.

THE FOLLOWING DISCUSSION TOOK PLACE AFTER MR. MICHEL GAVE HIS COMMENTS:

Mayor Tuck asked Mr. Michel what made him decide to do the rezoning after he had spent all this money?

Mr. Michel gave the following response: It wasn't the rezoning. I only knew...I started this process with the City last September and it has taken us this long getting multiple surveys, multiple...I mean, it's been all the way until now. So, we've been starting this for ten...this is going on ten months. So, initially, it wasn't a rezoning issue for me. It was, like I have now, I currently have a use permit to do what I do where I'm at, so I did not think that transferring that same letter I have from the City that said yes, you can do what you do right now and be one golf ball hit away would think, oh, no, I have to completely rezone the whole park in order to just transfer this certificate that I was allowed to use here, over there. So, I didn't know - this is my first commercial property, so the whole zoning - it was new to me as far as how the process works, how to do this and everything that was entailed in it. Going into this, it was kind of like...oh, well, this shouldn't be too bad. Ten months later, I'm going...Oh my God!

The following series of questions and answers took place between Mayor Tuck and Mr. Michel. Mayor Tuck asked Mr. Michel if the purpose of him coming to the City 10 months ago was to ask for a use permit or a rezoning. Mr. Michel replied, use permit. Mayor Tuck then asked if the reason was because Mr. Michel wanted to go from where he was to this other location. Mr. Michel replied, yes, sir. Mayor Tuck then asked if at some point, Mr. Michel was told that use permits don't follow and somewhere along the line he realized that use permits don't follow the business and stay with that address and that is when he realized he had to get a new use permit. Mr. Michel replied, correct. Finally, Mayor Tuck asked Mr. Michel if at the time he realized he had to get a new use permit, had he spent all this money and done the renovations?

Mr. Michel made the following statement in response to the Mayor's final question: I have been slowly doing the renovations over the last 10 months. Some of the things that we had already started...so the cleaning up with the land, the landscaping, we

have continued to work toward getting the property up to par to do the inside of the building; the outside of the building. Those are things that (not even just for me) aesthetically for the City, it had to be done. You see the pictures of what it used to look like, so to answer your question: Yeah, we started off with the conditional use permit. I thought I would be able to go conditional use permit based upon the approval I have currently to do what I do where I'm at, so I did not initially think that it's going to take an entire rezoning of the entire area.

For clarification, Vice Mayor Gray said that he thought Mr. Michel said that he did not initially buy this building for the purposes of relocating his business.

Mr. Michel made the following statement in response to Vice Mayor Gray: No, I did. I've been looking at it for...since I've been there. I want to stay in the area that I'm in. I think it's a great area for business. It's got the traffic. And, one of the other things (I think I've talked to Donald about this) is - what do people want to see come in there. I can't remember if it was a Councilmember or something, but I'm across the street from the incineration (plant), so 50% of the time, the fumes will choke you out, so it's not going to be a restaurant; it's probably not going to be much. I mean, if you are there, as a matter of fact, I was there last night talking with somebody and the wind turned and it smells like burnt trash pretty good. So, what are you going to do with that land...becomes a question too, what could I do with it now - it's all fixed up and ready to roll. What can I do with the land? I'm not really sure, half the time, it smells pretty bad. It does. So, yeah, we're asking the City to take another look at this, not only just the rezoning, but conditional use permits to operate there until a decision's made or anything else.

Mayor Tuck reminded everyone that he cannot make motions in his position, but would share his thought on the matter and perhaps Council may agree. He said that staff and the Planning Commission have recommended denial and if Council denies the application tonight, the item will not be able to be brought back to Council for another year. He suggested deferring the item to allow time for the applicant, staff and other business owners in the area to determine if the M-2 zoning might be best for that particular area based on the past 36 years that not much has transpired with regard to it being a site where people who are doing things related to what NASA might want are operating businesses there.

Councilman Bowman asked if there are other components of the operation to remain in business should Council vote to deny the item this evening. Mr. Michel asked Councilman Bowman to repeat the question. Councilman Bowman rephrased the question as follows: If we vote to deny this whenever, are you still in business? Do you still have components of your business that keep you viable and in business? Mr. Michel stated that he is still currently working out of 63 Wythe Creek Road.

Mayor Tuck called upon Councilman Hobbs who indicated that he was going to move to defer. The Mayor then called upon City Attorney Cheran Ivery for guidance on how to proceed. City Attorney Ivery suggested that the motion be made after Councilman Brown has had an opportunity to give remarks. In addition, Councilman Hobbs' motion was not seconded, therefore, is not on the floor.

For clarification, Councilman Brown asked if the recommendation is to defer, does that mean staff will consider what is going on in the community and return to Council with a recommendation to consider rezoning the entire area? He explained that his concern is if Council denies the item, it cannot be brought before Council again for another year and asked Mr. Whipple to speak about how long it will take for staff to consider the rezoning and other aspects of this in an attempt to not hold Mr. Michel up in terms of what he wants to do. Councilman Brown indicated that he wanted to know the timeline of events before agreeing to support this.

Community Development Department Director Terry O'Neill said that staff can attempt to meet a certain goal by a certain date understanding that the situation is unpredictable because there is no way to predict how long it will take to engage and discuss this with the property owners. This is similar to the Langley process which was originally thought to take six months, but took 18.

Councilman Brown reiterated that his concern is the timeframe will not do justice to the applicant or City staff.

Mr. O'Neill suggested that another option could be to incorporate this process as part of the Community Plan process since staff reviews all land use recommendations during the course of that process; however, the Community Plan process takes about 18 months as well.

Ms. Bunting asked Mr. O'Neill to explain the difference between some of the auto uses at the location; why some uses would be M-1 versus M-2; and the concern with this particular use which falls under M-2 while others presumably fall into M-1. She noted that while it is not her place to make a recommendation, it may be a good idea to defer the item to work on a win, win opportunity and find a compromise without having to wait 18 months for the comprehensive plan review.

Mayor Tuck asked if staff is aware of what other businesses are doing and whether violations have been issued, particularly since this applicant has been there for over twenty years and other businesses came within the last 13 years. He also indicated that he was concerned about the fact that the applicant's notice of violation was about 9 years ago and it would be beneficial to know whether businesses that were

there before him also received notices of violation.

Mr. O'Neill explained that Mr. Michel's business is there based on a decision of the Board of Zoning Appeals and he does not have a use permit or any other land use decision that allows him to be there. Mr. O'Neill explained that he brought this topic up because that is a very specific legal decision by the Board of Zoning Appeals that overturned the Zoning Administrators determination that his use was not permitted. In the current location, he is allowed to be there by that specific decision which does not carry any zoning weight to the rest of the properties. Mr. O'Neill continued explaining that once the City began doing work based on Mr. Michel's request, it recognized that there were properties there that gave the City reason to pause about whether they are allowable under M-1 and staff is pursuing whether the other businesses are permitted uses in the park.

Mr. O'Neill clarified that at the time that the 1986 Conference of Rezoning was done, City Council referenced the rationale that this was adjacent to NASA Langley; however, that was not the only reason. This came about prior to the City owning Hampton Roads Center North and was desperately in need of places for small businesses to locate. In addition, the City was looking for places that made sense to zone properties M-1 for small businesses who could not locate in other business parks that required larger acreage, etc.

Mr. O'Neill also explained the difference between M-1, M-2 and M-3. M-1 is generally manufacturing, industrial and research uses that do not omit noise, smoke and other things into the air. The operation is enclosed in the building although there is outdoor storage allowed if it's screened. M-2 and M-3 are more heavy industrial manufacturing uses that admit things like smoke, odors, noise and raw product stored outside that is not allowed in M-1.

Ms. Bunting reminded everyone that in this case, the applicant intends to store everything inside and asked what the issue is if that is the applicant's intent. She also asked if any vehicle repairs are allowed in M-1.

Mr. O'Neill explained that the fundamental issue is that Mr. Michel's use is not a permitted use in M-1. With regard to other repair businesses being in violation, Mr. O'Neill said that he would have to look into that before making a determination.

Ms. Bunting reiterated that a deferral may be the best option to allow time to work out questions; differentiate between M-1, M-2 and M-3; further consult with Mr. Michel and other business owners in the area to receive a total understanding of what is going on in that business park; and determine if this would displace other businesses. Taking these steps may help Council make a final decision.

Mr. O'Neill noted that he would share the list differentiating what is allowed in M-1, M-2 and M-3. A bit more discussion took place between Ms. Bunting, Mr. O'Neill and Mayor Tuck. It was determined that the best route is to defer the item to allow time to work through the matter for clarity and consistency as there may be other businesses doing something similar.

A motion was made by Councilmember Billy Hobbs and seconded by Councilmember Chris Bowman, that this Resolution be deferred to the City Council Legislative Session, due back on 8/10/2022. The motion carried by the following vote:

**Aye:** 7 - Councilmember Bowman, Councilmember Brown, Councilmember Ferebee, Councilmember Gray, Vice Mayor Gray, Councilmember Hobbs and Mayor Tuck

## Use Permits

9. [22-0185](#) Use Permit Application by Dyon Banks to Operate a Used Vehicle Sales Establishment at 2469 W. Pembroke Avenue [LRSN 1000065]

**Attachments:** [Conditions](#)  
[Application](#)  
[Staff Report](#)  
[Presentation](#)

Ms. Glass read the title for the item.

Chief Planner Donald Whipple greeted those on the dais and reviewed the slide presentation which provided images of the site location; what is being proposed; and an aerial, front and rear view of the site. Also included in the presentation was some background information on the case and information related to zoning, the Future Land Use Plan and Public Policy/Hampton Community Plan as they relate to this application.

The final portion of the presentation provided staff's analysis of the proposal and it's recommended conditions. Staff's analysis is that the site is zoned C-3 and vehicle sales use is permitted with an approved use permit. Staff's recommended conditions are related to use standards; accessory structures; parking; fencing; landscaping; lighting; and compliance with applicable laws.

Mr. Whipple stated that the Planning Commission and staff recommend approval of the item with 10 conditions and then opened the floor for questions and comments



from those on the dais.

Vice Mayor Gray asked for clarity regarding one of the conditions and asked if the applicant will be permitted to have vehicles for sale parked in the front of the building and if so, how storage on the property would be distinguished from a place that sells vehicles.

Mr. Whipple stated that the applicant indicated that 10 spaces are reserved for sales inventory and another area is designated for staff and customer parking. In addition, one of the conditions specifically requires an inventory ledger be kept and that the vehicles are ready for sale. Mr. Whipple clarified that detailing of vehicles and things of that nature will be permitted; however, any type of body repair and general repair will not be allowed on this site.

Councilman Bowman asked if impervious paving products are an option.

Mr. Whipple explained that the way the condition is written, they could use materials that are resilient; however, keeping a gravel lot will not be permitted. From an appearance standpoint, gravel is considered impervious similar to concrete or asphalt and it needs to be improved.

Mayor Tuck called for additional discussion, but none took place.

The Mayor opened the public hearing. There were no speakers and the public hearing was closed. A motion was made by Councilmember Steven Brown and seconded by Councilman Billy Hobbs that this use permit be approved with ten (10) conditions. The motion carried by the following vote:

**Aye:** 7 - Councilmember Bowman, Councilmember Brown, Councilmember Ferebee, Councilmember Gray, Vice Mayor Gray, Councilmember Hobbs and Mayor Tuck

## **PUBLIC COMMENT**

Ms. Glass read the protocol for the public comment period.

Mayor Tuck called upon the first speaker, Craig Knopp.

Craig Knopp greeted those on the dais and made the following statement: I am here to talk about volunteerism. One of the great things that we have in our City is that we are afforded a great many resources that us as citizens can utilize and it's free, which is great. You just got to get up off your little butt and go up there and get some cleaning products and you know, go around and help around in the City and

make a difference. That's one of the things we are here to do is we want to make a big statement here in the City that we don't just have to rely on the City; us, as citizens can take it upon ourselves to get up off our butts, like I said, and make a difference. That's what we want. That's one of the things we want to increase our volunteerism in the City here. Now, normally, what I find is that probably about 20 people will say they volunteer and usually out of that 20 it is usually one or two. And, usually after that one or two come to help, it is very hard to keep them. I do have a few (which is great) that I can consistently rely on to help out, but that's not what I want to do. I don't want to burn those people out with getting projects and trying to help them out. Like I said, there's a lot of stuff that I see throughout the City. There's a lot of people, you know, they have mentioned to me that they have a problem here or there and what we want to try to do is go out and help them; show them what resources the City has and, you know, go get them started and hopefully get them, you know, started and maybe amped up to want to be that difference in their community and show their neighbors that they can make a difference too as well. Now, one of the things that we are looking at is volunteering, you know, there's projects out there that are not the most exciting. Cleaning up litter doesn't appeal to everybody. It takes a few people that, you know, that really like that. I like doing it. I like the exercise and I like going to those areas that we clean up and, you know, take my son there. We go bike, walk up in those areas. I just like making that difference. After we've had these cleanups for about a year now, we see the process that they have had. We started with like ten bags on a monthly basis at one; we've gotten it down to where we are about 3 or 4. And one of our things that we are looking at trying to do right now is find exciting volunteer opportunities for young adults, late teens, tweens (I don't know how they are) but just trying to find out some exciting volunteer opportunities. One of the resources that I did not even think of was one of the student reps from the school board, Tamia Kelly. She has been a very good, very good resource for us and I definitely appreciate that, that the school board have brought people like that into the school board to help us out. She's stayed after several school meetings to help us out with volunteering opportunities that I did not realize were out there. One of them was the Bluebird Gap Volunteer Program that apparently I guess some some veterinary people were interested in, but long story short, I appreciate your time. Thank you.

Mayor Tuck called upon the next speaker, Chris Matthews.

Chris Matthews greeted those on the dais and made the following statement: Before I get on to what I intended to speak on, I wanted to kind of say that I appreciated watching you guys deliberate this last business that was looking at a rezoning where there were struggles with the current zoning, the M-1 zoning. I think that it's great that you guys gave a fair shake to the business owner and probed at the Planning Commission on how they should be looking at rezoning something after thirty

something years because as property gets more scarce for business owners, we're going to be needing to look at more options for rezoning businesses. They're looking at you as stakeholders, so I think that's very important for them to feel trusting in you. But, to move on, I'd like to point out that as the cost of living increases and our gas prices increase, we're going to be looking at keeping Hampton residents occupied in Hampton. It leaves an opportunity for us as a City and as residents to learn more about what the City has to offer as far as Buckroe Beach or the free movies at the Coliseum or the BMX track over in Gosnold's Hope Park. There's a lot that the City has to offer and we need to find a way to showcase it more, so that way people are more inclined to be involved in their communities and as they become more involved in their communities, we will find more opportunities to let people help their own community and help themselves, and I think that is a great way for us to move forward as a City. So, thank you for your time. That's all I have to say.

Mayor Tuck called upon the next speaker, Judy Swystun.

Ms. Judy Swystun greeted those on the dais and made the following statement: I'm just really here to answer any questions that you might have on item 10 that will be presented by City staff here shortly. I didn't know how to sign up when I came in, so if there's any questions that you may have on that item after City staff presents their recommendations, I'd be glad to address them.

Mayor Tuck indicated that Ms. Swystun was the last speaker, and therefore, concluded the public comment period.

## GENERAL ITEMS

### Ordinances

10.     [22-0201](#)     Ordinance to Amend and Reenact the City Code of the City of Hampton, Virginia by Amending Chapter 38, Vehicles for Hire, Article II, Division 1, Entitled, "Generally," Sec. 38-19 and Sec. 38-20, and to Article II, Division 5, Entitled Article II "Fares," Sec. 38-127, to update the requirements for taxicabs and the fares that may be charged to riders of taxicabs

Attachments:   [Chapter 38 Redline - Taxicabs 6-2-22 Presentation](#)

Ms. Glass read the title for the item.

Ms. Bunting introduced Deputy City Attorney Brandi Law to make the presentation.

Ms. Law greeted those on the dais and noted that Council heard some of this information during a work session; however, she would review it again for the benefit of the public.

Ms. Law reviewed the slide presentation which provided information about Hampton's current requirements and the amendments being proposed related to the age of taxicabs, color scheme of taxis, taxicab rates and a rate exception. The presentation also included information about how Hampton compares to other localities in the region in this regard.

Ms. Law summarized the proposal before City Council. The recommendation is to raise the age limit of vehicles to 10 model years; remove the requirement that all taxis from a company have the same color scheme; increase the allowable pickup fee to up to \$5.00; increase the allowable rate to \$.35 for each 1/7 of a mile (which equates to \$2.45 per mile); and to provide an exception to the rate for companies that have contracted with the taxi businesses.

Ms. Law and Mayor Tuck opened the floor for questions and comments from Council. No additional discussion took place. Following the motion and second, Councilman Brown asked if it was appropriate for him to ask the applicant a question. Mayor Tuck indicated that we typically do not have the applicant return to speak at this point in the presentation.

A motion was made by Councilmember Billy Hobbs and seconded by Councilmember Chris Bowman, that this Ordinance-Coded be approved. The motion carried by the following vote:

- Aye:** 6 - Councilmember Bowman, Councilmember Ferebee, Councilmember Gray, Vice Mayor Gray, Councilmember Hobbs and Mayor Tuck
- Nay:** 1 - Councilmember Brown

## Appointments

11. [22-0188](#) Consideration of Appointments to the Animal Control Advisory Committee
- A motion was made by Councilmember Chris Bowman to reappoint Andy Anderson and Pamela Christiansen to their first full terms which will expire on June 30, 2025. One vacancy remains.

The motion carried by the following vote:

**Aye:** 7 - Councilmember Bowman, Councilmember Brown,  
Councilmember Ferebee, Councilmember Gray, Vice  
Mayor Gray, Councilmember Hobbs and Mayor Tuck

12. [22-0189](#) Consideration of an Appointment to the Mayor's Committee for People with Disabilities
- A motion was made by Councilmember Chris Bowman to appoint Ellen Shackelford to fill the unexpired portion of a term until June 30, 2024

The motion carried by the following vote:

**Aye:** 7 - Councilmember Bowman, Councilmember Brown,  
Councilmember Ferebee, Councilmember Gray, Vice  
Mayor Gray, Councilmember Hobbs and Mayor Tuck

13. [22-0193](#) Consideration of an Appointment to the Board of Review of Real Estate Assessments
- A motion was made by Councilmember Chris Bowman that David Richards be reappointed to his second term which will expire on June 30, 2026.

The motion carried by the following vote:

**Aye:** 7 - Councilmember Bowman, Councilmember Brown,  
Councilmember Ferebee, Councilmember Gray, Vice  
Mayor Gray, Councilmember Hobbs and Mayor Tuck

14. [22-0194](#) Consideration of Appointments to the Peninsula Town Center CDA
- A motion was made by Councilmember Chris Bowman that Brian DeProfio be reappointed to continue as the City Manager's representative and that James "Pete" Peterson be reappointed to his second full term which will end on June 30, 2026; and that Nick Hobbs be appointed to his first full term which will end on June 30, 2026. A vacancy for an alternate exists.

The motion carried by the following vote:

**Aye:** 7 - Councilmember Bowman, Councilmember Brown,  
Councilmember Ferebee, Councilmember Gray, Vice  
Mayor Gray, Councilmember Hobbs and Mayor Tuck

15. [22-0195](#) Consideration of Appointments to the Hampton-Newport News  
Community Services Board

A motion was made by Councilmember Chris Bowman that  
Susan Harris be reappointed to her first full term which will expire  
on June 30, 2025, and that Dr. Tamara Temoney-Porter be  
appointed to a first 3-year term expiring on June 30, 2025.

The motion carried by the following vote:

**Aye:** 7 - Councilmember Bowman, Councilmember Brown,  
Councilmember Ferebee, Councilmember Gray, Vice  
Mayor Gray, Councilmember Hobbs and Mayor Tuck

16. [22-0196](#) Consideration of an Appointment to the Hampton-Newport News  
Community Criminal Justice Board

A motion was made by Councilmember Chris Bowman to  
reappoint Natale Christian to a second term until June 30, 2026.

The motion carried by the following vote:

**Aye:** 7 - Councilmember Bowman, Councilmember Brown,  
Councilmember Ferebee, Councilmember Gray, Vice  
Mayor Gray, Councilmember Hobbs and Mayor Tuck

17. [22-0197](#) Consideration of Appointments to the Hampton Commission on  
the Arts

A motion was made by Councilmember Chris Bowman to  
reappoint Aiya Williams and Iris Goode-Middleton to second  
terms ending on June 30, 2026.

The motion carried by the following vote:

**Aye:** 7 - Councilmember Bowman, Councilmember Brown,  
Councilmember Ferebee, Councilmember Gray, Vice  
Mayor Gray, Councilmember Hobbs and Mayor Tuck

18. [22-0198](#) Consideration of an Appointment to the Thomas Nelson Community College Board of Trustees  
No action taken.
19. [22-0199](#) Consideration of an Appointment to the Virginia Air & Space Science Center  
Councilwoman Ferebee read the following statement prior to the motion: I have consulted with the City Attorney and legal counsel for my employer, the NASA Langley Research Center and while NASA Langley Research Center is a separate entity from the Virginia Air and Space Science Center, they have a strong relationship and connection. As such, out of an abundance of caution and to avoid any appearance of impropriety, I have recused myself from all discussion regarding City Council appointments to the Board of Directors for the Virginia Air and Space Science Center and I will abstain from voting on any appointments to this body tonight.
- A motion was made by Councilmember Billy Hobbs that Brian Deprofio be reappointed to a second term until June 30, 2026.  
The motion carried by the following vote:
- Aye:** 6 - Councilmember Bowman, Councilmember Brown, Councilmember Gray, Vice Mayor Gray, Councilmember Hobbs and Mayor Tuck
- Abstained:** 1 - Councilmember Ferebee

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

There were no reports.

#### MISCELLANEOUS NEW BUSINESS

The Mayor reminded everyone that Council is on the summer schedule and the next meeting will be in July.

#### ADJOURNMENT

The meeting adjourned at 7:54 p.m.

**Contact Info:**  
**Clerk of Council, 757-727-6315, [council@hampton.gov](mailto:council@hampton.gov)**

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Donnie R. Tuck  
Mayor

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Katherine K. Glass, CMC  
Clerk of Council

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