



# City of Hampton

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

## Council Approved Minutes - Final City Council Legislative Session

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

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

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**Wednesday, February 10, 2021**

**6:30 PM**

**Council Chambers**

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### CALL TO ORDER/ROLL CALL

Mayor Tuck called the meeting to order at 6:30 p.m. All members of the City Council were physically present in Council Chambers except for Councilman Hobbs and Councilwoman Snead who were participating from home via Zoom. In order to not exceed the COVID restriction on gatherings of over ten people, also present in Chambers were Katherine Glass, Clerk of Council; Steve Fryer of Channel 47; a bailiff from the Sheriff's Office; and Lisa Vernon-Sparks, Daily Press reporter.

The City Manager, Mary Bunting, and the City Attorney, Cheran Ivery, participated remotely via Zoom from their offices and the presenters on the agenda items today will also participate via Zoom from their offices.

**Present:** 7 - Councilmember Chris L. Bowman, Councilmember Eleanor Weston Brown, Councilmember Steven L. Brown, Vice Mayor Jimmy Gray, Councilmember Billy Hobbs, Councilmember Chris Snead and Mayor Donnie R. Tuck

### DONNIE R. TUCK PRESIDED

Mayor Tuck explained that the number of individuals in Council Chambers was being kept to ten. While Hampton has a

governmental exemption to the Governor's Executive Order, Council is limiting attendance to ten in Council Chambers at a time to set a behavioral example during COVID.

1. [21-0068](#) Motion to approve the electronic participation of Councilman Hobbs (pursuant to Section (1)(a) of the City Council's Electronic Meeting policy), and Councilwoman Snead (pursuant to Section (1)(a) of the City Council's Electronic Meeting policy).

A motion was made by Councilmember Steven Brown and seconded by Councilmember Chris Bowman, that this Motion be approved. The motion carried by the following vote:

**Aye:** 5 - Councilmember Bowman, Councilmember Weston Brown, Councilmember Brown, Vice Mayor Gray and Mayor Tuck

**Abstained:** 2 - Councilmember Hobbs and Councilmember Snead

#### **INVOCATION - Councilwoman Eleanor Weston Brown**

Councilwoman Brown gave the invocation.

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

The Mayor led the Pledge of Allegiance.

#### **MAYOR'S COMMENTS**

The Mayor had no comments this evening.

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

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

2. [21-0052](#) Resolution to Amend the Fiscal Year 2021 Council Approved Budget and Accept and Appropriate the 2018 National Coastal

Resilience Fund Grant Awarded by the National Fish and Wildlife Foundation

**Attachments:** [NFWF JRA Full Proposal Narrative](#)  
[Signed Hampton Support Letter](#)

Item approved.

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

3. [21-0056](#) Resolution to Amend the Fiscal Year 2021 Council Approved Budget to Accept and Appropriate the WanderLOVE Hub & Spoke: Hampton Travel Inspired grant awarded by the Virginia Tourism Corporation to Hampton Convention & Visitor Bureau

**Attachments:** [Grant Proposal Overview](#)  
[Grant Routing Sheet](#)  
[Grant Program Agreement](#)

Item approved.

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

4. [21-0075](#) Approval of the minutes from the work session of January 13, 2021.

Item approved.

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

#### PRESENTATIONS, PROCLAMATIONS, AWARDS

There were no presentations this evening.

5. [21-0072](#) Hampton Roads Transit Update

**Attachments:** [Transit Strategic Plan Update Presentation](#)  
[Bus Rapid Transit Presentation](#)

Mayor Tuck called on City Manager Mary Bunting to introduce the item.

City Manager Mary Bunting introduced Hampton Roads Transit (HRT) President and CEO William Harrell and other members of the team who presented an update on the Ten-Year Transit Strategic Plan and the Bus Rapid Transit Proposal.

Mr. Harrell introduced Chief of Planning and Development Ray Amoruso who will presented an overview of the Ten-Year Transit Strategic Plan along with proposed Micro Transit Zone; and the Director of Transit Development Sam Sink who presented the Bus Rapid Transit Proposal.

Mayor Tuck asked if there were any questions from members of Council.

Councilman Billy Hobbs asked Mr. Amoruso if he was correct that the plan would take effect in 2023. Mr. Amoruso replied that the first changes will be seen in fiscal year 2023 which begins July 1, 2022. They are in the process of purchasing the buses for the frequent service which take eighteen months to manufacture.

Councilman Hobbs made a statement that he has an employee who is a single mother of three children, and it takes her about an hour and forty-five minutes every day to travel from 16th Street to the 12000 block of Jefferson Avenue in Newport News. He hears her so many nights calling to make sure the buses have not been cancelled, in order to know if she needs to call a Lift or Uber ride. When asked in her employment interview if she had transportation, her reply was, "yes, I ride HRT and they get me to where I am going". Councilman Hobbs stated that he is very interested in seeing the bus service get better and understands that it is a Newport News problem not a Hampton problem.

He also stated that things are different now than it used to be and understands HRT has a mammoth job on their hands to get the job done with someone like this young lady who calls HRT every evening to see if she has a ride home or not. A lot of times in the wintertime she does not have a ride home because of a cancelled route and sounds like the shuttle might be a way to make things better and lessen the load and acknowledged that HRT has a tough job.

Mr. Amoruso thanked Councilman Hobbs for sharing the information because HRT does have some challenges today related to the number of bus operators they currently have. It is a challenging job and one that bus operators do not get enough praise for. People do not want to be bus drivers anymore. Part of the Hampton Road Transportation Funding that is received is going to help Mr. Harrell and the financial team to address better wage rates to attract people with commercial driver's

license. He also added, when a sixty-minute route is missed, it means waiting another hour which does not help when you are trying to get to work or home. The bus operator shortfall is a national problem, and one they take very seriously. HRT is looking at incentivizing and partnering with the cities to hire operators and retain operators in the long run. HRT is competing with private firms who court out people who hold a commercial driver's license and who can pay a better wage rate than the public sector property. They are looking into other ways to retain their talent.

Councilman Hobbs reiterated that HRT has a tough job and is looking forward to seeing new shuttles to lessen the load. He mentioned that Councilman Steve Brown and he grew up riding the bus and if they had a bus token in their pocket they were happy kids.

Councilman Chris Bowman asked if the Micro Transit buses were powered by gas, diesel, propane or electric.

Mr. Amoruso replied it is anticipated they will be traditional gas powered vehicles and are going to contract with a third party who can propose to use alternatively fueled vehicles.

Mr. Amoruso introduced Project Manager Sam Sink who made her presentation.

Mr. Harrell added that Ms. Sink and the team have done a very good job and as she has emphasized, we recognize that these are significant numbers but we are hopeful as we look to the future, especially with the new administration. We believe by positioning this project with the environment review in place if we are successful perhaps getting Smart Skill funding with the State. We believe HRT can likely leverage some of the regional funds and with that dedicated funding it gives us a lot more tools in the toolbox. If some federal funding becomes available we certainly want to work with Hampton and Newport News to advance these projects. Essentially, we want to position it at some point in the future should those conditions become clear and will continue to work with our City Manager and staff on these projects.

Councilwoman Eleanor Brown thanked the presenters for the interesting presentation and expressed her excitement regarding the transformative changes and believes that when people can get where they are going faster they will be more likely to ride. She expressed that being able to get on the rapid route will encourage more people to choose this way of getting around. Councilwoman Brown shared a couple of thoughts. She wanted to know how they were planning for disruptive

forces that had not been planned for. The pandemic has changed how we live and work and that has changed ridership. There are also technology disruptions such as self-driving cars and buses that might be available in the timeframe horizon of 2045. Councilwoman Brown stated that she would think enough flexibility in the planning was built in to require a different bus that would be self-driving that would take itself off along the lanes would be available for the rapid and also might coordinate with other computer organized ways of rearranging traffic to make things flow better. Councilwoman Brown stated she was imagining and would interested how HRT was thinking.

Mr. Harrell replied that they embrace technology and are beginning to pilot some electric vehicles on the Southside and are one of the very few communities that that are looking at automated vehicles.

Mr. Amoruso added they were in a consortium with twelve different properties to look at the possibility of autonomous vehicles.

Mr. Harrell continued to state that based on the max routes that have been looked at the technology did not accommodate that, that this point. We certainly recognize and have built into the strategic plan flexibility as Mr. Amoruso explained that it is a living document as technology emerges, as they are develop changes in Hampton and other parts of the region we have the ability to tweak where we are headed that also includes very close coordination with your planners and transportation experts in the City.

Councilman Chris Bowman asked if it was correct that in a previous meeting HRT stated they were going to purchase six of the large electric buses.

Mr. Harrell replied yes, we got them through a grant program and is funded from the State and some of the VW Settlement Fund, at no cost to HRT.

Vice Mayor Jimmy Gray thanked the presenters and wanted to add that while we are discussing the plan begins to unfold particularly on the Peninsula with the new routes certainly the BRT will be a great enhancement to the backbone routes that will make transit more efficient for everyone who uses it. And as Councilwoman Brown mentioned it will encourage more people to ride as it is more efficient and reliable and that is what we have been after. As we are preparing for the new routes and fifteen minute service, ahead of that will come some amenities that we will start to see here on the Peninsula in form of new shelters.

Mr. Harrell thanked Vice Mayor Gray and shared will Council that they are represented very well by Chairman Gray and are working very closely with Assistant City Manager Brian DeProfio and others regarding the shelter locations. He also stated that it is troubling to see their customers out in the weather and we need to treat them with dignity and that is why one the most significant components of the new funding is focusing on amenities in the way of shelters, and solar lighting so nighttime riders feel more secure. The system you see today will be transformed with the additional funding. It has been a twenty year go with HRT to secure dedicated funding to help relieve the pressure from a number of cities. HRT is starting to see the plan come forward as they look to provide competitive wages to the operators; bring in additional employees; and improve the condition of the bus stops. Mr. Harrell stated his appreciation to Council for their patience and that they are committed to better transit for Hampton Roads.

Councilman Steve Brown thanked Mr. Harrell and his staff as this has been a dream come true in terms of speeding up routes. We also recognize that this also is an economic driver for our community to get people back and forth to work. Also for employers and business persons coming to our community, transportation is key. This is a great day for our city and surrounding cities. Councilman Brown stated he recently had the opportunity to ride a bus along with others and it was an extremely long time to get from point A to point B so to reduce the time will be a great thing and look forward to the new innovative out of the box changes.

Mayor Tuck thanked Mr. Harrell and his staff for the presentation and said he looks forward to FY2023.

## PUBLIC HEARINGS

### Ordinances

6. [21-0057](#) Ordinance to Amend and Re-Enact the Zoning Ordinance of the City of Hampton, Virginia by Amending Section 2-2 Entitled, "Definitions" Pertaining to Residential Use Definitions

**Attachments:** [Red Line](#)  
[Presentation - as published](#)  
[Letter Peninsula Realtors Association](#)  
[Letter Coliseum Central BID](#)  
[Presentation - Updated](#)

City Manager Mary Bunting also thanked the HRT team for their presentation and stated that the Clerk of Council Katherine Glass will read items six and seven into the

record and the joint presentation will be given by Senior City Planner Allison Eichele with one common public hearing but there will need to be separate votes for each item.

Clerk of Council Katherine Glass read the protocol for public hearing.

City Manager Mary Bunting introduced Senior City Planner Allison Eichele who will be reviewing items 21-0057 and 21-0058, as well as updating you on a staff recommendation in response to some concerns regarding pending projects.

Senior City Planner Allison Eichele made a presentation as well as an update of a staff recommendation regarding pending projects.

City Manager Mary Bunting emphasized that assuming Council moves to adopt this item we would have a proposed motion before you to make clear that any developer that has submitted an application for approval with significant affirmative governmental action by today's date, even if not approved, would be grandfathered. Assuming Council wants to approve these items tonight staff would need the proposed motion that was provided to Council by the City Attorney's office.

Councilwoman Eleanor Brown asked for clarification on the Downtown requirements for an open space amenity and stated she was less able to follow the rationale of the requirement of the fifty or more units for the second amenity.

Ms. Eichele replied that fifty or more units will have to run off the active recreation amenity. There is a list within the ordinance that does allow for some or similar ones the Zoning Administrator could approve. The list comes from the City's current district which allows permission to increase density and do feel these active recreational amenities are positives for the citizens and residents of these developments.

Councilwoman Brown stated that is understood and are encouraged of the health benefits of active recreation among our citizenry. However, her concerns are the impact of the requirement on the development in an intensely developed area; the neighborhood center that just broke ground; private gyms who have met the market demand and; walking trails already established along the waterfront. Councilwoman Brown stated she is concerned about requiring the additional amenity and it seems prescriptive. She stated that she understood the open space because it impacts the built in environment.

Ms. Eichele elaborated that a comparison overview was done of the existing higher quality developments that have come in over the last few years and was already provided as part of their development.

Councilwoman Brown replied that she likes the idea of them providing, because they decided it was something that would enhance their product rather than the City telling them to do it.

Ms. Eichele replied that that was the feeling the City had.

Mayor Tuck called upon Raymond Tripp who signed up to speak.

Executive Director of Coliseum Central Raymond Tripp introduced himself and made the following statement. I would like to speak on the ordinance 21-0058. Tonight, you will be asked to approve an ordinance which will remove the by right provision from multi-family development in our district and require a new development in our district to obtain a use permit. Coliseum Central is definitely concerned about this change. We are worried about the direct effect on land value for our investors in our district. Following me, you will be hearing from several property owners from our district in more detail. Mr. Tripp wanted to make clear that Coliseum Central is not opposed to creating new regulations which would enhance multiple-family development. However, we are concerned about the time period that it would require to put into place and the period of impact it would have on our district. With that understanding, (inaudible) city staff and commit the time required in order to create regulations, I have come to the conclusion of better multi-family development in our district if we (inaudible) is my theory. Therefore, we kindly ask Council tonight to defer this action. I would like to say that we would like to thank the city manager and the city staff for listening and working with us to provide an alternate solution.

Attorney Larry Cumming with Kaufman & Canoles introduced himself and made the following comment. As Raymond Tripp indicated we are requesting that either you exempt the Coliseum Business Improvement area from the immediately impact of this ordinance or that you simply delay the implementation until January 2022. Candidly, we are not completely sure that we have a serious problem in the Coliseum area, because the value of the property out there demands a quality product. If you think about the recent developments we have had there, I think you will agree, and when we have asked staff to give an example of a recent development that is a problem, they have not given us one in our district. You can say we understand that there is a concern on your part and we are happy to cooperate. The reason we think that the Coliseum area should be exempt is that we are

distinguished from other areas in the City in a number of ways. Number one, we already hired previously Tom Tingle's firm, Guernsey Tingle, to help design/repair a body of design guidelines which is a body that already exists. In addition, we had some problems with the implementation with the City Attorney's office and so that has caused some delay in that regard. In addition, we are prepared to engage, at our own cost, a second consulting firm to refine the Tingle designs to implement the requests of the planning staff and City Council and to cause this to occur much more quickly. This will all be done in conjunction with the planning staff and the City Attorney's office. The question who have is what (inaudible) from it. What it does is, it has a channel effect on future development. You know we have issues about our reputation with the development community. It is hard to get a good reputation and is very easy to lose one. If you put a use permit blanket, it injects ambiguity (inaudible) and certainty in what a developer can do and the developer community will simply shop around and see that it is an ambiguous place in flex and will go somewhere else, and it may be years before we could ever bring them back to our community. I think it is important that we try to develop a favorable developer friendly reputation in the community and therefore I request that you either do one of those two things and we would appreciate it very much.

Vice Mayor Gray asked Mr. Cumming about the request that Council delay implementation until January 1, is that because you expect it to take that long to get the new desired standards for the bid in place?

Mr. Cumming replied that they expect, you will hear from a couple of those folks (inaudible) trying to hold them back because as far as we are concerned we would have a meeting every two weeks, to get it done. We think we can get it done quicker than that, but if the planning staff and the City Attorney's office and we can come up with something more quickly, then we will do it. I think the planning staff and the City Attorney's office will agree, if you will ask them, working with us, with an independent consultant will be better quality and quicker to get to the result that you want. The period of delay and damage to the economic engine of our City will be truncated and much shorter if that is the case. So, I think that if we delay this (inaudible) getting this private consultant, work with the City Attorney's office and planning staff we have some of this already done. We have at least two new sets of meetings with the consultant we would like to consider and so I think with the Tom Tingle work we are pretty far down the path on this. It is just getting the legal implementation, and we have talked to Terry and the staff about what will it exactly take in order to (inaudible) actually legally require (inaudible) and is there a mechanism that we can set up which will have a voluntary, we will call it opt in, choices that we want to also enhance even greater than what the City can normally

do unless (inaudible) voluntarily agrees. So we want to blend, improve and enhance a set of criteria that we want to encourage developers to buy into and it is that mesh of those two things that we think, we can accomplish. We think we can accomplish it pretty quickly, but you know how the wheels of justice, because of a lawyer, sometimes can take a little longer than you think. If we get there earlier, we will certainly be there and the planning staff will bring it to you earlier.

City Manager Mary Bunting added that she has relayed to staff that this should be their top priority, would meet as often as the BID wants to meet, and work as expeditiously to bring the design standards to Council as quickly as possible, and the City would not be the impediment to that. Many times we you work in group consensus property owners have varying opinions, and that does take time to work through and we always try to get that consensus. So, sometimes processes delay because property owner A, B, and C are not agreeing and the City does not just pick a winner. Ms. Bunting stated she hoped, as stated by Mr. Cumming and Mr. Tripp, that there is a lot of energy and willingness to hire a consultant (inaudible) and should be able to work towards an agreement very quickly. The staff would not be the impediment to getting this done quickly.

City Attorney Cheran Ivery stated that Deputy City Attorney Bonnie Brown is also available to speak on this subject.

Mayor Tuck asked Mrs. Ivery to explain the issue related to the design.

The City Attorney asked Deputy City Attorney Bonnie Brown to answer.

Director of Community Development Terry O'Neill stated he would start and Ms. Brown could join. We did the work that Mr. Cumming referenced, they did produce a set of design documents for their district. We were moving down the road of adopting some enhanced standards for Coliseum Central but the issue was that many of the designs standards for which they were trying to achieve fell outside of the legal parameters for which we can govern through our zoning tools. That process came to a halt for a variety of reasons, some of which was trying to figure out how to proceed, and some was a staffing issue. There were a variety of issues to why that came to a halt. I do not want it to come across that the City Attorney's office was the road block. There is a group of things that everybody wants and then we have to go through the vetting process of can it legally happen and does it fit in with the structure of our zoning ordinance. Mr. Cumming is correct that a lot of the work has already been done, both on the City and the BID side. The most time consuming piece is getting people to reach an agreement. If we are motivated to do

that, and we can do it fast then we can get to a point where we can bring this back in a reasonably short order.

Ms. Brown added that localities cannot impose aesthetic requirements through the zoning ordinance unless those requirements are secondary to a primary police power purpose and gave some examples. Some parts of design standards go beyond our legal zoning authority in Virginia. Some of the design standards that were worked on with the BID are enforceable as Senior City Planner Allison Eichele has presented. To reiterate Mr. O'Neill's point, it is not true that the City Attorney's office could not use the design standards, it was just pieces of it are regulatory and essentially require it. Some pieces would have to be implemented to an incentive zoning where there is an opt in to get a density bonus or some other flexibility in the ordinance in exchange for providing those architectural materials, colors and other features we want to see but could not necessarily require outright.

Councilman Billy Hobbs asked what would be the harm if the City passes this tonight with an enactment date of January 1. Councilman Hobbs added that he is more interested in getting it right than getting it done quickly.

Mr. O'Neill replied that has been the fundamental debate in the discussion with difference perspectives on risk. The Coliseum Central BID believes it is their property value and the risk for the City is the length of time the window is open to regulate use permits at some point in the future.

Mayor Tuck asked why the proposed amendment will not work?

City Manager Mary Bunting replied that she believed it would work. When we have been talking with the BID, we asked were there any immediate projects that were in queue that would be impacted negatively by us proceeding with this proposal and parallel path. Ms. Bunting reiterated that any project that has submitted an application or significant governmental action would be considered grandfathered, assuming it gets the approvals needed. The City would move very quickly to try and get the new standards developed and back to Council, after going to the Planning Commission, in three to four months ideally if a consensus is met. Ms. Bunting stated that Council will hear from others about their concern about vacant buildings and properties in the district and how they may get reused and without the higher standards and the use permit being required it could potentially limit sales of those properties and or reuses of those properties. If the City waits until January, as the BID has suggested, we run the risk of having lower quality developments come into Coliseum Central or the rest of the City. This ordinance was designed to ensure we

get higher quality development throughout the community. By delaying, we potentially cause issues elsewhere around the City.

Brad Brown with Robert Brown and Associates and lives in Poquoson, Virginia. Our family is an active investor in Coliseum Central market in three major shopping centers. I sent two pages of comments earlier to Council, and hope you got them. I think we just saw how complicated it is to make this sausage. The down zoning effect of taking this by right out. Peninsula Town Center project is easy 10 to 20 million dollars on 100 acres. It is easy 100 to 200 thousand dollars an acre. You put that on the size of our district, it is a massive task. The discussion we were having with the City Manager shows we have been told over time this type of land use ordinance can't get in front of Council and get through, can't get the sausage made, from the budget process because the budget process obviously takes precedence. We can shorten the January 1 date I requested as a backstop, so you have a backstop to September 1. On a call yesterday with city staff I said 90 days. We will make it happen. I don't even have a multi-family project but I am sitting next to vacant big boxes, like the former Kroger, we have empty movie theaters that need to be redeveloped. This by right ordinance for multi-family is giving Coliseum Central a competitive edge for 20 years. The major projects that have happened don't have city money involved, city incentives and, are driven by multi-family. The old Holiday Inn Convention Center, Akhil Jain, who is out of town right now, he has commented you all. He would have not bought that property for millions of dollars and invested in our community if could not do something by right. So Coliseum Center is special, it is the tax generator for the city. We are putting our money where our mouth is. We are here. Peyton is here from Peninsula Town Center. He flew in from Texas today. I don't think, I have not seen the amendment, I don't know which properties are quote unquoted grandfathered. I think his is one of them. I don't think it is appropriate to grandfather one property and penalize the rest. City staff has a ton on their plate, we were going to hire consultants they approve to come in and help close this so we all work together. The best thing we have is teamwork. I don't have this relationship with other cities we development in by and large in Hampton Roads. We need to work as a team, we can live with January 1 and we can live with September 1. We do it July 1 if we can work on it during budget season. We need your help. That is the short story, we are all in it together. Our board is united. We are here and we will do the dirty work.

Vice Mayor Gray asked Robert Brown about the vacant properties mentioned in the Coliseum BID that we all want to see redeveloped. Does Mr. Brown have a concern that those properties without design standards in place and without the ability with our staff to be able to control the problems of design and develop. Do you have the

same concern that those properties could be somewhat of a lower quality without having the design standards in place already or use permit to be able to control that.

Mr. Brown replied that if they are going to work on this diligently and start to make progress (inaudible) since October with city staff, we should have been working on the ordinance instead of talking about what was going to happen, frankly we should have all been. If someone turned in a site plan today they would have not vested rights under the State of Virginia law where they would be grandfathered if they were doing a negative building, negative lease, a low quality project. If we can really work hard to get this done in 3 or 4 months, the normal site plan (inaudible) 6 or 9 months for a good project. You don't get investments rights in Virginia until an affirmative action has been taken. We can get it done, there is no risk (inaudible) in a site plan application for poor quality today than being grandfathered before we can get this done. We have the time but we have to make progress and that is our concern is (inaudible) two years to work through the monument side of this ordinance change. That impacted (inaudible) extension on their development agreement because of a simple sign ordinance. (inaudible) complex, which is why we are going to pay. The immediate impact we have is negative, is like the Quality Inn property the City owns. If I am a developer looking to put that under contract (inaudible) thousand dollars for a use permit. In 6 to 9 months, I get down the road, you do all these studies, through a couple of political bodies, and all of a sudden a quality project can be politicalized. I fronted all this money and there is no certainty. So as a seller for the Quality Inn site you have an RFP out you should (inaudible) multi-family in place (inaudible) attach the design guidelines as part of the sales contract. We can protect the district between the vested rights provision you are the players in a lot of the key properties throughout the City. We need to get the work done. If we don't get it done in the next 3 to 6 months for whatever reason, the use permit process might be the right way to go. But it is going to have a big time impact on the tax books, in zoning (inaudible) you can do the City Assessor has to assess your property for that. And so, I would not pass this ordinance today having it going in effect tonight for Coliseum Central. I am going to call the City Assessor tomorrow, I have a 25 acre property that is worth \$200,000 an acre that is a lot of money. All I have to do is get it appraised. (inaudible) I don't think that is what we want to do here. That is why Peyton is here, he flew in from Texas. The only 2 property owners that are not active are the Power Plant and (inaudible) they are both out of town owners they have not participated either good or bad. But we have committed to the city staffers we are not going to get to the end of this and have people coming in or calling you on the side, it is going to be a collective effort. We put that in writing to our board members. I have said it in every meeting. We appreciate your support. We appreciate Mary and her team. I am one of the

people that says let's meet every other week. Let's create some tempo, let's get this done.

City Manager Mary Bunting stated that since Mr. Brown was not in the room when I stated that I have told staff that this is top priority and we'll meet every other week if that is what the BID's tempo is. Generally, we try not bring major issues before Council during budget time since the issue had already been vetted publicly and we would just be bringing the higher standard overlay for Coliseum I do not see any problem bringing it during budget time. Also, Ms. Bunting stated that we did speak with the City Assessor about this concern about assessments after it was raised in several meetings with the BID. The City Assessor did state that since assessments are based on the income the development property generates, the proposal to require a use permit for apartments will not impact the value of an already developed property.

Mr. Brown stated that was not true in the case of a vacant property that is not producing income now, they do it on a cost basis. And that is when the zoning gets you. So, the former Kroger if they are not paying rent it is a vacant box. It is done on a cost basis. What I am trying to say is, it is so complicated I think that throwing an amendment in at the last second, which I think is to Peninsula Town Center's benefit, which I support, they are investing millions more right now. I support them. It is piecemeal zoning. How many meetings have we heard that piecemeal zoning is a bad thing. We can do better. Let's sit down and do the work. If an application comes in for a project and is terrible for some reason, and they are going to make it through the site plan and building permit process, just come back and move the January 1 or September 1 date to June 1, if we have to. There are plenty of safe guards procedurally we can do to protect the City and protect our district. I think you should pass this Downtown Phoebus to Buckroe. But I would propose an amendment to defer the effective date of Coliseum Central to some later point than tonight so we can get the work done. We have to do the work anyways.

Deputy City Attorney Bonnie Brown clarified for the record and the public that the amendment as drafted, that if you have obtained a saga prior to today's date you would be provisionally grandfathered until they receive that approval and they would be grandfathered under the old regulations. It does not benefit only one property and does not change the zoning map. It would allow anyone in the pipeline to benefit.

Mr. Brown commented that there is only one property on the list.

Vice Mayor Gray asked Mr. Brown that he had mentioned earlier that adding a use permit to a development would increase the cost by \$100 thousand, what is involved in that and why the additional cost.

Mr. Brown replied that you have to hire an attorney, traffic studies, renderings, site plans, impact potentially on schools, hosting public meetings, and they are very, very expensive. Civil engineers, architects, environmental, opportunity cost of time as a developer I can go up the road and do something by right versus here. There are some advantages you have over Newport News for example, in this district you can come in here and do multi-family by right but the property values force, to get the return on the cost you have to charge a higher rent. That is why you have the Chapman Apartments. That is why you have the Gills project which is higher end. That is how you get the return and that is really what the market demands. You cannot come in and build cheaper product in the district anymore and make the figures work. The land values are just too high. The use permit process, it is time, it is lengthy and time costs money. There is so much market uncertainty right now particularly in the middle of a pandemic.

Peyton Millinor greeted Council, staff, and made the following statement. We have seen that this is a very complicated issue and am pleased to learn that an amendment may allow for the Peninsula Town Center property to move forward. It is a public record that a variance application has been filed for a project to renovate mostly vacant retail to a higher and better use, Class A multi-family. We very much as developers, the Tabani organization, value high standards. High standards within the community, are beneficial to the City, beneficial to the community itself, beneficial to the developer in the long run. My concern is the process by which addressing those is being handled and as Brad mentioned it is a timing issue. In the development business, time kills deals, uncertainty kills deals, and will reiterate that everything that Brad said in terms of I am a developer and if my employer or third party developer can go to another location and construct multi-family without having any risk of spending hundreds of thousands of dollars, a lot of time, a lot opportunity cost they will consider that opportunity before they would consider a risk laden process that has uncertainty to it. Although again, I have not seen this amendment today that I have heard that we are grandfathered, Peninsula Town Center Project. I would like to understand that better specifically because I did hear Mary said so long as it is (inaudible) approved it continues to be grandfathered so it sounds like yet there is another risk, another contingency there that is somewhat concerning that might not resolve the issue that I had hoped to resolve, one of two issues. The second issue, with siding with those who spoke in relation to the Coliseum District. A little more time is going to considerably help us as a district maintain property

values, a little more time would not in my opinion, for the same reasons Bob mentioned, open the window up to having low quality standard product in the district. The values on the land are already too high for that to happen. The tax base is in jeopardy. No doubt properties that are mostly vacant will get contested and that will affect immediately the tax base in the City. That is not a win for anyone. But, the small risk that someone might slip in, and Brad mentioned lots of reasons someone probably cannot slip in, I think is greatly outweighed by the others risks I mentioned.

Councilwoman Brown asked if this is the ordinance that would require the extension of time that Mr. Cumming requested or is the second.

Mayor Tuck answered that the first one is the one that changes the definition that takes out live, work and dwelling - it changes that. That is not the one numbered 7.

Following the presentation, the Mayor opened the Public Hearing and the following individuals spoke: Raymond Tripp, Larry Cumming, Brad Brown, and Peyton Millinor.

The Mayor closed the public hearing and solicited discussion and motion from the members of City Council.

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

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

7. [21-0058](#) Ordinance to Amend and Re-Enact the Zoning Ordinance of the City of Hampton, Virginia by Amending Sections 3-2 Entitled, "Table of Uses Permitted" and Section 3-3 Entitled, "Additional Standards on Uses," to Modify Where and How Multifamily Dwellings and Upper-Floor Dwelling Units are Permitted

**Attachments:** [Redline Table of Uses Permitted Standard districts](#)  
[Redline Table of Uses Permitted Special districts](#)  
[Red Line Ch 3 Multifamily Addl Standards](#)  
[Clean Version Table of Uses Permitted Standard districts](#)  
[Clean Version Table of Uses Permitted Special districts](#)  
[Presentation note](#)  
[Amendment to 20-0058 - grandfathering](#)

Councilman Hobbs stated that at the proper time he would like to amend this motion to extend the date that we enacted until September 1, 2021. Mayor Tuck stated there needed to be a second to the substituted motion. Councilman Hobbs stated he wished to move this out a little bit so that we don't make a big mistake all the way around. I think if we take a little time and get it right and make it right. I understand everyone has put in a lot of time and a lot of hard work and they are ready to pull the trigger now. But I think if we pull the trigger now we might be making a huge financial mistake and hurting Coliseum Central which is one of our biggest tax producers of the City.

Councilman Brown stated he is in support of the extension.

Councilwoman Brown concurred and expressed concern that having a statutory scheme for this abbreviated period and then having a new standard creates uncertainty and confusion during this period. I do take the BID at their word that they will get to (inaudible). A point of clarification that the ordinance would be enacted for the rest of the City and the extension would only be with respect to the Coliseum BID. Councilwoman Brown stated she felt we should give a very short deadline, like July 1. She stated that the BID should have an incentive to get this done and if they don't get it done then the use permit is going to apply. Maybe September is more realistic with the budget because she did not want to put a burden on staff and that we all agree that everyone is looking for the quality development to show our development community that we are interested in work with them, because we are. The staff has worked very hard to find a way to meet our goal to continue with the exciting quality development that is going on. Councilwoman Brown concurs with the motion for the extra time, maybe not as much as Councilman Hobbs, and stated this extension is only for the Coliseum Central BID and everyone else would be subject to the new ordinance.

City Manager Mary Bunting stated that doing a specific carve out, we cannot do that tonight. We would recommend a deferral and come back. If deviated substantially from what was presented at Planning Commission, the community and advertising we do need to rework things. Ms. Bunting recommended a deferral versus trying to

amend to a specific date.

City Attorney Cheran Ivery agreed with Ms. Bunting's recommendation on deferring the item.

Councilman Hobbs asked what would be a good time length for a deferral.

City Attorney Cheran Ivery recommended deferring it indefinitely.

Councilman Hobbs made another substitute motion to defer the item indefinitely.

Mayor Tuck asked Ms. Ivery if Councilman Hobbs needs to withdraw the motion first before making a substitute motion.

Ms. Ivery stated that would be the cleanest way.

Councilman Hobbs withdrew his first substitute motion and made a substitute motion with no end date.

Councilwoman Snead stated that this not only impacts Coliseum Central but the entire City. The City is taking a significant risk as there may be a project that does not fit with the parameters while this is being deferred indefinitely. Councilwoman Snead shared her concern of deferring something indefinitely for something the City does not know is going to happen for a certain area of the City and possibly impact the other areas of the City negatively and will go along with the majority.

Vice Mayor Gray stated that the initial motion talked about carving out an exemption for Coliseum then either Ms. Bunting or Ms. Ivery stated it would be better to do a deferral rather than carve out. Vice Mayor Gray asked if we are talking about the deferral while we go through the design standards process or a deferral so we can come back and offer another modification to the ordinance that would allow us to carve out. Not sure which one we are doing with the deferral.

Ms. Bunting stated they would need clarification as to what Council wants. A carve out must be re-advertised and go back to the Planning Commission and Council. If the other things are done quickly it might make sense to do that since it would also have to the Planning Commission and Council. She believes that staff thinking on the fly is that it might make sense to tie them together but do run the risk of those things Councilwoman Snead mentioned. Ms. Bunting stated that a carve out cannot be done without going back through the public hearing process.\

Vice Mayor Gray stated if a carve out was done and goes back through the Planning Commission and Council and then when the design standards are finished Council has to deal with this again.

Ms. Bunting replied that was correct and why it may make sense to tie them both together understanding the risks.

Terry O'Neill agreed with Ms. Bunting and stated the carve out can be done but would be a lot of work for not a lot of time. Let's just put this off, and work really hard with the Coliseum Central BID and bring it all back as one package.

Mayor Tuck asked in the risk in all of this, is it some of the design submitted in another part of the City not what we want. If we defer this to September 1, what does that do for us? It still allows the grandfather of this particular project, then what happens?

Mr. O'Neill replied if you adopt the package in front of you today but not effective until September 1, any project that still comes in before the effective date would operate under the old regulations.

Councilwoman Brown stated she understands the risk that has been shared and is appreciative. We are taking this action to try and mitigate that risk. If we defer the enactment that will not be a substantial change that would require re-advertisement and so forth and could defer the enactment for the whole city until some date that would minimize our risk in the whole city.

Mr. O'Neill replied that it would not eliminate the risk until the effective date of the ordinance because the city cannot apply those ordinance and regulations until they become effective. It does not eliminate the risk in the interim.

Councilwoman Brown replied she understood and, that we just shorten the time period. But it will still (inaudible) the whole city because there is no way reduce the risk in the whole city without differing the date without re-advertising. The carve out requires re-advertising but delaying the implementation of the ordinance to a date certain for the whole city, we could just pick a date tonight that Council believes is enough time. Then a parallel process would be going on at the same time to get the Coliseum design standards in time, and would need to do that. Once this became in effect, they would become subject to it just like everyone else. Delaying it indefinitely means we would have to come back with a different idea like the carve

out or something else and will don't really need to do that if we are willing to take the risk.

Ms. Brown replied that Councilwoman Brown is correct that changing the effective date or changing the grandfathering date is doable tonight as a minor modification, but the reason staff would prefer the deferral over the delay in the enactment so that it can be done all at once.

Councilwoman Brown stated she understood the answer from Ms. Brown to be that instead of doing an indefinite deferral and minimize the risk, we would defer to a date certain.

Mayor Tuck asked if there was a question.

Councilwoman Brown stated she wanted to make sure she understood it properly because the City Attorney advised of an indefinite date would be preferable because it gives the most flexibility but maybe we want a deadline fashion.

Mayor Tuck asked if the proposed amendment accomplishes what the City needs as well as what Coliseum Central is requesting.

Mr. O'Neill replied that it satisfies the City's understanding of the immediate challenge presented. He suspects it does not meet the longer term concerns that have been heard from the Coliseum Central board regarding hindering land sales, values and development.

Ms. Glass read the motion that was on the floor to defer the item indefinitely.

Ms. Bunting stated she wanted to make clear that even though it is an indefinite deferral, staff will work expeditiously with the goal of bringing this back as soon as possible.

A joint presentation was made on items 21-0057 and 21-0058 and was given by Allison Eichele, Senior City Planner.

Following the presentation, the Mayor opened the Public Hearing and the following individuals spoke: Raymond Tripp, Larry Cumming, Brad Brown, and Peyton Millinor.

Additionally information was provided by the City Manager; City Attorney; Terry O'Neill, Planning Director; and Bonnie Brown,

Deputy City Attorney.

The Mayor closed the public hearing and solicited discussion and motion from the members of City Council.

A motion was made by Vice Mayor Gray and seconded by Councilman Bowman to approve this item. A substitute motion was made by Councilman Hobbs and seconded by Councilwoman Brown to extend the enactment date until September 1, 2021. The substitute motion was withdrawn by Councilman Hobbs and replaced by Councilman Hobbs' motion to defer this item indefinitely. The motion was seconded by Councilmember Eleanor Weston Brown and motion carried by the following vote:

**Aye:** 5 - Councilmember Bowman, Councilmember Weston Brown, Councilmember Brown, Vice Mayor Gray and Councilmember Hobbs

**Nay:** 2 - Councilmember Snead and Mayor Tuck

8. [21-0059](#) Ordinance to Amend and Re-Enact the Zoning Ordinance of the City of Hampton, Virginia by Amending Section 10-5 Entitled, "Freestanding and Wall Signs Permitted" to Increase the Maximum Size of an Interstate Sign Permitted in Conjunction with an Educational or Medical Campus, Encompassing 50 or More Acres

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

Development Services Manager/Zoning Administrator Hannah Sabo gave a presentation.

Following the presentation, the Mayor opened the Public Hearing. There were no speakers on this item and the public hearing was closed.

A motion was made by Councilmember Chris Snead and seconded by Councilmember Steven Brown, that this Zoning Ordinance - Text be approved. The motion carried by the

following vote:

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

**PUBLIC COMMENT**

As there were no speakers, Mayor Tuck opened and closed the Public Comment.

**GENERAL ITEMS**

There were no general items on the agenda.

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

There were no reports.

**MISCELLANEOUS NEW BUSINESS**

There was no new business.

**ADJOURNMENT**

Mayor Tuck adjourned the meeting at 8:54 p.m.

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Donnie R. Tuck  
Mayor

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Katherine K. Glass, CMC  
Clerk of Council

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